

Public Questions – Cabinet 24 June 2013

Question Number	Item No	Raised By	Question Raised	Answer
1	5	Mr John Dix	To whom will the Council's directors on the JV Board owe their fiduciary duty – the Council or the JV?	The company directors owe a duty to the company under clause 172 of the Companies Act 2006
2	5	Mr John Dix	You have stated that if a new fee structure proposed by Capita is not accepted, Barnet will still be covered by the guarantee; if Capita's proposals for roadside advertising are not accepted, Barnet will still be covered by the guarantee and if the pre selling of graves and extended operating hours for the crematorium (which already takes place) does not generate the additional income, Barnet will still be covered by the guarantee. Why are Capita being so generous to Barnet on what appears to be an entirely one sided contract?	Capita Symonds as a business have taken a view that there is an opportunity for generation of additional income inside and outside of Barnet over the next 10 years within this contractual arrangement and have made the guarantee accordingly.
3	5	Mr John Dix	Of the £18 million guaranteed benefit from commercial services and installing Barnet as a CSL hub, how much of the £18 million is forecast to come from commercial development across Barnet services and how much will come from the establishment of the CSL hub providing services to other boroughs.	The £18m is not split as it can be derived from either development across Barnet or providing services to other boroughs, and the Joint Venture will have the flexibility to meet this guarantee from the wide range of initiatives within its scope.
4	5	Mr John Dix	Will the CSL hub providing services to other boroughs occupy existing council offices, if so who will assume responsibility for the lease of the building(s) and who will assume responsibility for the remaining lease at the end of the 10 year contract?	The Joint Venture will move out of NLBP4 in 2015 when the break clause is exercised on this building and will be responsible for finding its own accommodation beyond that point however Capita Symonds have committed to locate DRS Staff in the borough for the duration of the contract.
5	5	Mr John Dix	Have you identified who will become the council's directors on the Joint Venture Company Board?	Not yet, this work is underway.

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6	5	Mr John Dix	At Table 8.2 of the business case it states that Capita will make costs savings of 21% which amount to c.£30 million. Is this cost saving (not income growth) more or less than the cost saving (not income growth) forecast in the March 2011 business case?	This cost saving is more than the cost saving forecast in the March 2011 business case, which projected a 10 year cost reduction of £19.7m.
7	5	Mr John Dix	Are there any VAT implications resulting from the creation of joint employment contracts?	This contract will not affect the council's position in terms of recovery of VAT (as stated on p.42 of the full business case).
8	5	Mr John Dix	Why is the compensation payment due to Capita in the event of cancellation of the contract commercially sensitive for the DRS when you were quite prepared to tell me what it was for the NSCSO contract?	We have reviewed this request in relation to the DRS contract and as this is one of the key commercial terms we are unable to provide this due to commercial sensitivity.
9	5	Theresa Musgrove	From the figures stated in Item 6.3 of the report regarding the DRS contract it would appear that it will take three years of aspirational 'savings' from the proposed arrangement to pay for the bill from the One Barnet 'implementation partners' Agilisys/iMPOWER, and legal advisers Trowers & Hamlin. Does the Chair not agree that this is another example of the profligate manner in which his administration wastes taxpayers' money and facilitates the profiteering of private companies, whilst at the same time lecturing us all on the need for economy?	<p>The cost of the procurement has been built into the financial requirements for the business case, and the bid exceeds this financial requirement with its guaranteed financial benefit, it does not rely on any aspirational benefits.</p> <p>The Council makes use of specialist advisors to obtain the best possible outcomes for its citizens.</p>

10	5	Theresa Musgrove	<p>In Item 7.1 we are reminded that Trowers &amp; Hamlin advised the council on the DRS tender process, and also at the end of the report we see the signature of Trowers &amp; Hamlin approving the report going to Cabinet. As Mr Dix raised at another meeting, this dual role would on the face of it represent a conflict of interest. Can the Chair explain why using the same firm as architects of the contract and also in order to 'sign off' the agreement is not a conflict of interest?</p>	<p>Conflicts of interest are fully defined in the Solicitors Regulation Authority Handbook Code of Conduct.</p> <p>There is no conflict of interest in a firm of solicitors producing a contract and then advising on that contract, this is usual practice and indeed prudent to ensure continuity and consistency of advice.</p> <p>In respect of "signing off" the contract, it is the Authority who do so as "client", taking advice from its internal and external advisers as and when appropriate.</p>
11	5	Theresa Musgrove	<p>In Item 4.2 we have a consideration of risk management issues. This confirms the interesting fact that a Joint Venture transfers risk to the authority, away from Capita Symonds. The 'decision' to change the business model to JV was made secretly by senior officers, consultants and bidders, without the knowledge of the leader or elected members: is he willing to explain to residents, taxpayers and voters why he has allowed himself to be 'persuaded' to commit our future well being to an unnecessarily high risk venture, and one which was previously discounted by councillors specifically because it was too high risk?</p>	<p>We have identified risks associated with the Joint Venture, as would have with any other option.</p> <p>When assessing the risk of this joint venture it was not considered to be high.</p>
12	5	Theresa Musgrove	<p>I refer to Item 6.3: Capita Symonds are, we are informed, going to use Barnet as a base for the provision of DRS services to the South East region, to 'grow business'. This makes it pretty clear that our borough is going to be used as an outpost for the expansion of the Capita empire, providing the company with the ability to exploit a new market, and make substantial profit, with little of it returning to the residents of this borough. Does the Chair not agree that he has been duped into agreeing a deal</p>	<p>The Joint Venture's pursuit of commercial opportunities will not conflict with the interest of residents. It may however provide additional financial benefits. Service standards for the delivery of DRS services will need to be met regardless of commercial aims.</p>

			which will benefit the shareholders of Capita at the expense of the residents whose interests he is supposed to protect?	
13	8	David Ball	<p>The council is supportive of Barnet maintained schools that wish to convert to academy status and will actively support the development of robust models of governance at the primary level."</p> <p>Is the council also supportive of Barnet maintained schools that wish to continue being Barnet maintained schools?</p>	<p>Yes. The council's position is that consideration of, and any proposals for conversion to, academy status is a matter for governing bodies, and it will support any governing body that wishes, after due consideration and consultation, to become an academy or to remain a maintained school. Where the quality of education within a maintained school becomes a matter of concern, the council will look at all aspects of the school leadership including the quality and robustness of the current governance arrangement to ensure that there is sufficient capacity to improve within its current model.</p>
13	8	David Ball	<p>On page 369,          "Where a school has been judged by Ofsted to be inadequate with either 'serious weaknesses' or requires 'special measures', the government has a clear expectation that in these cases conversion to an academy with a strong sponsor will be the normal route to secure improvement. In circumstances where sponsors are sought, we will engage with the Department for Education to actively seek sponsors..."</p>	<p>Local Authorities are not eligible to become Academy Sponsors. For schools that fall into the category above and become a sponsored academy, the local authority works with the school, the governing body, the Department for Education and the Academy Sponsor to support the school to improve. Barnet has proved to be highly successful in supporting school improvement, through both our statutory</p>

			<p>Why does the council not have confidence in itself to be the strong sponsor? If it has no such confidence, why does the council think it has the ability to identify the right qualities in other organisations if it can't demonstrate those qualities itself?</p> <p>Shouldn't the council stand up to the DfE and insist that Barnet can be the strong sponsor that schools need, rather than assist the DfE in undermining local accountability?</p>	<p>service and the trading entity 'Barnet Partnership for School Improvement' to which almost all of our primary schools subscribe. Less than 2% of our schools are in an Ofsted category compared with 6% nationally and the identification and challenge of schools where the authority has concerns is welcomed by our school community. The local authority is currently working with Barnet schools to develop a pool of local sponsors available to support other schools should they fall into the above category. The Education Strategy sets out how the local authority will continue to champion the needs of all pupils, irrespective of the governance arrangement of the publicly-funded school they attend.</p>
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