

URGENCY COMMITTEE

Friday, 30 November 2018

ITEM 5 – PUBLIC QUESTIONS AND COMMENTS

Note – At the meeting a total of 30 minutes is available for public questions and comments. The questioner may ask one supplementary question at the meeting which will be answered without discussion. The supplementary question must be relevant to the original question put to the Chairman.

Public Comment (up to 3 minutes per comment)

Agenda Item No	Public Comment Request
Item 6 – Commercial Settlement of Historic Issues	Mr John Dix

Qn No	Agenda Item No	Raised By	Question Raised	Answer
1.	Item 6 – Commercial Settlement of Historic Issues	Mr John Dix	Please can you provide the notional allocation of the £4.12 million attributed to each of the 5 items set out at 1.1 (a)-(e)	The settlement does not specifically allocate costs. However, the principal items are Mosaic and the Development Pipeline.
2.	Item 6 – Commercial Settlement of Historic Issues	Mr John Dix	Given that at the July Policy & Resources Committee the report noted that the costs of resolving the problems with the Mosaic system were £4.2 million and that there “are differences in views on who should pay for the £4.2m costs” can you clarify whose views have prevailed in this settlement and how much of the £4.2 million Capita are paying?	The settlement does not specifically allocate costs. As the Urgency Committee Paper describes, the settlement position has been agreed by the Council’s legal advisors as representing a good value for the Council.

3.	Item 6 – Commercial Settlement of Historic Issues	Mr John Dix	<p>The report notes that the payment of £4.12 million removes the liability for Capita to deliver net guaranteed procurement savings which amount to £30.17 million over the last 5 years of the contract. What impact does this have on the overall guaranteed savings of £126 million over the lifetime of the CSG contract and what are the risks of these savings not being delivered?</p>	<p>The Authority’s judgement is that the proposed changes to procurement gainshare and guarantee arrangements will represent a net benefit to the Authority.</p> <p>Going forward:</p> <ul style="list-style-type: none"> • as part of the settlement agreement, the procurement service remains committed to delivering additional savings in support of the Authority’s MTFS strategy; • the Council will no longer have to pay Capita’s service provider share of guaranteed procurement savings of £13.6m; • the Council will not pay gainshare that Capita have identified as outstanding from the first 5 years of the contract, or the ‘Agreed Procurement Price Recovery’ in future years; • the Authority will continue to benefit from procurements already undertaken where savings are ongoing. <p>The c.£125m guaranteed savings in the original business case encompassed the contract price and contractual guarantees, including the procurement savings guarantee. £30.2m of this will not now be guaranteed for the next 5 years of the contract, but this does not mean these savings will not be delivered.</p>
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4.	Item 6 – Commercial Settlement of Historic Issues	Mr John Dix	In the financial year 2019/20 will Capita receive £356,000 under the Agreed Procurement Price Recovery (APPR) mechanism as set out at 41.27 of Schedule 4 Price Payment Mechanism?	No, Capita will not receive the Agreed Procurement Price Recovery of £356,000 for either 2018/19 or 2019/20.
5.	Item 6 – Commercial Settlement of Historic Issues	Mr John Dix	Given that Capita will no longer receive any gainshare on this contract and APPR would have ceased after 2019/20 anyway, what incentives are there for Capita to fully resource the procurement function?	The Council has an output-based procurement service specification with Capita which will remain a contractual requirement following the conclusion of this deal. Capita's delivery of the procurement service will continue to be monitored through monthly contract monitoring meetings.
6.	Item 6 – Commercial Settlement of Historic Issues	Mr John Dix	Given that Capita have commenced formal redundancy consultations to cut 72% of their Corporate Programmes Team working on the Barnet contract, what reassurances have been provided by Capita that they will not cut the number of staff in their procurement team down to the bare minimum and /or move out the most talented staff to other contracts where they do receive a gainshare?	In terms of procurement, Capita still have to deliver the services to the standard set out in the output specification. In circumstances where Capita may change resources they will still need to deliver to the procurement output specification or be at risk of remedial action.
7.	Item 6 – Commercial Settlement of Historic Issues	Mr John Dix	Can you clarify if, by signing this agreement, it precludes the procurement team from being TUPE'd across to Barnet before the end of the contract?	No, the agreement does not preclude this. In fact, the operation of TUPE cannot be precluded by contractual agreement.
8.	Item 6 – Commercial Settlement of Historic Issues	Mr John Dix	The report notes that no gainshare has been paid in 2018. However, advance claims were made and paid in 2016/17 for the entire three years of a contract which include 2018/19. Will those advance payments be recovered and if so what proportion of the £4.12 million do they represent?	We understand that this question relates to the LASER energy contract. Whilst the settlement does not allocate costs to individual items, any issues associated with these payments are covered by the settlement, which includes all claims by the Authority and Capita connected to gainshare.

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9.	Item 6 – Commercial Settlement of Historic Issues	Mr John Dix	Can you clarify how much of the net guaranteed procurements savings were actually delivered in 2017/18 and, before this settlement is agreed, can you provide evidence that any shortfall in historical guaranteed procurement savings have been met?	In contract year 5 (Sept 2017 to August 2018), Capita has provided calculations to the Council to show how it has met the Procurement Savings Guarantee.
10.	Item 6 – Commercial Settlement of Historic Issues	Mr John Dix	The report notes that procurement gainshare payments to Capita in 2017/18 were approximately £2 million. Can you clarify how that sum is broken down given that the Capita invoices suggest that the sum was £1,665,543.26 and that of that sum, £534,000 was paid at the rate of 100% to Capita under the APPR mechanism (i.e. Capita received 100% of the savings and none was shared with LBB).	We had accrued for the additional c£350,000 (to make £2m) but this will not now be paid owing to this settlement.
11.	Item 6 – Commercial Settlement of Historic Issues	Mr John Dix	Can you clarify if, by accepting this payment, this automatically guarantees that Capita will continue to provide the procurement function until the end of the contract irrespective of what the Business Case being presented to P&R in December finds?	No, this is not the case. There is no change to the contract terms in the context of the council exercising its rights, nor any offer to Capita in relation to the future delivery of services.
12.	Item 6 – Commercial Settlement of Historic Issues	Mr John Dix	Does the payment of this sum guarantee that Capita will continue to provide any other services for the remaining 5 years of the contract irrespective of what the Business Case being presented to P&R in December finds and if so what are they?	No - please see answer to question 11.

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13.	Item 6 – Commercial Settlement of Historic Issues	Mr John Dix	Does the offer of £4.12 million from Capita crystallizes an acknowledgement of financial loss exceeding £500,000 and by accepting this payment does this preclude Barnet from invoking Step In Rights as set out at 21.1.1 in the contract?	No, the resolution of these claims do not of themselves constitute a “financial loss”; the settlement resolves matters that may otherwise have been a loss. Where Capita has ongoing obligations, the Council’s rights to invoke Step In are unaffected.