

	<p><b>Financial Performance and Contracts Committee</b></p> <p><b>15 June 2020</b></p>
<b>Title</b>	<b>Year 6/7 Review of Capita Contracts</b>
<b>Report of</b>	Director, Commercial and Customer Services
<b>Wards</b>	All
<b>Status</b>	Public
<b>Urgent</b>	No
<b>Key</b>	No
<b>Enclosures</b>	None
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<p><b>Summary</b></p>
<p>The purpose of this report is to provide an update on the Year 6/7 Review of Capita contracts. The terms of reference for the Review were agreed by Financial Performance and Contracts Committee on 29<sup>th</sup> January 2020.</p>

<p><b>Officer Recommendations</b></p>
<p><b>That the Financial Performance and Contracts Committee:</b></p> <ol style="list-style-type: none"> <li><b>1. Notes the suspension of work on the Year 6/7 Review;</b></li> <li><b>2. Notes the exemplary response of Capita colleagues in supporting the council’s response to the Covid-19 pandemic; and</b></li> <li><b>3. Notes that a further update report will be brought to this Committee in the autumn.</b></li> </ol>

## 1. WHY THIS REPORT IS NEEDED

- 1.1. At its meeting on 29<sup>th</sup> January 2020, the Financial Performance and Contracts Committee agreed terms of reference for the Year 6/7 Review of Capita contracts.
- 1.2. A report was published for consideration by the Financial Performance and Contracts Committee that was scheduled to take place on 18<sup>th</sup> March, but was cancelled due to the Covid-19 pandemic. That report set out progress on the Review, which at that point was well under way. Joint working groups had been established for each of the phase 1 services:
  - Highways
  - Customer Services (including RE service hub and Social Care Direct)
  - Information Technology
  - Revenues & Benefits
  - Estates
- 1.3. The early focus of the working groups had been on carrying out an analysis of the service's strengths, weaknesses, opportunities and threats (SWOT) and exploring the potential future vision for the service. Cross-cutting workstreams on Financial Assessment and Performance had also been mobilised to support the work of the service-specific joint working groups.
- 1.4. The report also set out proposals to ensure the effective engagement of Members of the Committee and the public in the Review process.
- 1.5. As the council prepared for the Covid-19 pandemic during the early part of March 2020, a number of officer meetings associated with the Review were cancelled, to enable key service personnel to focus on business continuity planning and preparation. IT, Customer Services and Estates were particularly involved in supporting the broader council preparation for the pandemic. On 17<sup>th</sup> March 2020, it was agreed, in consultation with the Chairman of the Financial Performance and Contracts Committee, to pause all work on the Review for a two-week period to support the wider business continuity preparation.
- 1.6. On Sunday, 22<sup>nd</sup> March 2020, the council received the instruction from London Strategic Coordination Group and London Local Authority Gold to move to the provision of critical services only. As a result of this, the decision was made, in consultation with Capita colleagues, to suspend the Year 6/7 Review until further notice. This decision was subsequently ratified by the Urgency Committee on 27<sup>th</sup> April 2020.
- 1.7. At this point in time, the council remains in emergency response mode. The primary focus is on delivering critical services, although non-critical services are being stood up, where the capacity exists so to do. All of the services involved in phase 1 of the Review, as well as other services provided by

Capita, are heavily involved in that emergency response. This includes supporting the delivery of entirely new services, such as the hub for shielding and vulnerable people and the distribution of grants to businesses, as well as working alongside council and partner colleagues in enforcing the pandemic regulations in respect of social distancing and the operation of businesses. As lockdown is gradually lifted, RE colleagues in particular are heavily engaged in maintaining appropriate enforcement measures and supporting the return to schooling and work by implementing changes in the public realm.

- 1.8. It should be noted that the response of Capita colleagues, supported by their senior management, to the pandemic has been exemplary. They have far exceeded expectations in terms of their flexibility and responsive in meeting the challenges faced by the council and the borough it serves. The IT service has been under particular pressure in terms of supporting the move to working from home, the implementation of new software to support the vulnerability hub and the need to accelerate the delivery of platforms to support virtual meetings and maintain engagement with vulnerable young people. Our contact centres are now working fully remotely and delivering new services to support vulnerable people and businesses. The Revenues and Benefits service has turned its operating model on its head to pay out business grants. Cemetery and Crematorium colleagues have been working under immense pressure to respond to the increase in demand for their services. In non-critical services, employees have been actively encouraged by their management to put themselves forward for redeployment to support critical activity.
- 1.9. As the council moves forward into the recovery phase, significant work will be required to return services to a more normal operating mode, whilst being mindful of the possibility of a further surge in Covid-19 cases and the consequent impact of that on the council's priorities. It would not, therefore, be appropriate to make any commitment at this stage as to when the Review will recommence, or on what timescales. It may also be necessary to reconsider the detailed terms of reference and agreed approach to the Review in light of the ongoing impact of the pandemic. Officers will continue to monitor the situation, with a view to bringing a further report to this Committee in the autumn. Prior to that, should the situation permit, officers will recommence preparatory work on the Review at the earliest opportunity.
- 1.10. The suspension of the Review and the approach outlined above in respect of restarting the Review is the subject of ongoing dialogue with Capita colleagues, who are fully in agreement with the need to:
  - a. maintain our current focus on supporting the delivery of critical services;
  - b. ensure a robust approach to recovery; and
  - c. take a pragmatic approach to restarting the Review with appropriate timescales and terms of reference.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1. This report provides an update on the position in respect of the Year 6/7 Review in light of the Covid-19 pandemic.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1. Not relevant to this report.

## **4. POST DECISION IMPLEMENTATION**

- 4.1. A further report will be brought to this Committee in the autumn. If the situation permits, background preparatory work in support of the Review will commence ahead of that.

## **5. IMPLICATIONS OF DECISION**

### **5.1. Corporate Priorities and Performance**

- 5.1.1. The aims of this Review are consistent with the council's Corporate Plan, Barnet 2024, in that it aims to ensure high quality, good value services.

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

- 5.2.1. The Capita contracts collectively have a value of approximately £80m per annum (including core fee, income and special projects). It is anticipated that around £500k, less than 1% of the value of the contracts, will be required to carry out the Year 6/7 Review. This will be required for programme management, specialist input (including procurement and legal) and additional commercial capacity. Combining the reviews will assist in minimising the cost.
- 5.2.2. The costs involved are justified by the scale of the contracts and the importance to the council of delivering best value going forward. The costs will be funded by a non-recurrent allocation from the contingency budget, subject to the approval of Policy and Resources Committee.
- 5.2.3. Resources that have been employed to support the Review have been redeployed to support the delivery of critical services. There may be additional resource implications associated with any extension to the overall timescales for delivery the Review. These will be estimated in due course.

### **5.3. Social Value**

5.3.1. The Public Services (Social Value) Act 2012 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.

### **5.4. Legal and Constitutional References**

5.4.1. Council Constitution, Article 7 (Committees, Forums, Working Groups and Partnerships) provides that Financial Performance and Contract Management Committee is responsible for the oversight and scrutiny of the council's major strategic contracts. It may 'at the request of the Policy & Resources Committee and/or theme committees consider matters relating to contract or supplier performance and other issues and making recommendations to the referring committee.' Policy and Resources Committee on 17<sup>th</sup> June 2019 agreed that terms of reference and progress on the Year 6/7 Review should be reported to the Financial Performance and Contracts Committee. Any resulting recommendations would be made in a further report to the Policy and Resources Committee.

5.4.2. Legal advice will be sought as required, including on contractual, public procurement, consultation, and employment related matters, to ensure that the council acts lawfully at all times.

5.4.3. Best Value public consultations as required by Section 3 of the Local Government Act 1999 (as amended by s137 of the Local Government & Public Involvement in Health Act 2007) will be carried out as appropriate in the context of the Review.

5.4.4. Consultation with staff will be carried out as appropriate and the council will comply with its legal obligations under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) (TUPE) in connection with the transfer of any affected staff.

### **5.5. Risk Management**

5.5.1. Key risks associated with the Review include:

- Time and/or resource constraints lead to the Review not being carried out effectively, resulting in poor decision-making
- Relationship with Capita deteriorates during or as a result of Review outcomes, leading to poorer service delivery
- Lack of clarity on scope and deliverables from the Review results in disappointed and/or confused stakeholders

- Resource requirements and/or organisational focus on the Review leads to deterioration in service quality or seeking value for money.

5.5.2. Risks will be monitored and mitigating actions are being put in place, including through close partnership working with Capita, ensuring appropriate resourcing (please refer to 5.2.1) and through the detailed planning stage.

## 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 the Committee 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.

5.6.2 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.

5.6.3 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.

5.6.4 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.

5.6.5 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.

5.6.6 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

5.6.7 Equalities Impact Assessments will be undertaken where required as the Review progresses.

## 5.7. Consultation and Engagement

### *Public consultation and Best Value consultation*

5.7.1. As previously reported to this Committee, extensive consultation has taken place through the review of Capita contracts as reported to Policy and Resources Committee on 17<sup>th</sup> June 2019. The Year 6/7 Review is a continuation of the review of Capita contracts and will take into account the feedback already provided, including when developing vision and commissioning options. Further engagement will take place on specific services, where further insight is required, through the use of targeted questionnaires and focus groups. Additional stakeholder engagement will also be undertaken with council staff and with Barnet Group and Cambridge Education who also use Capita services, as these service users were not well represented in previous consultation.

### *Staff consultation*

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

5.7.3. However, it should be noted that it is good practice to engage with all staff from the point at which any potential for transfer of services becomes generally known, throughout the decision making and transition periods and for a period post transfer (if a transfer takes place). Early engagement with staff assists in managing the risks of staff becoming unsettled or distracted as outlined above. It also assists in preventing loss of key staff during the decision making and transition periods, as well as ensuring the council

continues to attract high calibre individuals by maintaining its reputation as an employer of choice.

- 5.7.4. Likewise, early engagement and ongoing dialogue with staff representatives is also good practice, with the aim of early identification and resolution of issues, reaching agreement on processes and approach to managing the workforce aspects of transfer and addressing any issues that may arise at the earliest opportunity so that statutory consultation and the transition itself can run smoothly for affected staff.

## 5.8. **Insight**

- 5.8.1. Multiple qualitative and quantitative data and information sources will be used to derive insight during the Review.

## 5.9 **Corporate Parenting**

- 5.9.1 Capita provide a small number of services to care leavers living in Barnet, most notably in relation to the revenues and benefits service. The continued focus on high quality services through the Review process will ensure that these services continue to be provided.

## 6. **BACKGROUND PAPERS**

- 6.1. Report to Financial Performance and Contracts Committee, 29<sup>th</sup> January 2020:  
<https://barnet.moderngov.co.uk/documents/s57531/Year%206%20and%20Y7%20review%20ToR.pdf>
- 6.2. Report to Financial Performance and Contracts Committee, 18<sup>th</sup> March 2020:  
<https://barnet.moderngov.co.uk/documents/s58379/Year%2067%20Review%20of%20Capita%20Contracts.pdf>