

# Environment, Transport and Locality Services Select Committee

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Select Committee Inquiry – Transport for  
Buckinghamshire (Ringway Jacobs contract)

December 2013

**DRAFT**

# Executive Summary

The following report presents the findings of an inquiry of the Environment, Transport and Locality Services Select Committee on the Transport for Bucks (Ringway Jacobs) contract. The inquiry was commissioned on the 24<sup>th</sup> July 2013 at the first full meeting of the committee. The impetus for the work came from Members of the committee and senior management to examine the contract, its delivery and performance. Informing our initial scope were issues raised by Members including; communication, performance, contract management by the client, value for money, and the role of Local Area Technicians.

During our initial inquiries it became clear that that a number of other reviews on TfB were taking place concurrently. Mindful of these other reviews we did not wish to duplicate any work, but rather be aware of and inform other review processes - in particular an external consultant commissioned by the Service Director to conduct an internal review. We were pleased to be able to learn from and contribute to the consultant's improvement plan. We were also aware that at the time of this inquiry there was significant movement and change within the service. As a result we had to be correspondingly flexible, which has at times prevented a fixed research and inquiry plan. Nevertheless, the Cabinet Member and senior officers have been involved throughout the process.

Our findings and recommendations are set out in the following report and focus on:

- A need for longer term planning to develop the established process of annual planning. We agreed with the findings of the consultant's review, that the service would benefit from a longer term plan and an approach to the county's road maintenance which balances strategic need and Member priorities.
- The role of Key Performance Indicators in the contract, and the importance of rigorous check and challenged of these by the Strategic Client. Performance against these ultimately leads to the awarding of contract extensions as well as triggering payment of a proportion of the fee. There should be detailed examination of KPI performance data and wider Member input into the amending and setting of future KPIs.
- The importance of sufficient client capacity and in-house skills to ensure contract compliance and robust check and challenge to the contractor. The client has been significantly reduced since the contract was awarded and we feel that this has resulted in insufficient capacity to manage the contract fully.
- We feel that there needs to be a further review to ensure that the Council is receiving value for money from the contract. We feel that the contractor is struggling to meet efficiency saving targets each year, that there is insufficient evidence that regular benchmarking is taking place, and that a lack of client capacity has resulted minimal check and challenge of the contractual obligations.
- Throughout the inquiry process, we felt that there were a number of key learning points from the TfB arrangement for the Council to consider as it moves forward towards entering into contractors with other external providers.

# Recommendations (Draft)

**Recommendation 1:** The committee request to receive updates on the implementation of the following recent/current reviews around TfB operation and perception:

- Quarterly updates on all actions within the external consultant review of TfB and its implementation plan, commencing in February 2014
- Quarterly updates on the internal BCC Communications and Customer Focus review, commencing in February 2014
- An update on the implementation of the new role for Local Area Technicians in February 2014 with an additional 6 month update on progress.

**Recommendation 2:** We recommend that the service ensure effective long-term planning (a 4 year plan which fits with the Council's Medium term plan and budget proposals) to guide the annual planning activity, with particular emphasis on efficiencies, value for money and longer term development of the transport network. The Environment, Transport and Locality Services Select Committee should receive a written update on any forthcoming long-term plans.

**Recommendation 3:** We recommend that all future KPIs evolve to place greater emphasis on long-term outcomes and improvements and that future setting/amending of KPIs be subject to wider Member involvement to inform the decision making process of the Strategic Management Board. The Cabinet Member should put forward options for this by February 2014 for the Environment, Transport and Locality Services Committee to comment on and agree.

**Recommendation 4:** We recommend that KPI figures and values need to be properly audited on an annual basis, for example through internal audit or the client team, in order to ensure that the decision making around payments and extensions is robust. A written report of the findings should go to the Strategic Management Board and also monitored by this select committee.

**Recommendation 5:** We recommend that the Cabinet Member for Planning and Transport retains a Member-led system for road maintenance but:

- reviews the definition of Member-led currently used in the context of prioritising road maintenance to allow for greater flexibility in the approach and,
- Examines the proportion of budget allocated between local member priorities, and a countywide strategic management approach.

We request that the Cabinet Member commission a report on this topic, referencing national practice, and further options for road maintenance prioritising.

**Recommendation 6:** We recommend that at least two BCC elected Members are re-appointed to the Strategic Management Board (or an alternative Member involvement option) in order to strengthen democratic representation, as recommended by the 2011 TfB scrutiny review.

**Recommendation 7:** We recommend that the Strategic Client function should be sufficiently resourced to ensure the necessary client capacity and in-house skills are in place so that the client can effectively manage the contract and provide robust check and challenge of delivery.

**Recommendation 8:** We recommend that the TfB report for the Strategic Management Board on the approval of the yearly contract extensions be circulated to the Environment, Transport and Locality Service Select Committee in order to inform the decision making process of the Strategic Management Board on the approval of contract extensions.

**Recommendation 9:** We recommend that a schedule of areas for financial benchmarking against other Local Authorities be agreed between TfB and the Strategic Client. This should be reviewed annually by the Strategic Management Board to provide clarity over benchmarking activity to ensure contract compliance and value for money.

**Recommendation 10:** We recommend that an external value for money review be undertaken (over the first half of 2014) to ensure and satisfy the client (BCC) that it is getting best value for money from the contract for elected Members and the residents of Buckinghamshire and that the committee receive a briefing on the findings of this review.

**Recommendation 11:** We recommend that the contractual obligation for a year -on -year 3% efficiency saving should be reviewed to allow for greater opportunity for cumulative and sustainable efficiency savings over a number of years. Alternative options should drawn up by the Cabinet Member by the end of the 2013/14 financial year.

**Recommendation 12:** We recommend that all learning points from the TfB arrangement to date are used to inform future operation of the Council as it moves to become a commissioning/contracting organisation, in particular: 1) securing providers who are able to work in a democratic environment, 2) securing providers who can set out how they will meet strategic longer-term outcomes sought by the client, and 3) the need for a high-level contract management prepared to use contract clauses to meet requirements.

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# 1.Introduction

## Background

1. Roads are a high profile function of the County Council and a significant area of expenditure. They are used by nearly everyone living in Buckinghamshire and by many more people travelling through the county for work or leisure purposes. The transport infrastructure of Buckinghamshire includes 2,000 miles of local roads, 4,300 miles of footways, 400 road bridges, 28,000 street lights, and 6,500 illuminated signs and bollards.
2. Transport for Bucks (TfB) delivers all highways and transportation services on behalf of Buckinghamshire County Council (BCC). The contract was created in April 2009 and was based on an “alliance” arrangement. It brought together: Ringway Jacobs (RJ), a 50/50 joint venture company jointly owned by Ringway Infrastructure Services Ltd and Jacobs UK Ltd; and various staff from the former highway contractor and BCC who transferred to RJ under TUPE. The service is delivered under the terms of a ‘target cost’ NEC based contract and is managed by a thin client organisation – presently one senior BCC manager with a small support team. The client is part of the wider Place Service within the Communities and Built Environment Department of the County Council.
3. A well maintained highway network is a high priority for the County Council and the residents of Buckinghamshire. The last survey completed by IPSOS MORI<sup>1</sup> demonstrated that the condition of the roads was the top priority for residents with 70% of respondents saying it was the most important service for the County Council to deliver for them personally and 49% saying they felt the most important service generally
4. Stringent investment over previous years (prior to 2011) combined with severe weather over recent winters has resulted in many parts of the network displaying distress. This has led to a surge in the number of highway defects, a corresponding increase in the number of highway claims, low levels of public satisfaction/perception and a significant increase in the need for reactive maintenance. This in turn has challenged the capacity of the contractor to maintain the standards of both response time and quality expected by the public and elected Members. The Council has sought to arrest the decline in road condition by approving a significant increase in capital spending on highways maintenance.
5. As an on-going interest, Members of the Council are keen that the Council is doing enough to ensure that effective highway maintenance is being delivered through the Council’s contract with Ringway Jacobs. The 2013 National Highways Network survey shows that the condition of roads and footways<sup>2</sup> are the most important things that people think need improving in their local area. In addition, County, District and Parish Councillors receive numerous complaints about road condition and quality of repairs from their constituents, particularly in rural areas.<sup>3</sup>
6. The 2013 National Highways Network survey results also show that for the fifth year running the public has registered the highest levels of dissatisfaction with Highway Condition (KBI23 Highway Condition average is 31%). This continues a downward trend for this key indicator

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<sup>1</sup> Base: All respondents (W1: 1,014 / W2: 1,000). Fieldwork dates 5 – 16 October 2012 / 5 – 16 April 2013.

<sup>2</sup> <http://nhtsurvey2013.econtrack.co.uk/Default.aspx>

<sup>3</sup> This was highlighted through the Member Survey of TfB (Appendix F) and the TfB Parish workshop on 17<sup>th</sup> October.

since 2008 with one of the largest reductions in satisfaction in 2013.<sup>4</sup> The survey also asked 'What is most important to you personally' the public chose as their three most important service areas in the 2013 survey:

- Condition of Roads
- Pavement & Footways
- Safety on Roads

7. In Buckinghamshire, the residents' tracker survey for April 2013 showed that only 12% of people were very or fairly satisfied with the condition of Bucks roads compared to 26% in the October 2012 survey results. Therefore, public satisfaction is continuing to fall.
8. The MORI survey also demonstrated that public satisfaction with the condition of the roads is at 14%, and satisfaction with the speed of repair works is on at 6% for being very or fairly satisfied. Buckinghamshire is underperforming on these measures compared to nearest neighboring local authorities and the aggregate across the 75 Local Authorities surveyed in the National Highways Tracker Survey 2013.<sup>5</sup> However, public satisfaction figures are inconsistent with the performance data provided by the service area, which suggest that performance targets relating to satisfaction are being met. This discrepancy demonstrates a mismatch between the measures the Council is using to assess the service, and the wider public perception of the service.
9. The local elections of May 2013 saw a large turnover of new Members many of whom have been appointed as Members of the Council's new scrutiny select committees. At the first meeting of the Environment, Transport and Locality Services Select Committee (ETL) on the 25th July, it was agreed that the Transport for Bucks (Ringway Jacobs) contract should be examined to address Member concerns and public perception of TfB. In addition to it being a committee priority, the committee were also encouraged by the Leader and senior BCC officers to review the contract to address Member concerns and to inform policy decision on future contracts of this nature entered into by BCC, which are likely to become increasingly common in future operation models of the Council.

## Methodology and Acknowledgements

10. A scrutiny inquiry group was commissioned in July 2013 with a scope to examine the Contract Management and Structure of TfB in order to identify the root causes of concerns raised by Members. This included examining the progress made since the last review in 2011, a detailed examination of the contract, its management delivery and performance, member perception and satisfaction of TfB services provided Ringway Jacobs, and to identify any broad learning for future Council contracting and commissioning within the future operation of the Council. The review methodology included witness evidence sessions, requests for written evidence, engagement with Parish Councils, a site visit and tour of the TfB Operational Hub and depot and a Member survey emailed to all County Councillors to assess the Member perception and experiences of TfB services.

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<sup>4</sup> <http://nhtsurvey2013.econtrack.co.uk/Default.aspx>

<sup>5</sup> Source: Ipsos MORI NHTS survey. Base: All valid responses (2012 – 628; 2011 - 666). Fieldwork dates July 2 – 10 August 2012 and Sept 26<sup>t</sup>– 12 Dec 2011

## Current and Recent Reviews

- 11.** During our initial evidence gathering sessions, we quickly established that there were a number of internal/external reviews being undertaken around TfB which were seeking to address many of the concerns raised by Members at the early stages of the process. With this in mind, we did not wish to duplicate or interfere with work already underway. Rather we felt it was important to provide an overview of recent or current reviews, to request to be informed of findings and crucially to add our own views in particular around contract management, value for money, and communication with elected Members and the public.
- 12.** It should be noted that the County Council was also leading a major contractual change with Ringway Jacobs (the contractor) during the period of our review process. This involved the TUPE transfer of 60 County Council staff into Ringway Jacobs. This was a complex and emotive change but was led by the County Council and RingWay Jacobs owing to the need to redress issues of management and to prepare the service for ever tighter efficiencies and service improvements.
- 13.** We were made aware of an external consultant’s diagnostic report of TfB, and resultant improvement plan (See appendix X). The remit of the work was set by the Service Director and was to review how the services operate and are perceived, and to identify what the services were trying to deliver, defining outcomes for Ringway Jacobs to achieve. This review ran concurrently with the work of the Committee and highlighted many of the same key themes as those highlighted by the Members. Equally, it was a two way process with the Committee raising concerns which have ultimately informed the improvement plans already underway. The service area began implementing many of the improvements during the course of this review, addressing a number of the Member’s concerns throughout the process.
- 14.** We were informed about the Cabinet Member initiated communication and customer focus review, led by BCC<sup>6</sup> (See appendix C). This was also an area within the consultant’s improvement plan<sup>7</sup> and addresses issues that Members raised around TfB communications with elected Members and the Public, and access to information. A huge amount of progress has been made in this area, with positive feedback on the improvements from Members.<sup>8</sup> We felt reassured by the scope of this review, and areas being addressed within the respective improvement plan. One particular issue raised by Members early on was the level of data and information available on the Members webpage and the ease of use of these pages. Members have been positive about the development of the new Member pages with high-level GIS based information on key aspects of the service. This was designed and tested with Members as key stakeholders in the development.
- 15.** Considering the importance of effective and responsive communication in improving customer satisfaction and perception of the service, we were concerned that this far into the contract there were still so many issues around customer focus, communication and access to information. This is especially so, considering the low levels of public satisfaction highlighted above. However, we were reassured by the content of the review and are confident that the

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<sup>6</sup> Witness Evidence at Select Committee Meeting 25<sup>th</sup> September – full review scope and improvement plan at appendix C.

<sup>7</sup> External Consultant Review and Resultant Improvement Plan, Work Package C (full plan at appendix D).

<sup>8</sup> Positive feedback from Members of the committee and from the Member satisfaction survey.



improvement plan captured the concerns raised by the committee. We would encourage and welcome the service area to work with Members to continue to drive these improvements, regularly obtaining their feedback and views on the improvements being made.

16. A previous scrutiny review of Tfb was undertaken by the defunct Overview and Scrutiny Commissioning Committee in 2011.<sup>9</sup> We received a final progress update on the recommendations at the 25<sup>th</sup> September Committee (see appendix G). We were disappointed that 18 months later, some recommendations had not been completed with many of the same issues still prevalent. Thus, despite some improvements being implemented, many outstanding matters had to be incorporated into the present review due to a number of factors including, changes to the client team (including membership on monitoring boards) and budget changes, amongst others. We will make links to the 2011 review throughout this report.
17. In addressing the role of Local Area Technicians (LATs), we found that the County Council has requested Ringway Jacobs (the contractor) undertake a review of LATs.<sup>10</sup> The role of LATs was an area that Members raised at the early stages. Members and Parishes feel they are an integral and fundamental element of the Tfb service and act as the public and member interface with Tfb.<sup>11</sup> This was supported by the Member survey results (see appendix F).
18. Our views and those of the majority of Parish Councillors<sup>12</sup> were given to the officers and Cabinet Member to inform the shape of the new role of LATs. These included; the view that the role of LATs should remain a key function of the service and are a vital asset, recognition of the fact that LATs are the public interface of Tfb (managing public and Member expectations), that their time needs to be predominately spent on the ground and they need “empowering” to carry out their role.
19. We have been informed that the new role of LATs will be presented to Members at a Member conference early December, hosted by Tfb. The new role will be implemented in January 2014<sup>13</sup>. We stress the importance of the Local Area Technicians to the work of elected Members and request that the committee receive an update of the progress of the new role in the New Year after an appropriate period of implementation.
20. The above reviews cover the areas Members raised as concerns during the early stages of the review process. We were satisfied that detailed reviews were already underway, and that we were able to contribute to these reviews. With this in mind we recommend;
  - **Recommendation 1: The committee request to receive updates on the implementation of the following recent/current reviews around Tfb operation and perception:**
    - **Quarterly updates on all actions within the external consultant review of Tfb and its implementation plan, commencing in February 2014**
    - **Quarterly updates on the internal BCC Communications and Customer Focus review, commencing in February 2014**

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<sup>9</sup> See Recommendation at Appendix B

<sup>10</sup> Notes of evidence heard at 16<sup>th</sup> October Working Group – review undertaken by Tfb.

<sup>11</sup> Evidence from Parish workshop held by Tfb on 17<sup>th</sup> October 2013.

<sup>12</sup> Ibid

<sup>13</sup> Cabinet Member informed the Committee of this at the Working Group of the 20<sup>th</sup> November.

- **An update on the implementation of the new role for Local Area Technicians in February 2014 with an additional 6 month update on progress.**

## 2.Planning & Performance

### Current Planning

- 21.** This section considers the current planning and performance arrangements within the contract, a key theme highlighted by Members throughout our evidence gathering. This was also a key theme/finding within consultant’s review. Rather than duplicate the recommendations, we provide an overview of the evidence we heard and our subsequent observations, which ultimately lead us to support the findings/actions within the improvement plan<sup>14</sup>(See Appendix X - work package S1).
- 22.** The Tfb contract is designed around an “alliance” arrangement, based on trust with much of the responsibility and risk passed on to the contractor through the contract itself. For example, everything from designing the business plans and work packages, to self-assessment of the Key Performance Indicators (KPIs), with a thin Strategic Client managing and setting the strategic direction of the contract.
- 23.** Currently, Tfb have an annual planning process, developing business plans on a year by year basis. <sup>15</sup>The business plans set out the detail of the programme for delivery and the outputs expected. The Key Performance Indicators attempt to address the outputs that are required (measuring performance against them) and are monitored monthly and reported through the governance structure in place<sup>16</sup>on a bimonthly/quarterly basis (KPIs are discussed in more detail below). The business plans feed directly into task orders and set out the specific risks considered when developing costs for those tasks. The task orders are ultimately ratified by the Strategic Management Board (SMB) and issued by the strategic director at the beginning of each year and then signed off as complete by the client manager at the end of each year, subject to detailed checks and validation.
- 24.** The contractor planning process starts in September when they develop the business plan working on a zero based budget<sup>17</sup>. For each area that they are contracted to provide, they come forward with a budget/target. There is an internal check and challenge including how to deliver the service reduction, efficiency and innovation. The contract states that each year the contractor must make a 3% saving. Once they are confident that they have a plan that meets the financial envelope for the year it is presented to the Strategic Client. In the spirit of partnership and in line with the terms of the contract, the Strategic Client is involved in all steps of the business development process and has an open invitation to all internal business challenge meetings. During the County Council’s Medium Term Planning process, business cases are developed and there is a process of internal challenges to meet these targets (starting in mid-October).
- 25.** The contractor is engaged in the budget setting process through the development of the baseline budget to meet the client (BCC’s) minimum policy requirements. The Medium Term

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<sup>14</sup> External consultant review and improvement plan ( appendix D)

<sup>15</sup> Now within the context of the 4 year medium term planning process and the emerging four year plan to be completed by the contractor.

<sup>16</sup> I.e.the Operational Management Board and the Strategic Management Board.

<sup>17</sup> 2014/15 is the first year for which zero based budgeting has been tried but this will continue. This is the first year the authority as a whole has adopted this approach – evidence from contract manager.

Planning Process then provides the contractor with the opportunity to identify areas where risk is high if funds are not available and bid for additional funds to mitigate the risk.

- 26.** From our discussions with TfB representatives<sup>18</sup> we felt that TfB are currently concentrating efforts on an annual planning process and we agree with the findings of the external consultant's review that "activity tends to appear busy, reactive and short term focussed with little strategic planning".<sup>19</sup> TfB are responsible for the annual planning process but we are not convinced that the annual planning process is as robust as we were told. TfB must deliver a longer term strategic plan as contractually required. The focus is far too heavily steered towards yearly planning without a longer term strategic approach. In our view the annual plan does not seem to be any more than the minimum documents required for the 4 year MTP budget planning process, and there is not a clear link between annual planning and long term investment. The departmental MTP process emphasises the silo culture (with budgets for each area considered in isolation), and combined with a lack of long term planning, we felt that this highlights the lack of cross cutting long term innovation.
- 27.** The annual activity is evident but there appears not to have been enough of a final check by the client to robustly ensure that the delivery of contract requirements is as they would expect from the contractors. This is exacerbated by lack of capacity on the client side. We agree with the findings of the external consultant and that weaknesses of the annual planning process would be addressed through adopting a more strategic longer term planning process (see appendix D). In particular, the design of an effective KPI suite aimed at achieving the high level outcomes which have been defined within the improvement plan.
- 28.** Our key observations/views with the current planning process were:
- That the service to date has been budget driven rather than outcome focussed.
  - There is a lack of clarity around how the "golden thread" (from strategic priorities to local road improvements) runs through the service, and how important decisions about the direction of the contract are made. From our perspective decision making appears unclear, opaque and overly convoluted resulting in slow decision making.
  - The annual planning cycle has resulted in a reactive approach to the county's highways maintenance, rather than a proactive approach to dealing with the network as a whole which should be informed by a long term plan.
- 29.** We feel that long term planning is important especially in the current financial climate and with the condition of the County's roads as they are. A coherent long term plan with clearly defined high level outcomes will enhance opportunities to achieve better value for money through a longer term more strategic approach as well as encourage the contractor to be increasingly forthcoming with innovation and efficiencies.
- 30.** This in mind we recommend that the service devote significant immediate attention to ensuring effective long-term planning which will provide clarity and strategic approach to activity and relationships.

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<sup>18</sup> Notes from the Working Group of 12<sup>th</sup> September.

<sup>19</sup> Findings from external consultant review under Work package S1 in appendix D

- **Recommendation 2: We recommend that the service ensure effective long-term planning (a 4 year plan which fits with the Council’s Medium term plan and budget proposals) to guide the annual planning activity, with particular emphasis on efficiencies, value for money and longer term development of the transport network. The Environment, Transport and Locality Services Select Committee should receive a written update on any forthcoming long-term plans.**

## Key Performance Indicators

- 31.** We have already referenced KPIs and their place in strong longer-term planning to achieve strategic high level outcomes. We will now comment on how KPIs are currently set and amended and any improvements that could be made to this process. Again this is a theme within the improvement plan and our observations should be used to inform the KPI review work currently being carried out by the service as a result of improvement plan (see appendix D).
- 32.** The original KPIs are set out in Schedule 5 of the contract. They set the standards against which TfB’s performance is measured, having both a “minimum acceptable performance” and an “expected performance” level. TfB have a process of self-assessment throughout the year and report back to the Council (the client), through the governance of the contract, Operational Management Board and Strategic Board by exception. Overall performance during the financial year is measured within one month before or after the end of the financial year and has implications on: the term of the contract, the level of fee profit element entitlement, and sharing in savings below the annual target costs. Performance against KPIs is approved through the Strategic Board.
- 33.** Since the start of the RJ contract a total of 80 Key Performance Indicators (KPIs) have been used as 'contract' indicators i.e. compliance with these indicators is directly linked to the contractor's profit. Not all these indicators have been used at the same time and for 2013/14, 40 KPIs are currently being used.<sup>20</sup> The broad groupings of the current KPIs are; condition of the highway, quality of works, value for money and stakeholder and customer. We are aware as a result of recent service changes that improvements to KPIs are being developed and we look forward to hearing more about these.
- 34.** From our evidence gathering we were left with the impression that KPIs could be more challenging, but also that they should seek to drive the right long-term behaviours and approach to improvement. We felt that, mechanically the KPIs work however some Members expressed surprise that a contract extension is automatic if “minimum acceptable performance”, (only 90% of the KPIs) is achieved. We felt that KPIs developed to drive “contractor behaviour” are of such a basic nature that they should really be standard contract conditions. If the Council wants a service of excellence then it needs to ensure that it is driving the KPIs to achieve this. We feel that currently KPIs are being used to manage the contract, but we feel that the contract clauses should be used to manage the contract (more than they currently are) and that KPIs should be used to drive excellent performance.

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<sup>20</sup> Written evidence received 15<sup>th</sup> November 2013 from BCC interim contract manager who is managing the improvement plan.

35. KPIs play a vital role in the contract extension arrangements, with sufficient performance against these resulting in the contractor being eligible for yearly extensions. However, as the contractor self-assesses performance against KPIs, with the client only checking the detailed performance information on KPIs “by exception,” that contract extension options are not as robust as they should be. With this in mind, we feel that the client need to ensure the integrity of the figures attached to the KPIs and the value placed on them. At the time the contract was taken out the client capacity was far greater, and included a compliance/audit officer who would have had the capability to ensure that the KPIs were robustly checked and challenged. We do not feel that this is the case now that the client capacity is reduced (see recommendation below on client capacity).
36. The County Council may only just be realising the nature of the contract it is in. There needs to be a common recognition at all levels in the organisation that in a commissioning environment all the normal day to day activities within a service are outsourced. The client role is one of contract management/commissioning rather than being the gatekeeper/review of requests for service. In line with this approach the client has passed over all responsibility to the contractor including self-assessment of the KPIs, and therefore has no in-house audit/compliance function within the client team. Ultimately, we are not convinced that TFB are fully delivering as the contract requires. Given that the contractor has full responsibility for delivery, we question why we continue to make payment contributions and contract extensions, if required services and processes are not being delivered.
37. We are concerned that the process for setting and agreeing KPIs was primarily one of the client management with the contractor, subject to the approval of the Strategic Management Board, on which the Cabinet Member represents the wider Member group. There is very little member consultation or input into this process (following the changes to the SMB membership after the elections). Therefore, in order to achieve a set of coordinated, progressive KPIs we recommend that any setting or amending of KPIs be reviewed by a wider group of Members in order to input local perceptions and ensure that the KPIs measure those areas that are of concern to Members. This will help inform the ultimate decision making process of the Strategic Management Board in agreeing the KPIs for each year.
38. One of the recommendations of the aforementioned 2011 TFB scrutiny review was around the importance of ensuring customer satisfaction within the KPIs. Due to the current levels of public dissatisfaction with the service, we would echo this recommendation and request that it future KPIs continue to weigh the customer satisfaction KPIs highly.
39. The above points in mind, we recommend that future setting of KPIs focus on driving continual improvement in performance and behaviour over the longer-term to achieve the high level outcomes of the consultant’s improvement plan, and;
- **Recommendation 3: We recommend that all future KPIs evolve to place greater emphasis on long-term outcomes and improvements and that future setting/amending of KPIs be subject to wider Member involvement to inform the decision making process of the Strategic Management Board. The Cabinet Member should put forward options for this by February 2014 for the Environment, Transport and Locality Services Committee to comment on and agree.**

- **Recommendation 4: We recommend that KPI figures and values need to be properly audited on an annual basis, for example through internal audit or the client team, in order to ensure that the decision making around payments and extensions is robust. A written report of the findings should go to the Strategic Management Board and also monitored by this select committee.**

## **Member Choice vs. Strategic Based Approach**

- 40.** During the course of our inquiries, we had a number of discussions around the Member priority schemes for road maintenance (whereby each of the 49 Members can prioritise road maintenance within their electoral division) and the emphasis that the Council places on the prioritisation of works being Member-led. Currently (this year) £14 million is set aside for Member schemes and £2.725 million is allocated for strategic countywide schemes.
- 41.** We heard that this focus for Member-led schemes began in 2011 at the same time that the Council increased its funding for road maintenance overall.<sup>21</sup> Whilst we acknowledge that this Member-led approach has resulted in improvements to the condition of the county road network since 2011. Considering the continuing strategic need to improve the condition of the county's road network as a whole, we discussed whether there is an opportunity to reassess this particular approach going forward. A Member-led approach that suits the Council's new circumstances and the aspiration for longer term strategic planning approach to road maintenance should be explored.
- 42.** While we are supportive of, and encourage the principle of the Member-led approach, we are aware that BCC has a low focus, compared to other local authorities, on a more strategic need approach across the county.<sup>22</sup> A strategic approach to resource allocation uses data on road condition to determine when it is best to carry out less costly preventative treatments on sections of the network to prevent them deteriorating to the point where they need much more expensive repairs. This approach maximises the value gained for the spending made and for this reason it may be a more cost effective approach to spending, particularly in the longer term. The Highways Maintenance Efficiency Programme (HMEP)<sup>23</sup>, which brings together national best practise, recommends that local authorities use what they refer to as an 'Asset Management' approach.
- 43.** We feel that a more strategic Member-led approach should still include a significant element of localised repair prioritisation, whilst also influencing larger cross-divisional schemes for strategic routes. All Members need to be appropriately informed about the benefits and disbenefits of the different approaches (strategic and localised), to ensure that they are involved where their input is most valuable. TfB need to be able to take a strategic view of the

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<sup>21</sup> Working Group Session with TfB officers held on the 18<sup>th</sup> November.

<sup>22</sup> For example, Northamptonshire have had a significant shift in preventative maintenance from 10% to 50% of their budget spend. Staffordshire use an Asset Management approach along with many other authorities who are scoring higher than Buckinghamshire with both satisfaction levels and condition of roads.

<sup>23</sup> HMEP is a sector-led transformation programme designed to maximise returns from highways investment and deliver efficient and effective services. Aimed at the local highways sector, the programme runs to 2018 and is sponsored by the Department for Transport who are providing £6 million funding. HMEP is a partnership between public and private sectors, and the programme team consists of representatives from local and highway authorities, companies and central government.

network as a whole, and Members need to have a role in maintenance within their division in order to address residents' concerns. We feel that a better balance could be struck without diminishing the role of Members.

44. With the above points in mind, we believe it would be useful for the authority, perhaps led by the Cabinet Member, to examine the benefits and disbenefits of an aggregate of 49 road maintenance priorities (there are 49 Members) as opposed to a single longer-term strategic approach. We suggest that there may be a middle ground between these two positions which could capture member and resident priorities countywide but also meet the longer-term maintenance and development needs of the road network as a whole.

- **Recommendation 5: We recommend that the Cabinet Member for Planning and Transport retains a Member-led system for road maintenance but:**
- **reviews the definition of Member-led currently used in the context of prioritising road maintenance to allow for greater flexibility in the approach and,**
  - **Examines the proportion of budget allocated between local member priorities, and a countywide strategic management approach.**

**We request that the Cabinet Member commission a report on this topic, referencing national practice, and further options for road maintenance prioritising.**



## 3. Contract and Strategic Management

### The Contract

- 45.** This section will cover our findings and observations around the management of the contract beginning with an overview of how the contract is set up and the day to day management of it.
- 46.** The contract is described as a Strategic Alliance, a bespoke contract based on NEC principles, which has become more common nationally in recent years for local authority transportation services. The principle behind this type of contract is that a single private entity contracts with the Council to provide an 'integrated' transportation service combining both professional and technical functions (such as design services) and improvement and maintenance works on the ground. The Contractor is required to provide the services with a view to achieving the Council's Strategic Objectives for the transportation service. There is a contractual obligation on all parties of the contract to act in a 'spirit of mutual trust and co-operation'.
- 47.** The Contractor is expected to take the lead on providing the service within the Policy and Budgetary Framework set by the Council. The service is entrusted to the Contractor and the main controls available to the Client are as follows:
- check and challenge through the business planning process both short (annual) and medium term,
  - setting Key Performance Indicators and targets and monitoring achievement of these,
  - regular governance meetings particularly the Operational Management Board and Strategic Management Board,
  - the ability to commission specific audits and the fact that the contract is 'open book accounting' i.e. the Contractor is obliged to share all cost information as and when required by the Council,
  - random technical audits of work.
- 48.** In terms of day to day operations, to commence works the client (BCC) commissions Task Orders to the contractor (Ringway Jacobs). In response the contractor provides a Target Cost for each order. In practice, the task orders are combined into two single orders; one for Capital and one for Revenue, from which the client releases only a defined proportion of each at the start of the year. The aim of the Target Costs is to pass the risk of overspend from the council to Ringway Jacobs on a 'pain/gain' share basis. Through the Contract, thresholds have been established to determine what percentage of overspend or underspend is met by the council and by the contractor.
- 49.** The "pain/gain" share mechanism is a common mechanism on NEC type contracts and as well as providing the Client protection in the event of an over spend also provides an opportunity for the Contractor to achieve additional income from the contract in return for reducing costs and/or improving efficiency. However, operation of the Target Cost provisions in the Bucks CC

contract are dependent on the Contractor achieving both the requirement for 3% efficiency savings each year and meeting the 'minimum acceptable performance' as measured by the contract KPIs.

- 50.** At the time of award of the contract (2009), the Contractor tendered a percentage to cover both the management fee and the profit. This percentage is applied to actual costs incurred by the contractor in delivering the contract (including local overheads) with the exception of one or two areas where costs are 'passport' on. The profit percentage is payable (or not) through a link to the Key Performance Indicators. An estimate of the profit available associated with the orders is made and then placed at risk against various KPIs.<sup>24</sup>

## **Strategic Management Board and Operational Management Board**

- 51.** The Contract management and performance is monitored through the Strategic Management Board (SMB) and the Operational Management Board (OMB). The role of the Strategic Board is to set the vision, direction and objectives for the partnership, to meet the service level and strategic objectives of the County Council (see Appendix X for full terms of reference). Membership of the Board includes the Cabinet Member for Planning and Transportation, the Strategic Director for Communities and Built Environment, the Service Director, the Ringway Jacobs Service Leader, and the client contract Manger.
- 52.** The Operations Management Board monitors and reviews the performance of the Contractor in the delivery of the services, in particular, the performance of the Contractor against the Key Performance Indicators and the progress of Tasks against their predicted Task Completion Dates. They make recommendations and observations to the Contractor and the Employer regarding the operational performance of the Contractor and the ways in which performance needs to be, or might be, improved. They liaise with the Strategic Management Board and share with the Strategic Board the results of its monitoring in reviews of the Contractor's performance of the Services with a view to identifying any lessons that can be learnt or practices that can be improved upon.
- 53.** As the main mechanism in which performance of the contract is monitored and key decisions area agreed, we were disappointed to find that, despite the 2011 TFB scrutiny recommendation that the Strategic Management Board should have wider Member representation, this recommendation has not been maintained following the 2013 Elections. The Cabinet Member for Planning and Transportation is the sole elected Member on the Board. We question whether this represents sufficient democratic accountability considering the concerns raised both within this report and the various other reviews stressing the importance of member representation.
- 54.** With the above points in mind, we suggest that increased elected Member representation on the Strategic Management Board be reinstated, or a similar Member involvement option be

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<sup>24</sup> This section is based on factual written evidence received by the client contract manager.

considered to ensure that wider locality and customer views and experiences inform the process of managing the contract.<sup>25</sup>

- **Recommendation 6: We recommend that at least two BCC elected Members are re-appointed to the Strategic Management Board (or an alternative Member involvement option) in order to strengthen democratic representation, as recommended by the 2011 TfB scrutiny review.**

## Client Management

- 55.** Although the current “thin” client structure is to be applauded in terms of efficiency and direct relationships, the success of it rests on whether those people responsible for managing the contract are given sufficient support and resource to manage the contract rigorously, providing effective and robust check and challenge and thorough application of the contract.
- 56.** We wanted to address the in house capability and capacity of the client to manage the contract. The service has gone through a constant period of change and has had to respond to these changes often at very short notice. In April 2012, the client side was significantly reduced as part of the creation of the PLACE service within the County Council. The client went from 6/7 members of staff with specific remits and capabilities, to one contract manager and a small support team<sup>26</sup>. We were also made aware of other changes within both the client and contractor management teams during the course of this review and that there are further changes imminent.<sup>27</sup>
- 57.** Although we agree that a thin client is inherent in the model of this contract, we are apprehensive that the client has now become reliant on TfB fulfilling their responsibilities under the contract without the necessary technical expertise in-house to provide the appropriate level of check and challenge. The client is being pulled into operational delivery issues reducing capacity to manage the contract or to lead the policy process. Our view is that the client team may have been fit for purpose when the contract was awarded, but the client team has subsequently lost a huge amount of capacity and thus capability to manage the contact robustly. Ultimately we were of the view that the check and challenge is fairly minimal.
- 58.** We feel this was evidenced through the amount of changes we saw in the management team during our review, as well as the need to appoint and second people into the team. The most recent change being the appointment of an interim high level contract manager who will be driving the improvement plan and monitoring the performance. The committee would be keen to receive a progress update on this appointment, whether it will be continued or not following the initial 6 month term, and any further changes in the management structure resulting from recent reviews.

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<sup>25</sup> As stated in the 2011 scrutiny review.

<sup>26</sup> Until November 2013 when an interim contract manager joined.

<sup>27</sup> A review of the management teams of both BCC and TfB forms part of the improvement plan.

**59.** We are of the opinion that the Strategic Client should be sufficiently resourced to ensure resilience and capacity, and to provide regular and thorough challenge to the contractor. We were disappointed that despite the 2011 TFB scrutiny review recommendation to enhance the client capacity, the capacity has been further reduced whilst the contract itself has increased in size. This has further compounded the capacity issue of the client. Place service re-organisation has caused a major hole in capacity and consequently required partial and intermittent backfill with consultants i.e. the interim contract manager.

➤ **Recommendation 7:** We recommend that the Strategic Client function should be sufficiently resourced to ensure the necessary client capacity and in-house skills are in place so that the client can effectively manage the contract and provide robust check and challenge of delivery.

## **Contract Extensions**

**60.** As discussed, BCC contract with Ringway Jacobs Limited commenced on 1<sup>st</sup> April 2009 for an initial period of 8 years. The contract provides for further extensions on an annual basis for a maximum of 7 years with an absolute end date for the contract no later 2024 and with the last possible extension being no later than 18 months before the end of the contract.

**61.** Award of a contract extension is by 'the Employer' i.e. the County Council. So far, the contract has been extended 3 times so that the expected end date is now 2019/20. The process for extending the contract to date has been as set out in Schedule 5 of the Contract and is as follows.

**62.** Each year the performance of the Contractor is considered against the KPIs set for that year. Provided that the Contractor has achieved at least the "minimum acceptable performance" for not less than 90% of the Key Performance Indicators the Contractor is entitled to one year's automatic extension to the service period. Should the Contractor's performance not meet these criteria then no extension is due and if the Contractor fails to meet the criteria for two years in succession any extension previously granted can be withdrawn by the Council.<sup>28</sup>

**63.** Discussions on performance are held at the Strategic Management Board following the end of the financial year under consideration. This year the Contractor's performance in 2012/13 was discussed at the Strategic Management Board held on the 11<sup>th</sup> June 2013. The Contractor met the minimum acceptable level of performance against KPIs and the principle of granting a further year's extension has been agreed but the letter extending the contract has not yet been sent.

**64.** From our various discussions with Tfb representatives we cannot be entirely confident that Tfb follow the Council's decision making process. Given that the contract is a multimillion pound contract and affects many Buckinghamshire residents we would expect that there is clarity over the decision making process, for example around matters such as contract extensions. From our discussions it is unclear whether contract extension decisions are the responsibility of

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<sup>28</sup> Written evidence received from client contract manager.

senior officers alone, or the Cabinet Member, or the Strategic Management Board collectively. If it were a Cabinet Member decision we would expect to see this on the Council's forward plan. We have found no evidence that such decisions are communicated for example, to all Members of the Council. From our perspective, it appears that decision making process is unclear and opaque.

- 65.** To date, it appears that contract extensions have been based on KPIs being met. However, as already discussed we feel that the process for setting and monitoring KPIs could be improved and subsequently, we feel that the process for extending contracts (in relation to KPIs) could also be improved. We understand that TfB produce a yearly report for SMB to consider as to the granting of the yearly extension, and this may be an opportunity for wider Member and/or audit input to inform the final decision by the Strategic Management Board.

➤ **Recommendation 8: We recommend that the TfB report for the Strategic Management Board on the approval of the yearly contract extensions be circulated to the Environment, Transport and Locality Service Select Committee in order to inform the decision making process of the Strategic Management Board on the approval of contract extensions.**

## 4. Value for Money and Benchmarking

### Bench Marking

**66.** Benchmarking is now an established practice amongst local authorities and provides an important starting point for giving reassurance to a client organisation that its contractual arrangements are providing value for money in the broadest sense. The principle is to compare actual costs incurred within a service with both the market and other authorities. There are two main methods:

- Comparison of unit costs (defined as cost/output) for various elements of the service, for example the cost of emptying a gully. Comparisons can be achieved through collaboration with other local authorities but can sometimes prove problematical because of commercial sensitivities about releasing information and the need to be sure comparisons are truly 'like for like'.
- Direct comparisons with market costs by sample tendering of a number of jobs.<sup>29</sup>

**67.** Within the Tfb contract there are currently some benchmarking comparisons undertaken by the second method (direct comparisons with market costs). The open book accounting nature of the contract should provide a good opportunity to establish unit costs which can be compared with other similar authorities where available, and year on year to monitor cost-efficiency.

**68.** From our workshop sessions we feel that benchmarking is not as effective as it could be and does not take place as rigorously as it should. For example, benchmarking of Task Order costs should be a regular occurrence, to satisfy BCC and Members that value for money is achieved. It has been alluded to that this does happen, but the openness of the process and subsequent reporting of findings are not clear. It was our perception that ad-hoc open book accounting was confused with formal benchmarking activity as required by the contract. We feel that the contract clause around benchmarking has not been fully applied. This has resulted in ambiguity around when and how often the Strategic Client expects benchmarking to be undertaken. We feel that this is an example of where a lack of capacity on the client side is evident. For example the client is unable to check that regular benchmarking information is being provided by Tfb, and subsequently monitored by the client.

**69.** Our concerns were confirmed when we found that BCC's internal audit process had not been sufficiently addressed by the client, with two outstanding issues still unresolved from the 2011 audit. One relates to the verification and approval of efficiency savings from 2010/11 and the other to finalisation of the "pain/gain" share for the 2010/11 financial year. We are aware that the Service Director is in discussions with relevant individuals to address these. All the above in mind we feel that internal benchmarking could be improved and undertaken more regularly.

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<sup>29</sup> Written evidence received from client contract manager

- **Recommendation 9: We recommend that a schedule of areas for financial benchmarking against other Local Authorities be agreed between TfB and the Strategic Client. This should be reviewed annually by the Strategic Management Board to provide clarity over benchmarking activity to ensure contract compliance and value for money.**

## Value for Money

70. It is not within the remit/capability of the committee to undertake a value for money review but from our workshop sessions we felt that there isn't a clear picture around the value for money achieved from the contract, or a robust audit process to ensure true efficiencies are being achieved. We were aware that a value for money review was proposed earlier this year, but postponed at the request of the Committee, in order to allow this review to report its findings. Having completed this review we would agree that an external value for money review should take place. We feel that this information would be useful to input into longer-term planning, the setting of more challenging and appropriate KPIs, and will encourage the contractor to drive true efficiencies and innovation. It would ensure that the BCC is still getting the best value for money from the contractor and would reassure Members that the contract is delivering the best service it can within the budget available.

- **Recommendation 10: We recommend that an external value for money review be undertaken (over the first half of 2014) to ensure and satisfy the client (BCC) that it is getting best value for money from the contract for elected Members and the residents of Buckinghamshire and that the committee receive a briefing on the findings of this review.**

71. During our working group sessions we discussed the impacts of the contractual obligation for the contractor to make 3% year on year efficiency savings. We were provided with information on efficiency savings made during 2012/13, which in our view demonstrated that the contractor were struggling to find the required 3% efficiencies within the year. We raised the question of whether the year on year efficiency target restricts the opportunity for larger step change efficiencies (for example over a 3 year period), and whether the client could be more open to wider efficiency options. An option to pause annual efficiency requirements (to allow for cumulative efficiencies) links to the aspirations of longer term planning. Longer term efficiencies could also encourage the contractor to be more forthcoming with greater efficiencies through innovation.

72. We question whether the on-going annual 3% efficiency targets have become unsustainable long-term and feel that efficiencies might have been exhausted. As mentioned above the issue of efficiency savings is still an outstanding issue from the 2011 internal audit process. With this in mind we feel that there are greater opportunities to be gained through a longer term approach to efficiency and innovation.

- **Recommendation 11: We recommend that the contractual obligation for a year - on -year 3% efficiency saving should be reviewed to allow for greater opportunity for cumulative and sustainable efficiency savings over a number of years. Alternative options should be drawn up by the Cabinet Member by the end of the 2013/14 financial year.**



## 5. Wider implications for the local authority

73. From our review of the Council's working with a provider, we feel that there are a number of learning opportunities to apply to wider Council working as it increasingly becomes a commissioning/contracting authority – we feel that this learning must not be lost. Although no contract arrangement is the same, there are a number of broad learning points as set out below:

- Securing providers who are able to work in a democratic environment and to adopt the Member-led culture fostered within the Council and the role played by Members in representing their local residents.
- Securing providers who can set out how they will meet long-term strategic outcomes sought by the client (not just annual objectives). As part of future commissioning processes it is important that the Council defines what it wishes to achieve long term from the provider, and is the balance of responsibility and empowerment between the client and provider.
- The need for high-level contract management who are prepared to use contract clauses to meet requirements and appropriate client capacity – It is vital that sufficient oversight and understanding of the contract and its objectives is maintained throughout the life of a contract.
- Following the Member Conference on 30<sup>th</sup> October 2013, on “the role of Elected Members in future council services”, Members discussed their role going forward. One area highlighted as a concern for Member's was that they felt they would need greater support and understanding around their democratic role within the commissioning process.

74. The above in mind, we recommend that these learning points should not be lost and should be used to inform future operation of the Council.

- **Recommendation 12: We recommend that all learning points from the TfB arrangement to date are used to inform future operation of the Council as it moves to become a commissioning/contracting organisation, in particular: 1) securing providers who are able to work in a democratic environment, 2) securing providers who can set out how they will meet strategic longer-term outcomes sought by the client, and 3) the need for a high-level contract management prepared to use contract clauses to meet requirements.**

## **Conclusion and acknowledgments**

For committee discussion and to be added following Committee on  
6<sup>th</sup> December

# Glossary (to be added)

Transport for Bucks (TfB)

Ringway Jacobs

The Service

Strategic Client

BCC

Task orders

Medium Term Planning Process (MTP)

TUPE

Key Performance Indicators (KPIs)

Operations Management Board

Strategic Management Board

## Appendices & References

### List of Appendices

Detail to be added following Committee on 6<sup>th</sup> December

- A. Inquiry scope
- B. 2011 TfB Scrutiny review recommendations
- C. Customer Focus and communications review scope and improvement plan
- D. External consultant's diagnostic report and improvement plan
- E. Terms of reference for Strategic Management Board and Operations Management Board
- F. Member Satisfaction Survey and analysis of results.
- G. September update from 2011 TfB scrutiny review.