



Policy & Resources

19 July 2022

Title	Review of Capita Contracts
Report of	Chair of the Policy and Resources Committee
Wards	All
Status	Public (except Appendix B, which is not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972, because it contains information relating to the financial and business affairs of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)
Urgent	NO
Key	YES
Enclosures	Appendix A – Business Case for Extending Services Under the CSG Contract Appendix B (exempt) – Financial Assessment
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Summary

This report provides final recommendations on the review of the council's contracts with Capita.

In 2013, the Council entered into two contracts with Capita known as the DRS and CSG contracts. The DRS contract is delivered by a joint venture between Capita and the council, known as Regional Enterprise Limited, or RE.

Contained within the DRS (RE) contract are the following services related to the provision of development and regulatory services:

- Highways
- Regeneration
- Regulatory Services
- Planning (Development Control)
- Land Charges
- Building Control
- Cemetery and Crematorium

Contained within the CSG contract are the following services related to the council's 'back office' functions:

- Information Technology (IT)
- Revenues and Benefits
- Customer Services
- Estates (including Print)
- Finance*
- Human Resources*
- Procurement

**(Elements of these services were returned to the council in 2019)*

Both contracts were for an initial 10-year term, with an option to extend services on an individual basis for a further five years.

A Contract Review commenced in Autumn 2019, but was initially delayed due to the Covid-19 Pandemic and resumed in early 2021. The primary purpose of the Review has been to determine what, if any, contract extensions should be entered into. In accordance with both the CSG and DRS (RE) contracts, the council must serve Capita notice of their confirmed direction of travel by 31st August 2022 and 30th September 2022 respectively.

Preliminary recommendations were presented to full Council in January 2022, when it was agreed that the following services should not be extended:

- Highways
- Regeneration
- Regulatory Services
- Procurement

Based on the information contained in this report, it is now proposed that:

- The contract for the remaining DRS (RE) services should not be extended and those services should return to the council upon expiry of the contract's initial term
- The contract in respect of the Estates (including Print) service should not be extended and the service should return to the council upon expiry of the contract's initial term
- The contract in respect of IT, Customer Services and the Revenues and Benefits services should be extended for 31 months (two years and seven months)

- The contract in respect of Human Resources and Finance services should be extended for 12 months

Finally, the report sets out the actions that will be required to implement the decisions set out above.

Officers' Recommendations

That the Committee:

- 1. Agrees that the DRS (RE) contract in respect of Planning (Development Control), Building Control, Land Charges and Cemetery and Crematorium services should not be extended beyond 30th September 2023.**
- 2. Agrees that the CSG contract in respect of Estates (including Print) should not be extended beyond 31st August 2023.**
- 3. Agrees that, upon expiry of the initial term of the contracts, these services should return to the council.**
- 4. Authorises the Chief Executive to serve the relevant notices to Capita and the RE Joint Venture and to take the necessary action relating to any transfers, upon expiry of the contracts or sooner if deemed necessary, or other essential actions associated with the services, including relevant exit agreement(s), subject to the conclusion of the necessary due diligence.**
- 5. Authorises the Chief Executive to take the necessary action to transfer the Council's share in the RE Joint Venture to Capita by 30th September 2023.**
- 6. Notes that, upon expiry of the CSG contract, Capita will contract directly with schools to provide services currently provided through the CSG contract.**
- 7. Agrees that the CSG contract in respect of IT, Customer Services and the Revenues and Benefits service should be extended by a period of two years and seven months, to 31st March 2026.**
- 8. Agrees that the CSG contract in respect of Accounts Payable/Integra and HR/CoreHR should be extended by a period of one year, to 31st August 2024.**
- 9. Authorises the Chief Executive to serve the relevant notice to Capita and to take the necessary action to formalise the contractual arrangements for the extension of these services.**
- 10. Notes that the Procurement service and Welfare team will return to the council in the autumn.**
- 11. Notes the actions set out in section 4 that will be required to implement the decisions set out above.**

1. Why this report is needed

Background

- 1.1** The council has two major contracts with Capita. The first, known as the CSG contract, is for the delivery of the council's 'back office' functions, including finance, human resources, customer services and information technology. The second relates to the provision of development and regulatory services (DRS), including planning, regeneration, highways, environmental health and cemetery & crematorium.

- 1.2 The DRS contract is delivered by a joint venture between Capita and the council, known as Regional Enterprise Limited, or RE. The contracts began in September 2013 and October 2013 respectively and run for ten years with an option to extend for up to a further five years. The DRS (RE) contract has a binary option of no extension or five years (although this can be amended by agreement between the parties) while the CSG contract has flexibility to discuss an extension of any time up to five years.
- 1.3 At its meeting on 19th June 2019, Financial, Performance and Contracts Committee agreed that the two reviews of the DRS (RE) and CSG agreements would be conducted concurrently, as a single process. This will henceforth be referred to as the Contract Review.
- 1.4 At its meeting on 29th January 2020, Financial, Performance and Contracts Committee agreed the intended aims of the Contract Review should be to:
 - 1) Establish the council's long-term vision for service provision and the consequent requirements for each service;
 - 2) Understand the current performance of each service, including special projects, in terms of service quality and value for money;
 - 3) Develop the future delivery strategy for each service, post-2023; and
 - 4) Agree any changes required to the existing contractual arrangements between now and 2023 (i.e. the end of the existing contracts).
- 1.5 Shortly after the 21st January 2020, Financial, Performance and Contracts Committee, the Covid-19 Pandemic struck. Work on the Contract Review was suspended indefinitely, resuming in early 2021.
- 1.6 At its meeting on 17th March 2021, the Financial Performance and Contracts Committee agreed a revised approach to conducting the Contract Review. This involved undertaking a limited review to identify, in principle, those services that should be extended for a period of time and those services that should be re-procured or brought in-house at the end of the original term, 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.
- 1.7 The council's approach to the Contract Review was based on a pragmatic service by service review, with the focus being on "what is the right approach for that service to achieve the overarching priority of ensuring that Barnet residents receive the best possible services that we can afford and at a competitive price".

- 1.8 At its meeting on 8th June 2021, the Financial Performance and Contracts Committee agreed the following direction of travel for each service, based on an initial analysis, with all final decisions subject to the further development of outline business cases:

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*

- 1.9 Following the identification of the directions of travel for 'Retained' and 'Further Review' services, joint working continued to support the development of proposals for extension and associated commercial arrangements. Client leads engaged in discussions about service priorities, including potential changes to KPIs. Commercial colleagues engaged in discussions on matters such as re-baselining income guarantees, the future of the joint venture and potential amendments to the change management arrangements, which govern the use of Special Project Initiation Requests (SPIRs).
- 1.10 At its meeting on 23rd November 2021, the Financial Performance and Contracts Committee noted that Capita's extension proposals had been received by the council. Whilst it was not a procurement exercise in the usual sense, a rigorous evaluation process had been developed that is consistent with normal tender evaluation procedures.
- 1.11 Also, at its meeting on 23rd November 2021, the Financial Performance and Contracts Committee noted that work had been completed in respect of Procurement, Regulatory Services, Regeneration and Highways. It was concluded that, across the

four services, the financial impact of returning them to the council would be affordable and, overall, would not result in additional costs to the council in delivering those services. As a result, a series of recommendations were made to the Policy and Resources Committee on 7th December 2021 and subsequently to full Council on 25th January 2022.

1.12 At its meeting on 25th January 2022 the Council resolved that:

- 1) Council does not seek to extend those elements of the RE and CSG contracts that relate to the Procurement service, Regulatory Services (Trading Standards, Licensing, Environmental Health), the Regeneration service and Highways;
- 2) upon expiry of those elements of the contract, these services be returned to the Council;
- 3) the future strategy for the Highways service should be the subject of a separate report to the Environment Committee;
- 4) the Recruitment service be returned to the Council in February 2022; and
- 5) the Chief Executive be authorised to take the necessary action relating to any transfers or actions associated with the services, subject to the conclusion of the necessary due diligence.

1.13 At its meeting on 1st February 2022, the Financial Performance and Contracts Committee received a report setting out progress in respect of the extension proposals. It was reported that the Capita extension proposal had been evaluated and, as was anticipated by a two-stage process, the initial proposals did not meet the council's expectations to the extent that they could be considered acceptable. In particular, the proposals fell short of expectations in relation to the value for money criteria that had been set.

1.14 The Committee was advised that detailed feedback on the evaluation outcomes had been provided to Capita and they had submitted a document titled "Update to Proposal for Extension of Services" on 17th December 2021. This Update acknowledged that further dialogue would be required, before a "best and final" offer could be formulated.

1.15 The Update had been evaluated using the same process as was applied to the initial proposals. In some areas, the Update had addressed evaluating officers' feedback to the extent that the proposals were now considered to be acceptable. However, in other areas, whilst the Update had demonstrated some movement in the right direction, it had not fully addressed the feedback to the satisfaction of the evaluating officers, so had not yet reached the necessary threshold to be considered acceptable. It had, therefore, been concluded that officers were not yet in a position to make firm recommendations regarding the extension of the contracts and there would need to be further dialogue to reach that position.

1.16 The Committee agreed that further work was required to inform recommendations on the future delivery of those services.

1.17 Following that meeting, dialogue continued with Capita, with a view to shaping the proposals to ensure that they met the needs of both parties. A 'Best and Final Offer' was to be submitted in Spring 2022 in relation to 'Retained' and 'Further Review' services in order for officers to make a recommendation.

- 1.18 During this time, at its meeting on 9th February 2022, the Policy and Resource Committee received a report on a Review of Integra CoreHr systems. The Committee agreed:
- 1) To approve commencement of procurement for the replacement of the council's Finance and HR systems, with the flexibility for an Enterprise Resource Planning (ERP) system or a Best of Breed model with separate Finance and HR systems.
 - 2) To delegate authority to the Executive Director of Resources to take all necessary actions to participate in and execute the successful procurement.
 - 3) To **approve a one-year extension** to the finance (Integra) and HR systems (Core HR) to facilitate the procurement of a new system.
 - 4) To delegate authority to the Executive Director of Resources to do an upgrade of the Finance system to Integra Centros, if required
- 1.19 At its meeting on 14th March 2022, the Financial Performance and Contracts Committee received a further update on progress, which identified that, in respect of the CSG contract, the perceived budget gap between the current cost of the contract and the extension proposal had closed considerably and was nearing a point where officers would be in a position to make firm recommendations to Members.
- 1.20 That report also acknowledged that the position of the finances on the RE contract was more complex, due to the Income Guarantee.
- 1.21 On the 29th April 2022, Capita submitted a 'Best and Final Offer' proposal to the Council for evaluation. Client leads were asked to evaluate the final proposals on the basis of the question "*Taking into account all of the Strategic Control/Quality criteria, does the revised submission address previously identified concerns to the extent that it is now considered sufficiently acceptable to agree an extension in principle? If not, why?*"
- 1.22 That evaluation has now been completed, along with further detailed evaluation of the financial elements of the proposal and the Social Value commitments. The outcome of the evaluation process is set out in the following sections of this report.

2. Reasons for recommendations

DRS (RE) Recommendations

- 2.1 In respect of the DRS (RE) contract, Capita's final proposal covered the following services:
- Planning (inc. Development Control)
 - Land Charges
 - Building Control
 - Cemetery and Crematorium
- 2.2 Planning (inc. Development Control), Land Charges and Building Control were proposed for three-year extensions, with the Cemetery and Crematorium proposed for a one-year extension, to enable further review.

- 2.3 It is noted that, in their manifesto published prior to the May elections, the Labour administration committed to returning the Planning service in-house. The Planning service is by far the largest of the RE services that were proposed for extension and returning that would leave a relatively small group of services, which are not considered to constitute sufficient critical mass on which to base a strategic contract.
- 2.4 Whilst in broad terms, the final proposal for RE services was deemed to meet the Strategic Control and Quality criteria that had previously been set, returning the Planning service in-house is supported by the outcome of the financial evaluation of the proposals. The financial assessment also supports a case for bringing the remaining RE services in-house upon expiry of the contract.
- 2.5 Overall, there is little difference financially between extending the contract for these services and returning them in-house. The financial assessment demonstrates that the cost of the proposed extensions is broadly in-line with current expenditure budgets. As indicated in previous reports to the Financial Performance and Contracts Committee, the key financial challenge for this contract relates to the impact of Guaranteed Income (GI). This is the mechanism whereby Capita is obliged to make up any shortfall between the actual income generated by RE services and the income targets agreed at the commencement of the contract.
- 2.6 Achievement of the income targets has been challenging throughout the term of the contract, particularly in the Highways service. Prior to the pandemic, Capita were typically having to make up a shortfall of between £1.5m and £2.0m per annum. It is reasonable to assume that they were able to accommodate this shortfall by reducing the cost of delivering those services that were not meeting their income targets. However, during the pandemic period, income levels declined significantly and have yet to return to pre-pandemic levels. This has been exacerbated by the current economic climate.
- 2.7 As identified in the report to Financial Performance and Contracts Committee on 14th March 2022, these services are predominantly demand-driven and there is little that Capita can do to directly influence the level of income achieved. In the current climate, Capita are not willing to commit to an ongoing GI level that is sufficiently close to pre-pandemic levels to provide a clear financial benefit for the council.
- 2.8 The table below outlines the high-level financial impact of Capita's proposal, compared to the financial impact of returning the services back to council upon contract expiry in September 2023:

RE – CY11 £'000	Final proposal	Return to council
2022/23 net budget	1,427	1,427
Expenditure	18,279	17,865
Income	(13,212)	(13,212)
Opportunities (see below)	(100)	(360)
Total Expenditure, Income and Opportunities	4,966	4,293
Net Variance	3,539	2,866
Additional on-going resources and contingency	408	877
Total variance post additional items	3,947	3,743

Opportunities include potential capitalisation and adjustment for contract/financial year-end

- 2.9 The table sets out the expected financial impact across all services currently provided by RE for year one of any extension, based on the average of the actual levels of income that have been achieved over the last three contract years. Years two and three would be broadly similar. A more detailed breakdown of these figures is set out in Appendix B, 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.
- 2.10 With the removal of the GI element that the council has benefited from in previous contract years, the final proposal from Capita is estimated to result in a £3.947m pressure on the council per annum. The in-house option is estimated to result in a £3.743m pressure on the council per annum, representing a potential benefit of £0.204m per annum from returning the services in-house.
- 2.11 Based on the financial analysis, it is now proposed that the contract for the provision of the Planning (inc. Development Control), Land Charges, Building and Cemetery and Crematorium services should not be extended and that those services should return to the council upon expiry of the contract in September 2023.
- 2.12 It should be noted that the assessment of the return option is based on figures provided by Capita in respect of the current cost of providing those services and there is a high degree of uncertainty around the impact of items such as vacancies and project work on the cost base. Significantly more analysis of the cost and income lines will be required during the transition process to understand the true financial impact of returning services in-house. In addition to gaining that detailed understanding of the cost-base, it is considered that this option will also provide the council with a higher level of strategic control and flexibility to shape those services to operate within an appropriate financial envelope.
- 2.13 The vast majority of these services are operated from within Barnet, which will be a key factor in facilitating a smooth transition. However, there is a small part of the Planning service that provides support from Capita's Belfast office. There are also provisions within the existing contract that enable the council to secure additional capacity (known as resilience services) at short notice, should it be required. Given the scale of the proposed transition of services and the potential disruption that may cause, it is considered that it would be an appropriate and sensible precaution to ensure that the council can maintain access to those resources. It is, therefore, proposed that discussions continue with Capita, with a view to ensuring that the relevant elements of the contract are included as legacy clauses in the exit agreement.
- 2.14 The benefit to the council of being part of the Joint Venture has been questioned for some time, given that it has not achieved the level of business growth that would provide a financial return to the council. With the return of these services, it is considered that the likelihood of any future financial return would diminish even further. It is, therefore, proposed that, upon expiry of the initial term, the council sells its share in the Joint Venture to Capita for a nominal sum. Legal advice has confirmed that there is no financial value in the Joint Venture that would be due to the council, in the event that the Joint Venture was dissolved.

CSG Recommendations

- 2.15 In respect of the CSG contract, Capita's final proposal covered the following services:
- Estates (including Print)
 - Information Technology
 - Revenues and Benefits
 - Customer Services
 - Finance (Integra and AP)
 - HR (Payroll and Core HR)
- 2.16 The report to the Financial Performance and Contracts Committee on 8th June 2021 identified that the Estates function had had a number of problems over many years, which went back to before the CSG contract was put in place. The report highlighted that repeated efforts to resolve this over the years had made some improvements, but the service was not yet consistently performing to the required standard. It was recognised that this is a complex service, comprising several distinct elements, and some of those elements have performed better than others. The proposed direction of travel for Estates was, therefore, to extend the service for a year, to provide time for improvements that were already in train to take effect and to enable a more fundamental review of the most appropriate future delivery model.
- 2.17 Whilst improvements have continued to be made, it is the client officers' view that the pace and scale of change that has been achieved, together with the proposals set out in the final submission, do not provide them with sufficient confidence that a one-year extension will address the ongoing concerns. It is, therefore, proposed that the Estates (including Print) service should not be extended and that the service should return to the council upon expiry of the initial contract term.
- 2.18 Capita currently provides a range of services to schools through the CSG contract. The council pays a fee for these services and receives income from schools for them. As with the RE contract, Capita guarantees the level of income and makes up any shortfall against that guarantee. Income levels have consistently fallen short of the guaranteed level over the life of the contract and Capita confirmed early in the discussions that it would not be willing to commit to continuing guaranteed income on schools traded services. It has, therefore, been concluded (in consultation with BELS and schools' representatives) that there would be no benefit in continuing to provide these services through the CSG contract. Upon expiry of the contract, Capita will continue to deliver these services, contracting directly with schools. Arrangements will be put in place, through BELS, to provide an appropriate performance monitoring and consultation forum for schools' representatives following expiry of the current arrangements.
- 2.19 In broad terms, the final proposal for the remaining CSG services was deemed to meet the Strategic Control and Quality criteria that had previously been set. With the exception of Estates, it was the view of evaluating officers that the final revised submission did address any previously identified concerns in respect of those criteria, to the extent that the proposal was considered to be an acceptable basis on which to recommend extension of the contract. The Social Value commitments that have been made are also considered to be acceptable. Further detail on these is set out in paragraph 5.5 below.

- 2.20 The business case relating to these services is attached as Appendix A, with the detailed breakdown of the key financial elements, outlined below, attached as Appendix B, which is exempt from publication due to the commercial sensitivity of its content.
- 2.21 The financial evaluation considers the overall budget impact of these proposals for the council, so it includes the impact of the Procurement and Estates services not being extended.
- 2.22 In their final submission, Capita were asked to submit pricing for three different options:

Option 1 – Extension of two years and seven months (to 31st March 2026)

Option 2 – Extension of three years (to 31st August 2026)

Option 3 – Extension of five years (to 31st August 2028)

Each of these options are based on one-year extensions for the Finance and HR elements of the contract, with the longer extensions being for the IT, Customer Services and Revenues and Benefits services.

- 2.23 These were evaluated against a fourth option of returning all services to the council upon expiry of the contract.
- 2.24 The table below outlines the impact on the council's budget for each of the four options considered. The financial modelling shown below is based on contract year (CY) 11, which would be the first year of any extension.

CSG - CY11 £'000	Option 1	Option 2	Option 3	Option 4
	Extend 2yrs 7mths	Extend 3 years	Extend 5 years	Return to council
2022/23 net budget	21,653	21,653	21,653	21,653
Expenditure (inc. Estates and Procurement)	23,582	23,346	23,346	23,906
Income	(1,865)	(1,865)	(1,865)	(1,366)
Opportunities (see below)	(743)	(743)	(743)	(631)
Total Expenditure, Income & Opportunities	20,973	20,737	20,737	21,909
Net Variance	(680)	(916)	(916)	255
Additional on-going resources/overheads and contingency	426	426	426	2,361
Total variance post additional items	(254)	(490)	(490)	2,616

Opportunities include potential capitalisation, removal of gainshare and adjustment for contract/financial year-end

- 2.25 The three extension options all meet the primary Value for Money criteria that were set for the Review, as they represent a net cost reduction against the current budget envelope for these services. Whilst the evaluation has been based on the first year of any extension, each of the three options provides for further expenditure reductions in future years.

- 2.26 The option of returning services to the council would result in a £2.616m budget pressure per annum. This is not considered to be a viable option at present, as it would require significant savings to be made in a relatively short period of time, most likely through scaling back of services and, in turn, quality of output to residents. In addition, the particular risks and complexity associated with returning IT, Customer Services and the Revenues and Benefits service to the council are considerable and would require a significant lead-in time to ensure adequate planning and preparation.
- 2.27 Whilst both the three- and five-year extension options suggest marginally higher reductions in net cost, it is proposed that the contract for IT, Customer Services and the Revenues and Benefits service be extended for two years and seven months, to 31st March 2026. This will align the contract end with the council's financial year, which provides a more efficient exit point upon expiry. It also enables the Council to give proper consideration to the longer-term strategy for these services within the shortest feasible timeframe.
- 2.28 Capita's final proposal also identifies capital investment requirements in the IT infrastructure of £4.8m over the extension period. This reflects the likely level of investment required, regardless of the option selected. Following agreement of any contract extension, Capita will work with the council to value engineer this total and confirm any items that are covered by existing capital investment approvals. The resulting investment requirement will then be subject to approval through the council's normal capital allocation process.
- 2.29 As noted in paragraph 1.18, the Policy and Resource Committee has previously approved a one-year extension for the provision of the Integra and CoreHR systems, as this was considered to be essential to facilitate the procurement and implementation of new core systems. Based on the evaluation of Capita's final extension proposals, it is now proposed that the Accounts Payable and HR services associated with these systems also be extended for one year, in order to minimise disruption to those services during the implementation of new systems.
- 2.30 As noted in paragraph 1.12, the Council previously resolved that the Procurement service (which is contained within the CSG contract) be returned to the council. The Committee is asked to note that it has been agreed with Capita that, for strategic purposes, this service will be returned to the council in October 2022.
- 2.31 Furthermore, during the evaluation period of the final proposal, the council and Capita have agreed that the Welfare Team (from within the Revenues and Benefits service) should also return to the council at the earliest opportunity, which will most likely also be October 2022. This will provide greater flexibility to meet resident's needs in relation to the current cost of living crisis.
- 2.32 Both of these decisions have been effected through officers' delegated powers.

3. Alternative options considered and not recommended

- 3.1 The alternative option for DRS (RE) services would be to extend the contract for a further five-year period. This would create a marginally higher financial pressure for the council and it is considered preferable that the council has a higher level of

strategic control over services, thus affording greater flexibility to shape services to operate within an appropriate financial envelope.

3.2 The alternative options for the CSG services were:

Option 2 – Extension of three years

Option 3 – Extension of five years

Option 4 – Return services to the council

3.3 Although Option 2 would create an additional financial benefit, this amount is considered to be marginal in comparison to the advantages that the preferred option provides. The disconnect between contract years and financial years has created inefficiencies in accounting processes throughout the life of the contract. The preferred option provides an opportunity to align those dates and remove that inefficiency.

3.4 Option 3 would also afford a marginal financial benefit to the council in CY11. However, a commitment to a further five years would have required a significant financial benefit from CY11 to make it attractive. This option also has similar disadvantages to option 2, in that it does not align to the council's financial year and it further extends the timeframe for considering the longer-term strategy for these services.

3.5 Option 4 does not meet the financial criteria of the Review and would create a considerable budget pressure for the council. This is primarily because these services are delivered predominantly from outside Barnet and are based in areas where staff salaries and office accommodation costs are significantly lower than they are in Barnet. The IT service in particular benefits significantly from being part of the wider Capita organisation, bringing significant advantages in terms of cyber-security, resilience and expertise. The risks and challenges of returning these services to the council and physically re-locating them within Barnet would require a lead-in period of at least two years, as we would basically need to design and build the services and all of their associated technical infrastructure from scratch. Taken alongside the major programme of service returns already proposed for 2023, this is not considered to be a viable option.

4. Post decision implementation

4.1 If the Committee agrees the recommendations, then as per the obligations in the DRS (RE) and CSG contracts, a formal notice will be delivered to Capita informing them of the confirmed direction of travel for all services.

4.2 Further to this, the Contract Review team will initiate transition workshops for all returning services. The purpose of these will be:

- to detail all activities required to ensure smooth transition of services back to the council.
- to ensure sufficient resource and time is being applied to transitions.
- to ensure the standard of service under both the DRS (RE) and CSG contracts are maintained during the transition process.

- 4.3 For those services under the CSG contract that are being extended, Deeds of Variation will be processed by the Commercial and Legal teams, to ensure all commitments in the final proposal are captured accurately.
- 4.4 Given the potential budget pressure that the council may inherit in respect of RE services, together with the potential risk of recruitment and retention challenges in key areas during the transition period, it has been agreed that the council will work closely with Capita to manage vacancies and recruitment during the transition period.
- 4.5 It should be noted that the recommendations made in this report represent a significant increase in the number and scale of returning services. The report to Council in January 2022 anticipated the return of four services, with a staffing complement of approximately 160. The proposals in this report take the number of services to be returned to nine, with a total staffing complement of 370. This will significantly increase the planned workload for the Contract Review team and it is anticipated that additional resources will be required to support the process. This will include HR and finance resources, as well as project support.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The recommendations set out in this report are consistent with the council's priorities to return the Planning service in-house and work towards returning other outsourced services. Reducing the number of services provided through the CSG contract will facilitate stronger performance management of those services, thus ensuring that they provide good value for money and high-quality services to residents.

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 £0.500m, 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 were 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 of the Review.
- 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 are being funded by a non-recurrent allocation from the contingency budget, as previously approved by the Policy and Resources Committee.
- 5.2.4 As noted above, it is anticipated that additional resources will now be required to implement the Review outcomes and transition services back to the council. At this point in time, it is expected that these costs will be funded using the balance of the £500k originally allocated, together with an underspend in the Commercial budget. However, if it is identified that this is not sufficient to meet the requirement to ensure a

smooth transition, a further allocation from reserves or contingency will be sought from the Policy and Resources Committee.

5.3 Legal and Constitutional References

5.3.1 Under Article 7 of the Constitution (Committees, Forums, Working Groups and Partnerships) Policy and Resources Committee is responsible for Strategic Partnerships, and the council's major strategic contracts (including the CSG and DRS contracts).

5.3.2 Legal advice continues to 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 Insight

5.4.1 Previous reports have set out the qualitative and quantitative data and information sources that have been used to derive insight during the Review.

5.5 Social Value

5.5.1 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 has been considered as part of the negotiations to extend the contracts.

5.5.2 The Social Value commitments contained in Capita's final proposal were evaluated independently of other parts of the submission and have met the agreed criteria set for the Review. For any agreed extension, Capita have committed to improvements that include (but are not limited to):

- Implementing initiatives that form the basis of a social value charter
- Provide a dedicated social value officer who will be supported by a wider team of social value leads
- Investment in apprenticeships, work experience and mentoring schemes
- Extending the existing programme to recycle laptops to digitally excluded residents (2-300 laptops per annum)
- Work with the Good Things Foundation to offer face to face coaching to increase essential digital skills
- Pro bono consultancy services to develop the council's Green Technology Policy
- Support the continuation of the Barnet Tree Policy which aims to plant 4,500 trees by 2023
- Work with Live Unlimited to, inter alia, offer work placements to Barnet's care leavers
- Deliver free workshops to Barnet SMEs and VCS partners, to cover subjects such as business planning, recruitment, applying for funding and grants, social media marketing, and setting and authoring employee policy

- Use the Social Value Maturity Index (SVMI) to measure Capita and its supply chain against key metrics. This will be re-baselined annually to evidence progress in Social Value maturity across the contract life
- Deliver an online eco-literacy course for staff, both Capita and the council

5.5.3 These Social Value commitments will form part of the Deed of Variation that will be entered into following the Committee's decision.

5.6 Risk Management

5.6.1 Key risks associated with the implementation of the recommendations include:

- Ongoing time and/or resource constraints lead to delays in implementing the Review outcomes
- Relationship with Capita deteriorates during the transition period, leading to poorer service delivery within services that are due to return to the council
- The prospect of change leads to difficulties in recruiting and retaining staff
- Financial modelling assumptions prove to be incorrect, leading to potential budget pressures for the council
- The process of finalising the legal documentation for extensions reveals unexpected errors, omissions or misunderstandings

5.6.2 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. The risk of further delays associated with Covid-19 is now considered to be minimal.

5.7 Equalities and Diversity

5.7.1 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.

5.7.2 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.

5.7.3 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.

5.7.4 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.

5.7.5 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.

5.7.6 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

5.7.7 Where services are being extended, there are no fundamental changes proposed that have an equalities impact for residents or staff. Capita's Social Value proposals contain specific commitments regarding monitoring (and tackling) inequality and supporting diversity and inclusion. For returning services, the development and consideration of Equalities Impact Assessments will be carried out as part of the exit planning process.

5.8 **Corporate Parenting**

5.8.1 There are no corporate parenting implications arising from these recommendations.

5.9 **Consultation and Engagement**

5.9.1 *Public consultation and Best Value Consultation*

As previously reported to the Financial Performance and Contracts Committee, extensive consultation took place through the review of Capita contracts that was reported to Policy and Resources Committee on 17th June 2019. This Review is a continuation of that previous review of Capita contracts and has taken into account the

feedback already provided. Further engagement has taken place through the use of focus groups, the outcome of which was reported to this Committee in October 2021.

5.9.2 *Staff consultation*

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.

5.9.3 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 has progressed. These arrangements will continue during the implementation and transition period.

5.9.4 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.

5.10 **Environmental Impact**

5.10.1 There are no direct environmental implications from agreeing the recommendations. Implementing the recommendations in the report will lead to a positive impact on the Council's carbon and ecology impact, or at least it is neutral.

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 Council, 25th January 2022:
<https://barnet.moderngov.co.uk/documents/s69743/Referral%20from%20Policy%20Resources%20Committee%20Review%20of%20Capita%20Contracts.pdf>
- 6.7 Report to Financial Performance and Contracts Committee, 1st February 2022:
<HTTPS://BARNET.MODERNGOV.CO.UK/DOCUMENTS/B38006/ITEM%207%20-%20REVIEW%20OF%20CAPITA%20CONTRACTS%2001ST-FEB-2022%2019.00%20FINANCIAL%20PERFORMANCE%20AND%20CONTRACTS%200COMMIT.PDF?T=9>
- 6.8 Report to Financial Performance and Contracts Committee, 14th March 2022:
<https://barnet.moderngov.co.uk/documents/s70975/FPC%20Contracts%20Review%20Report.pdf>