



London Borough of Hackney  
Scrutiny Panel  
Municipal Year 2019/20  
Date of Meeting Monday, 7th October, 2019

Minutes of the proceedings of  
the Scrutiny Panel held at  
Hackney Town Hall, Mare  
Street, London E8 1EA

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<b>Chair</b>	<b>Councillor Margaret Gordon</b>
<b>Councillors in Attendance</b>	<b>Cllr Ben Hayhurst, Cllr Mete Coban, Cllr Sharon Patrick, Cllr Sophie Conway, Cllr Sade Etti, Cllr Polly Billington and Cllr Yvonne Maxwell</b>
<b>Apologies:</b>	
<b>Co-optees</b>	
<b>Officers In Attendance</b>	<b>Bruce Devile (Head of Governance &amp; Business Intelligence), Merle Ferguson (Procurement Standards &amp; Training Manager), Jarlath O'Connell (Overview &amp; Scrutiny Officer), Dawn Cafferty (Strategic Procurement Manager) and Rotimi Ajilore (Head of Procurement)</b>
<b>Other People in Attendance</b>	<b>Councillor Nick Sharman, Councillor Rebecca Rennison (Cabinet Member for Finance and Housing Needs), Judith Davey (CEO The Advocacy Project) and Caroline Pope (Interim CEO Carers First)</b>
<b>Members of the Public</b>	<b>No members of the public</b>
<b>Officer Contact:</b>	<b>Tracey Anderson</b>  0208 3563312  tracey.anderson@hackney.gov.uk

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## Councillor Margaret Gordon in the Chair

- 1 **Apologies for Absence**
  - 1.1 There were no apologies.
- 2 **Urgent Items / Order of Business**
  - 2.1 There were no urgent items.

2.2 The Chair stated that the Director of Communications, Culture and Engagement was ill and unable to attend so item 7 would be postponed to the next meeting.

### 3 Declaration of Interest

3.1 There were no declarations of interest.

### 4 Minutes of the Previous Meeting

4.1 Members gave consideration to the draft minutes of the meeting held on 18 July 2019. Cllr Sharman pointed out that his name was missing from the list of attendees.

<b>RESOLVED:</b>	<b>That the minutes of the meeting held on 18 July be agreed as a correct record subject to the addition of Cllr Sharman as an attendee.</b>
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4.2 On Matters Arising the Chair stated that the Group Director of Finance and Corporate Resources was unable to be present for this meeting so there would not be a regular Finance Update item at the meeting however he would be providing a written update for Members later in the month.

<b>ACTION:</b>	<b>Group Director of Finance and Corporate Resources to include an update on the financial implications of the Council's new Waste Strategy to the next finance update.</b>
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### 5 Annual report on Complaints and Members Enquires

5.1 Members gave consideration to the Annual Report of the Council's Complaints and Members Enquiries service and the Chair welcomed Bruce Devile (**BD**) (Head of Business Intelligence & Member Services) to the meeting.

5.2 BD took members through the report in detail and it was noted that the number of complaints overall was down 9% on last year. Member Enquiries volumes were up however and so the case load had gone up. Complaints on repairs were down 14% and on Adult Social Care by 30% but he noted that in this area they do fluctuate considerably year on year. In terms of the increased volumes housing remained the biggest driver of complaints but this needed to be looked at in the context of Hackney having a very large housing stock and a large number in severe housing need.

5.3 Members asked detailed questions and in the responses the following points were noted:

- (a) Members asked whether there was a service issue which needed to be addressed with the Noise Service in how it balances responding to one-off noise incidents (e.g. a rave/party) vs. ongoing noise disturbance (anti social behaviour). Members also expressed concern that residents were forced to engage with the service online only e.g. at 2.00 am on a weekend when the disturbance was ongoing. BD replied that complaints listed here referred to a failure in the service not specific noise incidents. The bulk of complaints about

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- the service related to ongoing noise rather than parties/nightlife and the phone service was open late on weekends. Many of the complaints involved two neighbours complaining against each other.
- (b) Members asked what proportion of complaints related to Traffic Schemes. BD replied that he did not have this at hand but would provide it.
  - (c) Members asked about outcomes of complaints getting changed over the course of a process and asked for a further breakdown, over the last year, on the number of complaints proceeding to Stage 2 which were then upheld. BD undertook to provide this. He added that every complaint that goes to Stage 2 is investigated afresh and Directors are made aware of the content and the learning to be gained from it.
  - (d) Members commented that the increase in average response times to Member Enquiries from 13 to 18 days since 2014 was an issue as residents very get frustrated by this. BD acknowledged that it was too long and Cllr Kennedy was engaged in some work on how to improve the process. BD added that he had impressed on officers the need for better quality responses and for Members to challenge whether the Members Enquiries process was the right process for the issue being raised. Members asked how it could be streamlined. BD responded that an enquiry might raise 10 issues and some could be resolved more easily through existing systems many of which are online e.g. reporting a broken tap. The issue was whether the services was making the best use of scarce resources as the Members Enquiries system was resource and labour intensive.
  - (e) Members commented that it was often simple things (such as broken taps) which illustrate how a service is performing poorly as residents come to them when they have exhausted all other options. A Member stated that they do enable and empower residents and act as, effectively, a triage system for the Council. BD acknowledged this but added that there were still a proportion of complaints that shouldn't be in the Members Enquiries system and could feasibly come out of it. A Member commented that there were generic questions they regularly use to help reduce the overall volume of repeat complaints but there needed to be a better system.
  - (f) Members expressed a concern regarding the fact that 70% of complaints to the Ombudsman had been upheld and asked whether there was a "lessons learned" document from the outcome of Ombudsmans complaints arguing that the fact that Ombudsman takes on issues is a sign of poor performance. BD clarified that when the Ombudsman agrees with the Council's outcome it is still categorised as 'upheld' . Upheld means that the Ombudsman has agreed something has gone wrong. Members asked why residents then persist with Ombudsmans complaints. BD stated that the complainants will often feel they want more satisfaction. The Ombudsman had provided detail on 19 of the 21 recent upheld cases. Half of these involved haggling over the amount of the financial remedy and some are upheld involving a minimal amount. Members asked for further detail on additional payments and he undertook to provide this. He reassured Members that the number of cases per year which could be considered outliers here was very few. Just 2 cases had gone to public report in the past year and there was very differing legal opinions around those two. He stated that Ombudsmans Report go to Group Directors and Directors and

they make sure learning is cascaded down. Members asked if they could get more detail on why response times to ACS complaints remain so long.

- (g) Chair of Audit Cttee commented that learning and not just reacting was what was needed in relation to Complaints. The key point was what the Service was learning so the amount of feedback they receive is very important. Prioritising quality of response over speediness was sensible. On the issue of response time for Members Enquiries the increased complexity of enquiries pointed to perhaps the need for more resource. There was significant variation between response times and was this going back to managers. He asked whether the Head of Complaints was able to sufficiently monitor whether the response to feedback was happening.
- (h) Cabinet Member for Finance and Housing Needs commented that it might be helpful to the Panel to ask for a briefing note from the Group Directors and Directors on the steps they were taking to respond to the feedback received from the complaints process.

5.4 The Chair thanked the officer for his report and attendance.

<b>ACTION 1</b>	<b>Head of Business Intelligence and Member Services to provide a breakdown of:</b> <b>(a) the percentage and number of complaints which relate to traffic schemes</b> <b>(b) for the most recent period, the number of complaints going to Stage 2 which are then upheld</b> <b>(c) further detail on what additional compensation is being paid arising from Ombudsmans complaints</b> <b>(d) further detail on why the number of days taken to resolve ASC complaints is high</b>
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<b>RESOLVED</b>	<b>1) That the report and discussion be noted</b> <b>2) That the Group Directors be requested to provide for a future meeting of the Panel a background briefing which details the steps they have taken in their service areas to learn from the complaints they have handled over the previous year and to detail how the learning has been cascaded down to frontline staff.</b>
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## 6 Sustainable Procurement Strategy

- 6.1 Members gave consideration to the a report on the implementation of the Council's *Sustainable Procurement Strategy 2018-2022* as well as a copy of the Strategy document, the associated Action Plan and the template document for PRIMAS (Procurement Impact Assessment).
- 6.2 The Chair welcomed for this item: Cllr Rebecca Rennison (**RR**)(Cabinet Member for Finance and Housing Needs), Rotimi Ajilore (**RA**) (Head of Procurement), Dawn Cafferty (**DC**) (Strategic Procurement Manager) and Merle Ferguson (**MF**) (Procurement Strategy and System Lead).

- 6.3 The Chair stated that she had also invited some external guests whose organisations recently had experience of the Council's procurement system and she welcomed: Judith Davey (**JD**) (Chief Executive of The Advocacy Project) and Caroline Pope (**CP**) (Interim Chief Executive of Carers First).
- 6.4 RA took members through the report in detail. He stated that this was the Council's third procurement strategy and the Council had a track record of ensuring best practice in this area. The Strategy had three themes: *Procuring for Green*, *Procuring for Better Society* and *Procuring for Fair Delivery*. The second included how we get local businesses to better engage. He reminded Members that within public procurement they are of course constrained by legislation and national guidance.
- 6.5 The Chair stated that she would divide the questions according to the three themes: Procuring for Green, Procuring for Better Society and Procuring for Fair Delivery.

Members asked detailed questions and in the subsequent discussion the following points were noted:

6.6 *Procuring for Green*

(a) Members asked how national standards affected the local work and how they might be improved. They also asked how satisfactory the metrics currently in use were. They also commented that the more criteria which are put in place by the Council's Procurement Team the more difficult it then becomes for local SMEs and therefore they asked how these ambitions can be balanced against the need to better support local enterprise. RA detailed how he works closely with the Cabinet member with responsibility for Sustainability on how the Council can best replicate national standards locally. The current commitments for example to deliver national standards on the 'procuring green' strand would be a stretch for the Council. RR added that at Cabinet Procurement Committee Cllr Burk was very strict on ensuring that all contracts passed are 'procuring green' and this could range from considering a different type of fleet for the waste services vehicles down to the fuel type being used in all vehicles. With one particular procurement the Council could only source one provider in the whole country who could deliver what was being asked for. She added that while a lot can be achieved locally much still cannot. In those instances they then look at how to break down contracts into constituent parts which might then also give a chance to local suppliers. The invitation to tender is firstly carefully reviewed and then they closely examine all the tenders which come in and 'procuring green' is always at the forefront of their considerations.

(b) Members expressed a concern that national standards were not driving the Council to be as sustainable as it could be and that it was important to consider that national standards are a ceiling and not a floor. They asked whether local metrics are challenging enough for example regarding achieving net zero emissions by 2050. RA replied that within the constraints placed on them they always worked to raise the Council's ambitions on sustainability targets.

(c) Members commented that while Hackney was at the forefront in some areas, such as eliminating single use plastics from estates, on other areas, such as attaining zero tail pipe emissions by 2025, there was a greater

challenge. There needs to be faster progress on installing battery chargers for Electric Vehicles at scale the Members added. They commented that the government had stated that only electric vehicles should be sold by 2040 but this needs to be achieved much earlier. RA responded that even if the ambition on Electric Vehicles was met, unfortunately the market was not sufficiently evolved enough as yet to allow the Council to procure chargers and EVs at scale.

(d) Members asked for clarity on whether there was in effect a 'green document' attached to each procurement area which sets out what currently isn't possible now but could be available in 5 years' time. Does it set out 'how can this procurement process be as green as possible, do the legal processes allow it and what "mind mapping" takes place on looking ahead to what might be possible.

RA explained the all officers now complete a Procurement Impact Assessment on all contracts and they ask what needs to be added from day one and this then feeds into the design of the 'invitation to tender'. RR added that this Procurement Strategy represents a start and ensures that the conversation focuses on green aspects from the outset so for example if the Council is procuring vehicles how can the vehicles have a long life, what fuel should the use, what is the situation re bio-diesel etc. She added that they totally took on board the concerns of Members here that these questions needed to be flipped from the negative and that there needs to be more 'mind mapping' on what is coming downstream and how this might impact on what is procured next.

(e) Members asked how the Procurement Impact Assessment (PRIMAS) on Procuring Green operated in relation to SMEs for contracts of less than £100k. RA acknowledged that the most progress on Procuring Green was obviously being made on contracts larger than £100k but that they made every effort to apply the same criteria to smaller contracts also where it's practical. The team has to work within the resources and time it has available.

#### 6.7 *Procuring for Fair Delivery – case histories from The Advocacy Project and Carers First*

(a) RA and DC took members through the detail of the Procurement for Fair Delivery strand. RA highlighted the work they had been doing to tackle modern slavery by raising awareness of how it relates to procurement processes. There has also been progress on ensuring the workforces have remuneration that allows for proper work-life balance. DC highlighted the work she was doing with HCVS. They had hosted on their website a survey of their members on procurement issues and subsequently a workshop had been held in May where 18 organisations had attended and the Council had received some excellent feedback on delivering social value in their contracting. They had built on this work by organising support sessions on the Council's E-Tendering system. They had also worked on new guidance for commissioners who work regularly with the VCS as well as promoting use of local options for lower value contracts.

(b) Judith Davey (JD) (CE of The Advocacy Project) described their work. They are the lead provider for the Advocacy Service and sub-contract to 7 organisations such as Bikur Cholim, Muslim Community Centre and the

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Vietnamese Mental Health project. They are running a pilot project on Personal Health Budgets with lots of different work being procured. They are very supportive of the Council's work on 'Pathways to Employment' which utilises the lived experience of users. 40% of their staff also have lived experience of the services being supported. She also commended the Council's work on ensuring the London Living Wage is paid by suppliers. In their organisation they pay service users who are Trustees for their service on their board. She widely welcomed the new Sustainable Procurement Strategy but it would be judged on implementation she added. The Procurement for a Better Society was a real strength but the Procurement for Fair Delivery was proving more problematic although it was a thoughtful approach and sought to build capacity. She added that budgets for non-statutory advocacy were diminishing and so this needed to be built into their contract so that can in turn build capacity. She added that they worked across ten boroughs but commended the positive approach of Hackney. They were helping smaller local organisation gain the Advocacy Quality Mark and added that they and the Council were jointly nominated for an award for their work in this area.

(c) In terms of the challenges or difficulties around procurement JD stated that the public needed greater help in accessing the procurement portals. Bid writing was a specialist job and not all organisations have the capacity or funding to do this. 'Payment by Results' was also proving problematic as it was very tough on small organisations. Many would not have the appetite for risk or the cash flow to bid for those contracts and so more work needed to be done here. Another challenge was out of borough provision. They worked with Hackney residents who had been placed in Devon and Darlington for example and the time and expense of traveling to those had proved a burden as they can't recover these travel costs and the volume of out of borough clients had been much higher than anticipated. Another challenge was that when The Advocacy Project took on their Hackney contract, 18 months previously, the previous provider hadn't completed the necessary TUPE processes and this had seriously impacted on their performance during the first three months of their operation. They were asking the Council for financial compensation for this and were awaiting acknowledgement from Complaints Department.

(d) Caroline Pope (CP) (Interim CE of Carers First) described the work of Carers First. She added that they had started delivering their contract the previous week. Although not based in the borough their staff who work here were. She also commented that handling complex TUPE arrangements were proving a major turn off in the sector, especially for smaller charities. When studying an Invitation to Tender and seeing that it would involve complex TUPE issues many small charities were scared off from bidding. Another area of concern was the complexity of the Pre Questionnaire Forms which for many small charities can appear quite intimidating.

6.8 Members asked questions and the following was noted:

(a) Chair of Living in Hackney SC asked what support was given to smaller businesses and also what leverage if any the Council had on ensuring subcontracting was local. She commented that in the case of construction

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companies who are contracted by the Council there was a complex web of sub-contracting and it was often difficult to ascertain where responsibility lay.

RA replied that they run many workshops with local providers and a lot of time is spent supporting them with using the procurement portal. With particular contracts they identify local businesses who could bid and invite them in for discussions and subsequently encourage them to tender. They also encourage the larger suppliers where possible to work with local suppliers and a large proportion of the council spend is spent locally.

- (b) Chair of Skills Economy and Growth SC stated that their workshop with local BME businesses had revealed that many had felt that structural barriers on language and communication remain in terms of securing contracts with the council and he asked how the department reaches out to small businesses who might not have the time to attend workshops and whether they were confident they were using the correct metrics. RA replied that in relation to specialist procurement they work very closely from the outset with the service area. The Head of Service asks them to support them and helps them run it. They then encourage the service area to engage actively with the specific market so there is interactive engagement with possible suppliers at an early point. The Chair of Skills Economy and Growth SC asked whether the department gathered data on what level of experience the bidders might have as there appeared to be no match between what the local BME SMEs told the Commission and the strategic level information in the documents.

RA explained that the language used in contracts had to comply with government guidance on public procurement. There was an opportunity for all suppliers to seek clarification and this was built into the system at a number of points. As regards the metrics used these have been well tested industry wide over the years.

- (c) Members asked why the Council did not make it a requirement for suppliers to recognise trade unions. RR replied that they had sought legal advice on this and the law does not permit it so they cannot push this further. RA added that they state to suppliers that it's an expectation on them that they engage with unions but they cannot compel them.

- (d) Chair of Health in Hackney SC stated that in the local STP area there were moves to increase the use of Payment by Results contracts and asked whether this would impact on the council. He also commented that because of the increased use of out of borough provision contractors were really being set up to fail here, giving the example of providers supporting Looked After Children who had been badly rated by the regulator because of the complexity of out of borough dentistry provision for the children concerned. The out of borough provision had exacerbated the problem. He also asked about whether the volume of paperwork required on small businesses and charities was proportionate.

RA replied that Payment by Results was not a norm in the sector and in any case the contract would be initially be based on the experience of the previous contract. He undertook to look at this area more closely.



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RA replied that helping providers who support out of borough social care clients was a challenge. JD added that many of the clients they work with in this context have no mental capacity and the numbers here are rising. RA stated that he would take this issue back to the colleagues in Adult Social Care.

(e) Chair of CYP SC asked whether the department was drilling down sufficiently on the local employers and what they can offer and in particular local employers so they can better reach young people and in particular groups such as care leavers who are over- represented among the unemployed.

MF replied that the department was working very closely with the local VCS and has asked the sector to help them shape the local provider offer. They had made a commitment to resource this activity and they relied on people on the ground to tell them where they could make a greater difference. They were always open to new ideas. She added that the front end of the procurement process was not as onerous on suppliers as many perceived it and most of the burden was later at the payments end of the process. RA added that on the issue of reaching unemployed young people they would go back and look at their processes to see how this could be addressed within the context of procurement. RR added that they encouraged all suppliers to use Hackney Works and there was a balance to be struck between how much the council could encourage and how much it could prescribe. She added that sustainability of apprenticeships was a particular challenge for SMEs and more needed to be done on this.

(f) Chair of Audit stated that the challenge with procurement was that it was also about supervision and oversight over the longer term. How the Council oversees both external and internal contracts is vital and the current capacity in-house to monitor is not equally strong in every area therefore there was a need to think about front end capacity. There was a need to ensure that there was sufficient capacity for running contracts and that the necessary commercial skills were in place. He stated that his committee had been visited by the Institute for Government and they had stated that Hackney had the best policy for assessing in-sourcing.

RA added that they have expanded contract management training across the whole council there was a mix of two day training to enhance contract management skills and that they are looking to bring in contract management system to give a global view of all contracts so that Directors are then enabled to dig down at the performance data.

### *In-sourcing*

- 6.9 RR introduced this section by stating that in-sourcing was a manifesto commitment. It was easy to make headline commitments but it was then incredibly challenging in terms of where you locate the insourced service so that it remains competitive and sustainable. The Cabinet was currently giving itself time to think through what a transition period might look like. Also the department that commissions a service might not necessarily be the department which would end up managing it. The aim was to have a public facing document which sets out a Hackney Plan for insourcing. It was easy to bring in smaller contracts but bringing in the large ones was very difficult. Another vital consideration was that if the Council just focused on easy pickings

and in-sourced a number of small local services then that might turn off the tap to local communities and small local businesses and this had to be avoided. The plan was to have a workshop for Members on this later in the autumn.

- 6.10 Members commented that a written update on what services had already been brought in would be helpful and that it would be interesting to see the test which was being used. RR stated that this work was still on going. Services could be brought in for a whole variety of reasons but it's not possible just to drag and drop a service into the Council. Services have already been asked to look at insourcing as an option. Some had gone for a mixed model. There was a fantastic example in Housing Repairs, she added, where they had identified a long term direction of travel for this service.
- 6.11 Members asked if there could be more Member engagement on this and if the Panel could have a session with a case study which they could go through. RA replied that the service was in the process of developing guidance and Members could see a draft of this. If a contract was ending within one year the department would examine whether it was viable to bring it in house. On any contract due to end in 12-18 months, the default was now to examine whether it could come in. The Service department then needed to demonstrate why it might be impossible to bring it in. Home Care was a very big and complex contract for example and so was being looked at very closely.

<b>ACTION 2</b>	<b>Head of Procurement to provide examples of how they have worked in the last year with local SMEs to seek delivery of wider sustainability benefits particularly relating to contracts valued at less than £100k.</b>
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<b>ACTION 3</b>	<b>Head of Procurement to share with the Panel Members the DRAFT of the guidance given to Heads of Service on examining the viability of in sourcing which they utilise when assessing contracts that are coming due for renewal within the next 2 years.</b>
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<b>RESOLVED</b>	<b>That the report and discussion be noted.</b>
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## **7 Update on Overview and Scrutiny Communications Support**

7.1 The Chair stated that this item was being postponed as the Director of Communications, Culture and Engagement had given an apology for absence due to illness. She asked if Members would provide her with updated issues which they would like to raise with the Director when this item is considered by the Panel.

<b>ACTION:</b>	<b>O&amp;S Officer to collate list of issues to be raised with the Director of Communications, Culture and Engagement at a future meeting.</b>
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**8 Work Programme 2019/20**

8.1 Members gave consideration to the updated work programme.

<b>ACTION:</b>	<b>To add to the work programme a briefing from Group Directors/Directors on how learning from the Complaints Service are cascaded down within service departments.</b>
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<b>RESOLVED:</b>	<b>That the work programme be noted.</b>
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**9 Any Other Business**

9.1 There was none.

Duration of the meeting: 7.00 - 9.20 pm