

# North Lanarkshire Council

## Report

### Council

Does this report require to be approved?

☐ Yes ☒ No

☐ approval ☒ noting

Ref KA/Council/March24 Date 28/03/24

### Internal Audit report – Allegations raised with Audit Scotland in respect of the current housing and property maintenance contract

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#### Executive Summary

Allegations have been raised with Audit Scotland by a whistle-blower concerning claims that Mears have, under the current housing and property maintenance contract, been amending completion dates for work undertaken. Although a detailed final audit report has not yet been prepared, the key findings and conclusions arising from Internal Audit's work on this matter have been finalised and are being presented now to ensure that the Council's decision-making in relation to any new contract award is fully informed by the results of this work.

It was suggested by the whistleblower that amending completion dates was done to ensure key performance targets set by the Council were met and resulted in reported performance information prepared by the Council over-stating actual performance. Additionally, it was suggested that this had created monetary loss to the Council and was a contributory factor in other potential bidders not engaging with the current Enterprise Project tender process.

As regards whether there was evidence of completion dates being changed by Mears staff for housing and corporate property repair jobs, Internal Audit can confirm that this has occurred. Analysis by Internal Audit for the last two financial years (2022-23 and 2023-24 to January 2024) has confirmed that completion dates have been changed by Mears staff, before the information was transferred to HSMS, in over 13,000 cases representing approximately 8% of all non-emergency repairs.

In relation to the impact of our findings about the scale of dates being changed on reported performance, Internal Audit has concluded that overall performance reported by the Council has been overstated during the 2-year period reviewed.

For housing repairs, the maximum possible decrease in reported performance calculated by Internal Audit would be 7.1% for 2022/23 and 4.4% for 2023/24 (to January 2024). Whilst the target of 95% of repairs being completed within timescale would still be achieved in 2023/24 year to date, this would not be the case for 2022/23 where performance would have been below the target at 91%.

For corporate property repairs, the maximum possible decrease in reported performance calculated by Internal Audit would, for both years, be significantly greater. 2022/23 would see a reduction of 23%, whilst 2023/24 (to January 2024) would see a reduction of 16.5%. In both years, performance would have been significantly below the 90% target at 76% and 82% respectively.

As regards financial impacts, Internal Audit are satisfied that the Council has suffered no monetary loss arising from the completion dates for repairs being amended. Our work has confirmed that no performance-related fees have been paid to Mears by the Council within the current contractual arrangements. The current contract also has no performance-related financial penalties which might otherwise have been imposed by the Council on Mears for failing to achieve specified performance levels or targets.

As regards the impact of these issues on the current procurement activity, while an unwillingness or inability to commit to deliver current reported performance levels may have been a factor which influenced potential bidders, it is difficult for internal Audit to offer a definitive opinion on the impact, if any, of reported performance on the appetite of other parties to participate in the current procurement process. We did note that there was no evidence from feedback gathered by the Council via market engagement undertaken as part of procurement process to indicate that the reported performance levels being delivered under the existing contract had influenced potential bidders' decisions as to whether or not to bid.

We have identified significant scope for improvements in how the relevant Service were monitoring and overseeing performance under the existing contract. These issues will be covered in greater detail within the final audit report which will include appropriate specific recommendations for management to consider which will address the identified weaknesses and seek to ensure that the contract management and oversight arrangements associated with any new contract are more robust.

It is expected that the audit recommendations will be broadly consistent with previous audit recommendations (made in our February 2024 report on the mitigation of single bidder risk) around the need for management to ensure a comprehensive and objective performance management framework is established with supplier performance assessed using clear, objective, and meaningful metrics supported by an adequately resourced, balanced contract management team with an appropriate range of skills. Satisfactory management responses, including agreed proposed actions and timescales, have already been received in response to the recommendations made in the earlier audit report.

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## **Recommendations**

The Council is requested to:

- (a) note the key findings and conclusions arising from Internal Audit's investigation into allegations received;
- (b) note that a more detailed Internal Audit report on this issue will be submitted to the next meeting of the Audit and Scrutiny Panel in line with the agreed Internal Audit reporting protocol; and
- (c) agree that Internal Audit monitor progress made by management implementing actions agreed in response to Internal Audit's recommendations and report on this to future meetings of the Audit and Scrutiny Panel.

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## **The Plan for North Lanarkshire**

Priority                      All priorities

Ambition statement      All ambition statements

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## **1. Background**

- 1.1 Allegations have been raised with Audit Scotland by a whistle-blower relating to claims that Mears have, under the current contract, been amending completion dates for work undertaken to ensure key performance targets set by the Council were met resulting in reported performance information prepared by the Council over-stating actual performance. Additionally, it was suggested that this had created monetary loss to the Council and was a contributory factor in other potential bidders not engaging with the current tender process.
  - 1.2 Audit Scotland agreed that Internal Audit were best placed to undertake the detailed work necessary to investigate these claims and the purpose of this report is to provide members with the key findings and conclusions arising from that work.
  - 1.3 The Internal Audit review was undertaken in accordance with the Public Sector Internal Audit Standards and the approved Internal Audit Charter which recognises the independence of the Internal Audit function and the importance of its ability to act in accordance with best professional practice free from undue interference by management and/or senior elected members. The Chief Officer (Audit and Risk) can confirm that this work was undertaken free from any influence or pressure which might be seen as compromising the function's independence or ability to discharge its role.
  - 1.4 In undertaking this work, Internal Audit has had co-operation from both Mears and Council management and access to relevant management information systems. We also met with the whistleblower to enable them to outline fully their allegations and concerns and to discuss relevant issues arising. Audit Scotland was consulted throughout the process to ensure that they were aware of the work being undertaken, on our preliminary/emerging findings and to allow them to confirm that they were content for us to continue to progress this work.
  - 1.5 In view of the importance of elected members having access to all relevant information to inform their decision-making and after consultation with the Convener of the Audit and Scrutiny Panel, the Chief Officer (Audit and Risk) and the Chief Executive agreed that this report should be submitted directly to the Council meeting being asked to consider the Enterprise Project contract award, prior to a full and more detailed Internal Audit Report being reported to the Audit and Scrutiny Panel in line with the approved Internal Audit reporting protocol.
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## **2. Report**

- 2.1 The relevant Internal Audit work has now been completed and this report presents the key findings and conclusions arising from this audit work to support and inform the Council's decision-making in relation to any new contract award. A more detailed audit report is also currently being prepared which will be presented in due course to the Audit and Scrutiny Panel in line with Internal Audit's normal reporting arrangements.
- 2.2 The whistle-blower claims that Mears have, under the current contract for housing and corporate property repairs, been amending completion dates for work undertaken to ensure key performance targets set by the Council were met and that this has resulted in reported performance information prepared by the Council over-stating actual performance. Additionally, it was suggested that this had created monetary loss to the Council and may have been a contributory factor in other potential bidders not engaging with the current tender process.

2.3 In order to assess the credibility of these claims and to assess any potential impacts, Internal Audit has undertaken a range of work which has included:

- reviewing both the Council's HSMS and Mears' MCM systems to assess data held and to understand and document the processes by which a repair job/order is progressed from issue to completion to payment;
- analysing monthly performance reports prepared by the Council in respect of the contract and which are subsequently reported to the relevant Service Committee;
- analysis and interrogation of various reports from HSMS detailing all repair jobs issued or completed within the last two financial years to identify any potential anomalies with the dates reported;
- reviewing the MCM system for a sample of repair jobs to determine how information in respect of individual jobs is held within the system and to assess whether the information held can demonstrate the changing of completion dates;
- analysis and interrogation of specific reports generated from the MCM system to determine the extent and frequency of completion date changes;
- interviews with Mears senior management;
- interviews with Housing Property staff and senior management; and
- interview with the whistle-blower.

#### **Changing of completion dates**

2.4 As regards whether there was evidence of completion dates being changed by Mears staff for housing and corporate property repair jobs, Internal Audit can confirm that this has occurred.

2.5 All housing and property repair jobs notified to the Council are recorded on HSMS. Each repair raised is allocated a priority by Council staff which determines the relevant performance target based on either attendance time (for emergency repairs) or completion date/time (for non-emergency repairs). This information is recorded in HSMS and then transferred to the MCM system where Mears staff cannot amend it. When a repair has been completed, the MCM system is updated to reflect the completion date with the job details approved by a Mears supervisor.

2.6 Once approved, relevant information including completion dates are passed to HSMS via an interface, which automatically marks the repair as complete and records the reported completion date on HSMS. This is the only time that HSMS is populated with a completion date, and Council staff have no ability to record or amend reported completion dates. Importantly, where completion dates have been changed on the MCM system by Mears staff before being passed to HSMS, this would not be visible to Council staff.

2.7 Our analysis of information extracted from HSMS and the MCM system for the last two financial years (2022-23 and 2023-24 to January 2024), has confirmed that completion dates for repairs, across all priority codes (excluding emergencies), have been changed by Mears staff before the information was transferred to HSMS in over 13,000 cases representing approximately 8% of all non-emergency repairs.

2.8 Emergency repairs are based on attendance time rather than completion dates, but Mears have been unable to extract and export to us relevant data for attendance dates and times from their MCM system. We are unable, therefore, to quantify the extent to which dates/times may also have been changed in respect of emergency repairs.

- 2.9 Performance information is calculated by Council staff based on information held on HSMS. Internal Audit reviewed the performance reports prepared monthly by the Council which show the volume of repairs and performance levels for each month and the cumulative figures for the year to date. We reviewed the data to determine whether the information contained in them could have indicated or suggested that completion dates were being changed.
- 2.10 We identified that the volume of repairs reported as being completed for previous months' in these reports continued to change over time and that this appeared to be due to repairs being updated as complete on HSMS often months later than the original completion date recorded (e.g. reported completion date 1 October 2023, date HSMS updated with this information 1 February 2024, 123 days later).
- 2.11 The tables below provide, as an example, an illustration for June 2022 and June 2023 of the change in repair jobs reported as being completed for that month in subsequent monthly reports.

**Table 1a: Number of Housing priority 3 (20 days) jobs reported each month with a completion date in June**

	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
<b>Reported as completed in June 2023</b>										
Total jobs	<b>2,319</b>	2,478	2,705	2,705	2,835	2,836	2,836	2,836	2,836	
Increase		159	227	0	130	1	0	0	0	
<b>Reported as completed in June 2022</b>										
Total jobs	<b>2,059</b>	2,135	2,340	2,520	2,529	2,544	2,545	2,545	2,546	2,546
Increase		76	205	180	9	15	1	0	1	0

**Table 1b: Number of corporate property priority 3 (20 days) jobs reported each month with a completion date in June**

	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
<b>Reported as completed in June 2023</b>										
Total jobs	<b>303</b>	346	346	346	477	477	477	477	477	
Increase		43	0	0	131	0	0	0	0	
<b>Reported as completed in June 2022</b>										
Total jobs	<b>165</b>	203	203	203	203	203	203	203	203	203
Increase		38	0	0	0	0	0	0	0	0

- 2.12 Having already established that Mears were changing completion dates for individual repairs, we consider it a reasonable assumption that in such cases, the delay in reporting repairs as complete on HSMS would suggest that the repair may not have been completed until the later date.
- 2.13 Housing Property staff responsible for the routine management and monitoring of the contract advised they were unaware that dates were being changed because where completion dates have been changed on the MCM system by Mears staff before being passed to HSMS, this would not be visible to Council staff. But there was no evidence that Council staff were aware of or had taken any actions to attempt to understand or investigate, the volume of repairs being retrospectively included in performance reports months after the reported completion dates.

- 2.14 As the completion date recorded in HSMS is only populated once and there is an inability to retrospectively view data held on HSMS at a previous point in time, we are unable to definitively determine the extent to which completion dates held within HSMS were retrospectively amended by Mears. Therefore, to quantify this, we had to rely on a report generated by Mears from their MCM system which detailed repair jobs where the completion date had been changed by their staff.
- 2.15 Comparison of our analysis of retrospective changes to volumes in Council monitoring reports to the report generated from the MCM system detailing repair jobs where the completion date had been changed, showed a high degree of correlation between the totals. We therefore deemed the report from Mears to be an appropriate basis to attempt to assess any potential impact of completion date changes on reported performance.

### **Impact on reported performance of Mears staff changing completion dates**

- 2.16 As regards the impact of our findings about the scale of dates being changed on reported performance, Internal Audit has concluded that overall reported performance for both housing and corporate property repairs has been overstated during the period reviewed (see Table 2). The greatest estimated impact is on reported performance reported for corporate property repairs, with a smaller impact on reported performance for housing repairs.
- 2.17 Our analysis of the report from the MCM system detailing repair jobs where the completion date had been changed confirmed that, had the original completion dates been used, all these repairs would have failed to have been completed by the expected completion date and would therefore have been recorded on performance reports as failing to achieve target timescales. However, when the completion date was amended, this resulted in all repairs being completed by the expected completion date and therefore being recorded as within target timescales, resulting in higher levels of performance.
- 2.18 To determine the potential impact of changed completion dates on reported performance, we re-calculated the percentage of repairs completed within timescale across the full year for 2022/23 and 2023/24 (to January 2024). We have included all categories of repairs except emergencies (as these are not based on completion dates). We used the actual completion date recorded in HSMS to calculate overall percentage of repairs completed within timescale for the year. We then used the completion date recorded on the MCM system before the date was amended by Mears staff to calculate how performance would have been impacted had the dates not been subject to change.
- 2.19 Table 2 below shows the impact on reported performance over the last two years if the original completion date recorded on MCM by Mears staff is used. Targets are set for each priority of repair. For the main priority codes, a target of 95% of total repairs for housing and 90% for corporate property require to be completed within the estimated timescales and we have therefore used these targets as the basis to consider reported performance impacts.
- 2.20 For housing repairs, the maximum possible decrease in reported performance would be 7.1% for 2022/23 and 4.4% for 2023/24 (to January 2024). Whilst, for housing repairs in 2023/24 to date, the target of 95% of repair jobs being completed within timescale is still achieved, this would not be the case for 2022/23 where performance would have been below the target at 91%.

- 2.21 For corporate property repairs, in both years reported performance would be significantly lower using the original completion date recorded on the MCM system by Mears staff. 2022/23 sees a maximum possible reduction of 23%, whilst 2023/24 (to January 2024) sees a reduction of 16.5%, from the performance level reported using the amended completion dates. In both years, performance would have been significantly below the target of 90%.

**Table 2: Comparison of completion dates recorded on HSMS to original completion dates recorded on the MCM system.**

% of repairs completed within timescale	Housing		Property	
	2023/24	2022/23	2023/24	2022/23
Internal Audit re-calculation using completion date per HSMS	99.9%	98.5%	98.5%	98.8%
Internal Audit re-calculation using original date per MCM (where date has been changed)	95.5%	91.4%	82.0%	75.8%
<b>Decrease</b>	<b>4.4%</b>	<b>7.1%</b>	<b>16.5%</b>	<b>23.0%</b>

#### **Mears' response to our findings**

- 2.22 The current senior management team at Mears are relatively new in post and the Managing Director and the Commercial Director both confirmed to Internal Audit that they had previously been unaware that dates were being changed and were uncertain as to why this had occurred. Following our initial enquires, Mears reviewed a considerable number of individual repairs and concluded that the process of changing completion dates appeared to have been a long-standing practice and to have become custom and practice over a number of years.
- 2.23 Whilst Mears management provided explanations of factors which may have led or contributed to completion dates being changed, they recognised that the changing of dates was inappropriate and should not have happened. In many cases they considered that rather than retrospectively amending completion dates, repairs should have been dealt with differently by Mears staff (e.g. seeking variations and/or no default requests, etc).
- 2.24 Mears' management have indicated to Internal Audit that a clear and direct communication has now been issued to all relevant staff instructing that with immediate effect completion dates should not be retrospectively changed on the MCM system and that a monitoring mechanism is now in place to confirm that no such future cases arise. They have also stated that they intend to explore a system-based enhancement to ensure going forward that dates cannot be retrospectively changed on the MCM system.

#### **Financial impacts**

- 2.25 As regards financial impacts, we are satisfied that the Council has suffered no monetary loss arising from the completion dates for repairs being amended.
- 2.26 Our work has confirmed that no performance-related fees have been paid to Mears by the Council within the current contractual arrangements. The current contract also has no performance-related financial penalties which might otherwise have been imposed by the Council on Mears for failing to achieve specified performance levels or targets.

- 2.27 Mears have also indicated to us that none of their staff received, or had any contractual entitlement to, payments linked to the achievement of specific performance levels or targets stipulated in the existing contract. This was also confirmed by the whistleblower.

#### **Impact on current procurement activity**

- 2.28 As regards the impact of these issues on the current procurement activity, it is difficult for Internal Audit to offer a definitive opinion on the impact, if any, of reported performance on the appetite of other parties to participate in the current procurement process.
- 2.29 Internal Audit recognises that an unwillingness or inability to commit to deliver current reported performance levels may have influenced potential bidders. However, Internal Audit considers that potential bidders' decisions to not react positively to the Council's proposals and/or to submit responses to the invitation to tender will have been reached after considering a wide range of factors, with each potential bidder likely to have had their own individual and often specific reasons for not responding.
- 2.30 There was no evidence from feedback gathered by the Council via market engagement undertaken as part of procurement process for the housing and property element of the Enterprise Project, to indicate that the reported performance levels being delivered under the existing contract had influenced potential bidders' decision as to whether or not to bid.

#### **Contract monitoring arrangements**

- 2.31 We have identified significant scope for improvement in how the relevant Service were monitoring and overseeing performance under the existing contract. These issues will be covered in greater detail within the final audit report which will include appropriate specific recommendations for management to consider which will address the identified weaknesses and seek to ensure that the contract management and oversight arrangements associated with any new contract are more robust.
- 2.32 Although the final audit report has yet to be drafted, it is expected that the audit recommendations made will be broadly consistent with previous audit recommendations (made in our February 2024 report on the mitigation of single bidder risk) around the need for management to ensure a comprehensive and objective performance management framework is established with supplier performance assessed using clear, objective, and meaningful metrics supported by an adequately resourced, balanced contract management team with an appropriate range of skills. Satisfactory management responses, including agreed proposed actions and timescales, have already been received in response to the recommendations made in the earlier audit report.
- 2.33 Whilst the Service currently obtain and review a variety of weekly and monthly reports to assist performance monitoring and meet with Mears on a regular basis to discuss performance and any issues arising, we consider that a more 'holistic approach' to contract monitoring is needed, with current arrangements lacking the robustness and comprehensiveness required to effectively engage with the various outputs to identify and consider potential issues which may require further focus and/or management action.

#### **Future Internal Audit work**

- 2.34 Internal Audit will, in line with normal arrangements, monitor the progress made by management in implementing the actions agreed in response to audit recommendations arising from this work, and report the results of this work to the Audit and Scrutiny Panel.



- 2.35 More generally, we would also expect to examine the contract management arrangements (including associated performance management arrangements) at an early stage of any new contractual arrangements for the delivery of housing and corporate property repairs. More details in respect of planned future Internal Audit coverage will be included in the 2024-25 Internal Audit Plan which will, in due course, be submitted to the Audit and Scrutiny Panel for approval in line with the Internal Audit Charter.

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**3. Measures of success**

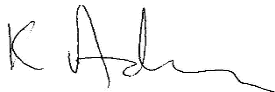
- 3.1 Internal Audit reports annually on its performance to the Audit and Scrutiny Panel and is also subject to review annually by the Council's appointed external auditors.

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**4. Supporting documentation**

None

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**Ken Adamson, Chief Officer (Audit and Risk)**

## 5. Impacts ( <http://connect/report-template-guidance> )

<b>5.1</b>	<b>Public Sector Equality Duty and Fairer Scotland Duty</b> Does the report contain information that has an impact because of the Public Sector Equality Duty and/or Fairer Scotland Duty? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>5.2</b>	<b>Financial impact</b> Does the report contain any financial impacts? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>5.3</b>	<b>HR policy impact</b> Does the report contain any HR policy or procedure impacts? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>5.4</b>	<b>Legal impact</b> Does the report contain any legal impacts (such as general legal matters, statutory considerations (including employment law considerations), or new legislation)? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>5.5</b>	<b>Data protection impact</b> Does the report / project / practice contain or involve the processing of personal data? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>5.6</b>	<b>Technology / Digital impact</b> Does the report contain information that has an impact on either technology, digital transformation, service redesign / business change processes, data management, or connectivity / broadband / Wi-Fi? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>5.7</b>	<b>Environmental / Carbon impact</b> Does the report / project / practice contain information that has an impact on any environmental or carbon matters? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>5.8</b>	<b>Communications impact</b> Does the report contain any information that has an impact on the council's communications activities? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>5.9</b>	<b>Risk impact</b> Is there a risk impact? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>5.10</b>	<b>Armed Forces Covenant Duty</b> Does the report require to take due regard of the Armed Forces Covenant Duty (i.e. does it relate to healthcare, housing, or education services for in-Service or ex-Service personnel, or their families, or widow(er)s)? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>5.11</b>	<b>Children's rights and wellbeing impact</b> Does the report contain any information regarding any council activity, service delivery, policy, or plan that has an impact on children and young people up to the age of 18, or on a specific group of these? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>