

Notice of meeting of

Executive Member For Neighbourhoods and Advisory Panel

То:	Councillors Lancelott (Chair), Hall, Potter, Waller (Executive Member) and B Watson
Date:	Wednesday, 26 July 2006
Time:	4.30 pm
Venue:	The Guildhall

<u>AGENDA</u>

Notice to Members - Calling In:

Members are reminded that, should they wish to call in any item on this agenda, notice must be given to Democracy Support Group by:

10:00 am on Tuesday 25 July 2006, if an item is called in *before* a decision is taken, *or*

4:00 pm on Friday, 28 July, if an item is called in *after* a decision has been taken.

Items called in will be considered by the Scrutiny Management Committee.

1. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Minutes

(Pages 1 - 8)





To approve and sign the minutes of the Executive Member for Neighbourhoods and Advisory Panel meeting held on 8 June 2006.

3. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Panel's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is Tuesday 25 July at 5pm.

4. Air Quality Update

(Pages 9 - 16)

Members will consider a report which provides an update on the outcome of the recent Air Quality Support Grant (AQSG) applications made to the Department for Environment, Food and Rural Affairs (DEFRA). Three AQSG bids were made in relation to the council's ongoing Local Air Quality Management (LAQM) work. The report provides an overview of the planned expenditure of the AQSG and requires a decision to be taken on the amount of AQSG to be accepted from DEFRA.

5. Response to Audits in Commercial Services, (Pages 17 - 60) "Appointment and Use of Sub-Contractors" and "Recruitment and Selection."

Members will consider a report which details the actions Neighbourhood Services (formerly Commercial Services) have taken in response to the recommendations from two audits completed in Jan 2006, surrounding issues raised through the whistle blowing policy in August 2005.

Democracy Officer

Name: Rebecca Jarvis Contact Details:

- Telephone (01904) 551027
- Email Rebecca.Jarvis@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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Agenda Item 2

City of York Council	Minutes
MEETING	EXECUTIVE MEMBER FOR NEIGHBOURHOODS AND ADVISORY PANEL
DATE	8 JUNE 2006
PRESENT	COUNCILLORS LANCELOTT (CHAIR), POTTER, VASSIE (SUBSTITUTE FOR CLLR HALL), WALLER (EXECUTIVE MEMBER), AND B WATSON
APOLOGIES	COUNCILLOR HALL

PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS

1. Declarations of Interest

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda.

No interests were declared.

2. Exclusion of Press and Public

RESOLVED: That the press and public be excluded from the meeting during consideration of annex 2 of agenda item 10 (Draft Final Accounts for 2005/2006 and Full Year Performance Statistics) (minute 10 refers) on the grounds that this information contained commercially sensitive data relating to the business affairs of the authority. This information was classed as exempt under Paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

3. Minutes

RESOLVED: That the minutes of the meeting of the Executive Member for Commercial Services and Advisory Panel held on 7 March 2006 and the meeting of the Executive Member for Environment and Sustainability and Advisory Panel held on 8 March 2006 be approved and signed by the Chair and Executive Member as a correct record.

In answer to a question Officers confirmed

i) That the report requested at the last meeting of the Commercial Services EMAP on 7 March 2006 relating to "The Procurement and Management of Sub-Contractors" (Min 40(ii) refers) would be presented at the July meeting of the Panel.

ii) That the service agreement for Street Cleansing would be presented to the Panel shortly, following input by the newly appointed Director of Neighbourhood Services.

4. **Public Participation**

It was reported that there had been two registrations to speak at the meeting under the Council's Public Participation Scheme.

Mr Jobson stated that since the introduction of the two weekly refuse collection he had requested a large refuse bin as the bin provided for his family size was insufficient for the waste they produced. He confirmed that his family also recycled as much as possible.

Officers confirmed that Mr Jobson had the correct size bin for his family size and that the 240 litre bin was for families of 5 or more. Officers agreed to forward Mr Jobson a copy of the policy on bin allocation according to number of family members.

Councillor Merrett addressed the Panel regarding agenda item 5 (Clementhorpe Flood Barrier – Aquabarrier Pilot Scheme) (minute 5 refers). He indicated that he welcomed the report but that his major concern was the height of the proposed barrier which he felt should be raised to give 1 in 100-year protection. If the recommendation was approved he asked Members to keep under review the provision of a barrier of increased height.

5. Clementhorpe Flood Barrier - Aquabarrier Pilot Scheme

Members received a report which advised them of the proposed offer by AquaBarrier-Systems Ltd, to provide a demountable flood defence system at Clementhorpe, at minimal cost to the Council, and sought approval to accept the offer.

Officers confirmed that, following the Micklegate Ward Committee meeting, and support for the Council to pursue an option to raise the protection level of the barrier to 100-year protection, AquaBarrier had investigated an extended height version of the barrier. It was indicated that this barrier was in the early stages of production and that it would be 2-3 years before trials could take place but that a higher version may be available at this time.

Officers also confirmed that in the meantime, if necessary, there were traditional methods to back up defences in the area.

Paragraph 11 of the report presented two options for consideration:

 Option 1 – a demountable flood defence to give protection against a river level of 10.20m AOD (ie: 1 in 50/60 year protection), which could be augmented with sandbagging when protection was required against a 1 in 100 year event. This option was proposed by AquaBarrier at minimal cost to the Council. • Option 2 – not to proceed with the demountable flood defence scheme and to continue sandbagging, as at present, when floods occur.

Advice of the Advisory Panel

That the Executive Member be advised that Option 1 be approved, as detailed in paragraph 11 of the report, and the construction of the AquaBarrier-Systems Ltd. scheme to provide a demountable flood defence barrier proceed.

Decision of the Executive Member

- RESOLVED: That the advice of the Advisory Panel be accepted and the suggested decision, above, be endorsed.
- REASON: To give flood protection to the Clementhorpe area of York, within the funding arrangements currently available to the Council.

6. Crematorium Mercury Emissions

Members received a report which informed them that new regulations had been introduced which required abatement technology to be installed in cremators to minimise the emission of mercury from crematoriums and sought advice on the options for modifying the existing equipment.

The report explained that The Federation of British Cremation Authorities had set up the Cremation Abatement of Mercury Emissions Organisation (CAMEO), which was a burden sharing scheme. The scheme aimed to safeguard the industry, in which 23% of existing crematoria could not physically install abatement plant, and to minimise additional costs for the bereaved.

Paragraphs 19-23 of the report presented five options for consideration:

- Option A to do nothing.
- Option B to seek a trading agreement through the CAMEO scheme.
- Option C- to install abatement equipment to deal with 50% of cremations.
- Option D- to install abatement equipment to deal with 100% of cremations and remove one cremator, so as to install the equipment.
- Option E to install abatement equipment to deal with 100% of cremations and retain three cremators.

Members referred to problems encountered with the York cremators earlier in the year at the Crematorium when use had to be made of facilities in Leeds adding to the distress of bereaved families. In view of these problems and to give security for the future

Councillor Potter then moved and Councillor B Watson seconded that:

"The Executive Member be advised to accept Option E to install abatement equipment to deal with 100% of cremations and retain three cremators"

On being put to the vote, the motion was declared LOST.

Advice of the Advisory Panel

That the Executive Member be advised:

- (i) That the intention to install mercury abatement equipment be indicated to the Council's regulator under the Environmental Protection Act (City of York Council Environmental Protection Unit);
- (ii) That the preferred option be Option D as indicated in paragraph 22 of the report;
- (iii) That Officers be instructed to proceed with obtaining accurate costings for the approved option, which would form part of the budget submission for 2007/08;

Decision of the Executive Member

- RESOLVED: That the advice of the Advisory Panel be accepted and the suggested decisions, above, be endorsed.
- REASON: To enable the Council to meet the highest targets of the government's commitment to mercury abatement and satisfy future legislative requirements.

7. Environmental Health, Trading Standards and Licensing Prosecutions

Consideration was given to a report which informed Members of the results of prosecutions undertaken by the Council's environmental health, trading standards and licensing services.

Members paid tribute to the work of Officers in pursuing prosecutions which showed that the Authority took their responsibility of protecting the consumer seriously.

Advice of the Advisory Panel

That the Executive Member be advised:

(i) That the contents of the report be noted and thanks Officers for their hard work in pursuing prosecutions.

Decision of the Executive Member

- RESOLVED: That the advice of the Advisory Panel be accepted and the suggested decisions, above, be endorsed.
- REASON: To update the Executive Member.

8. Enforcement of Excess Packaging Legislation

Members received a report which informed them about the results of the excess packaging initiative undertaken by the trading standards service.

It was reported that the trading standards service would extend the project to York based businesses in 2006/07 and proactively gave advice on minimising packaging. The team would prioritise businesses producing high volume goods, and those businesses producing products which gave the most concern during the 2005/06 national packaging survey. The approach adopted would be provision of advice in the first instance, followed by formal action if appropriate.

Member indicated that one of the main problem areas relating to excessive packaging involved the major supermarkets and they questioned whether prosecutions could be undertaken against multi national chains which were beyond the authorities boundaries.

Advice of the Advisory Panel

That the Executive Member be advised:

- (i) That the report be noted and Officers be asked to provide further updates on efforts by City of York Council to minimise packaging.
- (ii) That Officers focus on measures to reduce packaging used by multi national chains.
- (iii) That in future updates Officers include details of misleading packaging and the powers available to the authority.

Decision of the Executive Member

- RESOLVED: That the advice of the Advisory Panel be accepted and the suggested decisions, above, be endorsed.
- REASON: To update the Executive Member with the results of the excess packaging initiative undertaken by the trading standards service.

9. Provisional Outturn - Finance and Performance for Environment and Sustainablity Portfolio 2005/2006

Members received a report which presented the draft outturn figures for revenue and capital expenditure for the Environment and Sustainability portfolio in 2005/06 and outturn performance against target for Best Value Performance Indicators, Customer First Targets (letter and telephone answering) and Staff Management Targets (sickness absence). Members were advised to disregard pages 53-70 in Annex 1 of the report, as these were additional sheets inadvertently left in the Excel workbook and not intended for circulation.

Overall, the Environment and Sustainability Portfolio provisional revenue budget outturn was an under spend of £39k (-0.2% of the gross portfolio budget). There was also an under spend of £80k on the capital programme, of which £76.2k related to scheme slippage. The report considered the outturn position in terms of whether any variances highlighted were of a recurring nature that would affect 2006/07. The shortfall of income at the Crematorium and the Pest Control service had been addressed in the 2006/07 budget. The other significant overspends related to one-off expenditure at the Crematorium and the interim arrangements for toilet cleaning. The under spend in Waste Strategy due to reduced tonnages being sent for landfill suggested that the Waste Strategy budget was adequate for 2006/07.

Performance for Waste Strategy indicators were improving compared to the 2004/05 figures. Sickness absences were well below the corporate target of 12 days per Full Time Equivalent (FTE) for 2005/06. Customer First statistics were excellent in respect of correspondence with the exception of one problem service area (Waste Strategy) which was anticipating a future increase in performance for 2006/07.

Members congratulated Officers on bringing the budget close to target and for tripling the recycling rate in the year. The only concerns related to Air Quality Management in the Lawrence Street area, the decline in some areas regarding satisfaction with local tips/recycling and the number of staff days lost due to sickness.

Advice of the Advisory Panel

That the Executive Member be advised that the financial and performance position of the portfolio be approved.

Decision of the Executive Member

- RESOLVED: That the advice of the Advisory Panel be accepted and the suggested decisions, above, be endorsed.
- REASON: In accordance with budgetary and performance monitoring procedures.

10. Draft Final Accounts for 2005/2006 and Full Year Performance Statistics

Members received a report which advised them of the draft financial outturn for 2005/06 for Commercial Services, alongside the full year service performance statistics.

Commercial Services had made a surplus of £398k on its trading activities, against an approved budget of £139k. This was achieved despite

pressures on expenditure caused by substantial rises in fuel prices and a significant rise in the monitoring and replacement of equipment and health surveillance for staff, as a result of the European Physical Agents (Vibration) Directive and the implementation of the Control of Vibration at Work Regulations 2005 in the UK. This level of the surplus had been achieved through aggressive expenditure controls and the withholding of the vehicle replacement programme. This decision had affected the Civil Engineering department, where the replacement of six gritters and two gully tankers had been held over into the 2006/07 financial year.

There were currently eighty service performance measures for Commercial Services, most of which were close to or exceeding their targets. There were a small number of areas of delivery which required attention and many examples of service excellence. Annex 1 of the report set out details of performance against each individual target.

In answer to questions relating to targets indicated by an arrow showing direction of travel of the target, Officers agreed to circulate Members further details of those relating to Civils.

Officers confirmed that the recommendation relating to the retention of the $\pounds 103,000$ in reserves, pending the findings of the depot fire investigation or whether to release it back to the General Fund was an Executive decision which could not be made by the Executive Member.

Advice of the Advisory Panel

That the Executive Member be advised that the contents of the report be noted;

Decision of the Executive Member

- RESOLVED: That the advice of the Advisory Panel be accepted and the suggested decision, above, be endorsed.
- REASON: To update the Executive Member;

CLLR M LANCELOTT Chair of Advisory Panel

CLLR A WALLER Executive Member Neighbourhood Services

The meeting started at 5.00 pm and finished at 6.50 pm.

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Executive Member for Neighbourhoods and Advisory Panel

26th July 2006

Report of the Director of Neighbourhood Services

AIR QUALITY UPDATE

Summary

1. The purpose of this report is to update the executive member and advisory panel on the outcome of the recent Air Quality Support Grant (AQSG) applications made to the Department for Environment, Food and Rural Affairs (DEFRA). Three AQSG bids were made in relation to the council's ongoing Local Air Quality Management (LAQM) work. The report provides an overview of the planned expenditure of the AQSG and requires a decision to be taken on the amount of AQSG to be accepted from DEFRA.

Background

- 2. The government supports local authorities capital expenditure on LAQM. This was initially through Supplementary Credit Approval (SCA), and in the last two years has been through Supported Capital Expenditure (Revenue) (SCE(R)). In both these cases the awards were taken into account in the annual Revenue Support Grant (RSG) settlements, which then provided the funds to the relevant authority over a period of years. Following recent changes to the RSG settlement process, air quality SCE(R)s have been abolished and replaced with a direct grant scheme known as the Air Quality Support Grant Programme.
- 3. Previous air quality funding from DEFRA has allowed the establishment of a comprehensive air quality monitoring network in York and the in-house operation of an air quality computer model. The scope of the monitoring network has recently been reviewed and streamlined with the main emphasis now on nitrogen dioxide and particulate monitoring. Two new nitrogen dioxide analysers were purchased in 2005/06 using SCE(R) funding. These are located in St Sampson's Square and Heworth Green. Sulphur dioxide and carbon monoxide monitoring in the city has now ceased as several years of monitoring has shown that concentrations of these pollutants are well within the health based objective levels set down in the Air Quality (England) Regulations 2000 (as amended).
- 4. The council has just published it's second Air Quality Action Plan (AQAP2), which sets out the long term strategy for improving air quality in York. It has

been developed in conjunction with the city's second Local Transport Plan (LTP2) and builds on the measures included in the first AQAP. AQAP2 focuses on promoting sustainable transport in the city, reducing emissions from existing vehicles, improving public transport and reducing congestion through improved traffic management.

- 5. During the next five years the council will undertake some congestion reduction improvement measures on the outer ring road and further improve Park & Ride provision. The council will also further improve opportunities for walking, cycling and public transport use, making journeys by these modes quicker, safer and more attractive. LTP2 commits to investigating the feasibility of introducing a low emission zone into the city and considers the building of a trans-shipment centre, where goods can be transferred from heavy goods vehicles to smaller electric powered vehicles before entering the heart of the city. We will also encourage individuals to re-think their options for car ownership by providing incentives for smaller, cleaner cars and encourage sharing of vehicles through the creation of car clubs.
- 6. In March 2006 officers submitted three AQSG bids to DEFRA to support the council's air quality work during 2006/2007. The amounts bid for were:

Air quality monitoring = $\pounds 25,000$ Air quality modelling = $\pounds 43,000$ Air quality action planning = $\pounds 59,000$

Due to a national shortfall in the amount of grant available, York has been provisionally allocated the following amounts of AQSG for 2005/2006:

Air quality monitoring = $\pounds 10,000$ Air quality modelling = $\pounds 15,000$ Air quality action planning = $\pounds 30,000$

This report presents proposals for defraying the allocated amounts of AQSG and requires a decision to be taken on the amount of AQSG to be accepted.

Consultation

7. The main consultations in relation to LAQM in York have taken place during the declaration of the Air Quality Management Area (AQMA) and the drawing up of the Air Quality Action Plan (AQAP). The AQAP has recently been updated and incorporated into the second Local Transport Plan (LTP2). LTP2 was the subject of a city wide consultation. If accepted the AQSG will be used to support measures arising from the consultations on the AQAP and LTP2.

Proposed expenditure

Air quality monitoring

- 8. The £25,000 bid for air quality monitoring was submitted for the purpose of rehousing a particulate monitor from a redundant monitoring site, and covering its running costs for five years. A potential new monitoring site on Boroughbridge Road (at the junction with Plantation Drive) will monitor existing air quality and provide baseline air quality information for the York Central project.
- 9. Following the £15,000 short fall in AQSG received for this project, a trade-in agreement on some redundant monitoring equipment has been negotiated with the supplier. On this basis the project can proceed within the limits of the £10,000 AQSG received.

Air quality modelling

- 10. The £43,000 bid for air quality modelling work was submitted for the following:
 - a) Purchase of additional years of software licences and technical support
 - b) Replacement of three outdated modelling computers
 - c) Support of staffing costs within the air quality section.
- 11. There was a £28,000 shortfall in the amount of AQSG received for modelling. It is intended to proceed with the purchase of two new computers and to renew the software licences and technical support contracts, the latter will be for a shorter period than initially planned. Any remaining AQSG will be put towards staffing costs.

Air quality action planning

- 12. The £59,000 air quality action planning bid was submitted with the intention of carrying out two separate projects:
 - a) £29,000 for Low Emission Zone (LEZ) feasibility study
 - b) £30,000 for an air quality information dissemination project

The amount of provisional AQSG obtained for each of these projects is:

- c) £22,000 for Low Emission Zone (LEZ) feasibility study
- d) £8,000 for an air quality information dissemination project

LEZ feasibility study

13. In June 2005 the executive member (Environment and Sustainability) requested that a LEZ feasibility study should be commissioned for the city. Following this request additional SCE(R) funding of £11,000 was obtained from DEFRA to support the first phase of this study. The results of a preliminary

study based on the Fishergate area of the city were reported to the executive member in December 2005.

- 14. Since undertaking the preliminary study, suitable consultants for the undertaking of the traffic modelling work have been identified and a method statement drawn up. Progress with the LEZ study has been slowed due to ongoing issues with the council's current traffic model (this has meant that £6000 of SCE(R) funding from 2005/2006 has been carried forward into the current financial year). However, all these issues have now been resolved and the project is ready to be taken forward.
- 15. The 2006/2007 bid for an additional £29,000 to support the LEZ study was made to cover the following costs:
 - Improvements to the way in which public transport is represented in the council's transport model
 - Inclusion of an LEZ scenario targeted at improving air quality across a larger part of the AQMA. The initial proposal was to only look at the area around Ouse Bridge.
 - Undertaking of more detailed traffic counting to improve level of data held on age and fuel type of vehicles in York
 - Undertaking of a project to measure the in-situ exhaust emissions from vehicles using York's roads in conjunction with the Institute of Transport Studies in Leeds (ITS). This will involve the use of a new type of analyser which can measure emissions from individual vehicles without having to stop them. The project will allow the drawing up of an emissions profile for different types and ages of vehicles that will be useful in determining which vehicles should be excluded from any future LEZ.

The total cost of these projects was estimated at £35,000, to be made up of £29,000 from the 2006/07 AQSG and £6,000 of SCE(R) funding carried through from 2005/06. Due to the shortfall in the 2006/07 AQSG only £28,000 is now available. This will be accounted for by reducing the amount of input by ITS into the emissions monitoring project and the undertaking of the required traffic counting in-house. On this basis further progress with the LEZ study should be achieved during 2006/07.

Air Quality Information Dissemination Project

- 16. The second air quality action planning AQSG bid was aimed at supporting the development of air quality promotion /education work in York. Some of the ideas being considered for this project included:
 - Re-linking of all real time monitoring sites to the council's air quality web page to allow members of the public direct access to all data. Currently links only exist to four of the nine sites.

- Redevelopment of the council air quality web-page to place more emphasis on education and make it more attractive to younger people
- Establishment of air quality information kiosks in public places
- Provision of air quality information via mobile phone text messaging
- Development of an air quality newsletter
- Undertaking of a high profile poster campaign linking travel choices to air quality
- Provision of information boards on the air pollution monitoring stations

As only £8,000 was obtained out of the £30,000 bid it is intended only to proceed with re-establishing the web-page links to all the real time air pollution stations and the placing of information boards at the air pollution monitoring stations. Any remaining funding will be used to try and improve the appeal of the air quality web-page to younger people.

Options

17. (a) To accept air quality grants from DEFRA totalling £55,000 and allow the air quality projects outlined above to proceed.

(b) To reject some or all of the air quality grants from DEFRA and revise the planned air quality projects for 2006/2007 accordingly.

Analysis

18. Option (a) will allow the council to continue to meet it's air pollution monitoring obligations and to operate the ADMS-Urban air pollution model in-house. The LEZ feasibility study will be able to progress and some improvements will be made to the existing air quality web-page.

Option (b) would limit the ability of the environmental protection unit to undertake further air quality monitoring work and may jeopardise the future of valuable particulate monitoring equipment. Loss of in-house ADMS-Urban modelling capabilities could result in a need to contract out more transport planning and city development related work. A comprehensive LEZ feasibility study will not be possible and web-page links to real time monitoring equipment will not be re-established.

Corporate Priorities

19. Monitoring air quality, providing information to the public about air quality, and developing strategies to improve air quality contribute towards delivering the corporate priorities on improving the health of residents and encouraging the use of public, and other environmentally friendly modes, of transport.

Financial Implications

20. No other source of funding exists for the projects outlined in this report. If the AQSGs are not accepted alternative sources of funding will have to be identified in order to further LAQM in the city.

Human Resources

21. There are no human resource implications.

Equalities

22. There are no equalities implications.

Legal Implications

23. The council has a statutory duty to periodically review and assess local air quality against national air quality objectives and report it's findings to DEFRA. As the council has declared an AQMA and produced an AQAP it is also obliged to submit regular AQAP progress reports to DEFRA demonstrating that it has a continued commitment to improving air quality in the city. Under the provisions of the Freedom of Information Act 2000 air quality data must be made freely available to members of the public on request.

Crime and Disorder

24. There are no crime and disorder implications.

Information Technology (IT)

25. There are no IT implications.

Risk Management

26. There is some financial risk associated with purchasing multiple years of equipment maintenance contracts and software licences up front but this is currently the only way these items can be justifiably purchased with AQSG. As the companies involved are well established within the air quality field the financial risk is considered relatively small and is considered proportional to the costs which would have to be incurred by the council in future years if AQSGs are not used in this way. There are always public liability risks associated the placing of monitoring equipment in the field. These will be minimised by consulting the highways team on the best location for the equipment, using reputable electrical contractors and ensuring all equipment is covered by the council's insurance policies.

Recommendations

- 27. That the advisory panel advise the executive member that:
 - 1. Option (a) should be accepted

Reason: It represents the most appropriate way of funding the continuation of LAQM in the city. This is a statutory undertaking that contributes towards the corporate priorities on improving the health of residents and encouraging the use of public, and other environmentally friendly, modes of transport.

2. Option (b) should be refused

Reason: No other source of funding for LAQM has been identified. Refusal to accept all, or part of, the provisional grant would limit progress on corporate priorities relating to health and transport.

Contact Details

Author: Chief Officer Responsible for the report: Elizabeth Bates Andy Hudson **Principal Environmental Protection** Assistant Director (Neighbourhood Services) Officer (Air Quality) Tel (01904) 551529 Date 26th June 2006 Report Approved Specialist Implications Officer(s) List information for all No additional Officers Implication ie Financial Implication ie Legal consulted. Name Name Title Title Tel No. Tel No.

Wards Affected: List wards or tick box to indicate all

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For further information please contact the author of the report

Background Papers:

The Development of an Interim Air Quality Action Plan for York, Report to EMAP (Sustainability and Environment),14th April 2004

Proposed approach to considering a Low Emission Zone (LEZ) for York, Report to EMAP (Sustainability and Environment)14th December 2005

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Executive Member for Neighbourhoods and Advisory Panel

26 July 2006

Report of the Director of Neighbourhood Services

Response to Audits in Commercial Services, "Appointment and use of sub-contractors" and "Recruitment and Selection"

Summary

1. This report details the actions Neighbourhood Services (formerly Commercial Services) have taken in response to the recommendations from two audits completed in Jan 2006, surrounding issues raised through the whistle blowing policy in August 2005.

Background

- 2. This report has been brought to members following a request from the Commercial Services EMAP of March 7th 2006. There were two audits arising from whistle blowing which detailed issues in Commercial Services in three main areas.
 - Irregularities in appointing staff.
 - Irregularities in the appointment and use of sub contractors
 - Failures of supervision and irregularities in the payment of sub contractors

The details of the allegations made by the whistle blowers and the conclusions from the investigations are contained within the reports attached as **Annex 1 and Annex 2.** Many of the allegations were proved to be unfounded however the audits did highlight many control weaknesses and it is these issues which are addressed in this report.

This report makes reference to the recommendations in the audit reports, the action taken to address each recommendation and the timescale for completion. Much of the work around the use of sub-contractors was already being formulated as part of a review of the building department taking place before, during and after the audit. This report is for information only, consequently there are no decisions required.

Response to the recommendations from "Appointment and use of subcontractors".

- 3. Recommendation 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.
- 4. **Response**. A complete review of sub contract activities from the old Commercial Services is now well underway to ensure all the procurement and value for money issues highlighted in the report are addressed. A PIN (Prior Identification Notice) was issued in May and an OJEU (Official Journal of the European Union) notice was issued in June with a good response so far for some areas of the notice. The current programme allows for tenders to be sent out in September with contract awards or select lists prepared by the end of October. A copy of the work programme for the tender exercise is attached as **Annex 3**. The OJEU process is slow and this programme represents the best that can be achieved assuming no hold ups occur.

The majority of building material suppliers in the future will be procured via a framework agreement negotiated with the OGC (Office of Government Commerce). This process eliminates the need for prolonged tendering. Value for money is assured as the framework agreements are in line with Gershon efficiency targets set by the Government. Each agreement can be tailored to our local needs and the agreements are in place for electronic invoicing and purchase cards once CYC has the necessary infrastructure in place. Once this is working it will be extended to cover material purchases in other areas of business. All the above work is being undertaken of in full consultation with and the help of the Central Procurement Team. First stage (Building) to be completed by September 2006.

- 5. Recommendation 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).
- 6. Response. All sub-contractors will be required to fill in a standard CYC, PQQ (pre-tender qualification questionnaire) form which will detail all the issues around suitability such as Health and Safety, financial stability and previous experience. Only after this process has been completed and approved will suitable candidates be allowed to tender. To be completed by October 2006
- 7. Recommendation 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.

- 8. **Response.** Where contracts currently exceed £50,000 and there is no formal arrangement a contract is being developed in accordance with the recommendation. Since the last EMAP to consider this item only one contract has been awarded which falls into this category and the process has been followed. New contracts for the tendered works will be prepared and signed as part of the above process. To be completed by October 2006.
- 9. Recommendation 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.
- 10. **Response.** All the work undertaken by this contractor (110 separate jobs) has been inspected. The inspection work is now complete and any defects, which were found to be as a result of poor workmanship, have been put right at no cost to CYC. A list of the job inspections is attached as **Annex 4**. We only identified one job where no work had been undertaken and this has been rectified again at no cost to CYC. A series of meetings have been held with the contractor, who has now completed remedial works to our satisfaction.
- 11. Recommendations 4.5 4.8. Completed job tickets submitted by subcontractors should be properly checked by supervisors. Errors or omissions should be investigated. 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. 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). Written records should be retained of meetings with sub-contractors so as to avoid the potential for future disputes.
- 12. **Response.** Within our existing quality control arrangements staff have been made aware of requirements to ensure work is adequately checked before being signed off. However we recognise weaknesses within the existing system, some of which have been in place since the early rounds of CCT in the late 1980's. Therefore a complete review of the building department is being undertaken which will address all of the issues around supervision and checking of work. This involves a restructure of the department along with new job plans that make clear the responsibilities of each staff member. New systems are being developed which will ensure adequate post inspections of work take place to ensure a quality product is delivered right first time. Due to be completed during the current financial year.
- 13. Recommendation 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.

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

- 16. **Response.** The list of staff interests is being reviewed in line with the new financial regulations. To be completed by August 2006
- 17. Recommendation 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.
- 18. **Response.** The practise of staff being allowed to take vans home has been in place for at least 15 years. It is not practical for security reasons or space to leave vans in the depot. It also enables staff to go straight to the first job in the morning and not make an un-necessary journey to the depot. All of this is done with the full knowledge of the Inland Revenue.

19. Recommendation 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.

20. **Response.** The issues highlighted by the audit are being addressed as part of the restructuring exercise within the building department which will put in place more robust systems to prevent further occurrences of these problems. Training is being arranged for senior managers on the new financial regulations. All senior managers have received a copy of the regulations.

Summary.

21. All the issues arising from the report are being addressed. Staff have been made aware of their obligations with regards following financial regulations and that breaches of these will be regarded very seriously. Further training on the new financial regulations and procurement rules is being arranged with the head of audit. The main issue surrounding correct procurement procedures is being dealt with through two main routes. The procurement and use of sub-contractors is being completely overhauled through a procurement exercise now well underway and due for completion during October 2006 (Para. 4 above). The purchasing of materials is being sourced through the OGC route (Para. 4) and should be completed within the building department by September 2006. If this proves successful then the arrangement will be extended to the whole construction. The management issues around checking and supervision of work are being dealt with through a reorganisation of the department. Job plans are being revised to ensure ownership of all processes from end to end to improve the management and

control of all work. The restructure is underway and should be complete by the end of the year.

Response to the recommendations from the "Recruitment and Selection" audit.

- 22. Recommendation 4.1. Accurate and complete records relating to the distribution and receipt of application forms should in future be retained and held on a central recruitment and selection file for the relevant position.
- 23. **Response.** A summary pro-forma has been created to log the distribution and receipt of all application packs/forms, which will be held on the relevant central file.
- 24. Recommendation 4.2 An appropriate scoring mechanism should be in place for each part of the recruitment and selection process. This mechanism should be documented, completed and a copy retained on the central recruitment and selection file.
- 25. **Response.** A scoring mechanism was used for both the short listing and the interview assessment, based on the person specification for the posts. Individual score-sheets were kept by panel members initially to provide feedback to unsuccessful candidates, but these could not be located. In future they will be returned to the central file to be kept for 6 months per standard practice.
- 26. Recommendation 4.3 Upon completion of any recruitment and selection process, all documentation¹ should be held centrally in a structured file in order to maintain a complete and comprehensive audit trail.
- 27. **Response.** All documentation will be held on the relevant central recruitment file.
- 28. Recommendation 4.4 Written references should always be obtained. Verbal references should be confirmed in writing as soon as possible. Written references should be requested and held on file for the two managers.
- 29. **Response.** Written references will continue to be taken up and chased if not received. However, experience shows that in some instances they are not forthcoming. When this occurs, the note of the verbal reference will be recorded on file.

¹ Including: List of recruitment panel, application forms from all applicants, short listing criteria and method of selection, assessment scores, interview questions, notes and scores, reason for appointment etc from all members of the recruitment panel.

- 30. Recommendation 4.5 Managers with responsibility for staff recruitment should undertake the Council's recruitment and selection course. Managers should also undertake refresher training after three years.
- 31. **Response.** Neighbourhood Services is reviewing its compulsory training programme for managers. A skills matrix is to be established for each post, which will include recruitment training where appropriate.
- 32. Recommendation 4.6 Candidates applying via email, internet etc should be asked to sign their completed application form at the interview.
- 33. **Response.** This is now being implemented.

Summary

34. Neighbourhood Services has recently reviewed its recruitment and selection processes and standard pro-forma's and example documents are stored on the shared drive. A representative from Human Resources sits on all recruitment panels and advises accordingly on the implementation of the correct procedure and supporting documentation. The Recruitment and Selection Checklist has been reviewed and updated. The Council has also recently reviewed and updated it's Recruitment and Selection policy in light of statutory changes and these will be incorporated in to Directorate procedures. Managers and staff involved in recruitment and selection will be briefed on the revised Council policy.

Consultation

35. Comments from the Head of Internal Audit. "Internal Audit are satisfied that the actions taken or proposed by the department, as set out in this report, will address the control weaknesses and other concerns identified in the two investigation reports. A review of the progress made by the department will be undertaken as part of our "follow up" arrangements. Where necessary, this review will include additional audit testing to confirm that issues have been adequately addressed. The results of this follow up work will be reported to the Audit & Governance Committee".

Options

36. There are no options for consideration

Analysis

37. Not applicable

Corporate Priorities

38 Not applicable

Implications

39

- **Financial** There are no financial or budgetary implications to consider within this report
- Human Resources (HR) There are no further human resources implications to consider within this report.
- Equalities There are no equalities issues to consider within this report
- **Legal** The actions taken in response to the recommendations of the two audit reports will ensure compliance with legal requirements, finance and contract regulations and best practise
- **Crime and Disorder** There are no crime and disorder implications to consider within this report
- Information Technology (IT) There are no IT implications to consider within this report

Risk Management

40. Any failure to adequately address the specific control weaknesses identified by Internal Audit would increase the risk of further breaches of the Council's Financial Regulations, policies and procedures resulting in potential challenge and financial loss.

Recommendations

41. Members are requested to note the contents of the report.

Reason: To update Members of the response to the recommendations from two audits completed in Jan 2006, surrounding issues raised through the whistle blowing policy in August 2005.

Contact Details

Author:

Chief Officer Responsible for the report:

Richard White Assistant Director Construction Neighbourhood Services Tel No. 553206	Terry Collins Director Neighbourhood Se	rvices	
Terno. 333200	Report Approved	Date	11-07-06
John Goodyear Assistant Director Services Neighbourhood Services Tel No.553204	Chief Officer's name Title		
	Report Approved tick	Date	Insert Date
Specialist Implications Offic	cer(s)		
Implication Financial	Implication Financial		
Name Max Thomas	Name Liz Ackroyd		
Audit & Fraud Manager	Assistant Director of Finance		
Tel No. 552940	Tel No. 551706		
Wards Affected: List wards or tick	box to indicate all		All tick

For further information please contact the author of the report

Background Papers:

There are no background papers

Annexes

- Annex 1. Audit report Appointment and use of sub-contractors
- Annex 2 Audit report Recruitment and selectionAnnex 3. Tendering work programme.
- Annex 4. Work inspection list

INTERNAL AUDIT INVESTIGATION REPORT

ANONYMOUS CONTRACTOR ALLEGATIONS

COMMERCIAL SERVICES

Audit Investigation Report – Appointment and Use of Sub-Contractors

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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 compliant can be broadly categorised as follows;

Nature of Concern	Investigated By Internal <u>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

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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 subcontractors 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.

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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 subcontractors.
- 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

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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 subcontractors appears reasonable. Nonetheless, it is clear that a waiver from financial regulations should have been sought before appointing the subcontractor 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 inhouse 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

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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 inhouse 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

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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-

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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 subcontractors 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.

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

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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.

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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

Audit Investigation Report – Appointment and Use of Sub-Contractors

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.

INTERNAL AUDIT INVESTIGATION REPORT

ANONYMOUS RECRUITMENT AND SELECTION ALLEGATIONS

COMMERCIAL SERVICES

Page 44 Audit Investigation Report – Recruitment and Selection

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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 compliant can be broadly categorised as follows;

Nature of Concern	Investigated By Internal Audit
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 recruitment of staff within Commercial Services. The concerns relating to the appointment, use and supervision of sub-contractors are addressed in a separate report.

Specific Concerns Addressed in this Report

1.2 The whistleblower's main allegations were that;

Audit Investigation Report – Recruitment and Selection

- a manager in Commercial Services, who was appointed in July 2004, had subsequently shown favouritism by appointing two former colleagues from another Council despite there being two good internal candidates;
- the manager had furthermore carried out the recruitment interviews on his own;
- another member of staff who was recruited in July 2005 had also had an unfair advantage in his interview because he was already aware of the questions he was going to be asked. This member of staff had also worked for the same Council as the manager concerned. Other staff from Commercial Services had then refused to be involved in the recruitment process knowing that the result was pre-determined.

Objectives & Scope

- 1.3 The objectives of the audit investigation were to;
 - identify any weaknesses or irregularities in the recruitment and selection processes leading to the appointment of the two managers;
 - identify any irregularities in the appointment of the other member of staff.
- 1.4 The investigation initially involved the review of relevant information from Council systems and databases. These included the:
 - Payroll System (Delphi);
 - Document Management System (DMS).

Manual records maintained by Human Resources were also examined.

1.5 Visits were also made to the Commercial Services' administration office at Foss Islands in order to check relevant personnel and recruitment files. Fact finding interviews were also conducted with relevant staff during the investigation.

Timing of the Audit

- 1.6 The audit was undertaken between September and November 2005
- 1.7 This report was issued to Senior Managers in Commercial Services for their consideration and comment on the 6 January 2006.

2.0 FINDINGS

Background

- 2.1 Commercial Services (CSO) are the trading arm of the Council, providing direct services to residents, client departments and external customers. The CSO deliver a large range of services including 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 Executive granted approval to create three new management positions on 16 September 2003. The new posts were scale PO 6 9. (SCP 38 41).
- 2.3 A recruitment process was undertaken in March 2005. Following the interviews, two of the new posts were offered to candidates who were both currently employed by the same Council. One of the managers on the recruitment panel had also previously worked for the same Council. No appointment was made to the third position and the post currently remains vacant due to financial pressures.
- 2.4 Once appointed, one of the managers was given responsibility for the appointment of two staff to the building repairs and maintenance team.
- 2.5 The Council's Recruitment and Selection policy is intended to ensure that all posts are filled in a lawful, fair, efficient and cost effective manner. All employees involved in recruitment and selection are required to follow the policy and related procedures. The policy was last updated in August 2001. A copy of the policy is available on the intranet and can also be obtained from HR advisors across the Council.

Recruitment of New Managers (March 2005)

- 2.6 It was found that the recruitment for the three positions was carried out by a panel consisting of the Director, a manager and a representative from HR. The interviews were carried out at the Foss Islands Depot.
- 2.7 This investigation was conducted within six months of the recruitment process. The auditors therefore expected to find complete and accurate records in support of the action taken. However, no central file has been maintained with details of the recruitment and selection process followed.

Audit Investigation Report – Recruitment and Selection

- 2.8 The information available at the time of the investigation was instead limited to the supporting documentation retained by the HR representative. This documentation included:
 - copies of the relevant job 'plan';
 - copies of questions to be asked in the interview;
 - a list of candidates for the three vacant posts;
 - a blank short listing/scoring grid;
 - the interview notes completed by the HR representative, and
 - the original application forms for each of the candidates.
- 2.9 The recruitment folder also contained an outline programme for the interviews which stated that the process would include a site visit, an informal meeting and a formal interview. The auditors can only confirm that the formal interviews took place. No documentation or other notes have been found to record the outcome of the other events forming part of the interview process.
- 2.10 Following appointment, information regarding the two successful candidates was transferred to their relevant personnel files. Together with the documentation retained by the HR representative, the auditors have been able to confirm that;
 - completed and signed application forms were received;
 - formal interviews for the vacant positions were held on 1 and 2 March 2005;
 - eight candidates were invited for interview and the interviews were conducted by an appropriate panel;
 - each candidate was asked the same questions in the interview.
- 2.11 However, a number of concerns were identified in the process followed as detailed below;
 - although it is understood that notes were taken by each member of the interview panel the lack of documentary evidence means that it is only possible to confirm that notes were taken by one member of the panel. In addition, there was no evidence that the interview scores had been recorded;

Audit Investigation Report – Recruitment and Selection

- no written references are held on file for either of the successful candidates. Incomplete notes in the files imply that only verbal references were taken up (the recruitment and selection policy however states that written references should be taken up prior to interview for short listed candidates. If a verbal reference is obtained the referee should be asked to confirm this in writing immediately);
- an internal candidate was short listed for an interview on Tuesday 2 March but did not attend. Although it is understood that a verbal reason was given by the candidate for withdrawing from the process, no written record was made.
- similarly, there is no written record to show why the other internal candidate was not short listed.
- one of the successful candidates only applied for one of the three vacant positions but was subsequently offered another of the posts for which he had not specifically been interviewed. It is understood that the candidate verbally expressed an interest in the other post at the time of the interview he attended for the other position.
- 2.12 In addition, the auditors were unable to find any documentation or other evidence to confirm that;
 - a chair person was appointed for the interview panel (the recruitment and selection policy states that this should normally be the line manager);
 - the posts were properly advertised (it is understood that the vacancies was advertised in the Yorkshire Post and Construction News but the dates and content are not known);
 - the short-listing criteria had been agreed in advance and a scoring methodology had been used to prepare the short list (the recruitment and selection policy states that details of the short listing criteria, the reasons for short listing, and the relevant application forms should be kept for six months after the short listing process);
 - copies of the interviewers' notes and scores had been retained (the recruitment and selection policy states that at the end of each interview, panel members should complete an interview assessment form for each candidate using notes made during the interview. Interview notes and assessment forms must be kept for 6 months in case a candidate makes a formal complaint).
- 2.13 The City of York Council's recruitment and selection policy states that at least one member of an interview panel should have been formally trained in recruitment and selection and that this knowledge should be up to date, with attendance at refresher courses, if necessary.

- 2.14 The manager involved in the recruitment process confirmed that the last training he had received was in the late 1990's whilst he was at employed at another Council. He had not received any training or guidance regarding the City of York Council's policies and procedures since his own appointment. Similarly there was no record that the other panel members had received any refresher training during the past three years.
- 2.15 Whilst no evidence has been found to prove the original allegation that the outcome of the appointment process was based on favouritism, failure to follow the Council's procedures and retain proper written records has meant that it is not possible confirm that the process was carried out without bias. This significantly increases the risk of complaint by unsuccessful candidates.

Recruitment of Other Staff (July 2005)

- 2.16 In July 2005, Commercial Services appointed two new members of staff. The recruitment process was carried out by a manager and a HR representative. One of the successful candidates was currently employed by the same Council as the manager had previously worked for.
- 2.17 From the recruitment and selection documentation retained, the auditors can confirm that;
 - a total of 27 applications were received for the vacant posts and 7 applicants invited for interview. However, it is not possible to ascertain how the applicants were short listed;
 - formal interviews for the positions were carried out on Monday 25 and Friday 29 July 2005;
 - each candidate was asked the same questions and scored using the same criteria;
 - an interview assessment form was completed by all members of the interview panel, for each candidate;
 - both candidates, who were offered positions, obtained the highest scores of the 7 interviewees.

At the time of the investigation, written references were in the process of being obtained for the two successful candidates.

2.18 Apart from the failure to retain short-listing notes, the Council's recruitment and selection policy was correctly followed. In addition, no evidence has been found to confirm the original allegation that one or more of the candidates had advance knowledge of the questions which were going to be asked.

3.0 CONCLUSIONS

Concerns Raised by the Whistleblower

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 Favouritism had been shown in the Not proven. No evidence has been found of favouritism or corruption in appointment of two managers. the recruitment process followed for appointment the of the two managers. Evidence was however found of some poor practice and control weaknesses. The interviews had been conducted Not proven. The recruitment process was carried out by an appropriately by a single manager. constituted recruitment panel. Another member of staff who was Not proven. There is no evidence to recruited had an unfair advantage. suggest any wrongdoing in respect of the appointment of the other member of staff. The Council's recruitment and selection policy was followed in the appointment of the other member of staff except that records should have been retained showing how the candidates for the post were shortlisted.

Control Weaknesses and Other Concerns Identified by the Audit

- 3.2 A number of control weaknesses have been identified as a result of the investigation. The process followed for the appointment of the two managers was not properly documented and did not comply with the Council's recruitment and selection policy, despite a HR representative being on the panel. In the absence of a clear audit trail it is therefore not possible to confirm that the:
 - process was transparent and carried out without bias, and;
 - most appropriate applicants were appointed to the two positions.

Audit Investigation Report – Recruitment and Selection

- 3.3 The specific control weaknesses identified were;
 - not all the candidates that attended the interviews had signed and dated their completed application forms;
 - accurate and complete records regarding the distribution and receipt of completed application forms were not maintained. Similarly no record of electronically submitted forms was held;
 - no record was kept of the short-listing process;
 - inadequate records were made of the interviews and there was no scoring mechanism to show suitability for the post;
 - the reasons for changes to the shortlist were not recorded;
 - the reason for offering the post of one manager to a candidate who had applied for a different post, was not recorded;
 - written references were not taken up for either of the successful candidates.
- 3.4 As a result of these failings the Council has been exposed to an increased risk of complaint and risk to its reputation. The failure to obtain written references also increased the risk that unsuitable people are appointed.

4.0 **RECOMMENDATIONS**

4.1 Accurate and complete records relating to the distribution and receipt of application forms should in future be retained and held on a central recruitment and selection file for the relevant position.

Management Response

A summary pro-forma has been created to log the distribution and receipt of all application packs/forms, which will be held on the relevant central recruitment file.

4.2 An appropriate scoring mechanism should be in place for each part of the recruitment and selection process. This mechanism should be documented, completed and a copy retained on the central recruitment and selection file.

Management Response

A scoring mechanism was used for both the short listing and the interview assessment, based on the person specification for the posts. Individual scoresheets were kept by panel members initially to provide feedback to unsuccessful candidates, but these could not be located. In future they will be returned to the central file to be kept for 6 months per standard practice.

4.3 Upon completion of any recruitment and selection process, all documentation¹ should be held centrally in a structured file in order to maintain a complete and comprehensive audit trail.

Management Response Accepted and noted.

4.4 Written references should always be obtained. Verbal references should be confirmed in writing as soon as possible. Written references should be requested and held on file for the two managers.

Management Response

Written references are always taken up, but not always received. Verbal references are therefore taken up and recorded on file.

4.5 Managers with responsibility for staff recruitment should undertake the Council's recruitment and selection course. Managers should also undertake refresher training after three years.

¹ Including: List of recruitment panel, application forms from all applicants, short listing criteria and method of selection, assessment scores, interview questions, notes and scores, reason for appointment etc from all members of the recruitment panel.

Audit Investigation Report – Recruitment and Selection

Management Response.

Accepted and noted. Commercial Services will review its compulsory training programme for managers.

4.6 Candidates applying via email, internet etc should be asked to sign their completed application form at the interview.

Management Response Accepted and noted.

Additional Information Provided by Management

Commercial Services has recently reviewed its recruitment and selection processes and standard pro-forma's and example documents are stored on the shared drive. A representative from Human Resources sits on all recruitment panels and advises accordingly on the implementation of the correct procedure and supporting documentation.

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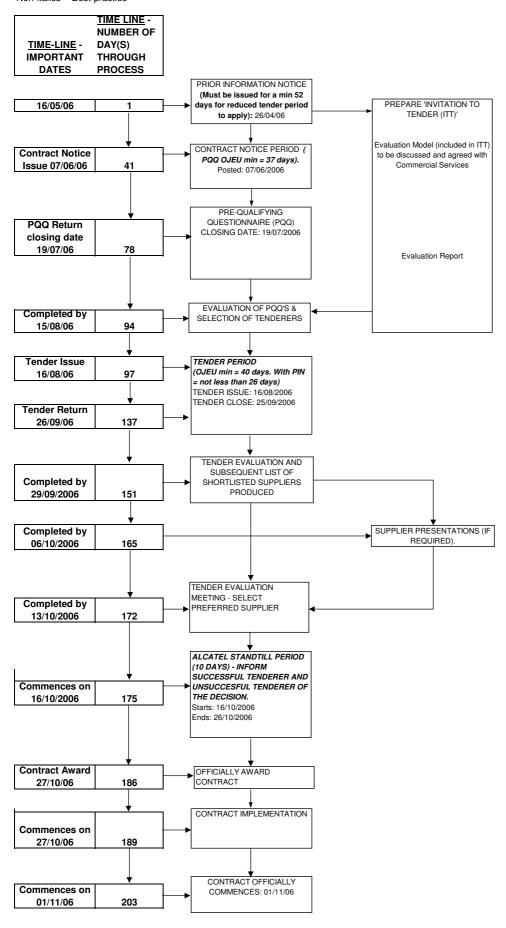
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Time-Line for Sub-Contracting Tender

Key

Italics and bold = Mandatory fields Non-italics = Best practice



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