

**AUDIT COMMITTEE
THURSDAY, 8 DECEMBER 2011**

ITEM 4 – PUBLIC QUESTION TIME

Note

The time allowed for questions shall be limited to 30 minutes or a maximum of 20 questions, whichever occurs first.

Any questions not answered at the meeting will be responded to in writing within 10 working days.

The questioner at the meeting may ask one supplementary question to the original question, which will be answered without discussion.

ITEM 6 - Annual Audit Letter 2010/11

From Mr John Dix

1. Do the Audit Committee have misgivings about the statement in the auditors letter that “The Council made proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2011” when it is clear that procurement controls were in a complete mess giving rise to MetPro and the subsequent identification that hundreds of contracts were either not in place or not compliant.

Response

The External Auditors work was reported at the September Audit Committee and this Annual Audit Letter summarises the work that they previously reported. At the September Audit Committee the external auditors stated that control weaknesses in contract management, whilst significant, are not so fundamental to result in a qualified value for money opinion. The external auditors are subject to rigorous quality control processes to ensure their opinions are sound and as such the Audit Committee should be minded to accept their opinion as independent and objective.

ITEM 10 - Exception Recommendations Report

From Mr John Dix

2. At the Committee in September, the Procurement Controls and Monitoring Plan Progress Report noted at page 26, para 9.3 that “Early work on our Contracts Register to date has highlighted that over 80% of spend is compliant with existing Contract Procedure Rules (CPR’s)”. Yet at page 122 para 9.5 third bullet point of the latest report states that “Further work is required to ensure that the contracts register is complete and accurate”. This raises very serious concerns that the statement given in September was thoroughly misleading by suggesting that 80% of the Contract Register was compliant when it had not been established if the actual register was complete or accurate. Does the Committee share my concern that people (councillors as well as residents) were misled by this statement in September?

Response

At the September Audit Committee, management stated that the contract register had just been compiled and as such noted this as ‘early work’, it was also stated in the same report that “we are approximately 80% through our internal quality assurance processes to ensure our contracts register is fit-for-purpose”. The completeness and accuracy of any contracts register should be ongoing as it is a moving object based on the procurement activity within the year and expiry of contracts. External

audit tested this early work and they stated in their International Standards on Auditing (ISA)260 report “the recently compiled contracts register was sufficiently complete to use for our testing to support our conclusion on VFM”. As such the Committee should be assured that there were no statements put forward by management that were inaccurate.

The contracts register requires continual monitoring to ensure it is complete and accurate, but as a baseline can be relied upon that it is an adequate picture of the Council’s contracted spend. It has been further reviewed and would be considered sufficiently reliable as a baseline.

3. All the target dates dropped off or been removed from the latest version of the Action Plan RAG report. Looking at the plan from September all but one of these actions should have been completed by now. Why were the dates removed from the latest version of the plan and how many targets have been missed?

Response

The action plan submitted to this Audit Committee is not management’s account of progress this is the internal auditor assessment. The action plan in September is on public record and all of those had a completion date of end of September, they were not required for reporting to the Audit Committee on that basis – Members would have been aware from September’s Audit Committee that they were due at the end of September and therefore dates are no longer relevant, the two reports should not be considered separate from one another. As such an Amber rating is considered work in progress and therefore had not met the management set deadline. From the action plan you can assess that 5 actions have not been completed in time.

4. Page 132 - Action plan “Contract Procedure rules should be followed by all services to procure works supplies and services rules” is flagged as green simply because Directors, AD’s and Heads of Service have been written to. However evidence in the report is quite clear that the rules are still not being complied with. The second bullet point under this heading also notes that attending a training programme was mandatory yet attendance has been low. Does the green flagging of both these actions strike the Committee as complacent, negligent, or just inaccurate?

Response

You can see from the action plan that recommendation 1 spans across page 132 and 133, there was one amber in relation to this whole recommendation and is not therefore considered completely satisfied. You will also note from page 121 paragraph 9.5 that internal audit has confirmed to the Audit Committee that they have been able to review this action plan based on the controls being designed effectively and as such assurances will continue to be forthcoming to the Audit Committee regarding operational effectiveness. In addition, the task was to arrange training programme – which has been done with sessions run for those that didn’t receive training previously. In addition, access has been removed for any staff without that training ensuring that only those staff who have access to SAP have knowledge of Contract Procedure Rules, as such green was rated for this action.

Further on page 138 it is noted that for action 10 it is noted that the wider training has not been rolled out sufficiently for us to assure ourselves it is embedded. The Audit Committee can rely on the work internal audit has completed with that regard.

Evidence in the report has found that historical arrangements have not always been compliant, there is a distinction between full contracts let for new vendors post June and those arrangements prior to June 2011.

5. Paragraph 9.4 notes that in the past “there has often been a disconnect between commissioners, procurement colleagues and legal advisors in ensuring compliance with Contract Procedure Rules”. What level of reassurance do the Committee feel that this issue is,

even now, being adequately addressed?

Response

Since the Audit Committee in June 2011 when issues were raised over procurement, officers from Services, Legal and Procurement have been meeting on a weekly basis to provide solutions to problems identified within the Action Plan. Some of the actions identified through the Metpro review required system changes, change in processes, review of contracts across the Council and most importantly cultural change. These will inevitably take time to achieve and the Audit Committee needs to be assured that these are happening on a timely basis but also with quality assured. Internal Audit will present to us that some of these actions are not sufficiently embedded across the Council, the Committee appreciates that some of these actions have moved on since June and that some timescales may have been overly ambitious on the creation of the action plan however the point is that the Audit Committee will continue to review and monitor the completion of these until they are considered appropriately in place.

The Committee is mindful of the fact that there are historical arrangements that are viewed as non compliant where Directorate action plans have been drawn up to ensure compliance in the short, medium and long term based on risk assessments of those contracts. For a number of contracts within Adults and Children's waivers were sought for current contract procedure rules from Cabinet Resources Committee on the 7th November 2011, these were approved. In addition, waivers will be sought for some contracts within Environment, Planning and Regeneration where Contract Procedure Rules have not been observed.

6. Pages 126-128 details the progress that has been made, but also highlights some significant problems such as, but not limited to, the following:
- internal audit were not confident that two directorates had carried out sufficient checks to sign off their quality assurance statement;
 - contracts signed as compliant were not compliant;
 - contracts were signed by officers who were not authorised to sign;
 - that actual spend sometimes exceeded the contract value that was accepted and approved;
 - a number of fields in the contract register were not being completed by services;
 - that some contracts over £25k had not been recorded in the central contracts register as either compliant or non compliant.

How concerned are the Committee that 6 months on these problems are still arising and that the centralisation process is not expected to materialise before June 2012 and at what stage do the committee believe that the Commercial Director/Chief Executive should be summoned before the Committee to explain why the progress is so lamentably slow.

Response

Centralisation that has taken place in other Boroughs (who are of a similar size and nature) have typically taken one year to carry out as the process of identifying staff undertaking procurement roles across the Council is difficult due to the devolved nature in which they, as Barnet, operate and procurement not being the "core" activity of one person but consider as part of their job. In addition, due to this involving staff they will also need to be consulted through-out the centralisation process – again, these important processes would be difficult to achieve under a faster timescale.

Within the Internal Audit report on page 128, it is noted that 'a number of these issues are historical and indicative of a control framework that did not have sufficient oversight of devolved operations. Having a fit for purpose contracts register and an effective monitoring system established within

Directorates and at the corporate centre will provide an effective mechanism for achieving compliance. Protocols have been put in place by Corporate Procurement Team to ensure that the central contracts register remains up-to-date and accurate'. The new control procedures to be followed for new contracts being entered into will ensure compliance going forward, however the Committee acknowledged in September that there were a number of non compliant contracts that were being made compliant over the next 9 – 12 months dependent on the procurement route.

The Audit Committee do not have the right to 'summon in' officers as their role is to oversee the internal control framework, officers in attendance are here to appraise the Committee of progress and to answer any queries. We have been informed by Internal Audit of the progress of implementing the action plan and we will continue to debate the issue and to see that it has been completed in full.

7. Given all of the shortcoming identified in the procurement and monitoring systems, how confident is the Audit Committee that the One Barnet programme of mass outsourcing will be handled adequately and monitored with the utmost efficiency and do they believe that in light of the problems identified that One Barnet now represents a major financial risk to the council.

Response

The Audit Committee can debate the internal control framework, as they will at this Committee, and they also are free to have their political views on matters. The transformation programme is inherently risky and as such has been included within the corporate risk register for some time. Any perceived risks are being mitigated by officers across the Council on a regular basis.

From Ms Theresa Musgrove

8. What controls and procedures does Barnet Council have in place to manage the risks of conflicts of interest - and the perception of conflicts of interest - inherent in the appointment and secondment of Senior Officers to and from organisations with which the Council has, has had or is likely to have, commercial relationships?

Response

This question does not have any clear links to work being reported to this Committee tonight however the response to this question is that: Barnet Council's pre-employment recruitment process requires that all selected candidates complete a Code of Conduct – Declaration of Interest questionnaire.

Secondees sign a three-way secondment agreement between the individual, Barnet Council and the seconding organisation which will be specific to the requirements of the particular post.

All senior individuals working on One Barnet projects sign a declaration of interest form for each One Barnet project for which they are involved in the procurement.

In addition, anyone involved in the procurement must sign a Competitive Dialogue Confidentiality Agreement specific to One Barnet.

9. Has Internal Audit evaluated and evidenced the operation of these controls?

Response

Internal Audit reviewed Recruitment, HR and payroll in 2010-11 and gave limited assurance at that time. We are currently in the process of reviewing payroll and will report back to the Committee in April. Priority one recommendations were agreed to be implemented and have been reported to this Committee as implemented, our full system audit will report back in April.

10. Is the Committee satisfied that all conflicts (and perceived conflicts) of interests are registered and open to inspection (by at least the Committee) and that, for conflicted individuals, a transparent system of recusal/disqualification is in operation?

Response

External and Internal Audit, who report to the Committee, are free to inspect Code of Conduct – declaration of interest forms as part of their duties.

11. Is the Committee aware of a recent case involving a senior officer who has recently taken up a post with one of the four shortlisted companies competing for £750 million of council services due to be outsourced to the private sector, having reportedly taken part in the tender process involving the same companies? Can the committee confirm that this case has been evaluated and found to represent no conflict of interest or breach of any regulations relating to the procurement of council contracts? If so, in view of the public interest issues raised, and of the need to be open and transparent in regard to such procedures, can the Committee explain why this does not represent any conflict of interest or breach of regulations?

Response

The Council is not prepared to answer a question relating to an individual case.

In circumstances where this situation arises, the Council would take appropriate action by removing an individual with immediate effect from involvement in any of the One Barnet projects and ensuring that an appropriately specific confidentiality agreement was in place written for the specific individual circumstances and risk.