

Procurement Issues

City of York Council – year ended 31 March 2016

February 2017



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01 Executive summary

Background to this issue

We received an objection to the 2015/16 accounts from a local elector.

A number of issues were raised, some of which did not meet the criteria for a valid objection. We can only consider an objection to specific items of account (which means financial entries in the accounts) in the relevant year, in this case 2015/16.

Two of the points identified did relate to specific items of account and we therefore considered them as a valid objection:

- the procurement process in relation to a corporate spending review by a major accountancy firm (£18,000 plus recoverable VAT was paid for this work in 2015/16); and
- the procurement process in relation to payments to a local supplier for consultancy work (£56,000 plus recoverable VAT was paid for this work in 2015/16, with additional payments made in other financial years).

The objector did not ask that we consider an application to the Courts that an item of account is contrary to law, but did ask whether we would be issuing a public interest report in response to the objection. This report sets out our findings in relation to issues raised in the objection, and our conclusions on the action required.

We considered the issues raised in the objection under the Local Audit and Accountability Act 2014, the Code of Audit Practice and related guidance issued to auditors by the National Audit Office.

Work undertaken and key findings

We considered the two procurements raised in the objection, received representations from officers and discussed the issues raised in relation to payments to a local supplier for consultancy work with the Council's internal auditors, Veritau.

Our findings were that the Council could properly support the procurement processes in relation to the corporate spending review by a major accountancy firm, but was unable to provide any evidence to support the procurement processes in relation to the payments made to a local supplier for consultancy work. This was because the officer who led this procurement did not retain any relevant records and has now left the employment of the Council.

Consequently, Veritau agreed with the Director of Customer and Corporate Services (CCS) to undertake a detailed review into the issues that arose from this procurement. To minimise the costs of our work to the Council, we did not seek to duplicate work undertaken by Veritau. We reviewed the detailed investigation report produced by Veritau and based on our discussions and our review of their report, we are satisfied that Veritau have carried out a comprehensive review and reached reasonable conclusions based on the evidence available. Their report identifies a significant number of breaches of Financial Regulations and Contract Procedure Rules in relation to the procurement processes surrounding the commissioning of this particular local supplier for consultancy work and notes that these issues had already been identified by the Council and actions were in progress prior to the commencement of the Veritau review.

Our view is that the matters arising from this review are serious and robust action is necessary to prevent a recurrence of these failings. We also note the findings set out in the internal audit report on sub-contracting arrangements in civil engineering and building maintenance presented by Veritau to the Audit and Governance Committee on 28 September 2016. Whilst focused on an unrelated service area, the report identified examples of

missing and incomplete contract documentation for subcontractors. In our view, this indicates that a strengthening of council-wide arrangements in this area is required.

Management has begun to strengthen the arrangements in place and the Veritau report includes details of the actions that had already been agreed by management and which will require follow up.

We understand that Veritau will be presenting a summary of their work and details of progress to date on the agreed action plan to the Audit and Governance Committee and in our view it is appropriate for the Committee to consider the findings and conclusions from the review and agree an appropriate way forward.

Conclusions

Our conclusion is that the objector has raised some valid concerns around the procurement processes in the case of the payments to the local supplier for consultancy work. These payments amounted to some £56,000 plus recoverable VAT in the 2015/16 financial year. We note that over a longer period, the payments totalled £174,459 plus recoverable VAT.

In this instance we do not intend to issue a report in the public interest. The principal reason for this is that we have concluded that processes are in place, through the detailed investigation by Veritau and the planned reporting to the Audit and Governance Committee, to address any issues arising from this case. The Veritau report notes that the Council had already agreed and begun to deliver a comprehensive range of actions to address the issues arising and we have no additional recommendations to make. Veritau will follow up on the implementation of these actions in their future audit programme.

We have issued this report as a normal audit report to summarise our findings. We intend to present this report at the same meeting of the Audit and Governance Committee that will receive Veritau's summary report, and the findings will consequently be in the public domain.

02 Detailed considerations

Procurement processes in relation to the corporate spending review

The objection related to work commissioned by the then Chief Executive to carry out a corporate spending review. The value of the work was £18,000 plus recoverable VAT.

The Council provided us with the following evidence supporting the procurement and payment for this work:

- a 'Corporate Spending Review – Request for Quotation' document, setting out the procurement process to be followed, dated January 2015;
- copies of the proposals submitted by three bidders (four firms were invited to quote, but only three responded);
- a summary of the bids and an evaluation of the bids received; this confirmed that the accountancy firm awarded the work had the highest score on an assessment of quality and price; the firm awarded the work were also the lowest price of the three proposals received;
- a copy of the signed contract dated 7 April 2015;
- a copy of a draft report as the outcome of the review; we understand that following the departure of the then Chief Executive the new Interim Chief Executive chose not to pursue this review further; and
- an invoice dated 22 May 2015, which was paid in 2015/16 and hence included in the 2015/16 accounts.

We are satisfied that the procurement process was appropriate and in accordance with the Council's Contract Procedure Rules. There is sufficient evidence to show that the work was awarded to the winning bidder following a proper procurement and evaluation process.

Procurement processes in relation to payments to a local supplier for consultancy work

The objection related to work commissioned through a senior manager (a senior officer who has now left the Council). It was commissioned over a number of years from a local consultant as several smaller packages of work, but the amount was significant over a 4 year period. Work was awarded to the consultant as an individual and later to a company that had been established where the consultant was Managing Director. The work was for marketing and communications support for the Council and for a number of packages of related work.

We were provided with an analysis of payments as follows:

Payments to the consultant in their individual capacity:

2013/14	£33,200
2014/15	£34,054
	—————
Total	£67,254

Payments to the company where the consultant was Managing Director:

2014/15	£40,805	
2015/16	£56,600	
2016/17	£9,400	
		—————
Total	£106,805	(all amounts net of VAT recovered)

In terms of the objection, we can only consider the payments in the year of account, which were £56,600 for the 2015/16 financial year.

However, we sought a response from the Council in relation to the totality of the work so that we could understand the wider context of this work and any issues arising from it.

The Council's response

We were provided with invoices supporting the payments, but the Council explained that it was unable to provide the relevant documentation for the procurement exercise. This was because the officer who led this procurement did not retain any relevant records and has now left the employment of the Council. It was reported that management had subsequently spoken to both the former employee and the supplier, and that verbal assurances had been received of the processes that were followed.

There was a recognition that this was not a satisfactory situation and we were provided with the following explanation of the way the issues arising had been handled and the steps that were being considered:

“The Council acknowledges that these contracts were not recorded on its contract register and therefore this was recorded as a breach of the Contract Procedure Rules and reported to the CBSS management team (who receive any breach details) in May 2016. As the relevant work had been completed by this time, and no further work was planned with this supplier, and the officer had left the Council, it was agreed that no specific action was possible on this occasion, but that the following should be considered:

- *A further council wide training programme should be provided to ensure all officers are reminded of their responsibilities in relation to procurement*
- *A review of spending authority levels of individual officers should be undertaken*

In addition following the various requests for information both under the inspection of the accounts and other queries that have been raised through the Freedom of Information Act, we recognise that there are some areas where improvements can be made. Therefore during 2016/17 further work will be undertaken by both the legal and procurement teams to:

- *Support managers to improve the recording and retention of supporting documentation, including quotes received*
- *Ensure electronic copies of final contracts are held in a shared location, in order to prevent problems occurring when individual officers leave the authority.”*

The actions set out in this response have been further developed by management and form the basis of the action plan included within the Veritau report.

Work by the Council's internal audit supplier, Veritau

We discussed this particular procurement with Veritau. Veritau explained that they were carrying out an ongoing investigation into the issues raised, as requested by the Director of CCS following the initial identification and reporting of the breach by CYC officers. We did not seek to duplicate work that had been or was being undertaken by Veritau. Veritau have subsequently shared their detailed report with us.

We reviewed the report produced by Veritau and based on our discussions and our review of their report, we are satisfied that Veritau have carried out a comprehensive review and reached reasonable conclusions based on the evidence available. Their report identifies a significant number of breaches of Financial Regulations and Contract Procedure Rules in relation to the procurement processes surrounding the commissioning of this particular local supplier for consultancy work:

- There was no evidence of a quotation exercise for any of the work;
- There was no contract in place for any of the work;
- The work was not recorded on the contracts register;
- No documentation was retained for the procurement of any of the work;
- There was no recorded consideration of whether there was an internal service provider, existing contract, or approved framework agreement that could have been used to procure any of this work;
- There was a lack of formal contract monitoring for any of the work; and
- The final payment made in relation to the work was paid in advance of the work being completed.

Our conclusions

The Council's Financial Regulations and Contract Procedure Rules are a significant element of the Council's systems of internal control and corporate governance arrangements. They are designed to ensure that the Council conducts its financial affairs properly, and among other things, adherence to these procedures serves to protect the Council, its officers and its contractors and suppliers against charges of impropriety, fraud and corruption.

In the case of the particular procurement of consultancy services from a local supplier, there was a failure to maintain any records for the procurement process over a protracted period by the relevant officer.

The Council has been exposed to allegations of fraud and corruption on this matter. Even though such allegations may be unfounded (and we are not aware of evidence to support them), the Council is unable to fully defend its position because of the lack of supporting records. As well as breaching the Council's rules, this is potentially damaging to the Council's reputation.

Our view is that the matters arising from this review are serious and robust action is necessary to prevent a recurrence of these failings.

Management has begun to strengthen the arrangements in place and the Veritau report includes a comprehensive action plan which will require follow up.

We understand that Veritau will be presenting a summary of their work and a copy of the agreed action plan to the Audit and Governance Committee and our view is that it is appropriate for the Committee to consider the findings and conclusions from the review and agree an appropriate way forward.

Should you require any further information on this letter or on any other aspects of our work, please contact:

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