

INTERNAL AUDIT INVESTIGATION REPORT
ANONYMOUS CONTRACTOR ALLEGATIONS
COMMERCIAL SERVICES

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1.0 INTRODUCTION AND SCOPE

Background

- 1.1 Internal Audit received a whistleblowing complaint on 22 August 2005. The complaint was complex in nature and covered a number of separate issues relating to the Commercial Services Directorate. The nature of the issues raised and allegations made in the whistleblowing complaint can be broadly categorised as follows;

<u>Nature of Concern</u>	<u>Investigated By Internal Audit</u>
Irregularities in appointing staff	Yes
Irregularities in the appointment and use of sub-contractors and a failure to follow proper Council procedures	Yes
Failures of supervision and irregularities in the payment of sub-contractors	Yes
The future of Commercial Services	No
Management practices	No
Management style	No

The investigation into the complaints made was limited to the consideration of financial and probity issues as these fall within the responsibility of the Internal Audit Service. The whistleblower was informed of this at the time and advised to raise any other issues through other formal Council complaints processes, their managers and/ or via their union representatives.

This report addresses the specific concerns relating to the appointment, use and supervision of sub-contractors. The concerns relating to the recruitment of staff within Commercial Services are addressed in a separate report.

Specific Concerns Addressed in this Report

- 1.2 The whistleblower's main allegations were that;
- following the appointment of two new managers in March 2005 work was awarded unnecessarily to sub-contractors, particularly a company based in Barnsley when the work could have been

undertaken by the in-house workforce, who had both the capacity and expertise to do the work. It is alleged that when challenged about the appointment of sub-contractors from Barnsley, one of the managers had said that there was no one available in York who could undertake the work;

- another manager in Commercial Services was related to someone who worked for the company concerned;
- the arrangement did not represent value for money because the rates being charged were higher than the cost which would have been incurred had the work been done in-house;
- that vehicles hired by the Council were being used by the sub-contractors and had been taken back to Barnsley outside work hours;
- the quality of the work undertaken by the sub-contractor was poor and the in-house team had to spend time rectifying it;
- concerns were also raised about the volume of work that was being passed to a roofing contractor based in Castleford. No specific allegations were however made about the use of this company.

Objectives and Scope

1.3 The objectives of the audit investigation were to;

- identify the value of work awarded to the two sub-contractors;
- ensure that the Council's Financial Regulations and procurement procedures had been complied with in the appointment of the two sub-contractors;
- identify any evidence of financial irregularities and make recommendations to management about any possible criminal proceedings or disciplinary action;
- identify any weaknesses in controls and their application;

1.4 The investigation involved the review of relevant information on;

- Financial Management System (FMS), and
- Servitor (Job Control System)

Interviews were also held with relevant managers and supervisors within Commercial Services. A sample of 17 jobs carried out by the sub-contractor were inspected to check and verify work undertaken as part of this audit.

Timing of the Audit

- 1.5 The investigation was undertaken between September and November 2005
- 1.6 A draft version of this report was issued on 6 January 2006 to senior managers in Commercial Services for their comment and formal response.

2.0 FINDINGS

Background

- 2.1 Commercial Services (CSO) is the trading arm of the Council, providing direct services to residents, client departments and external customers. CSO deliver a large range of services which include building maintenance, civil engineering, cleaning, grounds maintenance, refuse collection, and street cleaning. The CSO has two operational divisions, Construction and Services. The Construction division includes the Building Repairs and Maintenance and Civil Engineering departments.
- 2.2 The Building Department is experiencing a period of significant service change, with for example, the commencement of the Housing Partnering Agreement in July 2005. New working practices are also being introduced, including a move towards multi skilled working.
- 2.3 The Building Repairs and Maintenance department has also seen the appointment of a new management team in the last 12 months and the introduction of a pilot remuneration scheme to replace the existing staff bonus system.

Building Repairs and Maintenance Department

- 2.4 The supervisors within the Building Repairs and Maintenance department are responsible for day to day work activities. They issue job tickets, check on work done and supervise staff and contractors. Where appropriate the supervisors also authorise the payment of invoices to suppliers and sub-contractors.
- 2.5 The Council's Financial Regulations determine the value of works, goods and/or services for which it is necessary to obtain written quotations or tenders. For work expected to cost more than £3,000 but less than £20,000 then at least three written quotations should be obtained. Where the value of work is expected to exceed £20,000 but will be below £100,000 then at least three written quotations should be obtained from suppliers capable of executing the work. Where the value of work is expected to exceed £100,000 then at least three written tenders should be obtained. Waivers from Financial Regulations can be granted by the Director of Resources where he or she is satisfied that such a waiver is justified by special circumstances.
- 2.6 The Financial Regulations also require contracts for building and engineering work that exceed £50,000 to be evidenced by a formal document signed (or sealed) by or on behalf of both parties.
- 2.7 The Council's Financial Regulations permit departments to maintain

standing select lists of suppliers who are able to provide quotations and/or tenders. The Regulations specify how these lists are to be maintained and operated.

- 2.8 Historically, Commercial Services has employed sub-contractors, temporary or agency workers, to complete outstanding works. In May 2005, managers collectively took the decision to initially sub-contract some housing association jobs in Selby. This was felt to be necessary because of a large backlog of work in progress on Servitor. At the time there were approximately 9,500 outstanding jobs recorded on the system.
- 2.9 The Department's managers explained that the Council could not identify any local general building maintenance sub-contractors who were suitably qualified and had the capacity to undertake the required work. It was further stated that the supervisors had tried unsuccessfully for over a year to recruit new sub-contractors from the local area. There were also no appropriate sub-contractors on the Commercial Services select list.
- 2.10 The Department's managers had previous experience of a company based in Barnsley. The company was a general building maintenance contractor, which their previous employer had used. Their previous experience of the company was good. It was stated that the company also undertook work for other local authorities and represented good value for money. One of the supervisors was instructed to contact the company to arrange an introductory meeting, with a view to awarding them some housing association work.
- 2.11 A meeting with the company was arranged for 25 May 2005, which a number of managers and a supervisor attended. The company was requested to provide details of company registration, health and safety (CHAS) registration, insurance details and environmental management statement. These were all subsequently received and retained.
- 2.12 Following the meeting it was agreed to use the company for two small housing association jobs in the Selby area subject to the costs being agreed with the client. There are however no records to confirm this decision. The auditors were informed that the department had been unable to do this kind of housing association job in the past due to limited resources. The intention was however to develop the business and so it was decided to accept the additional work from the Housing Association but to use sub-contractors to complete it.
- 2.13 The managers stated that one of the reasons for choosing the company was that it was recorded on the national Contractors Health and Safety (CHAS) list as an accredited contractor. Following the initial meeting, the company's registration was checked. Although the auditors confirmed that the company had a current CHAS registration no record exists of the check having been carried out by CSO staff.

Work Carried Out for the Company

- 2.14 The company was initially sub-contracted to undertake two small void housing repair jobs in the Selby area, on behalf of a Housing Association. The jobs were undertaken for a fixed price. The total cost of the work was £21,070 (including agreed extras). The work was inspected by a supervisor and found to be satisfactory (although the inspection was not documented or recorded). No written quotations or tenders were available for either of these two jobs.
- 2.15 Following this the decision was then taken to award the company some fencing work that was overdue. This initial fencing work was also apparently inspected by a supervisor and found to be satisfactory (although the inspection was also not documented or recorded).
- 2.16 With the agreement of Council managers, further jobs were then given to the company by the supervisors. Although the supervisors were not specifically instructed to use the company they were being encouraged to clear the backlog of work in the department. The supervisors therefore believed that they were justified in maximising the amount of work being given to the company.
- 2.17 Although the total value of the work exceeded the relevant thresholds in the Financial Regulations, written quotations were not obtained. Nor was a waiver from Financial Regulations requested. The relevant manager stated that he was aware of the need to obtain written quotations but on this occasion he considered that there was insufficient time to go through the process. He considered that it was more important to clear the backlog of work. The other managers stated that they knew of the requirement to obtain quotations but were not fully aware of the Council's Financial Regulations.
- 2.18 It was noted by a supervisor that the men employed on the initial jobs by the company were not the same as those used later on. No further inspections were carried out to verify that the standard of work was being maintained.
- 2.19 The total number of jobs awarded to the company is estimated to be approximately 130. No record of the job tickets issued was however maintained. The total cost of the work undertaken is approximately £67k (including the original two housing association jobs).
- 2.20 The auditors have examined the status of the work undertaken so as to determine whether the original decision to award the company work was justified. It has been found that there was a backlog of work in progress on Servitor in May 2005 and the CSO was actively attempting to reduce this at the time. However, the backlog included jobs at varying stages and included work that had been completed but the relevant paperwork (job tickets, invoices etc) had not been processed. The auditors are satisfied that there was a genuine backlog of works orders relating to roofing repairs. A sample of 35 fencing jobs recorded on Servitor were checked. Although

the majority of these jobs were only raised on Servitor in April and May, Commercial Services had received a large number of orders for fencing work from the Housing Department in January and February 2005. It is understood that these jobs had been held back by Housing due to budget constraints and were already overdue. There was insufficient capacity to undertake all this work in-house and therefore the decision to employ sub-contractors appears reasonable. Nonetheless, it is clear that a waiver from financial regulations should have been sought before appointing the sub-contractor if managers felt they would not be able to comply with the Council's financial regulations for any valid reason.

Supervision and Checking

- 2.21 There was no formal written agreement or contract between the Council and the company. The company was generally paid a standard hourly rate of £57.50 (for two men and transport) and not a fixed amount per job. The hourly rate on some invoices varied slightly but for no obvious reason. The number of hours work which the company would undertake on behalf of the Council was not agreed. There was also apparently no agreement about charging for inclement weather, travelling time, and the time taken for purchasing supplies or going to the tip. The company has however charged for all these items.
- 2.22 At the initial meeting with the company's representative the Council's managers stated that they would monitor the quality and costs of work carried out. The comparison would be against the in-house standards and costs. At the time of the investigation this had not been done. Similarly, it was found that there had been no ongoing monitoring of the works in progress or inspection of completed jobs following the initial inspections.
- 2.23 The hourly rates charged by the company, together with comparable in-house costs are as follows;

	<u>External</u>	<u>In-house</u>	<u>% Variance</u>
2 tradesmen and vehicle -	£57.50	£52.68	+9.2%
1 tradesman and vehicle -	£46.50	£26.34	+76.5%

Although comparable rates from other external contractors are not known, the cost of using the sub-contractor was higher than the equivalent in-house rate. Without other external rates it is not possible to determine whether the arrangement represented value for money.

Invoice Authorisation

- 2.24 A total of 18 invoices have been received from the company since they started to undertake work on behalf of the Council. Each invoice was found to have been checked by CSO's Finance and Administration department (with the goods received box being completed on the coding block) before being passed to the Building Repairs and Maintenance department for

authorisation.

2.25 The current invoice authorisation limits within the CSO are, as follows;

Managers	£10,000
Supervisors	£1,000
Admin Assistant	£500

2.26 The two void jobs carried out initially were authorised by the supervisor responsible for ordering the work. The majority of the other invoices received (16 in total) were authorised by either the administration assistant and/or a manager. One of the invoices was signed despite the value exceeding the relevant authorisation limit. All the invoices were also signed without any checks being carried out as to the quality of the work or indeed to confirm that the work had been completed.

2.27 The invoices list the jobs to which they relate but do not provide any details of the actual work done. Some entries refer to job numbers whilst others quote addresses. No dates are given and so it is not clear when an inspection or work has been carried out.

2.28 The company was supposed to attach the relevant CSO job tickets to their invoices. However, it was found that the job tickets were not completed to show the actual work undertaken, and in some instances were not included as supporting documentation with the relevant invoices. The company has instead been attaching a note to the front of the job ticket detailing the work done. However, these notes are vague and cannot be used to confirm the detail of work undertaken. Where no job ticket has been included with the invoice the number of hours charged to the job cannot be verified.

Quality of Sub-Contracted Work

2.29 In order to confirm that invoiced jobs had been undertaken and the work was to a satisfactory standard, the auditors carried out a sample of inspections (with the assistance of a member of staff from CSO). Jobs selected for inspection were taken from the latest batch of invoices to be passed for payment. Job tickets were grouped geographically and the inspections carried out as time and tenants' availability allowed. In total 17 jobs were inspected.

2.30 During the inspection process the member of staff from CSO was asked to estimate the cost of each job as detailed on the relevant job ticket (in terms of materials and hours). The estimate was then compared with the actual time spent and the cost invoiced by the company. The quality of the work done was also checked.

2.31 For the jobs inspected, the cost invoiced by the company exceeded the in-house estimate in most cases. Two jobs had been invoiced but there was no evidence of any work having been done. It is estimated that the Council may have been overcharged approximately £1,500 on work totalling

approximately £5,700. If the error rate identified in the sample is typical across all of the fencing works undertaken by the company, then the total amount overcharged may be approximately £12k.

- 2.32 The quality of the work inspected was also found to be generally poor, although this may in part be due to the time which elapsed between the work being done and the inspection. Examples include two jobs where there was no tension on the chain link fencing used and the fences had already started to sag. A number of other jobs were actually incomplete and the tenants were still waiting for gates to be re-fixed. Photographs were taken as a record of the works completed at the time of the inspection.

Work Done by Roofing Contractor

- 2.33 The Council has used the other company to undertake roofing work since 1999, about which a further set of allegations have been made. The company is used predominately by Housing (Community Services) and Property Services (Resources).
- 2.34 During the current financial year, Commercial Services has also started to use the company to undertake backlog and housing partnership jobs. At the time of the investigation work totalling £68,433.77 had been undertaken by the company.
- 2.35 As previously noted, the work sub-contracted to various companies by Commercial Services has not been subject to a proper procurement exercise, despite the value of work exceeding the threshold for quotations. There is also no written contract between the Council and the company. This is a breach of Financial Regulations. However, there is no evidence to suggest any other improper conduct. The company has been used by other departments in the Council for a number of years and appears to be suitably experienced and qualified to undertake the required work. Commercial Services had a backlog of work in this area and therefore it was felt reasonable to employ sub-contractors. Again however, this does not mean that they should not have complied with procurement rules or sought a waiver from regulations if there were valid reasons why they could not comply with them in this instance.

Other Issues

- 2.36 All the managers and supervisors within Building Repairs and Maintenance were asked if they had any pecuniary or non-pecuniary interests in any sub-contractor employed by the Council.
- 2.37 All the managers understood the question and they all confirmed that they had no interest in any sub-contractor. The supervisors were however unsure about the issue and had never been asked to identify or record any such interests. They confirmed that they had no interests. During the investigation the auditors have found no evidence to suggest any improper relationship between any employee of the Council and the two sub-

contractors. In addition, the whistleblower has provided no further information to substantiate the original allegation.

- 2.38 One of the original allegations raised by the whistleblower was that the sub-contractors from Barnsley were being provided with vans by the Council and these were being taken home outside work hours. It has been found that the company from Barnsley supplied their own vehicles. CSO staff are however permitted to take vans home at the end of each day, although this practice has been questioned by Internal Audit in the past.

3.0 CONCLUSIONS

Concerns Raised by the Whistleblower

- 3.1 The investigation has concluded the following in respect of each of the specific allegations made by the whistleblower (as set out in paragraph 1.2 of this report);

Allegation

Conclusion

Appointment of sub-contractors despite there being capacity to do the work in-house.

Not proven. The CSO had a backlog of orders for both roofing and fencing works. There was insufficient capacity within house to undertake all this work and therefore the decision to employ sub-contractors was justified.

Corrupt practice by manager relating to undeclared relationship with the company from Barnsley.

Not proven. The investigation has found no evidence of any relationship between any manager and the company from Barnsley.

The use of sub-contractor did not represent value for money.

Evidence of some poor practice, control weaknesses and cause for management concern. Written quotations were not obtained before appointing either sub-contractor, as required by the Council's Financial Regulations. It is therefore not possible to confirm whether the appointment of either company represented value for money. The CSO are currently undertaking a review of all the work undertaken to determine whether the amounts invoiced by the company from Barnsley are reasonable.

Managers in the CSO are also reviewing the work done and considering what action is now needed to remedy any faults and ensure proper practices and procedures are observed in future. Their findings will be reported to the Executive Member for Commercial Services shortly.

Vehicles hired by the Council were being used by the sub-contractor. Not proven. The sub-contractor from Barnsley was not supplied with vehicles by the Council but instead provided its own.

Poor quality work by the sub-contractor. Evidence of some poor practice, control weaknesses and cause for management concern. The investigation has found concerns with the quality of some of the work undertaken by the sub-contractor from Barnsley. As noted above, a review is in progress to determine the full extent of any problems. The findings of the review will be reported to the Executive Member for Commercial Services shortly.

Control weaknesses and other concerns identified by the audit

- 3.2 The investigation has found breaches of the Council's Financial Regulations by managers within the Building Repairs and Maintenance department that could have serious consequences for the Council. The investigation has also found inadequate arrangements for the supervision and checking of work performed by sub-contractors and in paying for that work.
- 3.3 Written quotations were not obtained before appointing either sub-contractor, as required by the Council's Financial Regulations. There is also no written agreement or contract with either company.
- 3.4 There is no written record to support the decision to appoint the company from Barnsley, and there is a general absence of appropriate documentation to support the action taken. The decision to employ the company from Barnsley appears to have been based purely on previous knowledge. The decision to employ the other sub-contractor appears to have been based on the fact that other Council departments already used the company.
- 3.5 Invoices received from the Barnsley company were not properly checked before authorisation. Job tickets were not completed and the notes provided by the company detailing the actual work done, were vague. In addition, there was no standard format for invoices, some of which identified job numbers but others only the address of the property.
- 3.6 The quality of work done by the company has been poor. There is also evidence that the Council has been charged for work not done or completed. However, managers and supervisors have failed to adequately check on the work done.
- 3.7 Although the CSO maintains a register of staff interests, managers and supervisors have not previously been required to declare interests in

contracts. Awareness of the issues involved also appeared to be patchy.

4.0 RECOMMENDATIONS

- 4.1 Commercial Services should undertake a full exercise to identify all current supplies and services which are expected to exceed the thresholds set in the Council's Financial Regulations. An appropriate procurement exercise (or request for a waiver) should be completed for all identified expenditure, including sub-contracted work, without delay.

Management Response

A procurement exercise was undertaken during 2003/04 which identified areas of spend that exceeded standing order limits. Most of these areas were tendered but this process was suspended in 2005 due to the requirement to prepare the department for the partnering arrangements with Community Services. A full review of the whole department using systems analysis is currently in process with a new structure due to be introduced early this year. This includes a full review of all systems and procedures including purchasing and sub-contracting arrangements with a view to tightening up on the issues highlighted in the report.

- 4.2 Sub-contractors should not be appointed until written confirmation has been obtained of their suitability to undertake the work (including references and assurance of health and safety processes).

Management Response

Accepted. This will be done as part of the review now taking place.

- 4.3 Written contracts should be prepared for work awarded to sub-contractors where the value of the work is expected to exceed £50,000.

Management Response

Accepted. See above.

- 4.4 Commercial Services should undertake a full inspection of the work performed by the company from Barnsley with a view to recovering any overpayment.

Management Response

The work will be inspected and any deficiencies due to the contractor will be put right at the contractors expense.

- 4.5 Completed job tickets submitted by sub-contractors should be properly checked by supervisors. Errors or omissions should be investigated.

Management Response

The issue of post inspection of all work is covered in the review taking place. It will not be viable to inspect all work but as part of our new quality assurance work a sample of work on site will be inspected across all work areas.

- 4.6 Inspections should be carried out on work undertaken (on a reasonable sample basis or in accordance with an appropriate quality assurance scheme). Details of inspections should be recorded and retained within the department.

Management Response

Same response as 4.5.

- 4.7 Invoices should only be authorised once the relevant officer is satisfied that the work has been carried out, and to a satisfactory standard (in accordance with the appropriate quality control arrangements).

Management Response

Same response as 4.5.

- 4.8 Written records should be retained of meetings with sub-contractors so as to avoid the potential for future disputes.

Management Response

Accepted. Part of overall review.

- 4.9 A review of the current works ordering process on Servitor from end to end should be undertaken so as to ensure that records of work ordered and/or outstanding invoices are accurate, are properly matched to job tickets and all payments are properly authorised before being processed.

Management Response

Included in current service review.

- 4.10 A full and complete register of staff interests should be prepared and maintained by Commercial Services.

Management Response

Accepted.

- 4.11 Commercial Services (in consultation with Resources department staff) should undertake a review of the practice allowing staff to take Council vehicles home. The review should consider all implications of the practice

including operational and tax/NI issues.

Management Response

This is the accepted practise in the industry. It is not practical to store all the vans at Foss Islands for security reasons and lack of parking space. The current arrangement allows staff to go straight to their first job. All the current arrangements are in the full knowledge of the tax authorities.

- 4.12 Senior Managers in Commercial services should consider what action is needed in respect of the managers and staff involved further to findings of the audit and respond accordingly.

Management Response

As part of the review of the department the issues highlighted by the audit will be addressed. The majority of the management/procedural issues have been problematic for many years.