

	<p>Performance and Contract Management Committee</p> <p>28 November 2017</p>
Title	Year Four Review of RE Contract
Report of	Commercial Director
Wards	All
Status	Public (except Appendices L and M, which are not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972)
Urgent	No
Key	No
Enclosures	<p>Appendix A: Key findings and conclusions</p> <p>Appendix B: Completion and implementation plan</p> <p>Appendix C: Highways evidence pack</p> <p>Appendix D: Development Management evidence pack</p> <p>Appendix E: Strategic Planning evidence pack</p> <p>Appendix F: Regeneration evidence pack</p> <p>Appendix G: Regulatory Services evidence pack</p> <p>Appendix H: Notes from meeting held in public, 26th June 2017</p> <p>Appendix I: Grant Thornton benchmarking report</p> <p>Appendix J: Report on project spend (excluding exempt information)</p> <p>Appendix K: iMPOWER project benchmarking report (excluding exempt information)</p> <p>Appendix L: Report on project spend (including exempt information)</p> <p>Appendix M: iMPOWER project benchmarking report (including exempt information)</p>
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Summary

At its meeting on 5th January 2016, the Performance and Contract Management Committee considered a report outlining the proposed arrangements for conducting a year four review of the RE contract, in accordance with clause 37.4 of that contract. The review is designed to give both parties to the contract (Regional Enterprise Ltd [RE] and the council) an opportunity to review overall performance; consider what is going well; and identify areas for improvement.

The Committee agreed at that meeting that the remit of the Member-led Working Group, which had been established to oversee the CSG contract review, should be extended to oversee the conduct of the RE Review.

The purpose of this report is to set out the detailed findings from the Review and the recommendations of the Working Group. In broad terms, the report concludes that the contract is meeting its original objectives. The contract is on track to deliver significant savings to the council, in the order of £39m over its 10-year term, in accordance with the original business case. Services are generally of reasonable to good quality, as measured by the contract's Key Performance Indicators (KPIs), and, where comparative data from other London Boroughs is available, performance is typically good. Benchmarking indicates that services are low cost, compared to other London Boroughs. It is, therefore, concluded that the contract is providing good value for money.

However, there have been some significant service issues, particularly in Highways and Planning Enforcement, which have impacted some residents. These have been addressed as part of the Review, but will require continued close monitoring to ensure that continuous improvement is sustained.

As a result of carrying out the Review, a one-off saving of £500k has been secured, through the pre-payment of the management fee. This saving was approved by the Policy and Resources Committee in June 2017. The Committee agreed that this saving should be spent on supporting the continuation of free school meals in the Borough and on street cleansing.

The key findings and conclusions from the Review were agreed by the Member Working Group at its meeting on 26th October 2017. These are attached as Appendix A. Although this report signals the formal end of the Review, there is still work to do to finalise negotiations around changes to certain KPIs and complete the production of detailed work plans for Regeneration and Highways. The timescales and reporting arrangements for these activities, along with other actions identified from the Review, are set out in Appendix B.

Recommendations

- 1. That the Committee notes the content of the report and the outcomes of the Review, as set out in the body of the report.**
- 2. That the Committee notes that the Commercial Director is authorised under the existing Scheme of Delegation to conclude negotiations and finalise any**

necessary contractual arrangements to effect these changes.

3. That the Committee agrees the completion and implementation plan, as set out at Appendix B.

1. WHY THIS REPORT IS NEEDED

Background and purpose of the review

- 1.1 The RE contract commenced on the 1st October 2013 and allows for a review at the end of year four.
- 1.2 The review process is designed to give both parties an opportunity to: consider what is working well; identify areas for improvement; and to consider the changing needs and priorities of the council. It was conducted in a similar manner to the CSG Contract Review, with the collection and consideration of evidence leading to constructive dialogue with RE Ltd, to agree any changes required to the contract.
- 1.3 At its meeting on 5th January 2017, the Performance and Contract Management Committee agreed to extend the remit of the established Member-led Working Group to provide oversight of the Year Four Re Contract Review.
- 1.4 Members of the Group have been:

Councillor Geoffrey Cooke
Councillor Anthony Finn (Chairman)
Councillor Sury Khatri
Councillor Kathy Levine
Councillor Peter Zinkin
- 1.5 The role of the Working Group has been to provide Member oversight to the Year Four Re Contract Review, including:
 - providing strategic direction to the Review;
 - agreeing the overall aims, objectives and desired outcomes of the Review;
 - considering and challenging the evidence; and
 - agreeing the recommendations to Committee.
- 1.6 At its meeting on 13th February 2017, the Member-led Working Group confirmed the overall aim of the Review as being to ensure that the RE contract remains fit for purpose, recognising that the strategic context within which the contract operates has changed significantly since it was signed in 2013.

- 1.7 In broad terms, the Review has focussed on four key areas, in order to meet this aim:
- a) **Service improvements** – particularly in highways and planning enforcement;
 - b) **Partnership arrangements** – how RE operates, governance arrangements, ambition and approach to growing the business, sharing of management information etc., insofar as these matters impact on the delivery of the contract;
 - c) **Contractual amendments** – including refreshed KPIs, updated commitments and pay and performance mechanism, along with any other contractual issues that need reviewing; and
 - d) **Clienting arrangements** – including clarity of roles, effectiveness of monitoring arrangements and effectiveness of project commissioning arrangements.
- 1.8 The purpose of this report is to set out the detailed findings and recommendations from the Review.

Overview of the contract

- 1.9 Regional Enterprise Ltd (RE) is a joint venture between the London Borough of Barnet and Capita plc. The council entered into an arrangement whereby RE was appointed as its service provider to deliver the Development and Regulatory Services (DRS) contract over a ten year term, commencing on 1st October 2013. The contract covers the following services:
- Planning and Development Management
 - Regeneration
 - Strategic Planning
 - Building Control
 - Land Charges
 - Environmental Health
 - Trading Standards and Licensing
 - Cemetery and Crematorium
 - Highways: Network Management
 - Highways: Traffic & Development
 - Highways: Transport and Regeneration
- 1.10 The core contract has a value of approximately £154m over the 10 year term. Against this cost, the contract provides for a Minimum Income Guarantee, equating to approximately £148m over the term of the contract. The effect of this income guarantee has been to reduce the net cost of these services to the council from £45m to £6m over the 10 year contract term. This is equivalent to reducing their net cost from £4.5m to £600k per annum, as shown in the following table:

	Pre-contract	Post-contract	Difference
	£m	£m	£m
Gross annual cost of services	14.2	15.4	+1.2
Less annual income	9.7	14.8	+5.1
Net cost of services	4.5	0.6	-3.9

- 1.11 This means that the RE contract is set to deliver £39m of guaranteed financial benefits to the council over the 10 year term, with an investment of £8.2m in new technology, improving facilities and training staff.
- 1.12 Although many aspects of the RE contract are complex, the basic principles are relatively straightforward. Services are provided at a fixed price, based on delivering the requirements of the council's output specifications. Income that is generated from the provision of these services accrues to the council and counts towards the Minimum Income Guarantee. If there is a shortfall against the Guarantee in any year, RE pays the difference to the council. Any changes to the council's requirements are governed by a change request process.
- 1.13 The contract provides for ongoing performance review and improvement, but also for more formal reviews at the end of years four and seven. As with the CSG contract, there is the facility to extend the contract, by up to five years, which can be exercised by the council at any point. The year seven contract review clause specifically provides for consideration of contract extension at that point.
- 1.14 Service delivery expectations are defined in the following documents, which form part of the schedules to the contract:
- **Output specifications**, which set out a description of what the council asked for when it went out to tender;
 - **Key Performance Indicators (KPIs)**, which set out specific targets for performance levels in key areas of the contract;
 - **Contract commitments**, which is a list of specific actions that Capita committed to delivering, as part of their bid.
- 1.15 The contract was entered into as a long term partnership, with a focus on working together towards outcomes and identifying and rectifying problems as quickly as possible, without adversarial processes. However, where performance does not meet the agreed expected outcomes, the contract describes the actions that can be applied by the council. The main remedy available to the council is the ability to apply service credits (fee deductions) against the suite of KPIs, which define the required performance levels for each service area. The level of service credit that can be applied is determined by the weighting agreed for each KPI and the degree of failure. The maximum value of service credits that can be applied is defined within the contract and is a fundamental element of the commercial basis of the contract.

- 1.16 The application of service credits for failure to meet KPI targets is the only financial remedy for poor performance contained within the contract. The other main remedy for poor performance that is available to the council is to serve a remedy notice, which requires RE to provide and implement an improvement plan within an agreed timescale. Failure to comply with a remedy notice could result in the council “stepping in” to directly manage service delivery. Ultimately, the council has the power to terminate the contract for breach, but it should be recognised that this would always be the remedy of last resort and would only apply in the event of significant, continuing failure to provide a significant element of the service. It should also be noted that this course of action would have significant legal and financial consequences for the council.
- 1.17 Day to day oversight of the performance of the contract is exercised through frequent engagement between the relevant RE service leads and the council’s commissioning leads, who play a key role in steering the strategic direction of services and monitoring service quality. Within the council’s Commercial Team, a Commercial Strategic Lead has overall responsibility for monitoring the delivery of the contract. This includes administering any change requests that are put forward by services, as well as managing the performance reporting regime.
- 1.18 Performance reports are considered by a joint Partnership Operations Board, which meets monthly. Issues are escalated as necessary to a joint Strategic Partnership Board, which also provides oversight and direction to the partnership as a whole.
- 1.19 RE is a Joint Venture Company (JV), whose shares are 51% owned by Capita and 49% owned by the council. The key driver for entering into a JV was the commercial potential to provide services to other local authorities. Although the contract is delivered by the JV, the council is protected by the fact that delivery of the contract is underpinned by a parent company guarantee and, in the case of service underperformance or financial loss, Capita would be the responsible party. The JV is governed by a Board of Directors. This consists of an independent chairman, two directors from the council and two directors from Capita. The JV Board meets bi-monthly and its primary focus is on developing RE as a business entity. The JV structure adds a degree of complexity in managing the relationship, compared to a traditional contract arrangement.
- 1.20 The Performance and Contract Management Committee exercises Member oversight of performance, receiving quarterly reports on all aspects of the contract’s performance. Services that are provided through the contract are subject to the council’s normal internal audit arrangements. This includes referral to the Audit Committee, where internal control arrangements do not meet the required standard. As with all partner organisations, RE is also subject to the council’s policies and procedures in respect of transparency and conflicts of interests. These are enshrined in the contract and are also subject to review by internal audit.

- 1.21 In addition to the delivery of core services, the contract allows the council to commission additional ad hoc work from RE in the form of special projects. This expenditure is not included in the core contract price and varies from year to year, depending on the council's requirements. The most significant of these special projects is the Brent Cross development programme, but there has also been substantial expenditure on highways projects over the last few years. Although the vast majority of this expenditure, including the Brent Cross programme, is funded from external sources, for example by developers or by TfL, the council still has a responsibility to ensure that this represents good value for money and is subject to sound governance arrangements.

Conduct of the review

- 1.22 The council has adopted an evidence-based and collaborative approach to conducting the Review, recognising that both parties to the contract have a valuable contribution to make in developing the contract and the partnership environment within which it operates. It is also recognised that both parties can learn from the operation of the contract and the partnership to date. RE has engaged proactively and effectively during the review process, through a number of dialogue sessions between senior officers and senior members of RE's management team, as well as the broader Capita management team in Barnet, to discuss various elements of the Review and specific services.
- 1.23 The contract delivers a wide range of services and it was acknowledged by the Working Group that reviewing each of these, in detail, would not be feasible within the available resource envelope. The Review has, therefore, focussed on the most significant services, in financial or customer impact terms, i.e.:
- Highways
 - Planning (Strategic Planning and Development Management)
 - Regeneration
 - Key elements of the regulatory services
- 1.24 In addition, the Review has considered the framework provided by the contract for pricing individual special projects. It should be noted that the focus here has been on the cost aspect of value for money, as timescales have not permitted an examination of the performance of individual projects as part of the Review process.
- 1.25 During the course of the Review, the council's commissioning leads for each of these services have considered performance against the contract in terms of:
1. Delivery of contractual commitments;
 2. Compliance with output specifications; and
 3. Suitability of KPIs.

- 1.26 Based on these assessments, commissioning leads then prepared an evidence pack for each of their service areas. Evidence packs were agreed with RE service leads and subjected to review and challenge by the project team, prior to them being presented to the Member Working Group. Council commissioning leads and RE service leads attended the relevant meetings of the Working Group to provide additional information and respond to questions about the service.
- 1.27 At its meetings on 27th March 2017 and 24th May 2017, the Member Working Group considered the resulting evidence pack for each service and, following discussion and challenge, confirmed the desired outcomes that they wanted officers to progress. These evidence packs are attached as Appendices C to G.
- 1.28 Based on the outcomes of these meetings, officers commenced dialogue with RE colleagues, with a view to securing the desired outcomes from the Review.
- 1.29 The Working Group meeting on 26th June 2017 was held in public and sought the views of residents, traders and local businesses about the contract. 21 residents submitted statements in advance about their experiences of the services provided under the contract. These were published at <https://barnetintranet.moderngov.co.uk/documents/s40687/3.%20Re%20Contract%20Review%20Call%20for%20Evidence%20schedule%20-%20Public%20v3.pdf>
- 1.30 Nine residents presented their views to the meeting and the notes from these presentations are attached as Appendix H. At its meeting on 17th July 2017, the Working Group considered the statements that had been submitted and Members identified a number of areas that required further attention as part of officers' continuing work on the Review. Responses to the matters raised are incorporated in the relevant sections of the report.
- 1.31 At its meeting on 25th September 2017, the Working Group considered three papers on benchmarking:
- a) A report prepared by Grant Thornton that considered the cost, quality and prices of a range of services covered by the core contract (attached as Appendix I);
 - b) A paper prepared by the council's programmes team that considered expenditure on special projects (attached as Appendix J, excluding exempt information and Appendix L, including exempt information); and
 - c) A report prepared by iMPower that considered whole project costs, i.e. rates x input (attached as Appendix K, excluding exempt information and Appendix M, including exempt information).
- 1.32 The outcomes of this benchmarking work are summarised in the "Overview of contract performance" section of the report, with more detail being set out in the service outcomes section.

- 1.33 Alongside the consideration of evidence by the Working Group, officers have been continuing dialogue with RE colleagues to work up proposals for delivering the desired outcomes from the Review. These proposals are at various stages of development and implementation. More detail on these proposals is set out in the remaining sections of the report.

Overview of contract performance

- 1.34 The key drivers for entering into the RE contract in 2013 were to:

- a) Meet the unprecedented financial pressures being faced by the council;
- b) Invest in development and regulatory services; and
- c) Preserve and improve on existing service levels.

- 1.35 The full business case for the contract was considered by Cabinet on 24th June 2013 and is available on the council's website:

<https://barnet.moderngov.co.uk/documents/s8844/Appendix%201%20-%20Full%20Business%20Case.pdf> The business case sets out the following key benefits that were anticipated from entering into the contract:

- Guaranteed financial benefits of £39.1m over the contract term, delivered by a combination of cost reductions on the services specified in the output specifications and net income growth, thus bringing the net cost of these services to the council down from £45m to £6m over the 10 year contract term (equivalent to approximately from £4.5m to £600k per annum);
- Approximately £8.2m investment in areas such as information technology (computer hardware and software), building infrastructure and training;
- The provision of an improved and more efficient range of development and regulatory based services for Barnet's residents, with the establishment of a dedicated customer services team across all DRS services, supported by new technology, to provide quicker access to services and information;
- Supporting Members in their functions as required, including a dedicated Member liaison service;
- Commitment to a range of initiatives to support community and voluntary sector organisations, including the establishment of local user forums to engage with communities; and
- Significant investment to stimulate and drive forward borough-wide growth, enterprise and renewal, including the provision of support to new and existing businesses; leading initiatives to reduce the number of vacant high street properties across Barnet compared to comparable boroughs; and maximising the financial and economic benefits of new developments.

- 1.36 In broad terms, it is considered that the contract is delivering against these objectives. It is on track to deliver the £39.1m of savings over the 10-year term of the contract, having delivered £13m in the three and a half years to date. This is in accordance with the savings profile for the contract, which is based on annual savings increasing over time.

1.37 In respect of the other expected benefits identified above, notable achievements through the contract to date are:

- The £8.2m investment has been delivered, with efficiency savings being achieved by re-deploying staff into income growth positions. There has been investment in new roles, such as the Business Development Director, Commercialisation Director, Director of Place, Sales and Marketing, along with operational and financial support. The IT investment has been focused on transforming the Regulatory Services system (Uniform), the Highways system (Exor) and the cemetery system (BACAS). This process was not just system based, as RE have re-engineered all associated processes resulting in recognition through a number of quality awards;
- As the RE contract commenced, there was no dedicated customer services team and there were no customer service related KPIs for performance. Whilst RE would accept that the journey continues in this area, progress has been marked namely through the following:
 - There are now 17 staff in place to triage calls
 - Performance is consistently above 90% for answering service requests
 - There has been a 20% increase in volume since the start of the contract
 - The customer can now contact the service by email, web and twitter, as well as by phone
 - RE is, to our knowledge, the only provider of these services in London that collects customer satisfaction statistics and can therefore benchmark and improve performance
- Introduced dedicated Member Liaison Officers to act as an interface between services and Members and the public as appropriate;
- RE has developed several initiatives, particularly in Regulatory Services, to support the success of start-up businesses;
- RE hold regular charity events and are currently supporting a local hospice, recently donating over £2,000; and
- Through a community crowdfunding initiative, as part of the Barnet Together campaign, residents and businesses can apply for up to £5,000 in funding to bring their ideas to life. Since launching in July 2017, 18 new community projects have been posted, with three already fully funded. RE has been instrumental in developing the project through coordination with Section 106 employment and skills and town centre activities.

1.38 Customer satisfaction is measured across the contract as a whole and by service area. The associated KPI is measured annually, with quarterly reports on progress. Satisfaction data is collected using "Survey Monkey". Customers are emailed the survey at the end of the month, or a link is sent out automatically following closure of a service request. Scores are based on percentage of customers that rate RE as either Good or Very Good on 10 core questions within the survey, a copy of which is set out overleaf.

4. Overall, how would you rate your experience of the service against the following statements? (please tick one option per statement)

	Very Good	Good	Average	Poor	Very Poor	Not Sure / Don't Know / Not Applicable
How easy was it to find the information you needed to contact us?	<input type="checkbox"/>					
How easy was it to make contact with us once you found the information?	<input type="checkbox"/>					
Were the staff you dealt with courteous and polite?	<input type="checkbox"/>					
Did the the staff you dealt with act in a professional manner?	<input type="checkbox"/>					
Were the staff you dealt with knowledgeable ?	<input type="checkbox"/>					
Did you feel we fully understood your request?	<input type="checkbox"/>					
Thinking of the service provided what score would you give?	<input type="checkbox"/>					
Did we keep you fully informed throughout the process?	<input type="checkbox"/>					
Did we explain clearly what would happen next, including timescales?	<input type="checkbox"/>					

5. Overall, how would you rate your experience of the service?

Very good
 Good
 Average
 Poor
 Very poor

Survey Monkey Customer Satisfaction Questions

1.39 Customer satisfaction information for individual services is set out in the service evidence packs. In respect of the contract overall, customer satisfaction has improved significantly since contract commencement. Despite this, the somewhat challenging targets for years three and four have not been met, as set out in the table below:

Year	Target	Actual
2014/15	Baseline	51%
2015/16	55%	56%
2016/17	80%	69%
2017/18 (to end September)	82.5%	72%

1.40 Overall, performance against the Key Performance Indicators (the main objective measure of service quality) is acceptable. In 2016/17, 82% of the contract's service-delivery KPIs achieved or exceeded their target over the year as a whole. This compares to 78% in 2015/16. Detailed performance information is provided in the service evidence packs. Performance information is reported regularly to the Performance and Contract

Management Committee, including details of service credits that have been applied where targets have not been achieved within the quarter.

- 1.41 In respect of contractual commitments, a comprehensive review of these has been carried out. Over 71% of the 227 contractual commitments have been delivered and signed off. A further 23% have been substantially delivered, are in progress or are classified as “ongoing”, i.e. they are an obligation that continues for the duration of the contract. The Review has highlighted that some contractual commitments were delivered later than anticipated in the contract. Reasons for late delivery vary. In some cases, effort has been re-prioritised in agreement with the council’s commissioning lead, in other cases commitments that were made in the original bid have proved to be more complex to deliver than was anticipated. There are arrangements in place to monitor delivery of the remaining 6% of commitments that have not yet been delivered and these will be incorporated into the relevant annual workplans, where appropriate.
- 1.42 This is a broad-ranging and complex contract, with a number of services that operate within a complicated regulatory framework that does not always have the service user at its heart. Not surprisingly, there have been some performance challenges in the services that have been reviewed, most notably in Planning Enforcement and Highways, and these have impacted some residents. Both of these services have been the subject of improvement plans over recent months. Good progress has been made on delivering these plans and improving the experience of residents, but it is recognised that there is scope for further, continuous improvement. There will be continued close monitoring to ensure that this continuous improvement is sustained. More details are set out in the service outcomes section of the report.
- 1.43 In addition to considering performance against the council’s requirements, the Review has also considered performance against other London Boroughs, through a benchmarking exercise conducted by Grant Thornton. This exercise considered the following services:
- a) Highways;
 - b) Planning; and
 - c) Regulatory Services
- 1.44 In considering the outcomes of this exercise, Members of the Working Group noted the limitations of such benchmarking exercises, in that they can only provide an indication of comparative performance. Individual councils record information in different ways, so data is not always directly comparable, and data is not always available. In particular, Grant Thornton’s report noted that “the council has a comparatively favourable grasp of customer satisfaction data, as it forms part of the contract with RE. This awareness is not replicated with benchmark organisations and demonstrates that the council has a more complete understanding of the value of services delivered by RE.”

- 1.45 For the comparison of costs, the exercise utilised information that all councils have to publish on an annual basis. This information was used to provide comparisons against all London Boroughs and also against the council's "nearest neighbours", which are the 10 Boroughs that most closely resemble Barnet in terms of factors such as population size and characteristics, employment, area and road length. The report concluded that, for the benchmarked services as a whole, the council's net expenditure was "very low" in both a London and a nearest neighbour context.
- 1.46 In respect of service quality, Grant Thornton sought to obtain information on service performance by sending questionnaires to each of the 10 nearest neighbours. Returns were somewhat limited, despite a number of follow-up contacts being made, so information was supplemented by the use of published performance statistics, where these were available. Where data is available, RE services are generally performing at a reasonable to good level and, in some cases, are very good.
- 1.47 As the exercise has identified that services generally appear to be low cost and of reasonable to good quality, it is concluded that the contract is providing good value for money in respect of the core services delivered by RE.

REVIEW OUTCOMES AT PARTNERSHIP LEVEL

- 1.48 In addition to reviewing the performance of key services provided under the contract, the Review has also sought to identify issues and improvements that have an impact on the performance of the contract as a whole. As identified in paragraph 1.7, this has focussed on:
- Service improvements
 - Partnership arrangements
 - Contractual amendments
 - Clienting arrangements (i.e. how Barnet manages the contract)

Service improvements

- 1.49 The detailed findings in respect of the services that were reviewed are set out in the service outcomes section of the report. It should be noted that the contract does provide for ongoing review and continuous improvement and this will continue to take place through established contract mechanisms.
- 1.50 Members of the Working Group have noted that the RE contract is a wide-ranging and complex commercial structure, which has created challenges in some areas regarding interpretation and understanding. The review has been particularly beneficial in terms of securing better awareness of this structure and thereby resolving a number of matters relating to interpretation and understanding of various elements of the contract.

- 1.51 As a result of the Review, RE offered a £500k discount against pre-payment of the management fee. This was accepted by Policy and Resources Committee in June, who decided that this should be spent on supporting the continuation of free school meals in the Borough and on street cleansing.

Partnership arrangements

- 1.52 In addition to the guaranteed income associated with providing services within the Borough, a key driver for establishing the JV was the aspiration to generate further income, over and above the guarantee, by selling services to other councils. Whilst there has been some success for the JV in securing contracts with other councils, it is acknowledged that this has been somewhat limited to date and has yet to result in additional financial benefit to the council. It should be noted that this does not affect the fundamental business case for the contract. However, as part of the Review, there has been some consideration of this aspect of the JV and whether or not any changes are needed to develop this, particularly in terms of incentivising the council to actively support the JV in this regard.
- 1.53 It has been agreed that these aspects are best taken forward through the JV Board and the Board has already commenced discussions on these issues.
- 1.54 Capita's internal organisational structure (known as "the towers") has been identified as a layer of complexity that potentially impacts on day to day service delivery. This structure brings the management of service-specific resources from across Capita into single, specialist business units. Local contract teams, including RE, buy-in resources from, for example the Highways Tower. Whilst this has obvious benefits in terms of providing access to a wider pool of resources to meet increases in demand or provide a particular technical expertise, it does also mean that RE (on the council's behalf) is effectively competing for these resources against other Capita clients. It is the council's view that this arrangement may not always operate in the council's best interests and it is recommended that there is further exploration of this with Capita's senior managers.

Contractual amendments

- 1.55 At the beginning of the Review, council officers indicated that the main concern about the contract itself was the clarity and continuing relevance of the content of output specifications. Through the process of dialogue between council officers and RE colleagues, it has been clarified that the output specifications themselves remain largely relevant in defining outputs and standards. However, the complexity of funding sources for different aspects of work (including s106 funding and TfL-funded schemes) has led to some lack of certainty over what work is covered by the management fee and what requires funding through the special projects process. The added complication here is the interplay with the Minimum Income Guarantee.

- 1.56 As a result of the improved understanding of the contract that has been achieved through this Review process, it has been agreed that the required level of clarity and transparency of resource deployment can be achieved through the development of annual workplans. These will address the council's changing priorities in, for example, highways and regeneration, and set out the various programmes of activity and funding sources. These workplans will be considered by the relevant Theme Committees in due course.
- 1.57 The key areas where KPIs require amendment are in highways and planning enforcement. Work is progressing on finalising proposals and it is proposed that these be taken forward through consultation with the Chairmen and Opposition Lead Members of the relevant Theme Committees. Final proposals will be circulated to Members of the Working Group for consideration and a further ad hoc meeting of the Group may then be arranged, if required. It is anticipated that this work will be completed by the end of the council's financial year, in line with the KPI reporting cycle. The outcomes of this work will be reported to the Performance and Contract Management Committee in due course.

Clienting arrangements

- 1.58 One respondent to the public call for evidence provided a comprehensive submission that focussed primarily on how the council manages the contract.
- 1.59 Alongside this Review, officers have been conducting a separate review of performance governance arrangements across the council. The respondent's comments have informed some of the improvements that have been made to performance reporting and contract management arrangements. In particular, the regular contract performance reviews at service level have been formalised and are now operating as monthly Contract Management Meetings, with a standard agenda that includes consideration of performance against the output specification, as well as KPIs and contractual commitments. Finance, including expenditure on special projects, and resources also forms part of that agenda. Members of the Committee will be aware of the changes that have been made to improve performance reporting on the council's key strategic contracts, from discussions at their meeting on 4th July 2017.
- 1.60 In addition, the Strategic Partnership Boards for the CSG and RE contracts have been merged to improve oversight across the partnership as a whole.

REVIEW OUTCOMES AT SERVICE LEVEL

Service outcomes – Highways

- 1.61 At its meeting on 27th March 2017, the Working Group considered an evidence pack (attached as Appendix C) that provides a detailed assessment

of how the service has performed to date. During wide-ranging discussions, Members acknowledged the generally positive picture on performance of the service, but questioned whether the current KPIs actually cover the issues that Members are dealing with on a day to day basis, as the performance data does not always reflect their experience of the service.

1.62 Benchmarking outcomes

The Grant Thornton report identified that highways services are delivered at a lower unit cost (expenditure per kilometre of road) than “nearest neighbour” authorities and that Barnet has more challenging KPI targets and more kilometres of roads. Performance on emergency road repairs and road maintenance is relatively good.

The report noted that Barnet has the highest number of road deaths and serious injuries of all its “nearest neighbours”, but it also shows a significant percentage reduction over recent years. This does need to be considered in the context of the nature and length of roads within the Borough, as the number of deaths or serious injuries per mile is consistent with its “nearest neighbours”. The report highlighted a number of initiatives that have been introduced by the London Borough of Ealing and Members of the Working Group suggested that a conversation with Ealing regarding their approach to reducing the number of people killed or seriously injured on the roads should inform a future report to Environment Committee on this issue.

1.63 Call for evidence outcomes

Six of the submissions received from members of the public commented on highways services. Comments related to the state of highways and pathways, as well as to the accessibility and responsiveness of the service.

1.64 Review outcomes

The Working Group identified three desired outcomes from the Review:

- Deliver service improvement plan to resolve business as usual issues, such as responsiveness to Members’ enquiries, speed of fixing problems and outstanding surface dressing issues
- Review and re-align KPIs, including with third parties, and consider reporting frequencies and appropriateness of targets
- Improve clarity of output specification in respect of s106, parking and LIP

Good progress has been made on delivering each of these outcomes. On the service improvement plan, a joint officer working group continues to monitor progress. This has evolved from being a means to address specific problems into an ongoing, continuous improvement, approach. Improvements in communication with Members continue to be embedded. Agreement has now been reached with Conway Aecom to address a range of contractual and operational issues. A work programme to address the outstanding surface dressing issues has also been agreed and is now being implemented.

Discussions on KPIs and their associated targets are progressing well. Final revisions will be considered alongside the development of the annual workplan and priority service improvements identified through the officer group. In the light of comments from members of the public, consideration is being given to strengthening the KPIs and performance indicators relating to customer service. A parallel exercise is being carried out to improve the data quality sheets, which set out the detailed arrangements for measuring KPIs, to improve the clarity of what is being measured. As mentioned above, this work will be progressed in consultation with the Chairman and Opposition Lead Member of the Environment Committee.

The officer group has also been reviewing the output specifications and agreeing priorities within them. The parties have developed an approach on s106 work, which is a major step forward. It is proposed that, rather than redrafting output specifications, a more effective approach will be to agree an annual workplan, based on the identified priorities and overarching highways strategy. Discussions are continuing to confirm the process for negotiating next year's Local Implementation Plan and finalise arrangements for insurance claims. The workplan will be considered by the Environment Committee in due course.

1.65 Review conclusions

At its meeting on 26th October 2017, the Member Working Group agreed that its overall conclusions on Highways were:

- There have been significant issues on highways service delivery, which is in part due to the complexity of the arrangements between RE, Conways and the Highways DLO;
- Carriageway surface dressing has caused particular issues for residents on the affected roads;
- The service improvement plan has delivered improvements and the contractual arrangements with Conways have been improved;
- A continuous improvement plan is being developed, to ensure that these improvements are embedded in the service; and
- Significant efforts have been made over the last six months to put more robust arrangements in place for communicating with local Members.

Service outcomes – Planning

- 1.66 At its meeting on 24th May 2017, the Working Group considered evidence packs for the Development Management Service and the Strategic Planning service (attached as Appendices D and E) that provide a detailed assessment of how the service has performed to date. Members identified their key concern as being planning enforcement. They also questioned the coverage of KPIs, particularly in respect of planning enforcement.

1.67 Benchmarking outcomes

The Grant Thornton report identified that the council deals with the largest number of planning applications of all the councils that were benchmarked and is also the best performing based on the relationship between unit cost and percentage of major applications responded to within statutory timescales. Expenditure per head of population is classed as low in the London-wide context and average compared to “nearest neighbours”.

Charges for pre-planning advice are generally high for developers, but not for individual householders. Pre-planning advice leads to a high success rate. It should be noted that the pre-planning advice service is delivered independently of the development management service that processes the resulting planning applications.

1.68 Call for evidence outcomes

The majority of the comments that were received from members of the public related to concerns with planning and planning enforcement. At its meeting on 17th July 2017, the Working Group considered these submissions in some depth, in discussion with RE’s service lead and other key officers. The Working Group concluded that:

- Planning enforcement needs to be more responsive (see review outcomes section, below);
- Accessibility to planning applications needs to be improved, particularly on larger applications with high volumes of associated documents;
- Communication between planning and the public needs to be improved;
- There is a need to ensure that the consultation system is operating effectively (i.e. residents receive consultation letters in accordance with the policy) and sample checks should be introduced; and
- The Planning Committee may wish to consider the policy in terms of the extent of consultation.

It is proposed that these issues be referred to Planning Committee for further consideration. At the meeting, it was noted that the planning portal is a third-party website and the ability to influence how documents are named and organised on the site is limited. However, it has subsequently been agreed that RE will include a clause in Planning Performance Agreements requiring developers to include a summary of their planning applications at the time of submission. RE officers will also encourage the submission of a summary as part of pre-applications advice and include a statement to that effect in pre-application notes.

1.69 Review outcomes

The Working Group identified four desired outcomes in respect of Development Management:

- Consolidate improvements in planning enforcement and continue further work on communication and engagement with Members
- Review KPIs, PIs and associated targets to ensure that they drive appropriate focus across all aspects of the service, particularly in Planning Enforcement
- Recognition of successful delivery of outcomes in Development Management, despite significant increase in service volumes
- Support promotion of the service to help facilitate further commercial growth.

In respect of planning enforcement, the service improvement plan is being delivered and ongoing activity will continue to be monitored. It should be noted that, in the first nine months of 2017, 117 new enforcement notices were authorised, compared to 63 in the same period of 2016. Based on the number of notices served, the council's enforcement team was the fifth busiest in the country in the second quarter of 2017. The number of investigations completed by enforcement officers has also increased significantly throughout 2017, rising from 61 in March to 224 in September. Alongside this, there have been a number of direct enforcement actions that have attracted positive attention from the local media. There have also been significant improvements in the information being provided to Members, with monthly updates to Members generally and quarterly reports to Area Planning Committees. Further improvements will be driven through the use of Member Liaison Officers.

Work is continuing on reviewing the service's KPIs and associated targets. A proposal is being developed to strengthen the monitoring of performance in enforcement through the use of a basket of related performance indicators. As mentioned above, this work will be progressed in consultation with the Chairman and Lead Opposition Member of the Planning Committee.

On service volumes, the latest figures show further increases in the number of applications processed and good performance on compliance with timescales. Officers continue to monitor this against appeal numbers and outcomes, which together give an indication of the quality of planning decisions. This information will be reported to Area Planning Committees and the Planning Committee as a matter of course in future.

It is considered that the promotion of the service is an ongoing activity that requires no specific action from the contract review. However, it is noted that the improvements that have been made in reporting of the service's activities will support this.

For the Strategic Planning element of the service, the Working Group agreed the following desired outcomes:

- Build on existing service improvements to ensure a strong operational framework and delivery of staff capacity to secure all outcomes; driving dynamism into the service through stable leadership

- Establish mechanisms to improve support for council commissioning priorities through greater data analysis, data management and overall planning leadership
- Continue improving consistency of communication with Members and effectively utilise the new RE Member Liaison Officers
- Determine appropriate documentation to ensure existing services are further enhanced when Planning Fees are increased [no longer relevant, as no fee increase expected]
- Delivery of heritage contractual outputs – update of Local List and review of priority Conservation Area Appraisals

Good progress has been made in delivering these outcomes and it is noted that continued, stable leadership is driving improvement. The Local Plan Member Working Group is supporting this and will drive further improvements. Work on the Local Plan is progressing well.

The work on improving support for the council's commissioning priorities is being driven by officers, using the Barnet Observatory data tool and the Insight Team.

The introduction of the Member Liaison Officers, work on the Local Plan and improvements in communication on major applications all contribute to improving the consistency of communication with Members.

Work on the update of the Local List and review of priority Conservation Areas Appraisals is now well underway.

1.70 Review conclusions

At its meeting on 26th October 2017, the Member Working Group agreed that its overall conclusions on Planning were:

- There have been significant issues with planning enforcement that have been addressed through a service improvement plan, which has also addressed issues of communication with Members; and
- On development control, the volume of planning applications has increased significantly since contract start and performance is generally good.

Service outcomes - Regeneration

- 1.71 At its meeting on 24th May 2017, the Working Group considered an evidence pack for the Regeneration Service (attached as Appendix F) that provides a detailed assessment of how the service has performed to date. Members asked officers to consider how value for money from individual regeneration projects might be benchmarked as part of the Review.

1.72 Benchmarking outcomes

The Regeneration service is delivered predominantly through individual projects. It was not, therefore, feasible to include it in the Grant Thornton exercise. Given the difficulties that have been experienced in benchmarking individual projects, the Working Group suggested that it may be beneficial to raise the possibility of benchmarking larger projects with the London Regeneration Group.

1.73 Call for evidence outcomes

There were no comments from members of the public on Regeneration services.

1.74 Review outcomes

The Working Group identified two desired outcomes in respect of Regeneration:

- Updated and clearly understood output specification that covers the core Regeneration service and known workplan for next four years
- Agreed and resourced workplan to deliver agreed commissioning outcomes for business support, town centres and skills development (the Economic Skills and Development service)

This is an area of service that has particularly benefited from the process of dialogue between council officers and RE colleagues. There is now greater clarity over how the different funding sources contribute to the overall activity of the service and recognition that the output specification remains relevant in defining outputs and standards.

For both areas of the service, work is progressing on the development of four year work plans. These will need to have the flexibility to respond to changing requirements and priorities over the period. The outline content of the plans has been broadly agreed by officers. The associated resourcing plans are now being developed and these plans will be considered by the Assets, Regeneration and Growth Committee in due course.

1.75 Review conclusions

At its meeting on 26th October 2017, the Member Working Group agreed that its overall conclusions on Regeneration were:

- The regeneration service has delivered significant benefits to the Borough and has grown significantly since contract start;
- This does mean that the output specification does not necessarily reflect current priorities and there have been ongoing disagreements about what services are covered by the management fee; and
- Work is continuing to address this, including the development of flexible four-year workplans.

Service outcomes – Regulatory Services (Environmental Health)

1.76 At its meeting on 27th March 2017, the Working Group considered an evidence pack for the Regulatory Services (attached as Appendix G) that provides a detailed assessment of how the service has performed to date. Regulatory Services covers a broad range of activity, including the Cemetery and Crematorium, Trading Standards, Licensing and Land Charges. The Review focussed primarily on the Environmental Health service, as this is the area of greatest expenditure.

1.77 Members agreed that there was scope to raise the profile of these services, with relevant reports being considered by various Committees. There was also broad agreement that the service was generally performing well and that customer satisfaction has increased considerably since the contract commenced.

1.78 Benchmarking outcomes

The Grant Thornton benchmarking exercise covered the environmental health and trading standards elements of regulatory services. The report concluded that performance on food safety inspections is relatively strong and the regulatory services are delivered at a lower unit cost than all London Boroughs.

The report noted that Barnet is meeting its KPI on trading standards (interventions having a further complaint within six months), but other councils do not record KPIs in this area, so no comparison is possible.

On houses in multiple occupation (HMOs), it was noted that Barnet is exceeding its target for HMOs meeting legal standards, but the only other council that provided information is achieving 100%, albeit at higher cost. It was noted by the Working Group that the target for RE increases over time and reflects an agreed strategy of encouraging HMO owners to register and comply with standards, rather than take a more heavy-handed enforcement approach.

1.79 Call for evidence outcomes

There were no comments from members of the public on Regulatory Services.

1.80 Review outcomes

The Working Group identified four desired outcomes in respect of Environmental Health:

- Simpler, more streamlined set of relevant KPIs, with appropriate reporting frequencies

- Shared understanding of contractual provisions, including improved clarity on volume triggers and legal charges
- An agreed approach to addressing complex problems, where there are no clear responsibilities at present
- An agreed approach to promoting the service and building on success to date to achieve further income grow

KPIs have been reviewed and the consensus is that the majority remain relevant to the service's priorities. In some cases it has been agreed that data quality sheets will be reviewed to provide greater clarity around requirements for fulfilment.

Ongoing discussions are improving understanding of the contractual provisions. At this stage, it is not anticipated that this will require any contractual changes, as the process itself is delivering the desired outcome. In respect of legal charges, points of principle have been agreed and the future approach to litigation management will be documented and agreed.

The approach to dealing with cross-cutting issues, through the Community Safety Hub, has been broadly agreed. The RE service lead has been appointed to the Safer Communities Partnership Board, to improve links at a strategic level, and RE will be fully involved in the upcoming review of the Community Safety Strategy.

There has been good progress on raising awareness of the service's activities and successes. A new annual report will go to Environment Committee and reporting to the Performance and Contract Management Committee has been improved.

1.81 Review conclusions

At its meeting on 26th October 2017, the Member Working Group agreed that its overall conclusions on Regulatory Services were:

- Regulatory services are mostly performing well and Members of the Working Group considered that they are generally well regarded;
- The Review has resulted in raised awareness of service performance through improved reporting to Members; and
- Improvements have been made to secure a more strategic approach to complex, cross-service problems, for example by including RE representation on the Community Safety Strategy Board.

Special Projects

- 1.82 In addition to the core contract, there is substantial expenditure with RE on special projects, much of which is funded by third parties. The Review brief anticipated that the Review would pay some attention to this aspect. However, timelines have not permitted reviews of the performance of individual projects and the extent to which they have delivered their

objectives, so the focus of the Review has been on the value for money represented by the day rates for project work that are included in the contract.

1.83 At its meeting on 25th September 2017, the Member Working Group considered two papers on the benchmarking of project costs:

- a) A paper prepared by the council's programmes team that considered project expenditure and RE's day rates for special projects (attached as Appendix J, excluding exempt information and Appendix L, including exempt information); and
- b) A report prepared by iMPower that considered whole project costs, i.e. rates x input (attached as Appendix K, excluding exempt information and Appendix M, including exempt information).

1.84 Expenditure on projects to date is summarised in the following table:

2014/15	2015/16	2016/17	Total
£2,847k	£7,685k	£13,404k	£23,855k

1.85 Of this expenditure, approximately £11m (46%) relates to the Brent Cross regeneration programme. A further £5.5m (23%) relates to highways. Further detail of the breakdown of expenditure is provided in the appendices.

1.86 The benchmarking exercise considered day rates for project managers, engineers and planners, comparing RE's rates with national market rates. The Working Group concluded that RE's day rates generally compare favourably to the market.

1.87 The paper also identified how the council ensures that project costs are controlled and the Working Group agreed that officers should continue to review project proposals on a case by case basis, with a view to securing external support to review proposals and/or carrying out market testing, where appropriate.

1.88 The council commissioned iMPower to consult a range of other providers of project services, with a view to providing comparative costs for delivering four existing projects. Despite their best efforts, market engagement was extremely limited. They also found that some providers take a different approach to pricing, making comparison more difficult.

1.89 Whilst iMPower concluded that indications are that total project costs are "on market", this is based on very limited data. They also found that resource mix varies across providers, with RE's appearing to be bottom-heavy and relying more on "support" staff than on "graduate resource" in particular.

1.90 Overall, the Working Group concluded that, despite the use of external support, it has proved difficult to obtain sufficient information to conclude

whether or not total project costs represent good value for money and proposed that officers explore this further.

2. REASONS FOR RECOMMENDATIONS

- 2.1. The recommendations are based on a comprehensive, evidence-based assessment of the performance of the contract that has been undertaken by the Member-led Working Group, supported by officer-led dialogue sessions.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1. None.

4. POST DECISION IMPLEMENTATION

- 4.1 The actions identified from the Review and the activities required to finalise negotiations around changes to certain KPIs and complete the production of detailed work plans for Regeneration and Highways are set out in Appendix B.

5. IMPLICATIONS OF DECISION

Corporate Priorities and Performance

- 5.1 The council's corporate plan for 2015-20 sets the vision and strategy for the next five years based on the core principles of **fairness, responsibility** and **opportunity**, to make sure Barnet is a place:

- Of opportunity, where people can further their quality of life;
- Where people are helped to help themselves, recognising that prevention is better than cure;
- Where responsibility is shared, fairly;
- Where services are delivered efficiently to get value for money for the taxpayer.

Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2 The core RE contract, including managed budgets, has a value of approximately £158m over the 10 year life of the contract. The outcomes of the Review should ensure that the services provided under the contract continue to provide value for money and respond to changing priorities.

Social Value

- 5.3 The services provided through the RE contract deliver social value in a number of ways, as set out in the body of the report and the service evidence packs. In addition, it should be noted that the provision of apprenticeships remains a high priority for RE.

Legal and Constitutional References

5.4 The Council's Constitution, in Article 7, Committees, Forums, Working Groups and Partnerships states the functions of the Performance and Contract Management Committee include (amongst other responsibilities):

- 1) Overall responsibility for quarterly budget and performance, oversight of contract variations including monitoring trading position and financial strategy of Council services and external providers.
- 2) To make recommendations to Policy and Resources and Theme Committees on relevant policy and commissioning implications arising from the scrutiny of performance of Council services and External Providers.
- 3) Specific responsibility for risk management and treasury management performance

5.5 Regulation 72 (1) of the Public Contracts Regulations 2015 states that "Contracts...may be modified without a new procurement procedure:

(a) Where the modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses or options, provided that such clauses:

- (i) State the scope and nature of possible modifications or options as well as the conditions under which they may be used; and
- (ii) Do not provide for modifications or options that would alter the overall nature of the contract...'

5.6 Clause 37.4 of the RE contract expressly provides for this year four review and expressly allows for modification to the contract resulting from that review. Therefore, any agreed changes to the contract will be in line with the Public Contract Regulations 2015 as long as the changes do not alter the overall nature of the contract.

5.7 The contract changes agreed will need to be authorised by the relevant officer in line with the Council's constitution and documented in a Deed of Variation or similar legal form to ensure that they are legally binding on both parties.

Risk Management

5.8 The council has taken steps to improve its risk management processes by integrating the management of financial and other risks facing the organisation, thereby ensuring that risk is an inherent part of performance and contract management.

Equalities and Diversity

5.9 The Equality Act 2010 requires organisations exercising public functions to demonstrate that due regard has been paid to equalities in:

- Elimination of unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010.
- Advancement of equality of opportunity between people from different

groups.

- Fostering of good relations between people from different groups.

5.10 The Equality Act 2010 identifies the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership, pregnancy and maternity; race; religion or belief; sex and sexual orientation.

5.11 In order to assist in meeting the duty the Council will:

- Try to understand the diversity of our customers to improve our services.
- Consider the impact of our decisions on different groups to ensure they are fair.
- Mainstream equalities into business and financial planning and integrating equalities into everything we do.
- Learn more about Barnet's diverse communities by engaging with them.

This is also what we expect of our partners.

5.12 This is set out in the Council's Equalities Policy together with our strategic Equalities Objective - as set out in the Corporate Plan - that citizens will be treated equally with understanding and respect; have equal opportunities and receive quality services provided to best value principles.

5.13 The equalities implications of proposals have been considered as part of the Review process and no specific implications have been identified in relation to the proposals outlined in this report.

Consultation and Engagement

5.14 Consultation and engagement has taken place as set out in paragraph 1.29 of this report. The outcomes of that consultation and engagement are set out in the relevant service outcomes sections of the report.

Insight

5.15 A number of benchmarking sources have been considered as part of the Review.

6. BACKGROUND PAPERS

6.1 RE Contract Review Member Working Group meeting held in public, 26 June 2017

<https://barnetintranet.moderngov.co.uk/documents/s40687/3.%20Re%20Contract%20Review%20Call%20for%20Evidence%20schedule%20-%20Public%20v3.pdf>

6.2 Performance and Contract Management Committee, 5 January 2017 – Agenda Item 10 – Extending the remit of the Member-led Working Group for the Year Four Review of the DRS Partnering Contract

<https://barnetintranet.moderngov.co.uk/documents/s37002/PCM%20report%200January%202017.pdf>

6.3 Approval of preferred bidder for DRS services:
<https://barnet.moderngov.co.uk/documents/s9226/DRS%20Cabinet%20Report.pdf>