

Internal Audit

Your Choice Barnet Review Final Report July 2014

Distributed to:

- Strategic Director for Communities
- Director Adults and Communities
- Assistant Director Adult Social Care
- Head of Social Care Commissioning
- Senior Category Manager
- Later Life Lead Commissioner
- Family & Community Lead Commissioner
- Director of Business Services, Your Choice Barnet
- Director of Care and Support, Your Choice Barnet
- TIAA, Your Choice Barnet Internal Audit

	None	Limited	Satisfactory	Substantial
<p>Audit Opinion</p> <p>This area has not been reviewed previously so direction of travel is not applicable.</p>				

1. Executive Summary

Introduction

As part of the 2014/15 Internal Audit Plan, agreed by the Audit Committee in April 2014, we have undertaken a joint review with the Corporate Anti-Fraud Team (CAFT). Internal Audit assessed the Council's contract management controls in place to manage the Your Choice Barnet Contract and CAFT assessed The Barnet Group in relation to the right to work of the staff carrying out their duties at Your Choice Barnet day centres.

Background & Context

The Council set up a Local Authority Trading Company (LATC) in 2012, known as The Barnet Group. The Council transferred its Learning Disability care provider Services (comprising x1 respite service; x3 day services; x1 independent living service; and x5 supported living schemes) and Housing Needs and Resources Service to The Barnet Group. The Barnet Group is wholly owned by the Council and acts as a parent company to Barnet Homes and Your Choice Barnet. Your Choice Barnet is an adult social care company that provides services to adults with learning and physical disabilities. The Council retains a commissioning role in these services.

The Your Choice Barnet contract runs for three years (2012-2015) with the potential to extend for an additional two years, to 2017. The contract aimed to deliver savings to the Council of £263,000 by 2014/15 and £493,000 by 2015/16. The contract ran on a block basis for the first year of the LATC and then moved to payment based on the specific care provided to individual service users, as set out in the business case. The 2013/14 Adults & Communities total spend (staffing and care packages) on learning disabilities and physical disabilities care provision is £43.247m.

Corporate objectives and risks

The Your Choice Barnet contract supports all three of the strategic objectives in the Corporate Plan 2013-16:

1. Promote responsible growth, development and success across the borough.
2. Support families and individuals that need it – promoting independence, learning and well-being.
3. Improve the satisfaction of residents and businesses with the London Borough of Barnet as a place to live, work and study.

Key Findings (informing Audit opinion)

Corporate Anti-Fraud Team - right to work

The CAFT review of cases found that some staff had inadequate documentation regarding their Right to Work evidenced within their HR files. A small number of cases are currently subject to on-going further enquiries by CAFT (priority 1 - see finding 2.1).

Internal Audit - contract management

There are one priority one, one priority two and one priority three recommendations.

We identified the following issues as part of the audit:

- We identified areas where the Your Choice Barnet’s (YCB) risk and issue management controls should be improved. We found that the contract did not contain a risk and issue management process, which set out how the Council and the supplier intended to manage and escalate risks and issues. We identified risks in relation to the contract, which were not formally documented in a risk register or the Council’s risk management contract (JCAD). In addition to this, we found that the Council did not have controls in place to manage issues in relation to the contract (priority 1).
- We found that the Council had not applied the contracts change control process when introducing changes to the contracts payment mechanisms and performance framework (priority 2).
- Not all meetings held with Your Choice Barnet were minuted to document the discussions held and any actions agreed or decisions taken (priority 3).

Area of Scope	Adequacy of Controls	Effectiveness of Controls	Recommendations Raised		
			Priority 1	Priority 2	Priority 3
Day Centre Staff – Right to Work			1	0	0
Risk & Issue Management		N/A	1	0	0
Change Control			0	1	0
Governance			0	0	1
Payments			0	0	0

Acknowledgement	We would like to thank staff for their time and co-operation during the course of the internal audit.
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2.1 Day Centre Staff – Right to work

P	Detailed finding	Risk	Recommendation
1	<p>The CAFT review of cases found that some staff had inadequate documentation regarding their Right to Work evidenced within their HR files. A small number of cases are currently subject to on-going further enquiries by CAFT.</p> <p>For Agency staff it is understood to be the responsibility of Agencies to undertake pre-employment checks for all agency members of staff such as Right to Work (RTW) and Disclosure and Barring Service (DBS) before they commence work at Your Choice Barnet. However, YCB were not able to provide copies of signed final contracts with Agencies providing agency staff working in YCB Services to confirm this. YCB did however provide some documentation relating to agency policies or procedures detailing the individual agencies pre-employment checking process.</p> <p>In addition, we did not see evidence that YCB undertake any compliance checks to ensure that Agencies are completing all pre-employment checks as required.</p> <p>The contract between LBB and YCB refers to the requirement for DBS checks but does not include a clause relating to employees / agency staff having their Right To Work status confirmed.</p>	<p>Without all the appropriate pre-employment checks YCB and agency staff may be inappropriately employed, leading to potential safeguarding issues, increased fraud risk and reputational damage for both YCB and LBB.</p>	<p>Recommendation 1</p> <ul style="list-style-type: none"> a) In all instances YCB should ensure that Right to Work checks along with all pre-employment checks are kept in one central location that is accessible to all appropriate staff. b) YCB should confirm that pre-employment checks including Right to Work are contractually agreed with each employment agency and that the signed final copy of each individual contract is kept centrally on file at YCB. The contract should detail that relevant checks will be undertaken prior to agency staff commencing work at YCB. c) Regular sample checks of agency staff employed in high-risk roles with direct access to vulnerable adults should be selected and evidence obtained to confirm that the appropriate pre-employment checks have been obtained prior to commencing work. d) The LBB contract with YCB should be updated to include a clause requiring all employees / agency staff to have their Right to Work status confirmed.

2.1 Day Centre Staff – Right to work continued.

Management Response	Responsible Officer	Deadline
<p>a, b and c)</p> <p>YCB has always ensured appropriate pre-employment checks are obtained prior to a new recruit starting work and will continue to do so. The staff files where paperwork was incomplete at the time of transfer have been updated as part of the DBS renewal process. There are a small number where this is outstanding and this has now been bought forward for those individuals; there is no reason to believe that there are any employees working for YCB that do not have a right to do so.</p> <p>All staff records will be stored in a central location.</p> <p>YCB has contractual agreements with all agencies that it uses and is confident that all pre-employment checks are in place as part of those agreements, as a means of providing assurance YCB will periodically sample employment records of agency workers. Signed agreements will be stored in a central location.</p>	<p>Director of Care and Support, Your Choice Barnet</p>	<p>31/07/14</p>
<p>d) The contract with YCB will be updated to include a clause in relation to requiring all employees/ agency staff to have their Right to Work status confirmed.</p>	<p>Category Manager – Adults and Communities.</p>	<p>31/08/14</p>

2.2 Risk and Issue Management

P	Detailed finding	Risk	Recommendation
1	<p>We identified areas where the Your Choice Barnet’s (YCB) risk and issue management controls should be improved.</p> <p><u>Risk and Issue Management Strategy</u></p> <p>A risk and issue management strategy was not in place for the contract and as result we were unable to identify how both the Council and the supplier intended to manage and escalate risks and issues. The roles and responsibilities for those involved were not defined and there were no documented thresholds or escalation routes for risks or issues.</p> <p><u>Council Risk Management</u></p> <p>We found that the contract management team did not have a risk log in place, to capture, monitor, and manage risks facing the Council and that no specific risks in relation to the Your Choice Barnet contract were recorded in the Council’s risk management system (JCAD).</p> <p>During fieldwork, interviewees identified risks to the Council, as follows:</p> <ul style="list-style-type: none"> • Reputational risks to the Council in relation to the quality of services received by YCB, in particular the risk that individual service users are not dealt with in a personal way; 	<p>If risks are not identified, assessed and managed effectively, risks may materialise resulting in the service objectives not being achieved.</p> <p>Once identified, issues may not be monitored on a regular basis and resolved in a timely manner, which may result in overspending, delay or the service objectives not being achieved.</p>	<p>Recommendation 2</p> <p>a) A risk and issue management strategy should be introduced to ensure that risks and issues are consistently and effectively recorded, monitored, escalated and resolved in a timely manner.</p> <p>b) Management should include Your Choice Barnet risks within the Council’s risk management system. This information should then be regularly monitored and updated.</p> <p>c) Management should create a formal issues log for the Your Choice Barnet contract. As a minimum this should include:</p> <ul style="list-style-type: none"> • Description of the issue; • Agreed actions; • Owners of agreed actions; • Target dates for resolution.

2.2 Risk and Issue Management - continued.

P	Detailed finding	Risk	Recommendation
1	<ul style="list-style-type: none"> • The risk that without all the appropriate pre-employment checks YCB and agency staff may be inappropriately employed, leading to potential safeguarding issues, increased fraud risk and reputational damage to the Council; and • Service and reputational risks in relation to potential industrial action from day centre staff. <p>We were unable to identify controls in place to monitor and manage these risks.</p> <p><u>Council Issue Management</u></p> <p>We found that the Council did not have an issues log in place, to capture and monitor issues in relation to the Your Choice Barnet (YCB) Contract.</p> <p>Interviewees stated that issues were raised at informal meetings and at contract performance meetings with YCB. However we reviewed the minutes of these meetings and found that they did not include all information required to effectively manage issues, for example:</p> <ul style="list-style-type: none"> • Clear descriptions of the issue; • Agreed actions; • Owners of agreed actions; and • Target dates for resolution 		<p>This information should then be regularly monitored and updated.</p>

2.2 Risk and Issue Management - continued.

Management Response	Responsible Officer	Deadline
<p>Management is confident that risks and issues in relation to the contract with YCB are being effectively managed through a partnership approach and a series for informal meetings and formal contract meetings. Risks in relation to managing relationships with providers in general are included on the Delivery Unit’s risk register but these do not specifically identify YCB. Management accepts that formal recording and documenting of this process can and should be improved. Alongside the contract management of YCB all service users are open to a social work team who provide a care management service working with service users and their families to ensure that their needs are being met, outcomes achieved in relation to the services they receive and the management of risk in relation to individuals.</p> <p>The Delivery Unit follows the Councils approach to risk management and identified risk are regularly reviewed by the Leadership Team and recorded on JCAD.</p> <p>Recommendation a: The Delivery Unit will review its approach to risk and issue management and ensure that this is clearer in relation to managing risk and issues with providers and that these are consistently and effectively recorded.</p> <p>Recommendation b: Risks in relation to YCB will continue to be reviewed within the contract monitoring process and these will be clear recorded and updated within the minutes of meetings and as appropriate on JCAD</p> <p>Recommendation c: A formal issues log will be developed, covering the areas identified and used across all Providers.</p>	<p>Assistant Director Community and Wellbeing</p> <p>Category Manager Adults and Communities</p> <p>Head of Care Quality</p>	<p>01/09/14</p> <p>01/10/14</p> <p>01/10/14</p>

2.3 Change control

P	Detailed finding	Risk	Recommendation	
2	<p>We found that the controls in place for changes to the Your Choice Barnet (YCB) contract were not operating effectively.</p> <p>We identified that changes to the performance framework had occurred since the commencement of the contract.</p> <p>We reviewed schedule eight of the YCB contract, which outlines the contracts change control process and the Council’s contract change variation template and found that they had not been applied for either of these changes. In particular, we were unable to identify:</p> <ul style="list-style-type: none"> • A log in place to capture changes to the YCB contract; • A completed change variation form for the change to the performance framework; and • Evidence to support that these changes had been appropriately assessed by the Council or agreed by both parties. 	<p>The contract manager may not be able to robustly monitor performance and delivery, without formally agreed performance indicators.</p> <p>Changes which occur may not have been formally agreed and management may not understand the impact of proposed changes, which may result in the service objectives not being achieved.</p>	<p>Recommendation 3</p> <p>Management should ensure that the processes within the contract are correctly applied when changes are made to the contract; in particular this should include ensuring:</p> <ul style="list-style-type: none"> • All changes to the YCB contract are logged; • Change variation forms are completed; • Changes are appropriately assessed by the Council and formally agreed by both parties and that this is documented. 	
Management Response			Responsible Officer	Deadline
<p>Changes have been agreed with YCB and the Council through contract meetings and specific meetings. Going forward management will ensure that these are clearly documented and held in a central place. Management will ensure that all previously agreed changes are appropriately documented.</p>			<p>Category Manager Adults and Communities</p>	<p>31/08/14</p>

2.4 Governance - minutes of meetings

P	Detailed finding	Risk	Recommendation	
3	We found that meetings had taken place between the Council and Your Choice Barnet which had not been minuted. For example, interviewees stated that the spring 2014 quarterly contract monitoring meeting was superseded by a higher frequency of meetings to discuss the new performance framework; however these meetings had not been formally documented.	Management may not have a complete audit trail of discussions, or decisions taken from meetings to demonstrate how decisions were made and who took them.	Recommendation 4 Management should ensure that all meetings in relation to management of the contract are minuted and accurately reflect the discussions held and any actions agreed or decisions taken.	
Management Response			Responsible Officer	Deadline
Going forward Management will ensure that meetings held in relation to the management of the contract are minuted.			Head of Joint Commissioning (LD and MH)	Ongoing

Timetable	
Terms of reference	14 th May 2014
Fieldwork completed	30 th June 2014
Draft report issued	8 th July 2014
Management responses received	22 nd July 2014
Final Report Issued	2 ^{4th} July 2014

Appendix A: Statement of Responsibility

We take responsibility for this report which is prepared on the basis of the limitations set out below:

- The matters raised in this report are only those which came to our attention during the course of our internal audit work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made.
- Recommendations for improvements should be assessed by you for their full impact before they are implemented.
- The performance of internal audit work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices. We emphasise that the responsibility for a sound system of internal controls and the prevention and detection of fraud and other irregularities rests with management and work performed by internal audit should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify all circumstances of fraud or irregularity.
- Auditors, in conducting their work, are required to have regards to the possibility of fraud or irregularities. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud.
- Internal audit procedures are designed to focus on areas as identified by management as being of greatest risk and significance and as such we rely on management to provide us full access to their accounting records and transactions for the purposes of our audit work and to ensure the authenticity of these documents.
- Effective and timely implementation of our recommendations by management is important for the maintenance of a reliable internal control system.

Appendix B: Guide to assurance and priority

The following is a guide to the assurance levels given:

	Substantial Assurance	There is a sound system of internal control designed to achieve the system objectives. The control processes tested are being consistently applied.
	Satisfactory Assurance	While there is a basically sound system of internal control, there are weaknesses, which put some of the client's objectives at risk. There is evidence that the level of non-compliance with some of the control processes may put some of the system objectives at risk.
	Limited Assurance	Weaknesses in the system of internal controls are such as to put the client's objectives at risk. The level of non-compliance puts the system objectives at risk.
	No Assurance	Control processes are generally weak leaving the processes/systems open to significant error or abuse. Significant non-compliance with basic control processes leaves the processes/systems open to error or abuse.

Priorities assigned to recommendations are based on the following criteria:

P1 - High – Fundamental issue where action is considered imperative to ensure that the Council is not exposed to high risks; also covers breaches of legislation and policies and procedures. Action to be effected within 1 to 3 months.

P2 - Medium – Significant issue where action is considered necessary to avoid exposure to significant risk. Action to be effected within 3 – 6 months.

P3 - Low – Issue that merits attention/where action is considered desirable. Action usually to be effected within 6 months to 1 year.