



Colette Kane
Director

Northern Ireland Audit Office

106 University Street

Belfast

BT7 1EU

Direct Line : (028) 9025 1064

Fax : (028) 9025 1051

E-mail : colette.kane@niauditoffice.gov.uk

www.niauditoffice.gov.uk

 @NIAuditOffice

John Kelpie
Chief Executive
Derry City and Strabane District Council
98 Strand Road
Derry
BT48 7NN

17th November 2017

Dear John,

██████████ – Allegations made against Derry City and Strabane District Council

We were contacted in May 2016 by ██████████ who raised a number of issues regarding waste contracts between ██████████ and Council. Initially we decided to examine this contract as part of the 15/16 audit of the council accounts and ██████████ was informed of that. However as you are aware our consideration of this was highlighted at a meeting of the Audit and Risk Assurance Committee by a councillor who had been passed correspondence between ██████████ and me.

My summation of the issues raised by ██████████ and my assessment of the evidence presented and conclusions I have reached and relayed to ██████████ are as follows;

1. *Council incorrectly withheld payments due to ██████████ which led to the company being put in administration.*

Findings

I have reviewed documentation provided by ██████████ Council and NIEA. I note that the payments were suspended as ██████████ were considered to be in breach of the contracts. As I understand the position, a key element influencing the suspension of payments was the withdrawal of operating licenses by NIEA as well as a lack of documentation to demonstrate the processing of the waste as required by the contract. I have examined the contracts and seen correspondence between the parties which, in my view, indicate a willingness by the Council to resolve the matters and assist the company so the payments could be made. These efforts, as I have been informed, included council officers visiting the company's premises in an attempt to establish adequate documentation to enable payment.

I note that a settlement amount has now been agreed with the company administrator on the basis of evidence provided by the current waste contractor.

Conclusion

The conditions for payment within the contract are considered reasonable. Local Government Audit expect local government bodies to have strong procedures in place to ensure proper evidence is obtained to support payments made. On the basis of the documentation I have been provided with from both ██████████ and Council I am of the view that the allegation is not substantiated.

2. *Council officers acted improperly in withholding such payments.*

Findings

I have examined documents provided to me by both the [REDACTED] representatives and Council. None of the documents provided me with evidence of improper action by Council officers.

Conclusion

I have received no documentary evidence to support the allegation of improper behaviour by any council officer in dealing with the withholding of payments to [REDACTED]

3. *[REDACTED] have been treated differently from other waste management contractors including the current contractor.*

Findings

I have been provided with documentation including photographs which suggest the current contractor is stockpiling waste and not sending waste to end source. I communicated directly with NIEA who advised the contractor is operating the site in accordance with their license and permit conditions in relation to the storage of bales.

Conclusion

I have received no documentary evidence to support the allegation that [REDACTED] has been treated differently from other waste management contractors including the current contractor.

In completing our review of the matters raised in this case I would note the following;

- We would support a regular review of contract terms and conditions to ensure they are in line with best practice and provide the best and proportionate means of working with contractors;
- We will continue to focus on procurement in our audit testing as we have in previous years and make recommendations where necessary; and
- I note the close working relationship between Council and NIEA as the regulator for waste management which is to be commended and promoted.

I have discussed the above with the Local Government Auditor and we have now agreed this case can be closed. If you have any queries on the contents of this letter I am happy to address these.

Yours sincerely



Colette Kane
Director