

**MINUTES OF THE OVERVIEW AND SCRUTINY COMMITTEE  
TUESDAY, 18 JULY 2006**

Councillors Councillors Bull (Chair), Bevan, Davies, Winskill, Cooke and Newton

Apologies Councillor Jones

Also Present: Councillor Mallet (Executive Member for Finance)  
Councillor Stanton (Deputy Executive Member for Finance)  
Councillor Hoban (First Lead Signatory of Call-In)  
Councillor Aitken

<b>MINUTE NO.</b>	<b>SUBJECT/DECISION</b>
<b>OSCO18.</b>	<p><b>CHAIR'S WELCOME AND APOLOGIES FOR ABSENCE</b></p> <p>Apologies for absence were received from Councillor Jones.</p>
<b>OSCO19.</b>	<p><b>DECLARATIONS OF INTEREST</b></p> <p>There were no such declarations.</p>
<b>OSCO20.</b>	<p><b>URGENT BUSINESS</b></p> <p>There was no such business.</p>
<b>OSCO21.</b>	<p><b>EXCLUSION OF THE PRESS AND PUBLIC</b></p> <p>This item was the subject of a motion to exclude the press and public from the meeting as it contained exempt information relating to the business or financial affairs of any particular person (including the Authority holding that information).</p>
<b>OSCO22.</b>	<p><b>CALL-IN OF THE EXECUTIVE PROCUREMENT COMMITTEE DECISION RELATING TO ALLOWING AWARD OF CONTRACT TO DIAMOND BUILD UNDER NEW FRAMEWORK AGREEMENTS/AWARD OF CONTRACT</b></p> <p>The Chair advised the Committee of the purpose of the Call-in.</p> <p>The Chair then asked the 1<sup>st</sup> Lead signatory – Councillor Hoban – to given an outline of the reasons for the call-in.</p> <p><b>REASONS FOR THE CALL-IN</b></p> <p>Councillor Hoban cited the reasons for the call-in. The decision PROC11 of the Procurement Committee of 26<sup>th</sup> June 2006 was outside the Council's <u>policy framework</u>, as follows:</p> <ul style="list-style-type: none"> <li>- With specific reference to Part G3 paragraph 12.06 (c) of the</li> </ul>

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London Borough of Haringey constitution, that Diamond Build had failed to adhere to the terms of a previous contract.

G3 12.06 (c) places “a prohibition on assignment and/or subletting without the written consent of the Director”. We also noted Contract Standing Order G3 6.06 which states “It shall be a condition of any contract between the Council and any person (not being an Officer of the Council) who is required to supervise a contract on the Council’s behalf that, in relation to such contract, he/she shall comply in all respects with the requirements of these Contract Standing Orders as if he/she were an employee of the Council.”

The variation of action proposed was to refer the decision back to the decision taker. The signatories stated that as it was clear that Diamond Build had failed to adhere to the Council’s Contract Procedure Rules, approval should not be granted to Diamond Build being considered for and where appropriate being rewarded future construction contracts under the new construction procurement agreement.

The Chair then asked the Executive Member for Finance to give a brief response.

**EXECUTIVE MEMBER AND OFFICER RESPONSE**

The Executive Member explained that the Framework agreement process was well advanced by the time of the fire at Crowlands. We noted that the company had been put ‘on hold’ in respect of the framework within four days of the Crowlands Fire, and that status was maintained at the present time.

Procurement Officers reiterated the independence of the Procurement process, and confirmed that they had visited the Offices of Diamond Build personally, confirming their adherence to Health & Safety procedures. We also noted that Diamond Build had subsequently banned the working practice that is believed to have led to the fire, and briefed their managers on the correct procedures related to the usage of sub-contractors.

**LEGAL COMMENTS**

The Chair then asked Legal Services for their comments. We noted that the Monitoring Officers’ advice was that the original decision was within the policy framework. This did not, however, prevent the Committee from following any of the three options of action laid out to them.

**MOTION**

Following a discussion and a number of points of clarification given by officers to Member concerns, Councillor Winskill MOVED a MOTION

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that the decision PROC11: Allow Award of Contract to Diamond Build Under New Framework Agreements: Award of Contract be referred back to the decision taker, that being the Executive Procurement Committee. The committee also resolved to make the following recommendations to the committee:

- i) That the procedural criteria in which Officers have had to work in respect of the framework agreement/awards of contract process was not robust enough to provide the assurances that this Committee would require to reaffirm the Procurement Committee's decision.
- ii) That, in order to demonstrate to the community that Diamond Build is competent to be allowed on to the framework, the Council and Diamond Build seek agreement with an independent and agreed accreditation organisation to inspect the company and ensure compliance, for which Diamond Build shall be financially liable.

On a vote there being 6 for (Councillors Bull, Cooke, Bevan, Winskill, Newton, Davies) and 0 against, the MOTION was carried unanimously.

**RESOLVED:**

1. That the decision PROC11: Allow Award of Contract to Diamond Build Under New Framework Agreements: Award of Contract, be referred back to the decision maker, this being the Executive Procurement Committee to reconsider the decision within five working days.
2. That the above recommendations be communicated to the Procurement Committee.
3. That we note that the original decision was within the policy framework.

COUNCILLOR GIDEON BULL

Chair