

Living in Hackney Scrutiny Commission
Hackney Council
Hackney Town Hall
London, E8 1EA

Reply to: Thomas.thorn@hackney.gov.uk

13th August 2018

Cllr Clayeon McKenzie
Cabinet Member for Housing Services

Dear Cllr McKenzie,

1. Context

As you are aware, the Living in Hackney Scrutiny Commission held a number of items during the last year regarding contracts managed by the Council's Housing Services.

These items saw the Commission receiving regular updates on one specific major contract - that for Specialist Electrical Works with Morgan Sindall - and holding a more general discussion item focusing the benefits, risks and issues with some of our larger partnering housing contracts.

Our investigations have been relevant to the inter-related subjects of procurement, contract management, and divisions between insourced and outsourced services. Given this, the Commission has relayed its findings to the Scrutiny Panel¹. We are aware that there is interest in the Panel feeding into the Council's planned development of a Sustainable Procurement Strategy which we understand will include defining an approach to outsourcing and insourcing of services. The letter in which we have handed over these findings is available [here](#)². We hope that it can be used to help inform the Panel's broader work in this area.

In addition to this there are a number of issues with specific regards to Housing Services which the work identified, and which we wish to follow up with you.

2. Headline findings of investigations

The key points of learning from the Commission's work are those below. The detail and context behind each one of these can be drawn from the findings sections of the [letter mentioned above](#):

- Large, long term partnering contracts have helped facilitate very significant levels of investment in the Council's housing stock.
- Some partnering contracts work very well.

¹ The Scrutiny Panel is the overarching body sitting above the 4 individual Scrutiny Commissions. One of its functions is to explore issues cutting across the remits of more than one Commission.

²http://mginternet.hackney.gov.uk/documents/s61532/Cllr_Patrick_letter_to_Cllr_Gordon_-_evidence_to_input_into_any_review_around_procurement.pdf

- However, the evidence we have gathered points to the vision of large and long term partnering contracts achieving true partnership working having been misguided.
- Quite stark examples of poor behaviour by partnering contractors have been shared with us.
- It is clear that large long term partnering contracts rely on close and intensive management to ensure value for money for residents. Quality assurance and resident feedback mechanisms should be fully separated from the contractor.
- We support Housing Services' efforts to ensure that this is in place. This includes their termination of an external Clerks of Works contract and it now delivering this function in house.
- Clerks of Works perform a vital role in ensuring quality and value for money for the Council through inspection of materials and workmanship. A restructure resulting in a reduction in capacity of the internal Clerks of Works function appeared to put it under considerable strain. We are concerned that reducing service capacity before seeking to expand it may have compounded known difficulties around recruitment and retention to these positions. 5 of the 9 Clerks of Works in place in March 2018 were filled by agency staff.
- Along with Clerks of Works Quantity Surveyors are crucial to effective quality and cost assurance, helping to ensure the Council pays a fair price for work and improving capacity for quality assurance. We support the work of Housing Services to expand its numbers of Quantity Surveyors.
- Future investigations by the Commission will ask for further detail around the stability of the Clerks of Works and Quantity Surveying functions, and around work to better achieve recruitment and retention of permanent staff.
- We note the very challenging labour market. We make the explicit recommendation that the Council's Housing Services puts in all steps necessary to achieve stable and sustainable in-house Clerks of Works and Quantity Surveying functions. Given the range of issues identified in this report we feel this approach would deliver savings, increased quality and better value for money in the longer term. Future scrutiny items should test this hypothesis further.
- We feel there should be further separation of resident feedback channels (via Resident Liaison Officers) from the contractors delivering works. We feel that Housing Services should seek to incorporate the Resident Liaison function internally, resourced via amendments to contract specifications and values. This will better ensure that Resident Liaison Officers are working fully on behalf of and advocating for residents, and that residents have more confidence in the function.

- We support the efforts of Housing Services to tackle aggressive pricing by contractors in the form of under-pricing at tendering stage followed up by over-pricing during the contract's lifecycle. We support work to ensure internal capacity is in place for rigorous checks and scrutiny. Alongside this, we also support work by the Council to adapt procurement processes associated with construction contracts. We heard this was in order to better ensure that information being put forward by contractors at tendering stage was fully and expertly assessed³.
- We feel the issues identified in our evidence gathering give a strong rationale for the manifesto commitment to review external contracts to look to expand in house services, and to work with other Councils to help deliver improvement to the standards and skills in the construction industry.

3. Request to you

We request your attendance at the Living in Hackney Scrutiny Commission on the 13th November 2018. This will be to present and answer questions on your views and responses to the Commission's findings.

To help ensure that the discussion is focused, I have detailed below the specific points which you should be expected to questioned on, and the context of each.

3.1 Your view around the need to achieve sustainable in house Clerks of Works and Quantity Surveying functions and to ensure their effective deployment, and any plans to support this.

The partnering approach to contracting was designed to foster trusting and collaborative relationships between contract providers and their clients. Within these environments, significant amounts of oversight work have been delegated to contractors themselves.

Evidence suggests the vision around partnering contracts to have been idealistic and for closer management and monitoring of these contracts to be required.

In our monitoring of one specific partnering contract we heard about the practice of aggressive pricing in the form of excessive claims for works. However, we heard that these behaviours and others were common in other partnering contracts also, and across the industry generally. Stark examples were given to us where contractors had overcharged for works, proposed to deliver (and to charge for) work which was not required, incorrectly claimed work to be complete, and delivered substandard jobs.

Rather than working truly in partnership with their clients, some partnering contract providers appear to be seeking to take advantage of this approach whilst relying – in the words of a paper submitted to us – ‘on client representatives not looking too closely at the pricing or invoicing’, and on clients not having internal resources to carry out full checks of works.

³ A fuller review might explore this in more detail. We were advised that external consultants would be tasked with carrying out checks on the information put forward by potential contractors. We support work to better ensure accurate submissions of information in order to help tackle aggressive pricing. However, the evidence we have gathered has left us with a view that quality and cost assurance functions around construction contracts should be internalised wherever possible. A fuller review might ask questions around whether this function could be internal to the Council.

The above considered, we support Housing Services' work to bring greater separation between contractors and quality assurance functions. This has included terminating a contract for external delivery of the Clerks of Works function and a move to an in house model.

Clerks of Works are crucial to the quality assurance process. Effectively deployed, they can help ensure value for money for the client rather than the contractor through detailed inspection of the materials and workmanship throughout the building process. We support Housing Services' move to internalise the function. We also support work to improve internal processes so that Clerks of Works are fully involved in quality assuring work prior to payment.

This said, we do have concerns around Housing Services having reduced its Clerks of Works resources to a level which put it under pressure, and from which expansion and greater support was required⁴. We feel that reducing service capacity before seeking to expand it may have compounded known difficulties around recruitment and retention to these positions. 5 of the 9 Clerks of Works in place in March 2018 were filled by agency staff. We would now like to see further progress made towards the delivery of a stable and sustainable Clerks of Works function.

Along with Clerks of Works, Quantity Surveyors play a crucial role in quality and cost assurance in contract management, helping to ensure the Council pays a fair price for work and improving capacity for quality assurance. We heard that Housing Services was expanding its numbers of Quantity Surveyors and we support this. We also appreciate the challenges around recruitment and retention in these positions.

We make the explicit recommendation that the Council's Housing Services puts in all steps necessary to achieve stable and sustainable in-house Clerks of Works and Quantity Surveying functions. Given the range of issues identified in our investigations, we feel this approach would deliver savings, increased quality and better value for money in the longer term.

3.2 Resident liaison functions within contracts - any work by Housing Services to enable the inhouse delivery of resident liaison functions, within both existing partnering contracts and any future large housing contracts.

With resident feedback offering a crucial source through which improvements can be achieved, our findings raised concerns around what we see as an inadequate division of customer feedback channels from the contractors delivering the work. This is in the form of Resident Liaison Officers often being employed by partnering contractors delivering works, rather than the Council. Housing Services appeared to share our concerns around this and had put in steps enabling it to play a greater intermediary role between Resident Liaison

⁴ In November 2017 we were advised numbers had reduced from 12 to 6 following a restructure and that staff remaining were now under pressure. We were advised that the service was seeking to alleviate this by exploring the possibility of recruiting a dedicated post to fulfil record keeping tasks, and by developing a business case to expand the Clerks of Works numbers. This appeared to have been successful as in March 2018 we were advised that the numbers had increased to 9.

Officers and our residents. Officers stated that they would prefer for these functions to be delivered internally. Our letter stated that we supported this and that we would push Housing Services to seek to do so wherever possible.

We would support Housing Services' building of an evidence base to better enable more independent Resident Liaison functions to be delivered within existing partnering contracts. In addition - given the issues highlighted around the limited extent to which partnering has translated into trustful relationships - we see there being room for the Council in any future major contracting to seek to take on greater elements of the Resident Liaison work itself by default, and for this to be reflected in future contract specifications and values.

3.3 Any update on work to tackle issues around underpricing at tender stage

On pricing by contractors, we heard that there were risks of providers under-pricing in order to win contracts before seeking to re-coup shortfalls through aggressive, excessive pricing.

During our monitoring of the Specialist Electrical Services Contract, officers stated that in hindsight some of the prices put forward by the successful bidder had proven to be unrealistically low. We heard that following go live the contractor had been found to have made excessive claims for works.

We support Housing Services' work to better ensure that internal capacity is in place to enable rigorous checks and scrutiny to further tackle incidents of overpricing. This is in relation to the expansion and more effective deployment of the Quantity Surveying and Clerks of Works functions.

In terms of addressing the issue of underpricing in order to win contracts, we were advised that the Council was working to adapt procurement processes associated with construction contracts. We heard this was in order to better ensure that information being put forward by contractors at tendering stage was fully and expertly assessed.

We were advised that external consultants would be tasked with carrying out checks on the information put forward by potential contractors. The evidence we have gathered has left us with a view that quality and cost assurance functions around construction contracts should be internalised wherever possible. A fuller review might ask questions around whether this function could be internal to the Council. However, the Commission is generally supportive of work to better ensure accurate submissions of information in order to help tackle aggressive pricing.

4. Concluding remarks

I would ask you to confirm if are able to attend the Living in Hackney Scrutiny Commission on the 13th November 2018 to discuss the points above. I look forward to hearing from you.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Sharon Patrick". The signature is written in a cursive style with a large, stylized initial 'S'.

Cllr Sharon Patrick
Chair, Living in Hackney Scrutiny Commission