

**AGENDA ITEM: 7**

Page nos. 38 - 66

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Meeting	Cabinet Resources Committee
Date	4 April 2012
<b>Subject</b>	<b>Reference from Business Management Overview &amp; Scrutiny Committee: Task and Finish Group Review: <u>Contract Monitoring and Community Benefit</u></b>
Report of	Scrutiny Office
Summary	This report submits a reference from the Business Management Overview and Scrutiny Committee on the recommendations of the Contract Monitoring and Community Benefit Task and Finish Group

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Officer Contributors	Andrew Charlwood, Overview & Scrutiny Manager
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix 1 – Report to Business Management Overview & Scrutiny Committee (8 March 2012), including: Annex 1 – Report of the Contract Monitoring and Community Benefit Task and Finish Group
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

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Contact for further information: Andrew Charlwood, Overview & Scrutiny Manager, 020 8359 2014 [andrew.charlwood@barnet.gov.uk](mailto:andrew.charlwood@barnet.gov.uk)

## **1. RECOMMENDATIONS**

- 1.1 That Cabinet considers and gives its instructions with respect to the recommendations made by the Contract Monitoring and Community Benefit Task and Finish Group, as referred to the Cabinet Resources Committee by the Business Management Overview and Scrutiny Committee.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Business Management Overview and Scrutiny Committee, 8 March 2012, Decision Item 7 – Report of the Contract Monitoring and Community Benefit Task and Finish Group**
- 2.2 As set out in Appendix 1.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 As set out in Appendix 1.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 As set out in Appendix 1.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 As set out in Appendix 1.

## **6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 6.1 As set out in Appendix 1

## **7. LEGAL ISSUES**

- 7.1 As set out in Appendix 1.

## **8. CONSTITUTIONAL POWERS**

- 8.1 Constitution Part 3 – Responsibility for Functions, Section 3 – Responsibilities of the Executive.

## **9 BACKGROUND INFORMATION**

- 9.1 The Business Management Overview and Scrutiny Committee considered the final report of the Contract Monitoring and Community Benefit Task and Finish Group at their meeting on 8 March 2012.
- 9.2 Following consideration of the report, the Business Management Overview and Scrutiny Committee agreed that the wording of recommendations 2. and

4. of the Task and Finish Group should be amended. Additionally, the Committee agreed that additional comments made by the Task and Finish Group which should be formalised as recommendations. Amended and additional recommendations are set out in the final report of the Contract Monitoring and Community Benefit Task and Finish Group attached at **Annex 1**.

## **10. LIST OF BACKGROUND PAPERS**

10.1 None.

**Finance: MC/JH**

**Legal: PJ**



**APPENDIX 1**

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Meeting	Business Management Overview & Scrutiny Committee
Date	<b>8<sup>th</sup> March 2012</b>
<b>Subject</b>	<b>Contract Monitoring and Community Benefit Task and Finish Group – Draft Report</b>
Report of	Scrutiny Office
Summary	This report presents the findings and recommendations of the Contract Monitoring and Community Benefit Task and Finish Group

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Officer Contributors	Andrew Charlwood, Overview and Scrutiny Manager
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix 1 – Contract Monitoring and Community Benefit Task and Finish Group
Reason for urgency / exemption from call-in	Not applicable

Contact for further information: Andrew Charlwood, Overview and Scrutiny Manager, 020 8359 2014, [andrew.charlwood@barnet.gov.uk](mailto:andrew.charlwood@barnet.gov.uk)

## **1. RECOMMENDATION**

- 1.1 Members of the Committee consider the findings of the Contract Monitoring and Community Benefit Overview and Scrutiny Task and Finish Group, as set out in the report attached at Appendix 1.**
- 1.2 Members of the Committee discuss and agree the recommendations of the Task and Finish Group.**
- 1.3 The agreed findings and recommendations are forwarded to the Executive for their consideration.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Business Management Overview and Scrutiny Sub-Committee, 16 December 2010, Decision Item 10 (Task and Finish Groups / Scrutiny Panel Update) – the Sub-Committee agreed to establish a task and finish group to consider purchasing and procurement.
- 2.2 Business Management Overview and Scrutiny Sub-Committee, 28 February 2011, Decision Item 10 (Purchasing and Procurement) – the Sub-Committee considered a report on purchasing and procurement and recommend that recently established Purchasing and Procurement Task and Finish Group:
  - (i) be requested to take into consideration the comments made by the Sub-Committee;
  - (ii) consider requesting details of contracts under review (when this work progresses corporately; and
  - (iii) be requested to consider the outcome of the SAP Optimisation Project and the ability of the system to deliver the procurement savings envisaged.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 The Overview and Scrutiny Committees, Panels and Task and Finish Groups must ensure that the work of Scrutiny is reflective of the council's priorities.
- 3.2 The three priority outcomes set out in the 2010/13 Corporate Plan are: –
  - Better services with less money
  - Sharing opportunities, sharing responsibilities
  - A successful London suburb
- 3.3 Under the Corporate Plan priority of “Better services with less money”, the strategic objective of “Drive efficient and effective procurement processes” relates to the work of the Task and Finish Group. A Procurement Transformation Project is identified as the method for delivering the strategic objective, with the following performance targets:
  - Number of vendors reduced by 40% between November 2010 and end of June 2011 (by 30 June 2011); and
  - Increase percentage of 50 largest vendors under formal contract from 70% to 100%.

- 3.4 Under the Corporate Plan priority of “Better services with less money”, the strategic objective of “Ensure our support services effectively serve the organisation through high quality, high value services” also relates to the work of the Task and Finish Group. The following One Barnet projects have been identified as the method for delivering the strategic objective: internal transformation of Legal, Estates, IS and Procurement.
- 3.5 Under the Corporate Plan priority of “A successful London suburb”, the strategic objective of “Create an environment in which business and enterprise can flourish” relates to the work of the Task and Finish Group, particularly “Engage with local businesses to develop plans to help people into employment”.

#### **4. RISK MANAGEMENT ISSUES**

- 4.1 The report of the Task and Finish group does not raise any direct risk issues.
- 4.2 However, the Task and Finish Group has received evidence (detailed within the main report at Appendix A) that IT systems across the council should be set up to support and enable effective, modern procurement practices. The Task and Finish Group have also been informed of the need to make improvements to the council’s internal control environment to provide better controls that will facilitate the delivery of cost reductions and economies of scale.

#### **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 Under the Equality Act 2010, the council and all other organisations exercising public functions on its behalf must have due regard to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between those with a protected characteristic and those without; and c) promote good relations between those with a protected characteristic and those without. The ‘protected characteristics’ referred to are: age; disability; gender reassignment; pregnancy; maternity; race; religion or belief; sex; and sexual orientation. The duty to eliminate discrimination also extends to marriage and civil partnership.
- 5.2 Effective procurement and contract monitoring/management are core elements of the council being able to providing assurance on the effective allocation of resources and quality of service provision for the benefit of all Barnet’s residents.
- 5.3 In addition to the Terms of Reference of the Committee, and in so far as relating to matters within its remit, the role of Business Management Overview and Scrutiny Committee is to perform the Overview and Scrutiny role in relation to:
- The Council’s leadership role in relation to diversity and inclusiveness; and
  - The fulfilment of the Council’s duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety.

## **6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 6.1 The Contract Procedure Rules (CPR) provide the schedule within which the council may procure works, supplies and services. The aim of the rules is to:
- 1.3.1 Ensure value for money and propriety in the spending of public money;
  - 1.3.2 To enable services to be delivered effectively and efficiently without compromising the Council's ability to influence strategic decisions; and
  - 1.3.3 To ensure that the Council is not exposed to unnecessary risk and likelihood of challenge arising from non compliant tendering activity.
- 6.2 The recommendations contained within the report of the Task and Finish Group seeks to contribute towards ensuring effective procurement activity across the council.
- 6.3 Recommendation i) of the Task and Finish Group suggests that the council should implement revised arrangements for managing complex procurement and contract monitoring/management activity, including the introduction of Delivery and Performance Officers to manage contractual relationships. During the course of the review, officers identified that restructuring and expanding the procurement function was expected and this on-going cost will be contained within existing budgets. However, there will be transition costs which will need to be considered by the Cabinet Resources Committee in due course.
- 6.4 Recommendation ii) of the Task and Finish Group proposes that all procurement activity within the council be centralised. Implementation of this recommendation is expected to deliver efficiency improvements.
- 6.5 Recommendation iii) of the Task and Finish Group suggests that a Performance Advisory Group should be established to enable residents to provide service user feedback on commissioned services to address issues of underperformance and ensure that best value is achieved. Implementing such an arrangement is expected to have a minimal cost that can be contained within existing budgets.
- 6.6 Recommendation iv) of the Task and Finish Group does not have any specific financial implications for the authority. Improved relationships with local business and increased trade with local companies is expected to have a positive financial benefit for the council by decreasing unemployment levels and increasing the amount collected via Business Rates.

## **7. LEGAL ISSUES**

- 7.1 The public procurement regulations apply whenever a contracting authority whether by itself, or through a third party, seeks offers in relation to a proposed public 'works' 'supply' or 'service' contract, the value of which exceeds certain financial thresholds. The public procurement regulations make a distinction between two categories of services. Schedule 3 to the Public Contract Regulations 2006 contains two lists of categories of services. The first list, which appears in Part A, contains description of services which are subject to the full application of the rules under the public procurement regulations. If a service in Part A exceeds the relevant threshold, it is subject to the full public



procurement regulations, such as the obligation to subject the service to advertisement before an award of contract.

- 7.2 Only limited parts of the Regulations apply in the case of Part B services contracts and do not apply to service concessions or contracts that are below the relevant thresholds. Such contracts are nonetheless caught by general Treaty principles of equal treatment, non-discrimination and transparency.
- 7.3 With respect to contract award, the award decision must comply with procedural rules laid down at the outset and which comply with the general principles of non-discrimination and equal treatment.
- 7.4 Under the Regulations, a contracting authority may reserve the right to participate in a public contract award procedure, to economic operators which operate supported factories, supported businesses or supported employment programmes. "Supported business" means a service where more than 50% of the workers are disabled persons who by reason of the nature or severity of their disability are unable to take up work in the open labour market. "Supported employment programme" means a scheme under which work is provided for disabled persons and where more than 50% of the workers so supported are disabled persons who by reason of the nature or severity of their disability are unable to take up work in the open labour market. "Supported factory" means an establishment where more than 50% of the workers are disabled persons who by reason of the nature or severity of their disability are unable to take up work in the open labour market.
- 7.5 The proposals in the report for including community or social benefits in contracts would be subject to the constraints of the public procurement regulations, and no proposal can disapply the general Treaty principles of equal treatment, non-discrimination and transparency. Each procurement, therefore, needs to be looked at on case by case basis to determine whether it would be at odd with Treaty principles. However, in practice it may be difficult to make such requirements compliant with the Treaty principles.

## **8. CONSTITUTIONAL POWERS**

- 8.1 The scope of the Overview & Scrutiny Committees is contained within Part 2, Article 6 of the Council's Constitution.
- 8.2 The Terms of Reference of the Overview & Scrutiny Committees are set out in the Overview and Scrutiny Procedure Rules (Part 4 of the Constitution).
- 8.3 Item 8 of Business Management Overview & Scrutiny Committee Terms of Reference states that the role of the Committee is:

"To coordinate and monitor the work of scrutiny panels and task and finish groups, including considering reports and recommendations and referring to the relevant decision-making body."

## **9. BACKGROUND INFORMATION**

- 9.1 The membership of the Task and Finish Group was agreed at the 24 January 2011 meeting of the Business Management Overview and Scrutiny Sub-Committee.
- 9.2 Following the 9 March 2011 meeting of the Task and Finish Group, where the Group received a briefing from the Assistant Director for Commercial Assurance and the Head of Procurement, it was agreed that contract monitoring and management, local procurement, democratic accountability in outsourced services and centralised versus devolved procurement activity should be incorporated within the terms of reference of the review.
- 9.3 In light of the submission of reports to the Audit Committee in relation to the Metpro Rapid Response Internal Audit Report and the Internal Audit Annual Opinion the Task and Finish Group agreed to concentrate their review on contract monitoring and management.
- 9.4 In addition, members sought to consider what cost effective steps the council could take to benefit the local economy through local procurement and business support arrangements.
- 9.5 The review process involved taking evidence from key internal stakeholders, external witnesses, a review of best practice guidelines and research publications, in addition to internal council reports. The findings of the Task and Finish Group review are detailed in their final report as attached in **Appendix 1**.

## **10. LIST OF BACKGROUND PAPERS**

- 10.1 As detailed in the draft report of the contract Monitoring and Community Benefit Task and Finish Group attached at Appendix 1.

**Legal – PJ**

**Finance – MC/JH**

**CONTRACT MONITORING AND COMMUNITY BENEFIT**

**OVERVIEW AND SCRUTINY TASK AND FINISH  
GROUP**

**FINAL REPORT**

## Recommendations

Following consideration of the evidence received, the Task and Finish Group made the following recommendations:

1. Complex procurement and contract monitoring / management activity should be managed within the council under the following structure:
  - Procurement Officers (with responsibility for specifying and negotiating complex contracts);
  - Delivery & Performance Officers (with responsibility for monitoring / managing specified contracts and developing / maintaining an ongoing contractual relationship with vendors); and
  - Clearly defined linkages should exist between Procurement Officers and nominated Delivery & Performance Officers to ensure a balance between the negotiation of the contract and best practice in contract delivery.

It is recommended that Delivery & Performance Officers are in post in advance of the planned commencement of a contract to ensure smooth phasing out of the current arrangements and the introduction and delivery of a new contractual relationship. Structured succession planning arrangements should be in place to ensure that the essential skills and knowledge required to properly manage contracts for their entire lifecycle are not lost.

*Cabinet are requested to outline the budget resource required to enable the council to effectively manage complex procurement and contract monitoring / management activity.*

2. Devolved procurement activity currently undertaken within Adult Social Care and Health, Children's Services and Environment, Planning and Regeneration be centralised to: ensure delivery of economies of scale; develop and enhance the internal control framework; and ensure that a central team has officers with the skills required to manage contracts effectively. Contract monitoring / management activity should be retained within directorates, with Chief Officers being accountable for the management of all contracts falling within their remit.
3. Each area of procurement activity is to have a Performance Advisory Group of not more than six Borough residents who meet four times per annum to co-ordinate and articulate feedback from the end user with Procurement Officers.
4. Cabinet be requested to: amend the Corporate Plan to include a corporate priority relating to local businesses; and outline the approach the council will take to encourage local companies to benefit from local business opportunities. Recommended options include:
  - Establishment of a customer facing Business Helpdesk;

- Enhancements to the 'Business' section of the council's web site;
  - Providing briefings to local business forums on business opportunities available, including the Procure4London portal;
  - In relation to new contracts:
    - Vendors to assist the council in creating: local job opportunities to enable Barnet residents to get back into work; and graduate trainee opportunities;
    - Apprenticeship opportunities; and
    - Sub-contracting parts of the supply chain (where possible) to local companies within the borough.
5. Steps should be taken to institute a 'culture of compliance' within the council, including:
- a commitment from Cabinet and Council Directors to take the steps necessary to ensure delivery of best practice procurement and contract monitoring / management throughout the authority, and to outline the steps that will be taken to achieve this;
  - introduce a requirement for Council Directors to provide an annual sign-off of contractual compliance; and
  - all staff involved in procurement and contract monitoring / management being set measurable objectives and performance targets in appraisals regarding this activity.
6. Enhancements should be made to the SAP system to:
- make it the central repository for council contracts; and
  - utilise the system for actual and exception reporting

## Section One

### 1 Introduction and Background Information

1.1 On 1<sup>st</sup> November 2010, the Business Management Overview and Scrutiny Sub-Committee requested a briefing paper on purchasing and procurement activity in the council. In requesting the report, the sub-committee were seeking to determine whether purchasing and procurement should be included in the work programme for a task and finish group review.

1.2 In the period between the report being requested and presented to the sub-committee, it was agreed in January 2011 that a task and finish group on purchasing and procurement would proceed as soon as resources became available within the Overview and Scrutiny Office. The following members were subsequently appointed to the Task and Finish Group:

Councillor Brian Schama (Chairman)  
Councillor Geof Cooke  
Councillor Barry Evangeli  
Councillor Sury Khatri  
Councillor Alan Schneiderman

1.3 The sub-committee received a briefing paper on purchasing and procurement at their meeting on 28<sup>th</sup> February 2011 which set out:

- the current approach to corporate procurement;
- an estimate of total influenceable revenue spend;
- identifiable resources dedicated to procurement activity;
- performance against Chartered Institute of Public Finance and Accountancy (CIPFA) benchmarking authorities;
- a summary of the findings of an independent review of procurement opportunities undertaken by Tribal Consultancy;
- One Barnet procurement activity;
- the implications of the New Support Organisation One Barnet project for the Procurement Service; and
- the Procurement Service Improvement Plan.

1.4 When receiving the report, the sub-committee articulated concern that IT systems were not set up to support and enable effective, modern procurement practices. At the meeting, the Commercial Director acknowledged that ad hoc procurement arrangements were in place and identified that improved IT systems, tighter rules and better controls were

required to deliver cost reductions and economies of scale. At the conclusion of the item, the sub-committee suggested that the task and finish group should consider:

- requesting details of the contracts under review (in accordance with the 2010/11 Corporate Plan performance target of “review contracts and renegotiate (if necessary) 50 per cent of all vendor activity”); and
- the outcome of the SAP Optimisation project and the ability of the system to deliver the procurement savings envisaged.

## **2. Terms of Reference**

- 2.1 The Task and Finish Group (TFG) initially met on 9 March 2011 to consider outline terms of reference and receive evidence from the Assistant Director Commercial Assurance and Head of Procurement. At the meeting, the TFG received an overview of the procurement activity at the council.
- 2.2 Members were informed that the majority of procurement activity was undertaken by individual service areas, with the Central Procurement Team providing support for major/complex procurement activity to individual directorates.
- 2.3 When questioned what improvement needed to be made in procurement, the TFG were advised by officers that a centralisation of procurement activity would:
  - enable spend to be categorised;
  - aggregate spend/eliminate maverick spend;
  - achieve scale of economy ;
  - institute a more strategic approach; and
  - enable the council to become more commercially minded.
- 2.4 The TFG questioned how officers achieved value for money through procurement and purchasing activity and were informed that the council participated in the London Contract and Suppliers Group, enabling the council to achieve economies of scale for large standardised contracts.
- 2.5 At the meeting, the TFG raised concerns regarding the large, complex and non-standardised contracts that would result from implementation of One Barnet projects. Members emphasised the importance of ensuring that contracts with external service providers were robust (to prevent suppliers from inserting expensive contract variations after contract award) and flexible (to enable the council and suppliers to respond to changing circumstances). In relation to One Barnet Programme

procurement and contract monitoring/management activity, Members sought assurance that the following would be addressed:

- robust cancellation clauses for non-conformance/compliance if the supplier failed to meet contractual obligations;
- flexibility to react and respond to changing circumstances to mitigate against the risk of contractors submitting loss-leader bids, then making significant extra charges during the lifetime of the contract;
- equalities considerations;
- robust exit strategies;
- ensuring that pay and performance conditions are correct (to mitigate against the risk of long-term financial consequences for the authority);
- having expertise within the council to manage complex procurement activity;
- ensuring that there is an appropriate balance of quantitative and qualitative performance measures to ensure an appropriate balance is achieved between cost and quality considerations; and
- incorporation of mystery shoppers<sup>1</sup> into contract specifications.

2.6 In response, the TFG were informed that iMPower, the council's One Barnet Programme implementation partner would validate service specifications prepared by officers. Members noted that where services were outsourced, it was anticipated that approximately 7% of staff would be retained in-house in a contract monitoring and compliance capacity.

2.7 At the conclusion of the meeting, the TFG requested that the outline terms of reference that had been presented to the initial meeting be revised to incorporate contract monitoring and management, local procurement, democratic accountability in outsourced services and centralised versus devolved procurement activity.

2.8 Due to a lack of available support officers, the TFG did not reconvene until 24 May 2011. Revised terms of reference were considered at the meeting, covering the key lines of enquiry as outlined at 2.7 above. At the meeting, Members requested additional information in relation to: contract monitoring; potential economies of scope and scale; settlement terms; steps taken to derive best value throughout the contract lifecycle;

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<sup>1</sup> **Mystery shopping** or a **mystery consumer** is a tool used externally by market research companies or watchdog organizations or internally by companies themselves to measure quality of service or compliance to regulation, or to gather specific information about products and services. The mystery consumer's specific identity is generally not known by the establishment being evaluated. Mystery shoppers perform specific tasks such as purchasing a product, asking questions, registering complaints or behaving in a certain way, and then provide detailed reports or feedback about their experiences.



business networks operating in Barnet; and a possible site visit to North London Business Park to be taken through the purchase to pay process.

- 2.9 Following the 24 May 2011 meeting, two reports were presented to the council's Audit Committee (16 June 2011) which highlighted deficiencies with the council's contract monitoring arrangements (MetPro Rapid Response Internal Audit Report<sup>2</sup> and Internal Audit Annual Opinion<sup>3</sup>). While the findings of the two Internal Audit reports were of concern to the TFG, it was noted that the council had responded to the issues raised via a Procurement Controls and Monitoring Action Plan<sup>4</sup>. When the TFG reconvened on 14 June 2011 to agree their terms of reference, it was agreed that contract monitoring and management should be given precedent over procurement arrangements due to the significance of the issue locally.
- 2.10 The TFG were mindful that Procurement Controls and Monitoring Action Plan was expected to address the majority of the identified weaknesses in the council's internal control environment and sought to ensure that they did not duplicate the work of the Audit Committee in undertaking their review. To that end, the TFG agreed to focus their work on identifying what steps the council should take in the long-term to institute a robust contract monitoring and management framework to manage current and future activity.
- 2.11 In addition, members sought to consider what cost effective steps the council could take to benefit the local economy through local procurement and business support arrangements.
- 2.11 Accordingly, the TFG agreed to refocus their terms of reference on contract monitoring (70%) and community benefit (30%). Agreed terms of reference are set out at **Appendix A**.

### **3. Review Format**

- 3.1 In accordance with established best practice, the TFG undertook a series of evidence gathering sessions with key stakeholders.
- 3.2 These evidence sessions were supported by:
- A review of current procurement and contract monitoring/ management arrangements and ongoing issues;
  - A review of best practice guidance;
  - Reports and information produced submitted by the Corporate Procurement Team; and

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<sup>2</sup> <http://committeepapers.barnet.gov.uk/democracy/reports/reportdetail.asp?ReportID=10408>

<sup>3</sup> <http://committeepapers.barnet.gov.uk/democracy/reports/reportdetail.asp?ReportID=10409>

<sup>4</sup> <http://committeepapers.barnet.gov.uk/democracy/reports/reportdetail.asp?ReportID=10464>

- Research published by experts on community benefit and sustainability.

3.3 The engaged stakeholders included:

- Cabinet Member for Resources and Performance;
- Deputy Chief Executive;
- Corporate Procurement Team (including Assistant Director, Commercial Assurance and Head of Procurement);
- Procurement service leads (including Assistant Directors and Heads of Service);
- Business Liaison Officers;
- A sustainable procurement expert advisor; and
- Head of Procurement, Hampshire County Council.

3.4 The report of the TFG details the findings of the evidence gathering sessions relating to contract monitoring/management and community benefit which emerged during the course of the review, namely:

1. Current contract monitoring arrangements within corporate and devolved procurement teams.
2. Potential approaches to incorporating community benefit and sustainability into procurement and contracting.
3. Corporate improvements to contract monitoring arrangements and recommended future developments.

3.5 Section two details the findings of the TFG in relation to procurement and contract monitoring arrangements with section three outlining the reviews findings regarding community benefits before summarising the concluding remarks of the TFG.

## **Section Two**

### **1 Procurement and Contract Monitoring Arrangements**

#### **Current structure**

- 1.1 Procurement activity within the council operates, to a large extent, on a devolved basis (to service areas). The council has a small Central Procurement Team (CPT) which provides support to complex procurement activity and also manages some corporate contracts.
- 1.2 The CPT comprises an Assistant Director (Commercial Assurance), a Head of Procurement, three Procurement Managers, a Contracts Manager and a Procurement Systems Officer. Procurement Managers provide support to the council's service areas in undertaking procurement activity. Contract monitoring and management is primarily undertaken by service areas.
- 1.3 Some service areas have officers which deal almost exclusively with procurement and contract monitoring/management (e.g. the Supply Management Team in Adult Social Care and Health). However, it is notable that procurement and contract monitoring/management activity is ordinarily undertaken by officers within service areas, with this activity being only a proportion of a broader range of staff duties. Due to the devolved nature of these arrangements, it is currently difficult for the council to undertake an accurate assessment of the total amount of officer resource across the authority dedicated to procurement and contract monitoring/management.

#### **Current Issues and Mitigating Actions**

- 1.4 Recent events have given prominence to procurement and contract monitoring issues. Internal Audit reports on MetPro Rapid Response and the Internal Audit Annual Opinion presented to the Audit Committee in June 2011 highlighted the necessity of the council taking steps to strengthen control arrangements across the organisation. A number of measures have been introduced to mitigate the risks associated with existing non-complaint contracts across the council and to improve the internal control environment, including:
  - Creation of corporate contracts register;
  - A review of compliance of current contracts;
  - A forward plan and timeline of procurement activity for the remainder of 2011/12 and for 2012/13;
  - Identifying the number of projects that will and will not require publication on the Official Journal for the European Union (OJEU) and adherence to the EU procurement regime, implemented in the UK by the Public Contracts Regulations 2006;

- Undertaking risk assessments to ensure effective prioritisation and resource planning; and
- Exploring possible frameworks available to limit procurement activity timelines and support successful project delivery.

1.5 While the TFG welcomed the actions that had been taken to date, members sought assurance that the council would have an ongoing appropriate organisational framework and skills base to ensure that effective procurement and contract monitoring arrangements were in place, particularly due to the complex nature of contracts linked to the One Barnet Programme.

### **Requirement for Change**

1.6 The evidence considered by the TFG during the course of the review identified that having a primarily devolved procurement function has resulted in an inconsistent approach to procurement and contract management across the council's directorates. The lack of corporate oversight of procurement and contract monitoring has resulted in an inconsistent approach and a lack of strategic focus. Key findings from internal and external reviews support the need for change:

#### *Internal Audit Review 2011*

- Limited audit opinion;
- Weaknesses in control system;
- Levels of non-compliance place the system's objectives at risk; and
- Roles and responsibilities of devolved procurement teams/officers are unclear

#### *Tribal Consultancy Review 2010*

- As a result of the devolved structure, staff are unlikely to have the required skills and experience to increase efficiency;
- Lack of control over expenditure and the establishment of new suppliers; and
- Potential to reduce costs by reducing the number of transactions being processed.

#### *Four Year Contract Plan*

- Delayed submissions to contracts register highlights data gaps;
- Inadequate focus on medium-term financial planning; and
- Contract extensions are being requested due to a lack of planning in the procurement process.

1.7 In response to the issues highlighted by the Audit Committee and the recommendations of internal and external reviews, service improvements planned and ongoing include:

- Revise and update the council's Procurement Strategy;
- Agree a strategic framework to support the procurement phase on the One Barnet Programme;
- Review and update Contract Procedure Rules and Procurement Code of Practice;
- Review procurement spend across directorates, identify providers and review current contractual arrangements;
- Ensure One Barnet programme has an appropriately resourced procurement team;
- Develop a corporate contract register;
- Enhance internal and external visibility of contract expenditure;
- Undertake a business process review to improve internal control systems;
- Review standard terms and conditions;
- Audit all vendors;
- Develop an e-procurement strategy; and
- Develop an e-procurement / e-tendering area of the council's website.

## **2 Key Findings**

### **Collaborative Procurement / Purchasing and Economies of Scale**

- 2.1 In considering procurement and contract monitoring arrangements, the TFG questioned whether the council were involved in any procurement consortiums or strategic alliances which would deliver economies of scale or efficiencies. Members were informed that the council had recently joined the West London Alliance (WLA), a collaborative body which seeks to deliver efficiency savings and service improvements. It was noted that the One Barnet Passenger Transport project involved collaborative working with other London boroughs in the WLA and the project was expected to deliver significant efficiency savings through a shared service arrangement.
- 2.2 Members were also advised that the council were part of the London Contract and Suppliers Group, a consortium which assisted in obtaining best value for large standardised contracts, such as stationery supplies.
- 2.3 The Central Procurement Team had also been considering utilising the Procure4London portal (a pan-London procurement portal sponsored by

London Councils) to advertise procurement opportunities and encourage local suppliers to bid for council contracts.

## **Contract Monitoring / Management**

- 2.4 In considering evidence, the TFG remained concerned that the current devolved procurement and contract monitoring/management structure would continue to give rise to contract management issues. As part of the review, the TFG requested that the Assistant Director Commercial Assurance outline proposals for the development of a Corporate Contract Monitoring Service.
- 2.5 In July 2011, the TFG considered a paper '*Developing a Strategic Approach to Contract Management*' which covered:
- Benefits of creating a Corporate Contract Monitoring Service including a contract monitoring process overview, contract engagement and ensuring continuity of corporate monitoring;
  - Proposed structure of a Corporate Contract Monitoring Service including the skills and competencies required of contracts officers;
  - Managing contract relationships including service delivery / relationships structure, managing contract performance, improvement management and managing change; and
  - Risks
- 2.6 Members were broadly supportive of the proposal to implement a centralised approach to contract monitoring/management as this would:
- Protect the council's contractual position;
  - Manage risks;
  - Monitor service providers performance against the output specification;
  - Ensure that services were delivered in accordance with the contract;
  - Deliver continuous improvement in contract performance and service delivery; and
  - Derive maximum value for money.
- 2.7 It was noted that the estimated cost of instituting such a service would be in the region of £500,000 per annum.
- 2.8 During July 2011, the TFG discussed the proposal to create a Corporate Contract Monitoring Service with the Cabinet Member for Resources and Performance, Deputy Chief Executive, Commercial Director and other senior officers involved in procurement and contract monitoring/management. In commenting on the proposal, the Cabinet Member for

Resources and Performance advised the TFG that he supported the centralisation of procurement and contract monitoring/management to increase control and professionalism. While supporting the concept, the Deputy Chief Executive raised concerns that the resources required to deliver a Corporate Contract Monitoring Service were currently unbudgeted and sought recommendations from the TFG regarding funding sources.

- 2.9 In noting the cost implications of delivering a Corporate Contracting Monitoring Service, the TFG emphasised the importance of the council having officers in place with the required skills, knowledge and expertise to manage the complex procurement and contract monitoring/management that would result from the implementation of the One Barnet Programme.

### **3 Procurement and Contract Monitoring Arrangements - Recommendations**

- 3.1 Following consideration of the evidence received, the TFG made the following recommendations:
- i) Complex procurement and contract monitoring / management activity should be managed within the council under the following structure:
    - Procurement Officers (with responsibility for specifying and negotiating complex contracts);
    - Delivery & Performance Officers (with responsibility for monitoring / managing specified contracts and developing / maintaining an ongoing contractual relationship with vendors); and
    - Clearly defined linkages should exist between Procurement Officers and nominated Delivery & Performance Officers to ensure a balance between the negotiation of the contract and best practice in contract delivery.

It is recommended that Delivery & Performance Officers are in post in advance of the planned commencement of a contract to ensure smooth phasing out of the current arrangements and the introduction and delivery of a new contractual relationship. Structured succession planning arrangements should be in place to ensure that the essential skills and knowledge required to properly manage contracts for their entire lifecycle are not lost.

*Cabinet are requested to outline the budget resource required to enable the council to effectively manage complex procurement and contract monitoring / management activity.*

- ii) Devolved procurement and contract monitoring / management activity currently undertaken within Adult Social Care and Health, Children's Services and Environment, Planning and Regeneration be centralised to

ensure delivery of economies of scale, develop and enhance the internal control framework, and ensure that a central team has officers with the skills required to manage contracts effectively.

In addition to the formal recommendations set out above, the Group identified the following points for Cabinet's consideration:

- a) Steps should be taken to institute a 'culture of compliance' within the council, including:
  - a commitment from Cabinet and Council Directors to take the steps necessary to ensure delivery of best practice procurement and contract monitoring / management throughout the authority, and to outline the steps that will be taken to achieve this;
  - introduce a requirement for Council Directors to provide an annual sign-off of contractual compliance; and
  - all staff involved in procurement and contract monitoring / management being set measurable objectives and performance targets in appraisals regarding this activity.
- b) Enhancements should be made to the SAP system to:
  - make it the central repository for council contracts; and
  - utilise the system for actual and exception reporting.

## **Section Three**

### **1 Community Benefit and Sustainability**

#### **Current Arrangements**

- 1.1 As part of the review, the TFG agreed that consideration be given to steps that the council might take to deliver local economic benefit. While members were aware that the council needed to balance the achievement of best value when awarding contracts for works, services and supplies, they also considered that relatively low cost steps could be taken to improve relationships and trading links with local businesses to derive benefit for the local economy.
- 1.2 In June 2011, the TFG received information from the Business Liaison Team in the Regeneration Service regarding current business engagement activity. It was noted that in 2008, Cabinet had approved the creation of a Business Links Officer post to strengthen links with the local business community. Responsibilities include:



- understanding more about the impact of current economic circumstances on local businesses;
- establishment town centre Business Forums;
- support local small and medium sized enterprises, enabling them to be more aware of and bid for contracts from local developers;
- provide support and advice;
- encourage links between business and education; and
- business liaison.

1.3 The Group were advised that during 2010 and 2011, surveys of businesses had been undertaken in town centre locations to identify business types, issues, the trading environment and potential environmental improvements. Enthusiasm of local businesses has been used to establish town centre business forums.

### **Current Initiatives**

1.4 Members were informed that town centre business forums had been created in Chipping Barnet and Edgware, and were also in development in Golders Green, Finchley Church End and north Finchley. The forums enabled businesses to take responsibility for marketing and promotion of their town centres, and to inform policy and service provision. Further support is provided to business in the following ways:

- Web-based business information and signposting;
- Exploring and promoting apprenticeships, work experience and job opportunities;
- Linking businesses with schools; and
- Assisting businesses with their aspirations.

1.5 Additionally, the council had been successful in setting local labour targets as part of Section 106 planning agreements (to be replaced by the Community Infrastructure Levy) with developers of major sites and regeneration schemes. Generally, a 20 per cent target had been set for local employment, or through a requirement to use local sub-contractors.

1.6 The TFG noted that Local Enterprise Partnerships (LEP) had been introduced as part of the localism agenda. The Business Liaison team advised the TFG that while a London-wide LEP has been established, the council were intending to establish an LEP in Barnet's key opportunity area of the A5 corridor.

1.7 It was further noted by the TFG that the Government's proposals to localise business rates was expected to have a significant impact on funding arrangements for local authorities, requiring the council to take steps to retain and develop local businesses to deliver economic

prosperity and a reliable source of revenue funding. The TFG noted that the revised funding arrangements would require the council to change their approach to local businesses.

## **2 Evidence from External witnesses**

2.1 In July 2011, the TFG received evidence from:

- the Head of Procurement at Hampshire County Council; and
- an expert on community benefit and sustainability from the New Economics Foundation.

2.2 During the evidence session, the TFG were informed of the following:

- the council are able to engage with local businesses and encourage them to compete for council contracts, providing that an unfair advantage is not provided;
- social and environmental benefits can be built into contracts, such as the requirement for developers or external contractors to provide a specified number of apprenticeships;
- the council could develop a local supply chain and employment opportunities to deliver a better service after awarding a contract;
- local economic benefit can be built into contracts; the public procurement regulations apply whenever a contracting authority, whether by itself, or through a third party, seeks offers in relation to a proposed public works, supply or services contract, the value of which exceeds certain financial thresholds.<sup>5</sup>

2.3 Members were advised that:

- Community Benefits included: training/apprenticeships; community consultation and involvement; education opportunities; 'considerate contractor' scheme; and resources for community initiatives; and
- Social Benefits included: equality and diversity / equal opportunities; disabled access; employment and training; fair trade; and access for SMEs, minority owned organisations and social enterprises.

2.4 Members noted that to include community or social benefits in contracts, a corporate commitment to this approach would be required. This commitment would be written into high level corporate documentation, such as the corporate plan. Adopting such an approach would enable the authority to write these requirements into business cases / options appraisals, the procurement strategy, invitations to tender / contract terms and conditions; evaluation and award criteria, and performance indicators and contract monitoring.

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<sup>5</sup> The Council would need to ensure that it was not perceived to be distorting the market by favouring local suppliers.

### **3 Community Benefit and Sustainability - Recommendations**

- i) Cabinet outline approaches the council will take to encourage local companies to benefit from local business opportunities. Recommended options include:
- Establishment of a customer facing Business Helpdesk;
  - Enhancements to the 'Business' section of the council's web site;
  - Providing briefings to local business forums on business opportunities available, including the Procure4London portal;
  - In relation to new contracts:
    - Vendors to assist the council in creating: local job opportunities to enable Barnet residents to get back into work; graduate trainee opportunities;
    - Apprenticeship opportunities; and
    - Sub-contracting parts of the supply chain (where possible) to local companies within the borough.

### **Conclusion**

- 1.1 Having considered the evidence the review has found that a more robust contract monitoring process is required across the council. Furthermore, the evidence presented to the TFG suggests that devolved procurement and contract monitoring/management activity currently undertaken within Adults Social Care and Health, Children's Services, and Environment, Planning and Regeneration should be centralised.
- 1.2 This centralisation of procurement and contract monitoring/management would enable the delivery of economies of scale, development and enhancement of an internal control framework, and ensure that a central team is equipped with the skills required to manage contracts effectively.
- 1.3 In relation to community benefits the TFG has found that local business could benefit from support and encouragement from the council. Suggested approaches for providing such encouragement are detailed in the recommendations of this report.
- 1.4 Overall, the TFG has found that the council must work towards consolidating a culture of compliance across the organisation to ensure delivery of best practice procurement and contract monitoring/management.

## APPENDIX A

### PROJECT PLAN

<b>Topic for Review</b>	<b>Contract Monitoring and Community Benefit</b>
<b>Membership</b>	Councillor Brian Schama (Chairman) Councillor Geoff Cooke Councillor Barry Evangeli Councillor Alan Schneiderman Councillor Suri Khatri
<b>Link to Corporate Plan</b>	<p>The Corporate Plan 2011/13 has the following Corporate Priorities:</p> <ul style="list-style-type: none"> <li>• Better services with less money;</li> <li>• Sharing opportunities, sharing responsibilities; and</li> <li>• A successful London suburb.</li> </ul> <p>The following are strategic objectives, improvement initiatives, projects and performance targets that relate to the work of this task and finish group:</p> <ul style="list-style-type: none"> <li>• Delivery of a procurement transformation project;</li> <li>• Number of vendors reduced by 40% between November 2010 and end June 2011;</li> <li>• Increase % of 50 largest vendors under formal contract from 70% to 100%;</li> <li>• Create an environment in which business and enterprise can flourish, including engaging with local business;</li> <li>• Establishment of business forums in Edgware, Chipping Barnet and Golders Green by September 2011.</li> </ul>
<b>Background</b>	<p>1<sup>st</sup> November 2010 – the Business Management Overview &amp; Scrutiny Sub-Committee requested a report of purchasing and procurement activity within the council.</p> <p>16<sup>th</sup> December 2010 – the Sub-Committee established a time limited task and finish group to review procurement activity across the Council as a whole.</p> <p>28<sup>th</sup> February 2011– the Sub-Committee received a briefing paper on purchasing and procurement at their meeting and submitted comments to the task and finish group for them to consider as part of their review.</p>
<b>Scope and Purpose of Review</b>	<p>Task and Finish Group to review:</p> <p>(i) Contract monitoring and management (70%), particularly aspects such as:</p> <ul style="list-style-type: none"> <li>- Current contract monitoring arrangements within corporate and devolved procurement teams;</li> </ul>

	<ul style="list-style-type: none"> <li>- Legal aspects of contracts (especially confirmation conditions and penalty clauses);</li> <li>- Ensuring value for money throughout the life of the contract;</li> </ul> <p>(ii) Local Procurement/Community Benefit (30%)</p>
<b>Format of Review</b>	<p><b>Methodology</b></p> <ul style="list-style-type: none"> <li>• Scrutiny Office to conduct desk research</li> <li>• Members to meet and receive reports from relevant Cabinet Members and Council officers</li> <li>• Members to meet with relevant external witnesses</li> <li>• Best practice to be identified</li> </ul>
<p><b>Key Evidence (internal &amp; external)</b> (include people, documents, consultations, site visits, etc.)</p>	<p><b>Witnesses/Stakeholders:</b> Cabinet Member for Resources and Performance, other relevant Cabinet Members, relevant Council Directors, Assistant Director Commercial Assurance, any other relevant Council officers, relevant external witnesses</p> <p><b>Documents:</b> Business Management Overview &amp; Scrutiny Sub-Committee, 28 February 2011, Agenda Item 10 (Purchasing and Procurement) Contract Procedure Rules. Any other data, information or documents the task and finish group consider are appropriate</p> <p><b>Site Visits:</b> Best practice authority to be identified and site visit arranged. Guest speakers/witnesses at the request of the group.</p>
<b>Timescales</b>	<p>Overview and Scrutiny arrangements recommend that Task and Finish Group reviews should be completed within a timescale of three months. It is envisaged that this review be completed by the end of September 2011, with updates reported to the Business Management Overview &amp; Scrutiny Sub-Committee in June, July and September 2011.</p>
<b>Expected Outcome</b>	<p>The Task and Finish Group will make up to four clear and concise SMART (Specific, Measurable, Achievable, Realistic and Timely) recommendations to the Council's Cabinet.</p>
<b>Follow up</b>	<p>Implementation of accepted recommendations is to be monitored by the Scrutiny Office.</p>

