



Financial Performance and Contracts Committee

29 January 2020

Title	Update on Major Contracts and Contingency Planning
Report of	Director, Commercial and IT Services
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	Appendix – Key contractor financial performance
Officer Contact Details	Deborah Hinde, Director Commercial and IT, deborah.hinde@barnet.gov.uk ; Elaine Tuck, Head of Commercial, elaine.tuck@barnet.gov.uk

Summary

At its meeting on 17 December 2018, the Financial Performance and Contracts Committee noted a report on contingency planning arrangements in the event of the failure of one of its providers of significant outsourced services. This report provides an update on the arrangements in place, including in relation to IT services and to service delivery outside of Barnet where it has been noted previously there are particular complexities.

Officers Recommendations

1. That the Committee notes the contingency planning arrangements set out in the report.

1. WHY THIS REPORT IS NEEDED

- 1.1 Following the collapse of Carilion, a motion was passed by full council on 30 January 2018 noting the uncertainty and concern this caused and requesting a report on contingency measures in place in Barnet in respect of outsourced services.
- 1.2 Financial Performance and Contract Management Committee considered two reports on contingency measures for significant outsourced services during 2018; one on 27 February 2018 and a subsequent report on 17 December 2018.
- 1.3 This report provides an update on contingency measures in place for significant outsourced services (i.e. with Capita (for RE and CSG) and with Mott Macdonald (for Cambridge Education)).
- 1.4 As has been explained in previous reports, each of the outsourced service contracts contains a “financial distress” section, which sets out a range of indicators that are designed to provide a warning that a provider may be in financial difficulty. If these indicators are triggered, the contracts provide the council with certain rights that protect its interests and enable it to maintain service delivery. The triggers, and associated rights, are set at a number of levels, depending upon the potential severity of the financial difficulty being experienced. The council’s commercial team reviews these indicators on a regular basis. Both of the council’s major service contractors are currently well within acceptable levels against these indicators. The key sub-contractor to the Cambridge Education contract (ISS) has a slightly reduced financial stability rating compared with contract commencement. The reasons for this include ISS’s overarching strategy to divest some non-core functions following a period of expansion, and lower profit for the year ending 2018 than in previous years. Discussions are taking place to better understand this and gain assurance that Cambridge Education have appropriate business continuity measures in place should the need arise. Further information on the two key contractors, and one key sub-contractor, can be found in the appendix.
- 1.5 At the highest level of financial distress, in the event of a provider going into liquidation or administration, the key means of securing continuity of service are the contractual provisions that give the council the right to “step in” and directly take over the running of services. The contracts provide protections for the council in respect of intellectual property rights, assets and access to information, should the need to exercise step in rights be required. Ultimately, the council would have the right to terminate the contract.
- 1.6 In practical terms, step in would mean that all staff would report, through the relevant director of operations, directly to one of the council’s strategic directors. For the Cambridge Education and RE contracts, as well as elements of the CSG contract, this should be relatively straightforward, as services are provided predominantly by Barnet-based staff. In addition, the council’s part ownership of the RE joint venture would enable it to assume all management responsibility for services delivered by joint venture employees.
- 1.7 Business continuity plans for outsourced services are regularly updated and collated centrally by the council as with business continuity plans for its own services. The latest update was in autumn 2019. Barnet Client leads for each service area also received the plans for review.

- 1.8 In terms of IT, the council hold an up-to-date copy of the Configuration Management Database, which sets out the full details of how the infrastructure, systems and data are set up, as well as a copy of the IT business continuity plan and disaster recovery plans.
- 1.9 A number of CSG services are provided from elsewhere, at shared service facilities, the key ones being:
- Payroll (Belfast and Carlisle, for schools)
 - Customer service centre (Coventry, together with some local provision)
 - Revenues and benefits (Blackburn, Bromley and some local provision)
 - Pensions administration (Darlington)
 - Accounts Payable (East Sussex and Darlington)
- 1.10 As previously reported, these facilities are, primarily, used by central and local government clients, who would also have step in rights to ensure continuity of service. Should the need arise, the council would work together with these other clients (along with the Cabinet Office and the administrator or receiver, as circumstances dictate) to agree suitable arrangements.
- 1.11 Contingency plans have been reviewed with a Brexit lens. Only CSG Procurement has off-site provision based in an EU-country, in this case Poland. All data is held on EU-databases and the business continuity measures should the Poland site become inoperable for any reason would in the first instance be increased use of the on-site CSG procurement team based in Colindale.
- 1.12 Within the council's strategic risk register, the risk related to the commercial viability of strategic suppliers has previously been rated at 15, with an impact score of 5 and a likelihood score of 3. The score has now been reduced to 12, with an impact score of 4 and a likelihood score of 3. The impact of this risk has been reduced as further information has been collated that would enable the council to take over the running of services, should it become necessary. In particular, work has taken place in 2019 to document the IS infrastructure in place, and work previously carried out by the council to develop contingency solutions for IS has also been updated. The council has moved to cloud hosting for O365, and the market is moving in this direction generally. Cloud hosting provides a more standardised service which help to reduce the impact on business operations should the council need to take over the running of services.
- 1.13 Controls and mitigations that are in place include:
- Contract management framework, with policy and procedures for commercial activity
 - Contract monitoring takes place monthly with quarterly reporting to Financial Performance and Contracts Committee
 - Contract register kept under review with checks on financial status of strategic suppliers
 - Contract management arrangements in place, including indicators to identify financial stress
 - Business continuity plans in place, last updated autumn 2019
- 1.14 Further work is proposed during 2020 to review the supply chains of strategic suppliers to help provide further assurance that the council could continue to operate supply chains should the need arise.

- 1.15 As previously reported, officers will take the same approach on managing the risk of the failure of an outsourced service provider as they would with any other business continuity risk, i.e.:
- Monitor the likelihood of the event occurring;
 - Ensure that plans are proportionate to the risk;
 - Be clear about what the next steps are, in the event that the likelihood of a risk occurring increases; and
 - Ensure that the council holds the necessary information to carry out these next steps.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Financial Performance and Contracts Committee has a remit to consider the council's approach to risk management, as well as its arrangements for managing key strategic contracts.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 None

4. POST DECISION IMPLEMENTATION

- 4.1 None

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The report outlines the contingency arrangements that are in place in respect of the council's key outsourced service contracts. These services are critical to the ongoing performance of the council and the achievement of its priorities.

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

- 5.2.1 In addition to providing for continuity of service, the outsourced contracts also give the council certain rights to protect its financial interests, in the event of financial distress. These include provisions that would enable the council to require a provider to make use of escrow accounts, whereby monies paid by the council to the service provider are kept in a ring-fenced account held by a third party, and provisions that would require the provider to take out a performance bond with a third party that would cover any additional costs incurred by the council.

5.3 Social Value

- 5.3.1 None in the context of this report.

5.4 Legal and Constitutional References

- 5.4.1 Under the Council's Constitution, Responsibility for Functions (Article 7), the Financial Performance and Contracts Committee has the following responsibility for functions:

- Overall responsibility for quarterly budget and performance monitoring; oversight of contract variations including monitoring trading position; and financial strategy of council services and external providers.
- 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.
- Specific responsibility for risk management and treasury management performance.
- To consider any decisions of the West London Economic Prosperity Board which have been called in, in accordance with this Article.

5.5 Risk Management

5.5.1 The council has an established approach to risk management, which is set out in the Risk Management Framework. All risks are reviewed on a quarterly basis (as a minimum).

5.6 Equalities and Diversity

5.6.1 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.

5.6.2 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.

5.6.3 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.

5.6.4 This is also what we expect of our partners.

5.6.5 This is set out in the council's Equalities Policy and our Strategic Equalities Objective (that forms part of the Corporate Plan Barnet 2024) - that citizens will be treated equally with understanding and respect, and will have equal access to quality services.

5.7 Corporate Parenting

5.7.1 Not applicable in the context of this report.

5.8 Consultation and Engagement

5.8.1 Not applicable in the context of this report.

5.9 Insight

5.9.1 Not applicable in the context of this report.

6. BACKGROUND PAPERS

- 6.1 Report to Financial Performance and Contracts Committee 'Update on major contracts and contingency planning', 17 December 2019
<https://barnet.moderngov.co.uk/documents/s50187/Update%20on%20Major%20Contracts%20and%20Contingency%20Planning.pdf>
- 6.2 Report to Performance and Contract Management Committee, 27 February 2018:
<https://barnetintranet.moderngov.co.uk/documents/s45221/Report%20to%20PCM%20Feb%202018%20Contingency%20Planning%20FINAL.pdf>
- 6.3 Motion to Full Council, 30 January 2018:
<https://barnet.moderngov.co.uk/documents/s44594/Opposition%20Motion%20in%20the%20name%20of%20Councillor%20Barry%20Rawlings%20-%20Public%20services%20and%20outsourcing.pdf>