

	<p style="text-align: center;">Financial Performance and Contracts Committee</p> <p style="text-align: center;">23 November 2021</p>
<p>Title</p>	<p>Review of Capita Contracts</p>
<p>Report of</p>	<p>Chief Executive</p>
<p>Wards</p>	<p>All</p>
<p>Status</p>	<p>Public (except Appendix C, which is not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972, because it contains information relating to the financial and business affairs of Capita and the Council)</p>
<p>Urgent</p>	<p>No</p>
<p>Key</p>	<p>No</p>
<p>Enclosures</p>	<p>Appendix A – Evaluation Criteria Appendix B – Performance Packs Appendix C (exempt) – Financial Assessment</p>
<p>Officer Contact Details</p>	<p>John Hooton – Chief Executive john.hooton@barnet.gov.uk 020 8359 2460</p> <p>Deborah Hinde – Director, Commercial and Customer Services deborah.hinde@barnet.gov.uk 020 8359 2461</p>

<p>Summary</p>
<p>The purpose of this report is to provide an update on the Review of Capita contracts and to confirm the proposed return of services to the council.</p>

Officer Recommendations

That the Financial Performance and Contracts Committee:

- 1. Notes that extension proposals have been received from Capita;**
- 2. Notes the evaluation approach that will be applied to those proposals, as set out in paragraphs 2.1 to 2.6;**
- 3. Notes the content of the performance packs attached at Appendix B;**
- 4. Makes the following recommendations to the next meeting of the Policy and Resources Committee:**

That the Policy and Resources Committee agrees that:

- a. the council does not seek to extend those elements of the RE and CSG contracts that relate to the procurement service, regulatory services, the regeneration service and highways;**
 - b. upon expiry of those elements of the contract, these services be returned to the council;**
 - c. the future strategy for the highways service should be the subject of a separate report to the Environment Committee;**
 - d. the recruitment service be returned to the council in February 2022; and**
 - e. the chief executive be authorised to take the necessary action to transfer the recruitment service back to the council, subject to the conclusion of the necessary due diligence, and to prepare for the transfer of other returning services in 2023; and**
- 5. Notes the next stages of activity, as set out in paragraphs 4.1 and 4.2.**

1 WHY THIS REPORT IS NEEDED

1.1 At its meeting on 8th June 2021, the Financial Performance and Contracts Committee agreed the proposed direction of travel for services currently provided by Capita, through the Customer and Support Group (CSG) contract and the Regional Enterprise (RE) contract. The proposed direction of travel was based on dealing with services in three categories:

1. Retained services – interim extension of two-three years for key technology-based services, where return in-house would be unlikely to be a viable option and a reasonable extension would generate additional investment. The agreement of any extension would be dependent upon robust investment and improvement proposals from the service provider;
2. Returning services – confirm contract will expire in 2023 for services where there is unlikely to be much scope for the service provider to add

further significant value, the market for re-procurement is limited and the financial case can be made to return them to the council; and

3. Further review services – interim extension of one-two years for services where the case for returning, re-procuring or extending is unclear and a more detailed review is required to determine the best strategic option.

1.2 Recommendations on the categorisation of services were based on the following factors:

- Overall performance
- Scope for further investment and innovation
- Scope for service provider to further add value
- Logistical considerations
- Financial viability of returning the service in-house
- Clarity of strategic direction for the service

1.3 The report identified that there remained a considerable amount of work to be done before firm recommendations on the future delivery model for each service could be made.

1.4 For those services where the proposed direction of travel involved contract extension, whether for one year or three, the focus of attention would be on continuing the joint working with Capita to ensure that their proposals for the future development of the services align with council's vision and requirements. Discussions would also continue to further understand and agree the rationale, scope and any wider impacts or interdependencies, where a partial return of services has been suggested.

1.5 The June report stated that, where the proposed direction of travel was to return services to the council, work would continue on confirming the business cases for so doing. It was also reported that Capita had confirmed that they are keen to work closely with the council on maintaining the delivery of these services over the remaining life of the contract and ensuring a smooth transition back to the council in due course.

1.6 Where it was identified that further review is required before the future delivery model can be determined, work would continue on identifying and assessing the options, including carrying out further market research where appropriate.

1.7 A further progress report was considered by the Committee at its meeting on 7th October 2021.

1.8 The following table summarises the direction of travel that was agreed for each service:

Service	Retain	Return	Further review, with short extension
IT	✓		
Customer Services	✓		
Revenues and Benefits	✓*		
Procurement		✓	
Accounts Payable/Integra			✓
HR/Core HR			✓*
Estates			✓*
Planning and Development Control	✓*		
Building Control	✓		
Land Charges	✓		
Regulatory Services		✓	
Regeneration		✓	
Highways		✓	
Cemetery and Crematorium			✓

** with some element of the service potentially returning to the council upon expiry of the contract*

2 REASONS FOR RECOMMENDATIONS

Retained and further review services

- 2.1 Capita's extension proposals have now been received by the council. Whilst this is not a procurement exercise in the usual sense, a rigorous evaluation process has been developed that is consistent with normal tender evaluation procedures. The process involves colleagues from the commercial and financial teams, as well as client leads.
- 2.2 The procurement service, which is not part of the extension proposals, has advised on the design of the process, as agreed with Capita, but will not be part of the evaluation process.
- 2.3 The evaluation process will apply the following weightings, in line with the criteria previously applied during the 2018/19 review:

Strategic control	20%
Quality	35%
Value for money	35%
Social value	10%

- 2.4 The detailed sub-criteria that will be considered are attached at Appendix A, which also provides examples of items that would contribute to Social Value.
- 2.5 The process will be conducted in two stages, with feedback being provided to Capita following the first stage to enable modifications to provide a “best and final offer”. The council has reserved the right to reject the proposals at any point.
- 2.6 One aspect that will be considered in the evaluation process is the extent to which the proposals address known performance issues, as set out in a series of performance packs that have produced to support the process. The packs that relate to “retained services” have been scrutinised by the informal cross-party working group and are attached at Appendix B. Members of the Committee are asked to note the contents of the packs. The packs that relate to “further review” services will be published after they have been subjected to the same scrutiny.
- 2.7 At this stage, the Committee is asked to note that extension proposals have been received and to note the evaluation process. It is anticipated that a full report on the outcomes of the evaluation will be brought to this Committee on 1st February 2022.
- 2.8 In respect of “further review” services, some work is continuing in the background on identifying and assessing the longer-term options for services, in particular in respect of the review of core IT systems requirements (accounting/HR/procurement), including consideration of an ERP solution. However, it should be noted that the function of the proposed one-year extensions is to allow additional time for that review work to take place, so it is not anticipated that this work will be completed until much later in the process.

Returning services

- 2.9 For services where the proposed direction of travel was to confirm that the contract will expire, at which point the service will return to the council, the primary focus of the work has been on confirming that this an affordable and deliverable option.
- 2.10 That work has now been completed in respect of the following services:
- Procurement
 - Regulatory Services
 - Regeneration
 - Highways
- 2.11 It has been concluded that, across the four services, the financial impact of returning them to the council would be affordable and, overall, will not result in

additional costs to the council in delivering those services. The detailed financial analysis is set out in Appendix C, which is not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972, because it contains information relating to the financial and business affairs of Capita and the Council. Publishing this information would compromise the council's negotiating position and this consideration outweighs the public interest in disclosing the information at this stage.

- 2.12 Alongside the financial assessment, client leads for the procurement service, regulatory services and the regeneration service have also considered whether or not there would be any benefits in adopting an alternative delivery model, such as re-procuring these services from an alternative provider. They have concluded that the rationale for the proposed direction of travel set out in the 8th June report, i.e. allowing the contracts for these services to expire in 2023 and returning them to the council, is sound and the Review outcomes in respect of these services should now be confirmed.
- 2.13 In respect of the highways service, the 8th June report stated that *“it would not be appropriate to extend the current arrangement, so the proposed direction of travel is that the contract should be allowed to expire in 2023. Whilst it is anticipated that the bulk of the service currently provided through the RE contract will transfer back to the council, Highways is a particularly complex service, so there may be some elements that will continue to require third party input, particularly specialist design work. Further work will, therefore, be required to determine the detail of the most appropriate model going forward. It is proposed that the detailed future roadmap for the service and the associated business case will be developed through the Barnet/RE Highways Transformation Programme.”*
- 2.14 Work has continued through the Highways Transformation Programme to consider a range of options for the future delivery of the service. That work is nearing completion and it is anticipated that a proposal on the future strategy for highways will be presented to the Environment Committee in January 2022, with a subsequent report to the Policy and Resources Committee. Notwithstanding the ongoing work on developing that operating model, it is clear that this will not involve an extension of the existing commercial arrangements and any future third party input, whether from Capita or another provider, will require procurement with separate commercial arrangements.
- 2.15 It is, therefore, proposed that it is now confirmed that the highways element of the RE contract should not be extended and that the service should return in-house.
- 2.16 The 8th June report identified that there may be some benefit in returning the recruitment element of the HR/payroll service to the council upon expiry of the contract, to further strengthen the client/contract relationship. Through subsequent discussions, it has been concluded that, with the imminent expiry of the contract for Vacancy Filler software, the most appropriate course of action is to return the service to the council in February 2022 and for the council to contract directly with Vacancy Filler. The service comprises three

staff and discussions have commenced in respect of the TUPE implications of a service transfer.

- 2.17 Any resulting contract price change would be based on the current actual cost of providing the service, which could result in a small budget pressure due to increased pension costs. The financial details are set out in Appendix C, which is not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972, because it contains information relating to the financial and business affairs of Capita and the Council. Further due diligence, including consideration of any equalities impact, is required prior to implementation of the transfer.
- 2.18 It is therefore recommended that the Financial Performance and Contracts Committee make the following recommendations to the next meeting of the Policy and Resources Committee:

That the Policy and Resources Committee agrees that:

- a. the council does not seek to extend those elements of the RE and CSG contracts that relate to the procurement service, regulatory services, the regeneration service and highways;
 - b. upon expiry of those elements of the contract, these services be returned to the council;
 - c. the future strategy for the highways service should be the subject of a separate report to the Environment Committee;
 - d. the recruitment service should be returned to the council in February 2022; and
 - e. the chief executive be authorised to take the necessary action to transfer the recruitment service back to the council, subject to the conclusion of the necessary due diligence, and to prepare for the transfer of other returning services in 2023.
- 2.19 The proposals set out in this report have been considered and scrutinised by the informal cross-party working group.

3 ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The reasons for not recommending extensions of the contracts for these services were considered by this Committee on 8th June 2021.

4 POST DECISION IMPLEMENTATION

- 4.1 Evaluation of Capita's extension proposals is underway and the outcome of that will be reported to the next meeting of this Committee.
- 4.2 In respect of returning services, both parties are committed to continuing their joint working approach, which will be essential to ensure a smooth transition to the new arrangements. Maintaining the cohesiveness of these services and maximising the retention of skilled and experienced staff is an absolute

priority for the Programme. To this end, detailed planning for the exit from the contract and transfer of services is underway. This will cover matters such as the transfer of staff, assets, licences etc. The exit plan will also set out how the parties will work together to maintain service delivery and support staff through the process.

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 was originally anticipated that around £500k, less than 1% of the value of the contracts, would be required to carry out the Review. This would be required for programme management, specialist input (including procurement and legal) and additional commercial capacity.

5.2.2 Project management resources that have been employed to support the Review were redeployed to support the delivery of critical services during the Covid-19 pandemic. There has, therefore, been additional resource implications associated with the extension to the overall timescales for delivery the Review. These are estimated to be approximately £240k for the financial year 2021/22.

5.2.3 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.

5.3 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. The existing contracts include Social Value provisions and the opportunity to enhance these will be considered as part of the negotiations to extend the contracts and in any re-procurement activity.

5.3.2 Social Value commitments contained in Capita's extension proposals will be evaluated independently of other parts of the submission.

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 make recommendations to the referring committee.' Policy and Resources Committee on 17th June 2019 agreed that terms of reference and progress on the 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. Statutory Guidance requires the council to provide for organisations, businesses, service users, and the wider community to put forward options on how to reshape services, and to consider overall value, including economic, environment and social value when reviewing service provision. This will be carried out as set out in paragraphs 1.7 and 1.8 of this report.

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:

- Ongoing time and/or resource constraints lead to the Review not being carried out effectively, resulting in poor decision-making
- Relationship with Capita deteriorates during the Review, 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.

- A further wave of the Covid-19 pandemic further delays work on the Review.

5.5.2 Risks continue to be monitored and mitigating actions have been put in place, including establishment of close partnership working with Capita, ensuring appropriate resourcing (please refer to 5.2.1) and through detailed planning.

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 on a service by service basis as more detailed proposals and business cases are developed. For returning services, the development and consideration of Equalities Impact Assessments will be carried out as part of the exit planning process.

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 17th June 2019. The Review is a continuation of the review of Capita contracts and will take into account the feedback already provided. Further engagement has taken place through the use of focus groups, the outcome of which is reported separately to this Committee.

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. Arrangements have been put in place to engage with and update staff, as the Review progresses.

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, 29th 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, 18th March 2020:
<https://barnet.moderngov.co.uk/documents/s58379/Year%2067%20Review%20of%20Capita%20Contracts.pdf>

6.3. Report to Financial Performance and Contracts Committee, 15th June 2020:
<https://barnet.moderngov.co.uk/documents/s58926/Yr%206-7%20Review%20FPC%20report.pdf>

6.4. Report to Financial Performance and Contracts Committee, 27th October 2020:
<https://barnet.moderngov.co.uk/documents/s60807/Year%206-7%20Review%20FPC%20report.pdf>

6.5. Report to Financial Performance and Contracts Committee, 17th March 2021:
<https://barnet.moderngov.co.uk/documents/s64235/Yr%206-7%20Review%20FPC%20report.pdf>

6.6. Report to Financial Performance and Contracts Committee, 8th June 2021:
<https://barnet.moderngov.co.uk/documents/s65146/FPC%20Contracts%20Review%20Report.pdf>