

PRIVATE & CONFIDENTIAL
FINAL REPORT
INTO AN INVESTIGATION OF A
COMPLAINT MADE BY [REDACTED].
[REDACTED] IN RELATION TO THE
COUNCIL'S MANAGEMENT OF A
REPORT DONE BY THE NATIONAL
DEVELOPMENT TEAM FOR
INCLUSION. (NDTi)

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Galloway Training Consultancy Ltd.*

This report is not a statement of Birmingham City Council's legal liabilities, which may be different to its responsibilities. The liabilities of the Council can only be decided by lawyers and the Courts.

The findings of this report are based on the information provided during the interview process, the records made available at the time of the investigation and the emerging facts. Should further evidence, material or facts become available at some future time, the Investigation Officer reserves the right to make changes to the findings, conclusions and recommendations contained within this report.

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Executive Summary.

This report presents the findings of an independent investigation into the Council's management of a report provided by the National Development Team for Inclusion (NDTi) on a review of Day Care Services in Birmingham following a complaint from [REDACTED] who are the parents of a service user using the services of a day care facility.

The investigation set out to establish:

- 1) When the NDTi report was provided to the Council.
- 2) When [REDACTED] was told of the report's existence and when [REDACTED] received a copy of it.
- 3) When [REDACTED] was told of the existence of the report and when [REDACTED] received a copy of it.
- 4) When [REDACTED] was told of the existence of the report and when [REDACTED] received a copy of it.
- 5) When [REDACTED] told [REDACTED] that the 'slides' were all that the Council had from NDTi; and
- 6) Whether [REDACTED] was aware of the different versions of the presentation when [REDACTED] appeared before the Committee in December 2018 and the basis for saying that the presentation shown to the Committee was the presentation shown to the public.

The findings of this report have been based on the outcome of an in-depth examination of email exchanges, a chronology of meetings and communications relating to Day Centres, Day Opportunities and NDTi reports. The webcast of HOSC dated the 18th December was also reviewed, Interviews were conducted with [REDACTED], [REDACTED], [REDACTED] [REDACTED]

I found that the NDTi report dated the 26th July 2018 was received via email from NDTi by [REDACTED] on the same date and that [REDACTED] would have been aware of NDTi's intention to submit a final report as early as the 15th June 2018.

Although [REDACTED] was aware of the existence of the July report at the time [REDACTED] appeared before the Scrutiny Committee on the 18th December 2018, there was no evidence found that would conclusively demonstrate that [REDACTED] had actually seen the July report or the November report by this point.

I found there was no evidence that would indicate that [REDACTED] had made [REDACTED] aware of the July report or that [REDACTED] had received a copy of it.

It was evident that [REDACTED] had not told [REDACTED] that the

slides were all that BCC had from NDTi, however [REDACTED] had told [REDACTED] this in [REDACTED] email to [REDACTED] dated the 9th November 2018.

There was no conclusive evidence to suggest that [REDACTED] was aware of the different versions of the presentations at the time [REDACTED] appeared before the Committee on the 18th December 2018.

My observations as a consequence of investigating the above were:

That the procurement process for commissioning this work was flawed. This resulted in two reports being submitted by NDTi neither of which were clearly marked as draft reports of for internal use only. This fueled [REDACTED] view that the Council was not being transparent.

There was an opportunity at the Scrutiny Committee meeting of the 18th December 2018 for either [REDACTED] or [REDACTED] to have corrected [REDACTED] when [REDACTED] stated that [REDACTED] understood that there was no written report available.

The motivation for denying the existence of the NDTi reports to [REDACTED] likely to have been as a consequence of the background of the contentious issues surrounding the service review and concern about the potential for a further judicial review.

I found that the existence of both the NDTi reports was not communicated to [REDACTED] or [REDACTED] when it should have been.

[REDACTED]

12th February 2020.

Terms of reference for the investigation.

To undertake an investigation to establish the following:

- 1) When the NDTi report was provided to the Council.
- 2) When [REDACTED] was told of the report's existence and when [REDACTED] received a copy of it.
- 3) When [REDACTED] was told of the existence of the report and when [REDACTED] received a copy of it.
- 4) When [REDACTED] was told of the existence of the report and when [REDACTED] received a copy of it. [REDACTED] needs to be asked which document [REDACTED] was referring to in [REDACTED] 8th November email in which [REDACTED] mentions the NDTi report.
- 5) When [REDACTED] told [REDACTED] that the 'slides' were all that the Council had from NDTi; and
- 6) Whether [REDACTED] was aware of the different versions of the presentation when [REDACTED] appeared before the Committee in December 2018 and the basis for saying that the presentation shown to the Committee was the presentation shown to the public.

Process/Methodology

For the purpose of this investigation the following dated evidence was examined:

Chronology of meetings and communications relating to Day Centres, Day Opportunities and the NDTi report January 2018-19th December 2018.
Provided by [REDACTED].

Sequence of email exchanges between [REDACTED], NDTi and [REDACTED]
[REDACTED] 18th June 2018-19th December 2018.

Extract from action notes – HOSC – 18th December 2018
Extract from action notes – HOSC - 22nd January 2019
Extract from action notes – HOSC – 19th February 2019.

Email from NDTi to [REDACTED] 3rd June 2018.
Email from NDTi to [REDACTED] 15th June 2018.
Email from NDTi to [REDACTED] 26th July 2018.
Email from NDTi to [REDACTED] 23rd November 2018.
Emails between [REDACTED] and [REDACTED] 9th November 2018.

Email from [REDACTED] to [REDACTED]. 9th November 2018.
Email from [REDACTED] to [REDACTED]. 2nd January 2019.
Emails between [REDACTED]
[REDACTED] and [REDACTED]. September 2018 – December 2018.

Briefing paper from NDTi to [REDACTED]. 3rd June 2018.
Draft report from NDTi – Marked 'Not for circulation'. 15th June 2018.
Day Services in Birmingham – A Review. 26th July 2018.
Day services in Birmingham – A Brief Review. 23rd November 2018.
Birmingham City Council Day Services Review. An overview for senior managers. NDTi Powerpoint presentation.
Webcast HOSC. 18th December 2018.

The following interviews were conducted:

Interviewee	Date	Date interview notes signed off.
[REDACTED]	10 th September 2019	N/A
[REDACTED]	10 th October 2019	11 th October 2019
[REDACTED]	7 th November 2019	26 th January 2020
[REDACTED]	12 th November 2019	Notes not signed off
[REDACTED]	12 th November 2019	28 th January 2020
[REDACTED]	13 th November 2019	9 th January 2020
[REDACTED]	19 th November 2019	6 th January 2020
[REDACTED]	26 th November 2019	14 th January 2020.

Having reviewed the records listed above, I made the decision not to interview [REDACTED]

Findings from the Investigation.

When the report was submitted to the Council.

[REDACTED] confirmed at [REDACTED] interview that other than the briefing paper [REDACTED] had emailed to [REDACTED] on the 3rd June 2018 in preparation for [REDACTED] conversation with [REDACTED] [REDACTED] had emailed [REDACTED] a further three documents. Copies of these documents were provided for the investigation.

The first document was dated the 15th June 2018. This was clearly marked as a draft report and not for circulation. In [REDACTED] accompanying email to [REDACTED] [REDACTED] was clear that this was a draft document and gave the following reasons for this:
Firstly, [REDACTED] had not met with Service Managers to enable them to contribute to framing the recommendations.
Secondly, the report needed to be read and checked for inaccuracies.

Thirdly, the data gathered on usage had not been included as it did not seem to add anything to the conclusions.

██████████ concluded this email by stating that a final report would be sent however ██████████ was not sure how far ██████████ planned to share the report with a wider audience.

On the 26th July 2018 ██████████ submitted a report entitled 'Day Services in Birmingham – A Review'. This document was submitted to ██████████, and ██████████. In the email that accompanied this document, ██████████ again questioned how BCC intended to do a wider feedback and that ██████████ and ██████████ have a 'what next' call planned for the 3rd August 2018. Although during ██████████ interview ██████████ stated that this was intended to be a draft report which was never intended for public sharing, this was not evident from the report itself and in ██████████ accompanying email ██████████ refers to this report as the 'final version'.

On the 23rd November 2018 ██████████ emailed ██████████ and attached a report entitled 'Day Services in Birmingham – A Brief Review'. ██████████ stated in ██████████ email to ██████████ that in response to ██████████ request this report was a summary of ██████████ activities and reflections as a 'critical friend'. During ██████████ interview ██████████ stated that ██████████ had intended this to be the final report, despite it being longer than anticipated.

Conclusion.

There was no evidence to suggest that the report submitted to ██████████ on the 26th July 2018 was supposed to be a draft report, other than ██████████ questioning how the report was to be shared with a wider audience. Additionally, on the 18th June ██████████ (██████████) sent an email to ██████████ confirming that ██████████ was writing the report and delivering it to the Council. On the 16th August ██████████ confirmed in ██████████ email to ██████████ that ██████████ had submitted the report but needed to check with BCC where things were in terms of sharing the outcomes.

I have concluded therefore that the ██████████ report dated the 26th July 2018 would have been considered as a final report which ██████████ confirmed as being the case in ██████████ email to ██████████ on the same day. This report was therefore provided to the Council on the 26th July 2018.

When ██████████ was told of the report's existence and when ██████████ received a copy of it.

It was evident from the email records and ██████████ interview that ██████████ and ██████████ received a copy of the report via email on the 26th July 2018. It was also evident from the email from ██████████

to [REDACTED] dated the 15th June 2018 that NDTi intended to submit a 'final version' of the report.

It was further evident from [REDACTED] email to [REDACTED] dated the 19th November 2018 that despite [REDACTED] email to [REDACTED] dated the 9th November saying that NDTi had not submitted any formal review report, this statement was incorrect as [REDACTED] asked [REDACTED] to read through the report again so [REDACTED] could catch up on how it should be used. [REDACTED] added that [REDACTED] had asked [REDACTED] to produce an engagement report setting out all the work NDTi had supported them with. [REDACTED] wanted to agree with [REDACTED] what was most useful to play into what process.

Conclusion

It would appear from the above that [REDACTED] took the view that the NDTi report dated the 26th July 2018 was not a public facing document and therefore [REDACTED] appeared to be reluctant to disclose the existence of the report to [REDACTED]. This would explain why [REDACTED] stated in [REDACTED] email to [REDACTED] dated the 10th September 2018 that the 'report' was internally commissioned to inform the Day Opportunities Strategy development and was not being shared outside the management team. This issue was also reiterated in [REDACTED] email of the 17th September to [REDACTED].

[REDACTED] In this email [REDACTED] states that NDTi was not commissioned to provide a public facing report and the report was about the Council understanding its strengths and weaknesses.

It was evident that [REDACTED] was aware of NDTi's intention to submit a final report as early as the 15th June 2018 and that [REDACTED] received a copy of this report by email on the 26th July 2018.

When [REDACTED] was told of the existence of the report and when [REDACTED] received a copy of it.

At interview [REDACTED] confirmed that [REDACTED] was aware that NDTi had been commissioned to help produce a strategic view of Day Care Services and that along with other managers [REDACTED] had seen a Powerpoint presentation for managers done by NDTi. [REDACTED] further confirmed that in July 2018 [REDACTED] called managers together to discuss some of the strategy that was to be presented to cabinet. [REDACTED] stated that [REDACTED] had not seen a copy of the NDTi report until later and that [REDACTED] had not seen it prior to being asked by [REDACTED] to do a presentation to the Scrutiny Committee. All [REDACTED] had seen was the Powerpoint presentation. Whilst [REDACTED] was aware of the July report, [REDACTED] thought that it had

not been 'signed off' by this time and that the final report would not be available until November/December 2018.

██████ did confirm that █████ presentation to the Scrutiny Committee would have been based on the content of the July report and therefore █████ knew of its existence before presenting to the Scrutiny Committee on the 18th December 2018. █████ considered that the July report had been internally commissioned. █████ further stated that when █████ raised the issue of the availability on the 18th December █████ considered that █████ was confirming that there was no report available to █████ at that time that █████ could present to the committee.

Conclusion.

There was no evidence found that would conclusively demonstrate that █████ had seen the July report or the November report at the time █████ appeared before the Scrutiny Committee on the 18th December 2018. Although █████ confirmed that █████ was aware of the July report prior to appearing before the Scrutiny Committee there was no evidence to suggest that █████ had received a copy of this report.

When █████ was told of the existence of the report and when █████ received a copy of it.

There was no evidence from the examination of any email exchanges between July 2018 and December 2018 that demonstrated that █████ was aware of the existence of either the July or the November reports from NDTi. It was clear from █████ email to █████ dated the 3rd June 2018 that one of the reasons for presenting a briefing paper was in preparation for █████ meeting with █████ and █████ and it is likely that from this █████ would have assumed that a report would be submitted by NDTi at some point. In █████ email to █████ dated the 8th November 2018, █████ referred to a meeting █████ had had where █████ had mentioned the recent NDTi report and that █████ would look into █████ having site of this. █████ responded on the same day saying that █████ would ask █████ to send █████ the report. █████ had then asked █████ to forward the report and on the 9th November, █████ responded by once again stating that NDTi had not provided a report but had provided insight and feedback via a series of presentations to the Senior Management Team.

Conclusion

As at this point the November report from NDTi had not been submitted and █████ informed █████ that there was no report in response to █████ request for it, it is reasonable to conclude that █████ was not aware of the existence of the July report and what █████ was referring to was the Powerpoint presentation.

There was no evidence found that would indicate that [REDACTED] had made [REDACTED] aware of the July report or that [REDACTED] had received a copy of it.

When [REDACTED] told [REDACTED] that the 'slides' were all that the Council had from NDTi.

[REDACTED] confirmed that [REDACTED] never told [REDACTED] that the slides were all that the Council had. In [REDACTED] email to myself dated the 13/01/2020 [REDACTED] stated that [REDACTED] had been advised by [REDACTED] on the 15th November 2018 that [REDACTED] had obtained a set of slides used at an oral presentation by NDTi and that [REDACTED] ([REDACTED]) had been informed that this was all there was by way of a report.

In the chronology provided by [REDACTED], it appears that [REDACTED] emailed [REDACTED] to inform [REDACTED] that having attended the Scrutiny Committee the Committee had been told that the 'slides' was what the NDTi report entailed.

In [REDACTED] email to [REDACTED] dated the 10th September 2018, [REDACTED] confirmed that the report from NDTi had been internally commissioned to inform Day Opportunities Strategy development which is BCC's' public facing document. [REDACTED] was clear that the report was not being shared outside the management team and that the key messages and themes had been shared via the Cabinet Paper.

In [REDACTED] email to [REDACTED] dated the 19th December 2018, [REDACTED] stated that [REDACTED] was sorry that [REDACTED] had not been convinced that the slides were all that BCC had. [REDACTED] then stated that BCC now had a full 'engagement report' from NDTi and that this was being shared in the Consultation Pack which was always the plan.

Conclusion.

It was evident that [REDACTED] had not told [REDACTED] that the slides were all that BCC had from NDTi, however [REDACTED] had told [REDACTED] this in [REDACTED] email to [REDACTED] dated the 9th November 2018.

Whether [REDACTED] was aware of the different versions of the presentation when [REDACTED] appeared before the Committee in December 2018 and the basis for saying that the presentation shown to the Committee was the presentation shown to the public.

[REDACTED] confirmed that [REDACTED] had seen the Powerpoint presentation by NDTi with other managers and although at interview [REDACTED] [REDACTED] confirmed that the Powerpoint presentations had been adapted to suit the different audiences there was no indication that these presentations were substantially different in terms of the key messages and themes. This being the case it would have been reasonable for [REDACTED] to have believed that the content of the presentation to the Committee had been shared with the public.

Conclusion.

There was no conclusive evidence to suggest that [REDACTED] was aware of the different versions of the presentations at the time [REDACTED] appeared before the Committee on the 18th December 2018. [REDACTED] acknowledged that [REDACTED] had been asked by [REDACTED] to present to the Committee at short notice and that prior to this [REDACTED] had seen the presentation from NDTi with other managers.

Observations

- 1) I found that the procurement process for commissioning this work was flawed. Whilst [REDACTED] [REDACTED] had emailed [REDACTED] on the 5th February 2018 outlining the proposed work, including a strategic brief to the Council together with a plan for public feedback and costs, there appeared to have been no tendering process, no formal agreement or contract, no terms of reference or any agreed reporting strategy. This placed the Council in a position where it could be accused of a lack of transparency particularly in the light of there being a judicial review in respect of the closure of one of the day care facilities. This also resulted in NDTi submitting two reports, neither of which were clearly marked as draft documents or internal documents, which fueled [REDACTED] [REDACTED] view that [REDACTED] were being deliberately misled.
- 2) There was an opportunity at the Scrutiny Committee meeting of the 18th December 2018 for either [REDACTED] or [REDACTED] to have corrected [REDACTED] when [REDACTED] stated that [REDACTED] understood that there was no written report available. At interview [REDACTED] stated that [REDACTED] knew of the existence of the July report despite not having seen it and [REDACTED] confirmed that [REDACTED] knew of the existence of both the July report and the November report, but did not feel that it was for [REDACTED] to bring this to the Committee's attention. In [REDACTED] email to [REDACTED] dated the 23rd November 2018, [REDACTED] clearly stated that [REDACTED] 'had read the report again' and considered that sections of it should not be made available to the public as [REDACTED] felt that these were internal matters. [REDACTED] [REDACTED] proposed doing a redacted version of the report. I considered that not taking the opportunity of correcting [REDACTED] understanding that there was no report to be unacceptable and in many ways unnecessary as on the following day [REDACTED] confirmed to [REDACTED] [REDACTED] that the Council now had a final report from NDTi and that this was being shared in the Consultation Pack, which was always the plan.
- 3) Whilst I have been unable to conclusively identify the motivation for [REDACTED] or any other Council employee to be reluctant to confirm the existence of both the July report or the November report to [REDACTED] and the Scrutiny Committee, there was email evidence that would suggest that this was likely to have been as a consequence of the background of the contentious issues

surrounding the service review and concern about the potential for a further judicial review. Nevertheless, I considered that the risks associated with deliberately denying any reports within such an atmosphere would have been high.

- 4) I did find that communication was also likely to have been an issue. Whilst staff reporting to [REDACTED] may have been aware of the July report, it would seem that this had not been communicated to [REDACTED] when it should have been. I have found no evidence that [REDACTED] [REDACTED] was also informed of the existence of either of the NDTi reports, however it is likely that having been briefed about the work, [REDACTED] would have expected a report at some point.

[REDACTED]

12th February 2020.