

DELEGATED POWERS REPORT NO.

2057

SUBJECT: Interim Measure for Continuation of Critical Services

Control sheet

All of the following actions MUST be completed at each stage of the process and the signed and dated report MUST be passed to the Governance Service for publishing

All reports		
1. Governance Service receive draft report	Name of GSO Date	Andrew Nathan 23/05/13
2. Governance Service cleared draft report as being constitutionally appropriate	Name of GSO Date	Andrew Nathan 23/05/13
3. Finance clearance obtained (<i>report author to complete</i>)	Name of Finance officer Date	John Hooton 23/05/13
4. Staff and other resources issues clearance obtained (<i>report author to complete</i>)	Name of Resource officer Date	Jennifer Burt 23/05/13
5. Strategic Procurement clearance obtained (<i>report author to complete</i>)	Name of SPO Date	Kevin Bates 23/05/13
6. Legal clearance obtained from (<i>report author to complete</i>)	Name of Legal officer Date	Ian Goldsmith 23/05/13
7. Policy & Partnerships clearance obtained (<i>report author to complete</i>)	Name of P&P officer Date	Andrew Nathan 23/05/13
8. Equalities & Diversity clearance obtained (<i>report author to complete</i>)	Name of officer Date	Andrew Nathan 23/05/13
9. The above process has been checked and verified by Director, Head of Service or Deputy	Name Date	Chris Naylor 23/05/13
10. Signed & dated report, <u>scanned or hard copy</u> received by Governance Service for publishing	Name of GSO Date	Andrew Nathan 29/05/13
11. Report published by Governance Service to website	Name of GSO Date	Andrew Nathan 29/05/13
12. Head of Service informed report is published	Name of GSO Date	Andrew Nathan 29/05/13
Key decisions only:		
13. Expiry of call-in period	Date	N/A
14. Report circulated for call-in purposes to Business Management OSC members & copied to Cabinet Members & Head of Service	Name of GSO Date	N/A

**ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER
(EXECUTIVE FUNCTION)****Subject** Interim Measure for Continuation of
Critical Services**Officer taking decision** Chief Operating Officer**Date of decision** 24/05/13**Date decision comes into
effect** 24/05/13**Summary**

The Council carried out the procurement of the NSCSO services culminating in a Cabinet decision on preferred bidder on the 6th December 2012. The delays to the 1st April 2013 service commencement date caused by a Judicial Review application and now appeal have left the in-scope services needing immediate attention and support.

Officer Contributors

Chris Naylor, Chief Operating Officer
Jennifer Burt, Transition and Mobilisation Programme
Manager

Status (public or exempt)

Public

Wards affected

All

Enclosures

None

**Reason for exemption from call-in (if
appropriate)**

N/A

Key decision

No

Contact for further information: Chris Naylor, Chief Operating Officer, 020 8359 5193

Serial No. 2057

RELEVANT PREVIOUS DECISIONS

1.1 Cabinet meeting 6 May 2008

- 1.1.1 That the Chief Executive be authorised to lead a review of the organisational form of the Council and to report back to Cabinet with options for change by December 2008.

1.2 Cabinet meeting 3 December 2008

- 1.2.1 Agree the proposal for officers to develop a detailed assessment of the overall model for public service commissioning, design and delivery, costs and benefits of procuring a capacity vehicle and procuring a number of service delivery vehicles

1.3 Cabinet meeting 6 July 2009

- 1.3.1 That the following three aims be adopted as the strategic basis for making future decisions:

- A new relationship for citizens
- A one public sector approach
- A relentless drive for efficiency

- 1.3.2 These aims will be used to inform the 2010/11 budget process, the refresh of the Sustainable Community Strategy, the development and delivery of the Corporate Plan and our relationship with partner organisations.

1.4.1 Cabinet meeting 21 October 2009

- 1.4.1 Cabinet resolved that the plans for implementing the Future Shape programme are approved.

1.5 Cabinet Resources Committee 2 March 2011

- 1.5.1 That the Director of Commercial Services be authorised to produce a business case for the following:

- 1.5.2 The procurement of a private sector partner(s) to deliver the following services Customer Services, Estates, Finance, Human Resources, Information Systems, Procurement, Revenues and Benefits.

1.6 Cabinet Resources Committee 29 June 2011

- 1.6.1 Resolved that the committee approves the New Support and Customer Services Business Case in order that the council can begin the competitive dialogue process, following the previously approved placing of the OJEU notice.

- 1.6.2 That the authority to award contract remains with the Cabinet Resources Committee.

1.7 Cabinet Resources Committee 28 February 2012

- 1.7.1 Resolved that Cabinet Resources Committee approves the recommended New Support and Customer Services Organisation (NSCSO) shortlist of two bidders for stage 2 of the competitive dialogue process.

- 1.7.2 The recommended shortlist is: BT and Capita. They achieved the highest two scores from the evaluation of the outline solutions provided at the end of the first stage of competitive dialogue.

1.7.3 That the Committee note the update to the New Support and Customer Services Organisation business case.

1.8 Special Cabinet meeting 6 December 2012

1.8.1 Resolved that Cabinet note the outcome of the evaluation stage of the New Support and Customer Services Organisation (NSCSO) Project and accept Capita's Final Tender as the preferred bid, with reference to the Full Business Case (Appendix A), Equalities Impact Assessments (Appendix B), List of Principal Legislation (Appendix C), and Evaluation Scores (Appendix D - exempt)

1.9 Officer Delegated Powers Report 7 March 2013

1.9.1 Emergency arrangement required to secure the continuation of critical IT services

2.0 CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

2.1 The NSCSO partnership is a key solution to the council's future delivery of services, including:

2.1.1 Delivering the financial strategy in the corporate plan through contracting for guaranteed standards and levels across all NSCSO services, whilst at the same time reducing the operating cost of these services by at least 45% in real terms over the period of the partnership, saving the Council £125.4 million in the period 2013 to 2024, and enabling the Council to meet the requirements of the current Medium Term Financial Strategy and the forthcoming additional savings anticipated as part of the next spending round. This money would otherwise have needed to be found from frontline service budgets sharing opportunities and responsibilities by significantly enhancing the ability of customers to access and engage with the Council and receive the support they need, whilst also giving them greater control through self-service and self-help and opportunities to co-design services with the partner.

2.1.2 Promoting responsible growth, development and success across the borough through an enhanced insight function which will help the council analyse the needs of the Borough and its communities in more detail and commission services that are targeted to specific needs, commitments to increase resident satisfaction; and support for local businesses and community organisations.

2.1.3 The corporate change programme has three overarching aims:

- A new relationship with citizens
- A one public sector approach
- A relentless drive for efficiency

2.2 The NSCSO contract was due to commence on 1st April 2013, the delays caused to contract commencement could affect the £125.4 million savings, if no action is taken, and more critically the in-scope services are in need of support to stabilise delivery both to residents and the commissioning council.

2.3 The NSCSO services have been managed and supported with the intention of an external delivery unit commencing on 1st April 2013. To this end all support and development of service improvement has been prioritised appropriately. Continued delays caused by the application and appeal of the Judicial Review are causing increased risk to the councils ability to run the in-scope services.

- 2.4 The continued delay to the commencement of the NSCSO contract directly affects the delivery of circa £66 million procurement savings over the life of the contract.

3.0 RISK MANAGEMENT ISSUES

- 3.1 To mitigate the following risks an interim solution has been proposed by Capita to support the below critical services. This support will take the form of additional workers in each service and targeted strategic direction to protect the procurement savings in Capita's NSCSO final tender. The NSCSO final tender was structured to achieve a 1st April 2013 service commencement date, re-profiling of activities for later commencement dates does not offer the same value of procurement savings.
- 3.2 Financial – continued delays to the service commencement date causes a risk that Capita will no longer be able to deliver within the budget stated in the their final tender.
- 3.3 Cost impacts due to the delay - the potential extended transformation programme costs and delayed operational savings as a result of the revised timing of the start or end date for major change - this particularly affected Customer Service, Revenues and Benefits, Finance and HR and the extension of the Logica/SAP contract
- 3.4 The risk to service delivery is increasing daily. Staff are leaving en masse due to the uncertainty of the contract and continued delays.
- 3.5 The Capita interim proposal will mitigate the risk of failure for the most vulnerable services; customer services, revenue and benefits and procurement.

3.6 Customer Services/Revenues and Benefits

- 3.6.1 The current staff turnover rate within these services shows a loss of circa 32% of total staff numbers throughout the life of the procurement and early stages of mobilisation. This directly affects these public facing front line services and will be reputationally damaging for the Council.
- 3.6.2 Failure to collect revenue owed to the Council through council tax and non-domestic rates due to a dramatic loss of staff whilst waiting for the JR appeal outcome. This will put one of the Council's key revenue schemes at risk.
- 3.6.3 Equally the loss of staff affects the vulnerable in the community and will potentially delay benefits paid.
- 3.6.4 Key performance indicators (KPI's) are affected by the loss of staff and inability to recruit qualified, experienced operators. This is largely due to the increase in volumes for work related to the welfare reform but is also starting to affect business as usual.
- 3.6.5 The council's KPI on interim advocacy, the answering of calls within a set timeframe is vastly affected and staff are struggling to hit a rate of 50% of this target, this has a direct effect on residents and necessary communication with the council

3.6.6 Capita will mitigate these risks by redirecting Capita's own overflow staff to the Barnet contract and supporting the existing teams. This will alleviate the current pressure on existing staff and allow the Council to redeploy resources onto critical activity.

3.7 Procurement

3.7.1 The delayed NSCSO contract commencement will have a direct effect on the procurement savings projected in Capita's final tender, increasing pressure on the Councils MTFS requirements for 2014/15

3.7.2 £4m of savings with the Adults Service had been guaranteed by Capita but this assumed that Capita had been engaged directly with adults and the Councils Procurement team between January 2013 and the assumed SCD of 1st April to secure the plans and projects to achieve them, which has not happened due to the delay.

3.8 Transfer of services to Capita

3.8.1 The transfer of services and staff to Capita has been delayed due to the Judicial Review application and appeal. For Capita to mobilise the contract in a timely fashion a small skeleton team is required on site during the interim.

4 EQUALITIES AND DIVERSITY ISSUES

4.1 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:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between those with a protected characteristic and those without.
- Promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination.

4.2 The emergency service provider has committed to the provision of services under the Equality Act 2010 in their NSCSO proposals and will comply under this emergency contract.

5.0 USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

5.1 Finance

5.1.1 The total cost of the 5 week period is £167,625 and will be funded from Council reserves.

5.2 Procurement

5.2.1 The requirement is to enter into a short term interim contract with Capita to cover critical services which are required due to the delay in signing the NSCSO contract.

- 5.2.2 Capita have been identified as the preferred bidder for the NSCSO procurement. Capita's submission was subject to a full EU competitive dialogue procurement and as such the provision has undergone a full tender and evaluation process resulting in the most economically advantageous tender (MEAT).
- 5.2.3 This is an interim services contract which will be in place until the result of the judicial review appeal is known (and the NSCSO partnership can commence) or the 21st June, whichever is the earlier.
- 5.2.4 This interim measure is for a 4 week period and does not prejudice the outcome of the Judicial Review appeal proceedings nor is the Council entering into the NSCSO contract prior to its formal commencement.

5.3 Performance & Value for Money

- 5.3.1 The terms within this contract have been negotiated and are seen as competitive against benchmarked rates.
- 5.3.2 The interim NSCSO delivery unit currently being managed within the council, is a temporary measure due to the delays caused by the Judicial Review application and appeal.
- 5.3.3 The NSCSO contract includes performance levels and key performance indicators (KPI's)
- 5.3.4 The interim delivery unit is working to meet these currently but without the full solution these are not in all cases achievable and across the board will not be sustainable without the commencement of the NSCSO contract.
- 5.3.5 Contracting with a partner for this piece of work with immediate effect is essential for continued delivery of services and to meet performance levels. Failure to do so could have significant negative impact on the NSCSO contract deal for the Council in terms of both costs and quality of service.

5.4 Staffing

- 5.4.1 The current staffing levels will remain for each of these services, the Capita proposal is to bring in additional staff to support service delivery and meet critical service level agreements and key performance indicators.

5.5 IT

- 5.5.1 None

5.6 Property

- 5.6.1 None

5.7 Sustainability

- 5.7.1 This contract is for a 4 week period

6. LEGAL ISSUES

- 6.1 Cabinet has given authority for the NSCSO contract to be entered into with Capita. The NSCSO contract has been procured in compliance with EU procurement rules.

6.2 The value of the proposed interim contract is below the current EU threshold and therefore a separate EU procurement exercise is not required.

7. CONSTITUTIONAL POWERS

7.1 Council Constitution, Contract Procedure Rules – Section 5.7 provides that Directors/Assistant Directors may take decisions on urgent or emergency matters as set out in the Leader's Scheme of Delegation providing they report afterwards to the relevant decision making body setting out the reasons for the urgency. Such decisions include waiver of the Contract Procedure Rules where this is justified on the basis of urgency and one or more of the matters set out in 5.8 below:

7.2 Council Constitution, Contract Procedure Rules – Section 5.8 states details the justifications for a waiver of the Contract Procedure Rules which include:

- The nature of the market for the works to be carried out or the supplies or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of Contract Procedure Rules is justifiable; or
- The contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
- The circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English Law); or
- There are other circumstances which are genuinely exceptional.

7.3 This decision has been taken as an emergency decision as there are circumstances which are genuinely exceptional (rule 5.8.4) which are detailed in section 11 below.

8. BACKGROUND INFORMATION

8.1 Following the award of the NSCSO contract by Cabinet on 6th December 2012, service commencement was due to start on 1st April 2013.

8.2 Prior to contract signature an application for Judicial Review was submitted, this has been heard, the verdict ruled in favour of the Council. This decision is now being appealed causing further delays to the commencement of the NSCSO contract.

8.3 The services involved in the NSCSO contract are:

- Customer Services
- Revenues and Benefits
- Procurement
- Human Resources
- Corporate Programmes
- Finance
- Estates
- Information Systems

8.4 Performance across the services are effected by the delays to commencing the NSCSO contract the need to enter into an emergency contract is immediate due to

the inability to continue running the services without additional support. Staffing levels have dropped dramatically due to the uncertainty around the Judicial Review delays. This is affecting performance levels and equally the council's ability to recruit into these roles in the interim.

8.5 The services the council will enter into a contract with Capita on, are for emergency interim cover, these are:

- Customer Services/Revenues and Benefits
- Procurement
- Skeleton Team, management and services

8.6 Capita have overflow resources which work between their contract and would be available immediately to support the Council, this arrangement would continue up until service commencement of the NSCSO contract or the 21st June, whichever is the earlier date

9. LIST OF BACKGROUND PAPERS

9.1 None

10. OFFICER'S DECISION

10.1 I authorise the following action:

10.2 For the Council to enter into a contract with Capita for the following activities, up until the NSCSO contract commences, or the 21st June, whichever is the earlier date.

10.3 Services to include:

- Customer Services/Revenues and Benefits
- Procurement
- Skeleton Team, management and service streams

Signed



Chief Operating Officer

Date

24 May 2013