

**AUDIT COMMITTEE
THURSDAY, 13 SEPTEMBER 2012**

ITEM 4 – PUBLIC QUESTION TIME

Note

The time allowed for questions shall be limited to 30 minutes or a maximum of 20 questions, whichever occurs first.

Any questions not answered at the meeting will be responded to in writing within 10 working days.

The questioner at the meeting may ask one supplementary question to the original question, which will be answered without discussion.

1. Mr Adam Langleben

The One Barnet programme is looking to sign off two contracts worth in excess of £1 billion, yet I note in Agenda Item 7, Appendix A – ISA 260 Report 2011-12 under paragraph 3.2 on page 11 of Appendix A (page 43 of papers), the quality of the strategic partner (PwC) was assessed by reviewing working papers of two routine audits, namely accounts payable and cashbook, but not on any work that may have been carried out on audits of One Barnet projects.

Can the Chairman ask the External Auditor to explain to the Audit Committee and the public why it has failed to consider any work on One Barnet projects sufficiently important to provide an assurance to the audit committee on the quality of the internal audit strategic partner?

Response

The Strategic Audit Partner (PwC) follows their audit approach in accordance with auditing standards; this approach differs only on auditor grade and technical expertise from routine to specialist audit. Reviewing two files gave the external auditors assurances that the audit approach was consistently applied and there were no exceptions found from that review. All internal audit reviews undertake the same quality assurances for audit work carried out, all work is overseen and signed off by the same Internal Audit Partner.

The external auditor reviewed work for compliance and quality as defined by CIPFA.

Response from Grant Thornton:

Independently appointed statutory external auditors are not required to justify to members of the public the audit approach taken. However, for the benefit of the Chairman, we are in agreement with the above statement from the Council.

2. Ms Barbara Jacobson (Question 1)

In the External Auditors report Agenda Item 7, page 18 of Appendix A (page 51 of papers), the auditor states that there are adequate arrangements in place for the overall governance of the transformation projects. Can the Chairman of the Committee ensure that the External Auditor provides the Audit Committee with a full explanation of how the external audit reached this opinion, with supporting documentation?

Response

Response from Grant Thornton:

Independently appointed statutory external auditors have the discretion to report at the level of detail they deem appropriate. They are not obliged to provide more detailed explanations and supporting documentation in response to questions raised by members of the public.

3. Mr John Dix (Question 1)

The auditor's report chose to omit the specific details about public challenge (Section 3.5 page 11 of the audit report - *Appendix A (page 44 of papers)*), I was not provided with the necessary information and documentation during the inspection of the councils account, under the 1998 Audit Commission Act. Although I was provided some documentation the majority of it was so heavily redacted making inspection meaningless. Is the Chairman concerned that Secretary of State Eric Pickles' army of armchair auditors (of which I am one) are unable to carry out their rights to public challenge?

Response

The Council fully appreciates the importance of the role played by electors in assisting the auditor in his audit and has no intention, whatsoever, of obstructing residents from viewing the accounts, in accordance with the rights and subject to the reservations set out in 15(3), (3A) and (4)".

Electors received responses from the Council on the redactions made, following legal advice:

Section 15 (3) and (3A) removes, from the right of an elector to inspect the accounts and documents relating to them, accounts or document which contain personal information, being information which identifies a particular individual or enables a particular individual to be identified and the auditor considers that the document(s) should not be inspected or disclosed.

Information has been redacted on this basis and is in accordance with the Council's policy with the Data Protection Act 1998 and the Council's redaction policy. In addition, the auditor has confirmed that information relating to individuals working for suppliers should not be disclosed.

In addition, Section 15 (3) and (4) removes the right of interested persons to inspect the Council's accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating to them and to make copies of all or any part of the accounts and those other documents where the accounts or other documents contain information about a member of staff and the, remaining, requirements of Section 15 (4) (a) and (b) are met

Information has been redacted on that basis.

With respect to 'commercial confidential information', the Council has, on the basis of the Court of Appeal decision in the case of *Veolia ES Nottinghamshire Ltd) v Nottinghamshire County Council [2012]* redacted commercial confidential information. Any redactions on this basis were not '... political decisions', but, rather, a balancing act between the public interest in transparency, particularly where the dealings of public authorities and the use of public money is concerned, against the public interest in the maintenance of valuable commercial confidential information. In the view of the Council the issue of 'commercial confidential information' is not limited to publication of information but is relevant to inspection of accounts and documents relating to the account: the Court of Appeal, in the Veolia case mentioned above was, indeed, concerned with the right of inspection under Section 15.

Response from Grant Thornton:

Independently appointed statutory external auditors have the discretion to report at the level of detail they deem appropriate.

4. Mr Leonardo Alvarado (Question 1)

The Annual Governance Statement says that the purpose of the Governance Framework - through its internal control system - is to manage risk to a reasonable level. Given the complexity and size of the One Barnet programme and its impact on residents, workers and business community, what specific activities are being scheduled for the Risk Log of the One Barnet programme to be reviewed jointly and regularly with community representatives as a way of ensuring these internal controls meet their purpose?

Response

The risk management strategy is clear that the management of risk is through Directors, Assistant Directors and Heads of Service through liaison with their relevant Cabinet Member. Members are democratically elected to represent the community and sit on Committees to challenge risks or raise risks; it is through this process that the views of members of the public are heard.

5. Ms Tirza Waisel (Question 1)

My question refers to Agenda Item 6, Appendix - Annual Governance Statement (AGS) for 2011/12. Principle 6 on page 11, which refers to Residents Perception Survey undertaken during financial year 2010/11 (February 2011), states that: "the council scores relatively poorly on whether residents feel involved and able to influence local decisions."

I can testify that the above finding of the survey is true. An example of this is that as a resident/electorate I am not consulted nor have had an opportunity to comment on major policies of the council (e.g. One Barnet Programme). Furthermore I am not allowed to ask questions about One Barnet at the Council resident forums.

- What effective action was taken in the financial year 2011/12 to improve governance in order to allow citizens the opportunity to be engaged and consulted on key council policies e.g. One Barnet programme?
- Has there been a subsequent Residents Perception Survey?
- If so, what was the outcome on 'whether residents feel involved and able to influence local decisions'?
- If no, when will the next survey be undertaken?

Response

Action taken during 2011/12 included the following:

- Developing an overarching engagement strategy
- Improving the website
- The consultation hub was also developed as a result of the last residents perception survey (as mentioned in the AGS)
- Section 6 of the AGS under part 3 lists all the ways in which residents can participate in council decisions

The Residents Perception Survey is being undertaken as part of the Annual Budget Setting process to be reported to Full Council in March 2013.

6. Rabbi Jeffrey Newman

Given that the Council's own evidence shows (Agenda Item 6 at Principle 6 Engaging with local

people and stakeholders) that the Council scores relatively poorly on whether residents feel involved and able to influence local decisions, and the overwhelming evidence in the local press demonstrates a lack of meaningful engagement with residents, why has this not been acknowledged in the Key Improvement areas?

Response

The improvement area was considered as contributing to item 3 on page 98 of the Audit Committee papers under key governance issues for 12/13.

7. Ms Ruth Kutner

With reference to Agenda Item 7 External Auditors Report, why does the auditor's report choose to omit the specific details about public challenge matters, especially when they include alleged breaches of EU procurement rules, ultra vires spending and conflicts of interest by senior officers?

Response

External audit has considered issues raised by members of the public and responded to those matters. From the review of those matters there were no issues found relevant for reporting to those charged with governance. Specifically to date, external audit had not identified any expenditure that they felt was outside the Council's powers and for which they would seek legal advice. However, we are aware that external audit received recent objections that they are considering.

Response from Grant Thornton:

Independently appointed statutory external auditors have the discretion to report at the level of detail they deem appropriate. However, for the benefit of the Chairman, we would point out that at the time of writing the report the matters referred to remained under discussion and it was not appropriate to report the detail.

8. Ms Theresa Musgrove (Question 1)

Within the Report to Those Charged With Governance, the external auditors from Grant Thornton state, in Item 3.5 - 'Public Challenge Matters':

"We have met with and taken questions from local electors that we will respond to prior to issuing our audit certificate."

As one of the two electors referred to in this item, I would like to challenge this statement and draw to the attention of the Chair the fact that I feel this process to have been entirely unsatisfactory, and that serious issues of public interest raised by myself and the other elector remain outstanding, and have not been responded to, or unnecessarily deferred. I would like to raise one or two of these issues with the Chair of the committee.

The meeting with the external auditor is supposed to be part of a process of scrutiny in which electors are also able to inspect the accounts of the authority, so as to raise any matters of concern with him. When I attended the council offices to do this with a number of other electors, days before our meeting, we were not able to make a proper inspection as all the material was heavily redacted on the spurious grounds of 'commercial sensitivity'. We raised this matter with the external auditor, to little avail.

I would like to ask the Chair if he and his colleagues on the committee agree that the use of such redactions purely on the basis of political rather than genuine commercial 'sensitivity' is completely inappropriate and in clear conflict with the need for transparency and openness in

local government, as defined in the new coalition policy of localism?

Response

It is understood by the Chairman that the council sought legal opinion regarding access to contract information. Responses to this question are included within question 4.

Response from Grant Thornton:

For the benefit of the Chairman, we have concluded our correspondence with Ms Musgrove and Mr Dix on these matters and have nothing further to add at this time.

9. Ms Barbara Jacobson (Question 2)

On page 16 of *Appendix A (page 49 of papers)*, paragraph 6.3, under subheading 'Financial Indicators' the report says that

'Barnet's total usable General Fund reserves at 31 March 2012 were £15.7m (excluding schools) with a further £65.1m in Earmarked Reserves, allocated to specific areas of risk. The Council's total useable revenue reserves remain higher than the London borough average and includes £24.6m of additional Earmarked Reserves transferred in year.'

It is my understanding that government funding fluctuates every year and in the past council tax rates have been set each year to reflect the funding level and level of council services to be delivered. It is also my understanding that council tax rates are not set to build reserves or balances in advance to mitigate uncertainties of future government funding.

I understand the council has transferred the reserves that were set aside for Icelandic banks to the Earmarked Reserves. I am concerned that my council tax is being used to prop up the council's balances instead of maintaining services and/or reducing council tax.

Therefore, at a time when most Council taxpayers are suffering economic hardship, can the Chairman of the Committee ask the External Auditor provide details of how the assessment they carried out to establish whether the amounts of Earmarked Reserves are consistent with the specific areas of risk, and were the risk areas assessed properly and correctly in the first place?

Response

In reviewing medium-term financial plans and preparing annual budgets, the Council will consider the establishment and maintenance of reserves for both the general fund and the housing revenue account. The nature and level of reserves will be determined formally by the Council, informed by the judgement and advice of the Chief Finance Officer (CFO).

The Council's General Fund Balance remained at £15.780m at the end of 2011/12 – the same level as at the end of 2010/11. The CFO will advise the Council on the adequacy of reserves. In considering the general reserve, the CFO will have regard to:

- the strategic financial context within which the Council will be operating through the medium-term;
- the overall effectiveness of governance arrangements and the system of internal control;
- the robustness of the financial planning and budget-setting process;
- the effectiveness of the risk management process and the potential impact of risks identified;
- the effectiveness of the budget monitoring and management process.

The Council's earmarked reserves rose in 2011/12 to £65.105m. These reserves will help to ensure that the council is in a strong position to cope with the financial risks outlined in the 2012/13 council

budget report. It is important to emphasise that the earmarked reserves have been established for specific reasons (i.e. to support the One Barnet transformation project, cover the costs of potential corporate risks and other service specific projects) and are not for general utilisation. In considering specific reserves, the CFO will have regard to matters relevant in respect of each reserve, and will advise the Council accordingly.

Figures released by the DCLG have shown that 79.7% of local authorities increased their reserves in 2011/12 (Public Finance). It should be noted that savings required until 2015 equate to £72m, reserves are not built up to cover future funding cuts and general reserves can not be relied upon to see the Council through these, given the scale of the savings required.

Response from Grant Thornton:

Independently appointed statutory external auditors have the discretion to report at the level of detail they deem appropriate.

10. Mr John Dix (Question 2)

I am aware that the Agilisys contract, worth 'circa' £2 million over three years, is massively overspent and may hit £6 million before the contract is complete. Is the Chairman as concerned as me when the auditor states that he has no cause for concern over financial governance (page 16 of the audit report - *Appendix A (page 49 of papers)*), when there is no obligation on officers to report this overspend to members because of the insertion of a single word "circa" at the same time as members are taking decisions over prioritising service delivery for example closure of Friern Library or other frontline services?

Response

Councillor Thomas recently answered this query as part of Council questions and the response was:

"The contract with Agylisis has been compliantly procured against EU regulations and in line with the Council's Constitution. The DPR approving the contract and the contract itself did not stipulate an upper limit. The exempt DPR noted at the time 'circa' £2m. It is recognised that the spend is over that £2m indicatively estimated however the contract was designed for flexibility to accommodate large scale transformation which, at the time when the contract was procured, was still in the process of being defined....."

We understand that the external auditor responded to the elector upon their review of this contract and did not find anything unlawful regarding the expenditure for which they would seek legal opinion.

Response from Grant Thornton:

For the benefit of the Chairman, we have concluded our correspondence with Mr Dix on this matter and have nothing further to add at this time.

11. Mr Leonardo Alvarado (Question 2)

The Annual Governance Statement says that the purpose of the Governance Framework - through its internal control system - is to manage risk to a reasonable level. Given that a large proportion of what is being outsourced as part of the One Barnet programme is technical in nature, what specific steps are being taken to protect the rate payers against the risk of additional costs arising whenever technical updates are required due to changes in policy, legislation or in the services themselves?

Unless specific and detailed steps are taken and reflected in the contracts, the council and the rate payer will be literally over a very expensive barrel.

Response

The current outsourcing activity is subject to a competitive dialogue process to ensure that the Council receives the best deal. The evaluation process includes technical and commercial experts to ensure that the level of savings is achieved. Contracts are subject to legal advice and challenge through-out the dialogue process to ensure sufficient flexibility within the contracts.

12. Ms Tirza Waisel (Question 2)

I note that under Member Scrutiny of Council Decisions within paragraph 6.3 on page 19 of Appendix A (page 52 of papers), the External Auditor identifies that “the Council consolidate best practice in the following areas:

- The Council has been exploring the opportunity for a greater level of pre-decision scrutiny, to be facilitated by providing more advanced warning of upcoming decisions from services, via the Cabinet forward plan. This has already seen improvement over the last year, with the number of post decision member 'call-ins' reducing although there remains further scope for improvement.
- A communications plan to promote the role of member scrutiny.
- Potential for greater use of independent and specialist advisory members.”

At a time when members are faced with key decision on One Barnet Programme, in particular that the Council is looking to sign off two big contracts worth in excess of £1billion that will commit the borough for 10-15 years, I note that improvement in member scrutiny and good governance is missing from the Annual Governance Statement for 2011/12 under Principles 4 and 5 in the Appendix attached under Agenda Item 6.

I also note that other deficiencies around governance are recorded in the Annual Governance statement under section 5 (Governance Issues for 2011-12) but not those identified by the external auditor as outlined above. I believe there is a real and significant risk that if it is not included it will not be monitored during 2012/13.

Please can you explain the reason for this omission and will they be included now?

Response

The External Auditor has identified some best practice recommendations, i.e. these are not considered material to their opinion nor high risk. The Annual Governance Statement is not intended to include all recommendations as issued by internal or external audit it is considered a document to take forward key governance issues. Recommendations issued by internal and external audit follow a separate process for reporting progress to the Audit Committee. Pages 54 and 55 note the progress taken to date and the action to take by the end of the year – this also notes medium and low priority action. As such the Council is committed to taking forward the action and does not consider it material for inclusion in the AGS.

Page 43 of the auditors report notes their assessment of the AGS in regard to whether it is misleading or inconsistent with other information known to them from their work. It is their view that the information contained within the document is a fair representation of council operations.

Response from Grant Thornton:

For the benefit of the Chairman, we are in agreement with the above statement from the council.

13. Ms Theresa Musgrove (Question 2)

Referring again to Item 3.5 I would like to remind the Chair that I have tried to raise with the external auditor, as well as the Cabinet Resources Committee, what I feel to be a very serious matter, that is to say the lack of any independent risk assessment of the £1 billion One Barnet programme of outsourcing.

One of the risks raised in a letter to the auditor is, in my view, of urgent importance, and I cannot understand his lack of immediate interest in this issue.

I would like to remind the Chair of the issue of conflicts of interest created by the movement of senior officers of the council to and from the authority and private sector companies supplying or tendering for contracts from the authority, with particular reference to officers engaged in One Barnet outsourcing. I have previously raised the very serious issue of the failure of the council to address the risks presented by such activity, raising my concern both at the audit committee and to the external auditor in person.

Over a period of more than a year, in fact, I have received assurances that these risks will be addressed. I simply do not believe that any effective measures have been introduced or any retrospective investigation into potential conflicts of interest which may have occurred and compromised the integrity of the dialogues. Furthermore, I understand that another senior officer employed by the council in relation to a recently awarded contract is now alleged to be working as a consultant for that same company within a short while of leaving the council. Without implying any wrongdoing on the part of individuals, it would seem the council is still failing properly to manage the mitigation of this very real risk, and the perception of risk.

I have again asked the auditor to investigate this matter and he has merely responded by stating he would 'look into my point' over the next year. I have replied, on August 31st, that such a lack of urgency is inadequate. I have not, at the time of writing, 11th September, received any reply.

I would like to ask the Chair:

a. if he thinks that, as we move so rapidly towards the end of the competitive dialogues for £1 billion worth of council contracts, that we can really justify delaying any further an immediate and thorough investigation of any possible conflicts of interest that may have occurred and may still occur during the tendering periods?

b. does he agree that in the interests of transparency and in order to protect the investment of taxpayers' money, especially in the light of a sudden adoption for the DRS tender of a more high risk model of a Joint Venture, there should be a fully independent assessment of the risks of the One Barnet programme of outsourcing?

Response

a) It is understood by the Chairman that procedures have been in place within the Council to manage conflicts of interest. The perceived risk is being actively managed within the One Barnet Programme.

Controls are in place to manage the information being shared via competitive dialogue so that there is a level playing field for bidders. The Council believes that it has taken reasonable steps to ensure conflicts of interest do not arise.

b) The Chairman understands that there have been independent reviews undertaken by internal audit, external audit and also gateway reviews of the stated One Barnet projects. The Audit Committee is not a decision-making body to preserve the Audit Committees independence and objectivity.

Risks are considered in each Committee report, there are also opportunities for Members to 'call-in' decisions via Scrutiny Committees and refer back to decision-makers for re-evaluation of risks.

In respect of the DRS joint venture, the Chairman is aware that this is subject to competitive dialogue

approved to be left open as included within the Business Case submitted to Cabinet Resources Committee in December 2011. As it is a vehicle to be invested in by both the strategic partner and the council, it does not change the nature of the services that are currently being procured. Member decisions have not been made on this particular issue and therefore it is understood that risks and opportunities are subject to discussion at that point.

Response from Grant Thornton:

For the benefit of the Chairman, we have concluded our correspondence with Ms Musgrove on these matters and have nothing further to add at this time.

14. Mr John Dix (Question 3)

Does the Chairman believe that it is prudent to include a chart in the annual accounts ('Growing Demand Reducing Budget' page 70) to justify the One Barnet programme when the assumptions used to develop this "illustrative" chart are evidently fallacious, and when the council cannot even supply the values of each of the data points in the chart?

Response

The graph is included within the Annual Accounts to represent future challenges and the fact a response is required. The challenges span longer than a political term and therefore demonstrate that, political differences aside, doing nothing option is not feasible. Annual Accounts are often criticised for being backward looking and retrospective, a forward looking graph (which is an indicative position subject to assumptions) is helpful to provide members of the public and Members with relevant information when making policy decisions or when scrutinising the decisions.

The elector was supplied with information regarding this graph as part of a follow-up question to a Freedom of Information Request.

15. Mr John Dix (Question 4)

The auditor makes a statement that there are adequate arrangements in place for the overall governance of the transformation projects (page 18 of *Appendix A (page 51 of papers)*). Given that there are many thousands of people in Barnet, including a number of councillors, who simply cannot understand how he has reached that conclusion, does the Chairman consider this undermines the credibility of the report?

Response

We take assurances from the Audit Commission, the regulator who is responsible for appointing external auditors in local government, that audit opinions are sound. From the Audit Commission's website:

"From 2012/13, all audits are carried out by private sector audit firms which have demonstrated they have the necessary skills and expertise, and resources to deliver high quality audits that meet the Commission's exacting standards.

The firms are:

- Deloitte LLP
- Ernst & Young LLP
- Grant Thornton UK LLP
- KPMG LLP
- Mazars LLP
- PKF (UK) LLP

- PricewaterhouseCoopers LLP ”

<http://www.audit-commission.gov.uk/audit-regime/Pages/default.aspx>

Quality of providers are assessed by the Audit Commission annually, the most recent report can be found here:

<http://www.audit-commission.gov.uk/SiteCollectionDocuments/AnnualReports/2012/20120621-quality-review-programme.pdf>