

	CHIEF OFFICER IN CONSULTATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT
Title	Insourcing of Finance and Strategic HR Services
Report of	The Chief Executive
Wards	All
Status	Public
Enclosures	None
Officer Contact Details	John Hooton, Chief Executive john.hooton@barnet.gov.uk 020 8359 2460 Cath Shaw, Deputy Chief Executive cath.shaw@barnet.gov.uk 020 8359 4716

Summary

At its meeting on 11th December 2018, the Policy and Resources Committee noted the findings of the in-depth analysis of the Finance and Strategic Human Resources (HR) services and agreed to authorise the Chief Executive to take all reasonable action to prepare to in-source Finance and Strategic HR services by 1st April 2019. It further agreed to authorise the Chief Executive, in consultation with the Chairman of the Committee, to consider the responses to the consultation (due in February 2019) and proceed with implementation of the proposal, if appropriate.

The public consultation closed on 15th February 2019. The Chief Executive, in consultation with the Chairman, has duly considered the responses and the updated equality impact assessment and concluded that the in-sourcing of the Finance and Strategic HR services should proceed on 1st April 2019, as proposed in that report, subject to completion of the necessary due diligence and contract change documentation.

Decisions

- 1. That the Finance and Strategic HR services should transfer back to the council upon conclusion of the necessary due diligence and signing of the relevant Contract Change Notice.**

1. WHY THIS REPORT IS NEEDED

- 1.1 At its meeting on 11th December 2019, the Policy and Resources Committee considered a report on the progress of a review of the council's contracts with Capita, which had been initiated by the Committee in July 2018.
- 1.2 That report summarised the work to date on developing the business case for realignment of the Capita contracts. It set out the findings of the analysis of the three options identified in the July report, and concluded that further detailed analysis would be needed to form the basis of a sound recommendation to the Committee in relation to the totality of the Customer Support Group (CSG) and Development and Regulatory Services (DRS) contracts.
- 1.3 In addition to this options analysis, the report identified that officers had focused in detail on two services: Finance and strategic Human Resources (HR). These services were chosen due to their strategic importance and concerns about the performance of the Finance service. Based on the detailed analysis, the report recommended that these services be returned to the council as a matter of priority, subject to the outcome of public consultation.
- 1.4 The report identified that, for Finance, the scope of services includes all treasury management and accountancy functions, as well as debt management. It excludes transactional services. For HR, it includes all strategic advice and the service provided by HR business partners and other locally-based staff. It excludes payroll and pensions administration provided from Belfast, Carlisle and Darlington. For both services, the scope excludes schools traded services. In total, this will directly affect approximately 48 members of staff.
- 1.5 The report also recommended that public and Best Value consultation be commenced on the approach set out in the report, including the proposal to return these services to the council, and on the future of other services. It was further proposed that preparatory work for the transfer of these services be undertaken in parallel with the consultation, to enable a more rapid transfer of services, but the Committee was asked to note the risk of wasted effort, should the proposal be revised or abandoned as a result of the consultation.

- 1.6 The Committee agreed to authorise the Chief Executive to take all reasonable action to prepare to in-source Finance and Strategic HR services by 1st April 2019. It further agreed to authorise the Chief Executive, in consultation with the Chairman of the Committee, to consider the responses to the consultation (due in February 2019) and proceed with implementation of the proposal, if appropriate.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Since the December Policy and Resources Committee meeting, work has progressed well on the preparation for in-sourcing the services. Contractual due diligence is nearing completion and it is anticipated that the council will be in a position to agree the necessary Contract Change Notice before 31st March 2019. It should be noted that this Notice will cover the critical contractual changes, including revised output specifications and method statements, and that a supplementary Notice will be required to confirm some of the supporting detail. This will be completed by the end of June 2019. TUPE consultation has been concluded and the process for transferring staff and associated technology is on track for completion to enable a 1st April transfer.
- 2.2 Public consultation, involving an on-line questionnaire and two focus groups, concluded on 15th February 2019. An independent research organisation, ORS, was commissioned to conduct the focus groups and analyse the questionnaire responses. 21 people took part in the focus groups and there were 343 completed questionnaires submitted. ORS are currently carrying out the detailed analysis on the parts of the consultation referring to other service areas and a full report on the outcomes of the consultation will be considered in due course. However, in order to enable the Chief Executive to make a timely decision on whether or not to proceed with the in-sourcing of Finance and Strategic HR, they have provided analysis of the responses in relation to these services. Of the 248 respondents that answered the relevant question, 224 identified themselves as a “Barnet resident”, 11 as “a person working within the London Borough of Barnet area” and nine as “other”. There were four responses received on behalf of voluntary/community organisations:
- Barnet Residents Association
 - The Barnet Society
 - An unnamed social housing residents’ association
 - One other unnamed organisation
- 2.3 Members of the Barnet Alliance for Public Services participated in one of the focus groups, which was specifically aimed at residents that have previously engaged with the council on the subject of the Capita contracts.
- 2.4 In response to questions on the strategic aims:

- a. Just over three fifths (63%) agreed that the three aims should be the basis on which future service delivery arrangements are assessed. A tenth (11%) disagreed.
- b. There was highest agreement with the “delivering high quality services” aim (65%), although there was also majority agreement with the “value for money” aim (59%) and the “strategic control” aim (60%).
- c. The level of disagreement with each of the three aims was consistent (15% or 16%).
- d. Whilst there was general support for the proposed aims, this was not without questions and comments.

2.5 On the proposed phasing of the review:

- a. Respondents were more or less evenly split in terms of their overall view on the proposed phasing of the review, with 43% agreeing with the proposed phasing and 42% disagreeing. However, a majority (approximately 58%) agree with the services that are being prioritised in Phase 1. This is a higher level of agreement than for the other Phases.
- b. Comments in respect of the relevant section of the questionnaire (“If you disagree with the order of any of the proposed phases, please state which services you think should be given higher or lower priority and why”) have been reviewed and there are none that are opposed to Finance and Strategic HR coming back in-house in the near future. There are a few comments stating that Finance is a priority. Many of the comments suggest that all services should come back in-house as soon as possible.
- c. There is criticism of the phased approach itself, for example on the basis that it wastes costs, does not take account of services being dependent on each other and will have a negative impact on delivery. Some have suggested that it does not make sense for Finance to come back in-house while things like Revenues & Benefits, transactional services and the IT systems used by Finance remain outsourced.

2.6 Questions were also asked about the council’s approach to a mixed economy on in-house and outsourced provision, where the most appropriate provider for a particular service is decided on its merits. Three-quarters of respondents opposed this approach, with in-house provision being the clear preference.

2.7 Respondents were also asked for their views on the quality of services provided through the contracts. These views were largely negative. For the services under consideration

here, 74% of respondents rated finance and accounting as “poor” or “very poor”. 80% of respondents rated Strategic HR as “poor” or “very poor”.

- 2.8 In respect of the concerns raised about dependencies and IT systems in paragraph 2.5 above, it should be noted that mapping and agreeing future interfaces between returning services and those being retained by Capita has formed a significant element of the work that has been carried out in preparation for the transition. An agreement on the future support arrangements for the Integra finance system has been identified as one of the critical contractual changes that will need to be in place prior to the primary Contract Change Notice being signed.
- 2.9 Having reviewed this feedback and taking into account the work that has been done to address the specific concerns referenced above, it is considered that it is appropriate to proceed with the implementation of the proposal to return the Finance and Strategic HR Services to the council by 1st April 2019. It should be noted that the achievement of this specific date is subject to the satisfactory conclusion of the ongoing due diligence work and agreement of the primary Contract Change Notice.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The alternative would be to delay the in-sourcing of Finance and Strategic HR whilst the council considers the business case for returning other services. This is not recommended, due to the urgent need to secure strategic control of these services.

4. POST DECISION IMPLEMENTATION

- 4.1 Work will continue on the transition process, with a view to completion on 1st April 2019. Following the transition, there will be a further period of service transformation to secure the improvements that are required.
- 4.2 Following completion of the full analysis of public responses, a further report will be submitted to the Policy and Resources Committee.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The insourcing of these services is intended to meet the aims stated in the Strategic Case that was considered by the Policy and Resources Committee on 11th December 2018, which are to ensure high quality, good value services as envisaged in the council’s Corporate Plan.

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

5.2.1 The cost of transition is being met from the budget of £250k that was agreed by the Policy and Resources Committee on 11th December 2018.

5.2.2 The Policy and Resources Committee also identified that the additional running costs arising from insourcing these services would be approximately £400k per annum. An allocation to meet this budget pressure was included in the budget and Medium Term Financial Strategy report that was considered by the same Committee. Whilst work is continuing on the financial due diligence, the work to date has not identified any significant variations from the agreed price reduction model.

5.3 Social Value

5.3.1 The Public Services (Social Value) Act 2013 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. Before commencing a procurement process, commissioners should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders.

5.3.2 The contracts include several requirements that relate to social value, for example the provision of apprentices. These benefits will be maintained following the transfer of these services.

5.4 Legal and Constitutional References

5.4.1 Detailed legal support is being provided to ensure that the council meets its legal obligations, for example in relation to public procurement regulations.

5.4.2 Under the Local Government Act 1999 there is a duty to consult:

3.— The general duty.

(1) A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

(2) For the purpose of deciding how to fulfil the duty arising under subsection (1) an authority must consult—

(a) representatives of persons liable to pay any tax, precept or levy to or in respect of the authority,

(b) representatives of persons liable to pay non-domestic rates in respect of any area within which the authority carries out functions,

(c) representatives of persons who use or are likely to use services provided by the authority, and

(d) representatives of persons appearing to the authority to have an interest in any area

within which the authority carries out functions.

(3) For the purposes of subsection (2) “representatives” in relation to a group of persons means persons who appear to the authority to be representative of that group.

(4) In deciding–

(a) how to fulfil the duty arising under subsection (1),

(b) who to consult under subsection (2), or

(c) the form, content and timing of consultations under that subsection,

an authority must have regard to any guidance issued by the Secretary of State.

Revised Best Value Statutory Guidance - 2015

In considering the duty above, overall value should be considered, including economic, environmental and social value. The guidance reminds the reader about the duty to consider social value at pre-procurement stage (Social Responsibility duty). For the duty to consult the council should consider the involvement of local voluntary and community organisations and small businesses in the consultation.

As a matter of public law, the duty to consult with regards to proposals to vary, reduce or withdraw services will arise in four circumstances:

- i. Where there is a statutory requirement in the relevant legislative framework as there is in this case.
- ii. Where the practice has been to consult, or, where a policy document states the council will consult, then the council must comply with its own practice or policy
- iii. Exceptionally, where the matter is so important that there is a legitimate expectation of consultation
- iv. Where consultation is required to complete an equalities impact assessment.

Regardless of whether the council has a duty to consult, if it chooses to consult, such consultation must be carried out fairly. In general, a consultation can only be considered as proper consultation if:

- Comments are genuinely invited at the formative stage
- The consultation documents include sufficient reasons for the proposal to allow those being consulted to be properly informed and to give an informed response
- There is adequate time given to the consultees to consider the proposals
- There is a mechanism for feeding back the comments and those comments are considered by the decision-maker / decision-making body when making a final decision
- The degree of specificity with which, in fairness, the public authority should conduct its consultation exercise may be influenced by the identity of those whom it is consulting
- Where relevant and appropriate, the consultation is clear on the reasons why and extent to which alternatives and discarded options have been discarded. The

more intrusive the decision, the more likely it is to attract a higher level of procedural fairness.

5.5 Risk Management

- 5.5.1 The key risk associated with the transfer of these services is that the council does not fully understand the services that it is taking on and, in particular, how they interface with services that are being retained by Capita. This could lead to a situation where the council is required to pay additional charges for services that it believes are covered by the contract for retained services. Alternatively, it could lead to key activities failing to happen due to one party incorrectly assuming that the other is taking responsibility for it. There has been extensive work carried out since December to ensure that both the transferring and the retained services are clearly defined and that all interfaces between the services are identified. This will be documented as part of the change notice.
- 5.5.2 A further risk associated with the transfer is that service users within the council have unrealistic expectations regarding the service levels that will be delivered from 1st April onwards, leading to excessive pressure on the staff concerned. Whilst the intention is that both the capacity and capability of the services will be developed, this will not happen immediately. Expectations will need to be managed through effective communication with service users, alongside the delivery of integration and transformation plans that have been developed during the planning phase.
- 5.5.3 Risks associated with the transfer will continue to be monitored through the established programme governance arrangements.

5.6 Equalities and Diversity

- 5.6.1 Equality and diversity issues are a mandatory consideration in the council's decision-making process. Decision makers should have due regard to the public-sector equality duty in making their decisions. The equalities duties are continuing duties they are not duties to secure a particular outcome. The equalities impact will be revisited on each of the proposals as they are developed. Consideration of the duties should precede the decision. It is important that Policy and Resources Committee, or the officer decision maker if the decision is delegated to them, has regard to the statutory grounds in the light of all available material such as consultation responses. The statutory grounds of the public-sector equality duty are found at section 149 of the Equality Act 2010.

A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) Tackle prejudice, and
- (b) Promote understanding.

Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act. The relevant protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race,
- Religion or belief
- Sex
- Sexual orientation
- Marriage and Civil partnership

5.6.1 The initial Equalities Impact Assessment for the return of strategic HR and Finance is attached at Appendix A. This has been updated in light of the consultation responses and will be further updated following conclusion of the transfer.

5.7 Corporate Parenting

5.7.1 These services are being in-sourced to improve service quality, value for money and strategic control, which should have a positive impact on the council's ability to deliver its corporate parenting responsibilities.

5.8 Consultation and Engagement

Public consultation and Best Value consultation

5.8.1 Best Value consultation has taken place with the groups identified in paragraph 5.4.2, above.

5.8.2 Public and Best Value consultation has focussed on:

1. Do consultees agree with the strategic objectives identified in the Policy and Resources Committee report and that these should be the basis for assessing the future delivery arrangements for each service?
2. Are there any other factors that should be considered by the council in reaching a decision on future service delivery arrangements?
3. The proposed prioritisation of services for detailed analysis.

5.8.3 The consultation commenced on Wednesday 19th December 2018 and concluded on Friday 15th February 2019. The consultation process will inform the further phasing of the review and decisions in respect of the future delivery of services.

5.8.4 The outcome of the consultation in relation to all services and of each phase of the review will be reported to Policy and Resources Committee, as the review progresses.

Staff consultation

5.8.5 Any proposals that involve the transfer of services from one provider to another (including transfer in-house or to alternative providers) entail a statutory requirement to provide information and consult with staff representatives under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE). These requirements are triggered once a decision to transfer services has taken place and prior to any transfer being effected.

5.8.6 Consultation and engagement has been conducted in accordance with the Regulations and in line with best practice. All communication has been on the basis that these services would be in-sourced subject to the outcome of the Best Value and public consultation process. That consultation and engagement will continue throughout the transition process.

5.9 Insight

5.9.1 There are no Insight requirements in respect of this report.

6. BACKGROUND PAPERS

6.1 A full list of background papers is set out in the report to Policy and Resources Committee of 11th December 2018:

<http://barnet.moderngov.co.uk/documents/s50134/Review%20of%20Capita%20Contracts.pdf>

Chairman:

Has been consulted

Signed

Leader of the Council, Councillor Richard Cornelius

27th March 2019

Chief Officer:

Decision maker having taken into account the views of the Chairman

John Hooton

27th March 2019