

**AUDIT COMMITTEE
MONDAY, 8 APRIL 2013**

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.

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

1. Mr John Dix

In relation to agenda item 6:

The Legal Service was outsourced to Harrow in September yet:

- There is no contract manager in place;
- Risks noted within the project prior to go 'live' were not transferred internally for those retained risks identified; and
- There was no documented process in place for ensuring that the cost, quality and effectiveness benefits, were regularly monitored and managed to ensure that they are fully realised.

Is the Chairman concerned that this situation arose in the first place and confident that steps are being taken to ensure this doesn't happen again?

Response

The Council's legal service is now carried out in the form of a shared service. The report included within the Internal Audit progress report notes the arrangements in Barnet have been less effective in monitoring the success of the shared service, however notes that information produced by Harrow is considered comprehensive and in accordance with the requirements of the Inter-Authority Agreement.

Whilst the shortcomings of the legal shared service client side arrangements may not have been ideal from the outset of the shared service, the objectives of both Councils are being met as can be ascertained from the performance of the service thus far. In terms of taking action to ensure that all the issues are resolved client side to formalise contractual monitoring the relationship management has transferred to the Assurance Director from the 1st April and there are plans to fill the contract manager position with the Commercial Team, under the Head of Commercial, by the end of April 2013. Procedures and processes will also be formalised.

2. Ms Theresa Musgrove

In relation to agenda item 8:

Could the Chairman of the Audit Committee ask the external auditors why, despite the concerns raised by me and others, has Grant Thornton failed to act **during** the tender process when clearly the need to ensure that there would be no possibility of conflict of interest was most relevant, and more importantly, most urgent?

Response

Grant Thornton have carried out their work in accordance with their plan and as determined by their risk assessment. They will consider and, where appropriate, take account of communications from

members of the public when determining their annual programme of work. They are not, however, answerable to members of the public for the specific audit work that they do and the timing of such work.

3. Mr John Dix

In relation to agenda item 7:

Could the Chairman explain to me how the CAFT team will operate effectively given that housing benefit claims will be dealt with by Capita staff in Darwen/Blackburn, the performance indicator for new claims is 10 days which means verification of benefit claims be carried out over the telephone with no face to face verification or signature on the declaration.

Response

The location of services provided as part of the New Support and Customer Service Organisation (NSCSO) is not anticipated to have any impact on the structure, budget and success of the Corporate Anti-Fraud Team (CAFT). The responsibility for verifying claims at the time of submission sits with the Benefits service, which it is not the role of this Committee to consider. The majority of referrals made to CAFT by the Benefits team are made electronically, and the fraud awareness training provided by CAFT to officers is e-learning. Therefore the location of the Benefits team is not anticipated to have an impact on CAFT's work.

4. Ms Theresa Musgrove

In relation to agenda item 8:

Could the Chairman of the Audit Committee ask the external auditors if they (Grant Thornton) understand that to residents, and indeed other bidders, the perception may be that this failure to act during the tender process is totally inadequate?

Response

See response to (2) above.

5. Mr John Dix

In relation to agenda item 7:

Is the Chairman concerned that the Performance Indicator (PI) for fraud rest with CAFT but the PI for new housing benefit claims rests with the contractor and that at other contracts this may have led the contractor to divert staff from fraud investigations to fulfilling new claims in order to meet their own PI at the risk of higher levels of fraud?

Response

The performance indicators for CAFT and Benefits have always been separated and represent good segregation of duties between the processing of benefits and the follow-up of fraud risk data matches. It is important that the independent oversight is preserved.

Under the draft contract, the NSCSO provider has a contractual obligation to refer all suspected fraudulent matters to CAFT and to take timely action on all recommendations or instructions from CAFT to minimise loss due to fraud. The NSCSO will provide necessary access to CAFT in order to investigate any matters they consider necessary. The NSCSO provider is obliged to adopt the Council's counter-fraud framework and procedures. The contract also allows CAFT to continue to have access to claims and to monitor information flows.

All benefit related data matches (via the National Fraud Initiative and Housing Benefit Data Matching Service), which lead to the majority of CAFT sanctions, will continue to be received directly into the CAFT. There is an effective electronic process in place in order for fraud referrals from the benefit service to be passed to CAFT. This process will be further enhanced by on-going liaison and fraud

awareness initiatives between CAFT and the new provider. The NSCSO provider will be required to provide resources for the completion of anti-fraud initiatives as required by CAFT. The successful ongoing work of the CAFT and the work it carries out with its Partners such as the Department for Work and Pensions (DWP), UK Border Agency (UKBA), Barnet Group and Police will not be affected by the outsourcing.

6. **Ms Theresa Musgrove**

In relation to agenda item 8:

Could the Chairman of the Audit Committee ask the external auditors why have they (Grant Thornton) not undertaken the same review of the DRS tender? Is it because the process is still ongoing, and any conflicts of interest that are revealed would be too embarrassing for the authority and might call into question the integrity of the process?

Response

See response to (2) above.

7. **Mr John Dix**

In relation to agenda item 8:

Given that Grant Thornton are both auditors of Barnet Council and The Barnet Group is the Chairman satisfied that no conflicts of interest exist should any serious criticism arise on the performance of Your Choice Barnet and their need for a £1 million bail out.

Response

The audits are performed by separate teams within Grant Thornton, both of whom are subject to the firms' ethical standards requirements which involve annual consideration and documentation of our suitability to carry on as external auditors, free from conflict or independence issues. Grant Thornton do not see how any adverse commentary from the auditor of a subsidiary would give rise to a conflict issue for the auditor of a council.

8. **Ms Theresa Musgrove**

In relation to agenda item 8:

Could the Chairman of the Audit Committee ask the external auditors if they (Grant Thornton) agree that failure by Barnet to ensure that all officers were compliant with an effective policy of declaration of interest, and a failure properly to manage control of the process, could in principle make the authority liable to prosecution under the terms of the Bribery Act 2011 or some other form of legal challenge?

Response

Grant Thornton refers the member of the public to the findings and conclusions of their report which make no reference to potential exposure to the Bribery Act, as is not considered applicable to the findings of the review.

9. **Mr John Dix**

In relation to agenda item 8:

On employee remuneration testing, can the Chairman confirm with Grant Thornton that in months 10-12 they will also review the remuneration paid to long term consultants who fulfil the role of senior officers and to test if the council may become liable for NI and tax if the consultants are deemed to be employees of the Council by HMRC.

Response

Grant Thornton's testing strategy is in line with the audit methodology of the firm which is subject to

external review by the Audit Quality Review Team of the Financial Reporting Council.

10. Ms Theresa Musgrove

In relation to agenda item 8 (Appendix B):

Could the Chairman of the Audit Committee ask the external auditors to explain how, after revealing such a serious failure in the management of declarations, they can form the conclusion that 'the council has controls in place' and that the design of these controls is 'satisfactory'?

Response

Grant Thornton refer the member of the public to the findings and conclusions in their report which make no reference to 'serious failure.'

11. Mr John Dix

In relation to agenda item 8:

Can the Chairman clarify with Grant Thornton if the sample of 60 invoice payments is greater or fewer than last year and does the Chairman believe this sample size is sufficient?

Response

Grant Thornton's testing strategy is in line with the audit methodology of the firm which is subject to external review by the Audit Quality Review Team of the Financial Reporting Council.

12. Ms Theresa Musgrove

In relation to agenda item 8 (Appendix B):

Could the Chairman of the Audit Committee ask the external auditors why they did not ensure that Barnet had in place an obligation for officers not to take employment with companies associated with contractors or companies involved in anyway with the authority for a specified time after leaving the authority, i.e. 'gardening leave'?

Response

Several items are being raised which are dealt with in turn:

1. Terms and Conditions of employment

This is a matter for members, as the employer. The role of the Council's external auditors' is to audit and as part of that audit process they may make recommendations. It is then a matter for the Council to consider those recommendations. The scope of an Audit may include Terms and Conditions of employment.

2. Restricting future employment opportunities of current employees with companies the Council contracts with – or 'Restraint of Trade'

There is a general principle that all employees are required to protect their employer's confidential information which they have acquired during the course of their employment, this includes preserving that confidentiality after the employment relationship has ended. Where an employee leaves an employer, the general presumption by Employment Tribunals is that an individual should be free to take up employment with any new employer. Where an employer wishes to restrict an ex-employees ability to take up a role with another employer then there would need to be a Restraint of Trade clause within the contract of employment. A general restraint of Trade clause is highly unlikely to be enforceable. Where a restraint of trade clause is required the clause will need to explain precisely what is being protected e.g. development of a new product which is subject to patent.

3. Gardening Leave

Gardening leave involves an employee remaining at home fully paid for the period of their notice period up until the date of their departure. This clearly represents a cost to the Council without any output from the employee over that time. The Council considers that it is better use of resource to ring fence the employee and ask them to undertake work during their notice period. This has been the Council's practise to date.

13. Mr John Dix

In relation to agenda item 8:

To what extent does the Chairman believe that a signed declaration form is sufficient in itself to satisfy the Council's conflict of interest rules?

Response

A signed declaration form only acts as one of the controls in place to minimise conflicts of interests. Obviously reviewing the forms and management taking action, if required, is another control as described within the Officer Code of Conduct. As the paper submitted by external audit indicates there are the following additional controls in place that compliments the signed declaration forms in relation to procurement exercises:

- a requirement that all employees on joining the Council's employment complete a declaration of interest form and formally acknowledge their responsibility to update it for any subsequent changes
- segregation of duties at key stages in the procurement process
- the establishment of an officer panel responsible for the final contract award decision and final approval of the contract decision by Members.

14. Ms Theresa Musgrove

In relation to agenda item 8 (Appendix B):

Will there now be a review of the risks, either by the external auditors, or through any internal process, raised by the failure of the authority properly to control the conflicts of interest of senior officers who have worked on both the NSCSO and DRS projects, or indeed any other procurement process?

Response

The report states that the design of the controls in place to manage the risks of perceived conflicts of interests are satisfactory and that there have been some instances where the declaration of interests forms were not completed at the appropriate time, all of which have been demonstrated (retrospectively) that there were no risks of conflicts of interests for those individuals. Grant Thornton has been satisfied with the information they have received to that effect. Grant Thornton are free to subsequently follow-up with the Council the implementation of their recommendations to the Council.