

Meeting	Contract Management Overview and Scrutiny Committee
Date	18 June 2013
Subject	Managing the Council’s Major Commercial Partnerships
Report of Summary	Scrutiny Office This report covers the new model for managing the council’s major commercial partnerships and the information that will be reported to this Committee in future

Officer Contributors	Kari Manovitch, Head of Commercial
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	n/a
Function of	Contract Management Overview and Scrutiny Committee
Enclosures	Appendix A – Proposed Format for the Quarterly Corporate Monitoring Report
Contact for Further Information:	Contact for further information: Andrew Charwood: 020 8359 2014, andrew.charwood@barnet.gov.uk

1. RECOMMENDATIONS

- 1.1 That the Committee consider the information in this report and make comments and recommendations as appropriate.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Council, 16 April 2013, (item 4.3) – approved recommendations from the Constitution Ethics and Probity Committee, which included the establishment of a Contract Monitoring Overview and Scrutiny Committee with responsibility for scrutinising the performance of the main externalised contracts
- 2.2 Cabinet, 6 December 2012 (item 5) – approved the New Support & Customer Service Organisation: Recommendation for Preferred and Reserved Bidder and Full Business Case
- 2.3 General Functions Committee, 23 April 2012, (item 6) – approved Re-organisation of the Senior Officer and Council Structures
- 2.4 Cabinet Resources Committee, 4 April 2012 (item 5) - approved the Business Case for a shared legal service with the London Borough of Harrow
- 2.5 Cabinet Resources Committee, 24 May 2011 (item 12) - approved the set up of a local authority trading company (LATC) structure, incorporating Barnet Homes
- 2.6 Cabinet Resources Committee, 16 January 2012 (item 6) - approved transfer of the Housing Needs Service to The Barnet Group
- 2.7 Cabinet Resources Committee 14 December 2011 (Item 5) – approved the recommended Development and Regulatory Services (DRS) shortlist of two bidders for stage 2 of the competitive dialogue process

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Overview and Scrutiny Committees must ensure that the work of Scrutiny is reflective of the Council's priorities.
- 3.2 The three priority outcomes set out in the 2013/16 Corporate Plan are:
- Promote responsible growth, development and success across the borough
 - Support families and individuals that need it – promoting independence, learning and wellbeing
 - Improve the satisfaction of residents and businesses with the London Borough of Barnet as a place to live, work and study
- 3.3 All the commercial partnerships are intended to contribute to one or more of these priorities.

- 3.4 Robust contract monitoring is essential to ensuring that the Council's priorities and policies, as set out in the Council's contracts with its strategic partners, are delivered effectively.

4. RISK MANAGEMENT ISSUES

- 4.1 For each of the Council's major commercial partnerships there are detailed contracts in place setting out rights and responsibilities on both sides, with clear protections and remedies in the event of problems.
- 4.2 Risk monitoring is an essential component of robust contract management. Shared risk logs will be reviewed routinely by the contract managers and be reported to the appropriate partnership governance board. Risks that require escalation will be reported to the Delivery Board, the Lead Commissioner, and the Strategic Commissioning Board and the lead Cabinet Member.
- 4.3 Generic risks for all contract managers to be aware of, mitigated through robust and comprehensive but proportionate controls and contract management practices include:

- Failure to keep to planned transformation milestones with knock on impact on expected benefits
- Failure to meet service levels
- Failure to meet performance targets
- Failure to maintain or improve customer satisfaction
- Failure to maintain business continuity
- Failure to manage change controls leading to higher than predicted costs
- Overcharging by the provider
- Failure to manage contract disputes
- Failure of the contract to maintain competitiveness and value for money over time
- Failure of the partnership to generate innovation and continuous improvement
- Failure of effective risk transfer from the client to the partner

Some causes of these risks include:

- Failure to develop the right relationship with partners based on mutual understanding
- Contracts are not sufficiently understood by those that need to use them
- Contract processes and procedures are not adhered to on either side
- Failure of the client or provider to respond flexibly to resolving problems
- Failure of the client to effectively cooperate with or honour its obligations to the partner
- Failure of the client to provide timely or clear direction and decisions, causing loss of contract benefits
- Excessive input and control by the client

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Each contract places obligations on our partners to support the Council in carrying out its public sector equalities duty. This means having due regard to the need to:

a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

b) advance equality of opportunity between those with a protected characteristic and those without;

c) promote good relations between those with a protected characteristic and those without.

The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation. With respect to a) the 'protected characteristics' also include marriage and civil partnership.

5.2 Effective contract management is vital to ensuring that the Council's duties under the Equality Act 2010 are supported by its partners.

5.3 Equalities will be monitored by collecting data on service usage, customer feedback and specific performance indicators. Where service changes affecting residents or service users are proposed, equalities impact assessments will be undertaken, and where needed, these will include consultation with residents or service users.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 Effective contract management is vital to ensuring that resources are used effectively and that best value is obtained.

6.2 A range of monitoring mechanisms are built into the contracts to ensure that value for money remains under review, including quarterly and annual reporting, and periodic benchmarking exercises.

6.3 This Committee will receive reports on all four major commercial partnerships covering performance, payments, and contract changes.

6.4 The budgets, contract values and savings for the two proposed and two live contracts are shown below.

Contract	Start date	Length	Full contract value	Full contract savings	Per annum contract value	Per annum savings
NCSO	Tbc*	10 yrs	£318.0m	£125.4m	£31.80m	£12.5m
DRS	Tbc*	10 yrs	£154.0m	£39.1m	£15.4m	£3.9m
Barnet Homes	01/04/13	1 yr**	£32.7m	£0.5m	£32.7m	£0.5m
HB Public Law	01/09/12	5 yrs	c.£9.7m***	c.£1m	£1.9m	c.£0.2m

* Subject to the outcome of the Judicial Review appeal hearing

** The original Barnet Homes Management Agreement began in 2004, and a new longer term Management Agreement is being developed to commence in 2014

*** The budget for HB Public Law is reviewed on an annual basis, the contract values are as at 2013/14, the savings are drawn from the business case agreed by CRC in April 2012.

6.5 These contracts will be managed within the existing budgets.

7. LEGAL ISSUES

- 7.1 The management of contracts is governed by the terms and conditions of each contract, and Common Law.
- 7.2 Where legal expertise is required by the Commercial team, this will be sourced in the first instance from the specialist contract law team within HB Public Law. The exception to this would be in the unlikely event that the Council required independent advice with respect to its Inter Authority Agreement with Harrow for HB Public Law itself, where advice would be sourced from an appropriately qualified independent legal advisor.

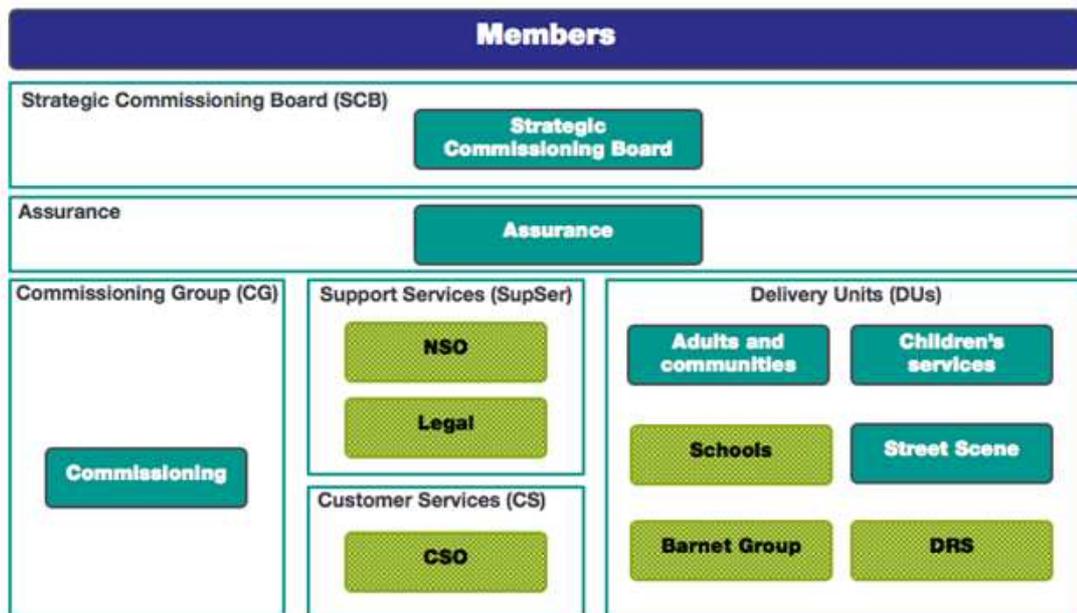
8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 The roles and terms of reference of all scrutiny Committees are contained within Part 2, Article 6 of the Constitution; and in the Overview and Scrutiny Procedure Rules (Part 4 of the Constitution). The Contract Monitoring Overview and Scrutiny Committee is responsible for scrutinising reports from the Commissioning Group detailing the performance against targets that are included within the Corporate Plan and otherwise relating to the services provided by the New Support & Customer Services Organisation, Development & Regulatory Services, The Barnet Group Ltd, HB Public Law and NSL (external Delivery Units/commercial partners).

9. BACKGROUND INFORMATION

New Commissioning Model

- 9.1 The Council's new Commissioning model went live on 1 April 2013, creating a distinction between officers who commission, review and contract manage services (the Commissioning Group), those who deliver services (Delivery Units and major commercial partnerships) and those that provide independent assurance to Members, the Chief Executive and Chief Officers that the organisation is operating properly and effectively (the Assurance Group).



- 9.2 The model has not centralised contract management, but rather, identified a group of four major Delivery Units and four major commercial partnerships that in turn manage their own contractual relationships with third parties. In-house Delivery Units are supported in procurement and contract management by the NSCSO procurement service. The procurement service will also continue its role in ensuring contract compliance and reporting this to the Council, and have KPI and PI targets related to this commitment.
- 9.3 The Commissioning Group has within it a performance team that facilitates performance oversight for the four in-house Delivery Units - Adults & Communities, Family Services, Education & Skills, and Street Scene – and a Commercial function that provides commercial management for the four major commercial partnerships: NSCSO, DRS, Barnet Group (Barnet Homes) and HB Public Law.

Management of commercial partnerships

- 9.4 For 2013-14, new management agreements for Barnet Homes and HB Public Law have been developed, as well as for the in-house DRS Delivery Unit, setting out the objectives for the partnership, the agreed budgets/fees, performance targets and improvement projects. No NSCSO management agreement was developed because of the proximity of the planned date of service transfer to Capita, but the in-house unit will report on the same set of KPIs and PIs that were developed as part of the draft NSCSO contract.
- 9.5 Progress in delivering these management agreements will be monitored by the Commercial function, and will be reported on a quarterly basis to the Council's Delivery Board, and the relevant Lead Commissioner, before being reported to this Committee.
- 9.6 Subject to the outcome of the Judicial Review appeal, the contract management arrangements for NSCSO and DRS will increase in rigour and complexity upon establishment of the new outsourced arrangements.
- 9.7 The contract management arrangements will comprise the following:

Common across all contracts:

- A dedicated contract manager with responsibility for overseeing performance and contract compliance
- A Lead Commissioner with responsibility for developing strategy in line with Members' priorities
- Routine contract management meetings
- Strategy and technical meetings
- Monthly Partnership Operations Board meetings
- Quarterly Strategic Partnership Board meetings
- Quarterly meetings with Lead Commissioners and quarterly reporting by the partners to Delivery Board, and to this Committee
- Quarterly challenge sessions between the lead Cabinet Member and Cabinet Member for Resources and Performance where appropriate
- Monthly, quarterly and annual finance, performance, benefits and milestone reporting
- Issue and risk management and reporting
- Reporting on key policy and compliance areas – equalities; health and safety; complaints; data protection; fraud; conflicts of interest, etc
- Contract variation and change control register
- Open book review process
- Audit process

Specific to NSCSO & DRS:

- New posts to oversee service quality, financial and service performance
- Individual project governance arrangements
- At least three full benchmarking exercises during life of contract
- Two full partnership/outcome reviews (years 3 and 6 for NSCSO, and 4 and 7 for DRS)
- Periodic financial health assessments

Specific to NSCSO:

- Monthly meetings of the four resource boards: Customer & Information Management; Procurement; Capital & Assets; Workforce

Specific to DRS:

- Quarterly Joint Venture Board meetings
- The introduction of an 'Innovations Board' and 'Service Improvement Groups'

9.8 The above arrangements are in addition to the existing quarterly reporting of performance against budget and Corporate Plan targets to Cabinet Resources Committee and the Budget and Performance Overview and Scrutiny Committee.

9.9 The proposed format for the quarterly corporate monitoring report that will be produced for Barnet Group, HB Public Law and the NSCSO and DRS in-house Delivery Units, and therefore the format that can be reported to this Committee, is included as Appendix A for comments.

9.10 The monitoring report formats to be used for NSCSO and DRS partnerships once outsourced (subject to the outcome of the Judicial Review appeal) will be designed to take account of the particular features of these contracts.

- 9.11 Subject to the outcome of the Judicial Review appeal hearing, Capita will be invited to present to this Committee on the long-term strategic vision for the NSCSO and DRS partnerships, and the benefits envisaged for the borough, so that subsequent monitoring reports are seen in the context of this ambition.

Ongoing review

- 9.12 It will be important for the Council to keep contract management arrangements under review to ensure they are proportionate and that the right balance is struck between flexibility for the partnership and appropriate levels of transparency and assurance. There are a number of partnership health self-assessments and external reviews that can be undertaken to help ensure the Council has got the balance right.

10. LIST OF BACKGROUND PAPERS

- 10.1 2013-14 Management Agreements for DRS and Barnet Homes.
- 10.2 Inter Authority Agreement between London Borough of Harrow and London Borough of Barnet Joint Legal Service, 01/09/2012- 31/08/2017

Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	SD