

**MINUTES OF THE OVERVIEW AND SCRUTINY COMMITTEE (SPECIAL MEETING)**  
**5 November 2002**

Councillors \*Robertson (Chair), \*Jean Brown (Vice Chair), \*Adamou, \*Beecham (deputy for Councillor Williams) \*Davies, \*Dawson, \*Diakides, \*Dobbie, \*Lister, Prendergast, \*Simpson and Williams.

Mrs Shukla, Mr B Aulsberry (REJCC Representatives), Mrs Berkery-Smith, Mr L. Haward (Church representatives), Ms E. Pine and Mr R. Sharp (Parent Governors representatives).

\*Members present.

Councillors: Adje, Davidson, Featherstone, Harris, Irwin, Millar and D. Prescott were also present.

Officers present: A. Travers (Director of Finance), J. Suddaby (Deputy Monitoring Officer), S. Clarke (Director of Housing), S. Brooks (Head of Procurement) and C. McLean (Head of Local Democracy).

**SC35 APOLOGIES FOR ABSENCE:** Apologies for absence were received from Councillor Williams and from Ms E. Pine (Parent Governor Representative).

**SC36 DECLARATION BY MEMBERS OF ANY INTEREST ON THE ITEM ON THIS AGENDA** (Agenda item 2):

No declarations were made.

**SC37 EXCLUSION OF THE PRESS AND PUBLIC:**

There was general discussion amongst Members about the justification for excluding the press and public. At the request of Councillor Dobbie, the Chair agreed to adjourn the meeting to consider whether the committee wished to exclude the press and public from the remainder of the meeting and to seek legal opinion and clarification justifying the exclusion.

The Monitoring Officer advised Members that the Joint Report of the Monitoring Officer and Chief Financial Officer contained information that was exempt information by virtue of Schedule 12A of the Local Government Act 1972. This entitled the Committee to exclude the press and public from the consideration of the item. The Monitoring Officer advised that the inclusion of the winning tender bid in the body of the report constituted exempt information as containing information relating to terms proposed by or to the authority in the course of negotiations for a contract for the supply of services. The disclosure of this information was likely to give an unfair advantage to a person entering into, or seeking to enter into a contact with the authority in respect of the services.

He further advised that if the Committee decided not to exclude the press and public from the meeting then both the report and any background papers, which could include the original report of the Procurement Committee, would be available to public scrutiny. In responding to Members questioning, the Monitoring Officer accepted that while it may be possible to exclude background papers containing exempt information from public scrutiny, this would not be possible in relation to the report that was before the Committee which would have to be made available to the public. The Monitoring Officer confirmed that in this particular case there was sufficient justification to exclude the press and public. He added that the Committee might disagree with this judgement and if so could overrule his opinion.

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At the recommencement of the meeting our Chair explained to the public the reasons for exclusion. This was not because the Council did not value the participation of the public in the workings of local democracy but that long standing practice, among all local authorities upon which much of the present tendering arrangements were built, required that information regarding the tendering process including specific bids put forward were not disclosed to the public. Were this to happen, the Council could be brought into disrepute and damage could be done to the prospects of successful future partnerships with private sector and other partners.

The Committee agreed to a public vote on whether to exclude the press and public. The vote was carried by 6 votes for, 3 against and 2 abstentions. Those Members voting against excluding the press and public requested that their dissension be recorded.

**RESOLVED:**

1. That the press and public be excluded during consideration of this item as it contained exempt information relating to terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods and services.
2. That Councillors Diakides, Dawson and Prendergast's dissent be noted.

**SC38 CALL IN OF THE DECISION BY THE EXECUTIVE PROCUREMENT COMMITTEE TO AWARD A CONTRACT FOR THE PROVISION OF MANAGEMENT CONSULTANCY SERVICES IN HOUSING SERVICES** (Report of the Monitoring Officer and Director of Finance – Agenda item 5):

Our Chair outlined the suggested process for dealing with the call in:

- (i) A brief outline by those Members calling in the decision giving reasons for so doing.
- (ii) Joint report by the Monitoring Officer and Director of Finance.
- (iii) Response by the Executive Member for Housing/Director of Housing Services
- (iv) Debate by Members on the course of action to be taken; namely:
  - (a) That the Committee takes no further action, in which case the decision is implemented immediately.
  - (b) That the Committee refers the decision back to the decision-maker, in which case the decision taker has five working days to reconsider the decision before taking a final decision.
  - (c) That the Committee refers the decision to full Council.

The Chair invited Councillors Diakides, Davidson, Harris and Prescott to outline their reasons for calling-in the decision. The members raised the following issues:

- Non compliance with the provisions of part 5 of the Constitution (Protocol for decision making).
- The decision was a key decision and should have been listed in the forward plan.
- The decision to award the contract had not been tested against value for money criteria
- The decision pre-empts budgetary decisions for the next two years.
- Staffing implication issues were not addressed - the views of the workforce via Trade Unions should have been considered.

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We then considered the report of the Monitoring Officer and Chief Financial Officer, which addressed the points raised by the callers-in.

We noted that the Protocol for decision making related to special procedures to be taken in cases where the Council's Committees or Sub-Committees took a relevant decision. The Procurement Committee did not consider that the decision was a relevant decision by virtue of the provisions at (c) and (d) in the Protocol for Decision-Making.

The Award of the contract for management consultancy services involved an estimated cost of £612,428 to be funded from the Housing Services budget in the financial years 2002/03, 2003/04/2004/05.

We also noted that the Council had adopted the statutory definition of a key decision. In the Protocol for Key Decisions, the Constitution set thresholds where decisions on expenditure or savings above those thresholds would be key. Advice was given that the relevant threshold for the purposes of the report was the award of contracts with a value in excess of £3 million. Further advice was given that if on an alternative construction of the Protocol for Key Decision in the Constitution, the £3 million contract threshold was not the appropriate threshold to apply, the decision to incur the expenditure in the amount of the contact price was nevertheless not considered to be a key decision. The statutory definition referred to expenditure which was 'significant having regard to the local authority's budget for the service or function to which the decision relates' and the Committee was advised that the expenditure proposed was not significant having regard to the budget of the Housing Service in the years concerned. It was not considered that the award of the contract for management services by the Executive Procurement Committee amounted to a key decision, taking account of the statutory definition and the threshold that the Council had imposed. On this basis the decision was not required to be listed in the Forward Plan.

Additionally, the report submitted to the Executive Procurement Committee confirmed that the tendering procedure adhered to was that which was required by the Public Services Contract Regulations 1993. The requirements of the Council's contracts standing orders and of the EU procurement rules had been complied with.

The Chief Finance Officer in his response confirmed that the proposed funding of the contract was insufficiently clear on the face of the report. The Chief Finance Officer had now reviewed the financial implications in the report received by the Executive Procurement Committee and was satisfied that the reallocation of budgets did not require a virement under the Council's Constitution.

The call-in of Minute PC22 of the Executive Procurement Committee of 15 October 2002 had drawn attention to the absence in the report of specific identification of the funding for the contract proposed in such a way as to demonstrate that the decision may be met with existing budget caseloads for the years concerned.

The Executive Member for Housing added that the main purpose of awarding the contract was to support the existing management teams of Housing Management and Home and Building Services to achieve a two star Best Value rating by April 2004. The emphasis was to support the two divisions to continuously improve performance to an acceptable level. No final decision with regards to Arms Length Management Organisations had been made.

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**Members of the Committee made the following points:**

- The decision was a key decision in terms of the effect this would have on the community.
- This was an incremental step towards Arms Length Management Organisations, which would have implications for the homeless and the future of housing in Haringey.
- It appeared that local residents were unable to receive proper services/repairs due to lack of funds in the housing budget, yet funds had been identified for the appointment of consultants.
- There were insufficient details in the report from the Chief Finance Officer on the financial implications.

In considering the reasons for the call in and the Executive Member's response, a motion was moved by Councillor Prendergast and seconded by Councillor Davies that the decision be referred to full Council for consideration. The motion was put to the vote and was carried by 6 votes, 3 against and 1 abstention.

**RESOLVED:**

That Minute PC22 of Executive Procurement Committee 15 October 2002 be referred to Full Council.

**IRENE ROBERTSON**  
Chair