

TUNBRIDGE WELLS BOROUGH COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

MINUTES of the meeting held at the Council Chamber, Town Hall, Royal Tunbridge Wells, TN1 1RS, at 6.30 pm on Monday, 7 February 2022

Present: Councillor Patrick Thomson (Chairman)
Councillors Bland, Chapelard, Goodship, Hickey, Holden, Knight, Morton, Ms Palmer and Pound

Officers in Attendance: Jane Fineman (Head of Finance and Procurement), Dan Hutchins (Procurement Manager), Claudette Valmond (Head of Legal Partnership and Interim Monitoring Officer) and Mark O'Callaghan (Scrutiny and Engagement Officer)

Other Members in Attendance: Councillor Dawlings

APOLOGIES FOR ABSENCE

OSC56/21 Apologies were received from Councillor Hayward.

DECLARATIONS OF INTEREST

OSC57/21 There were no disclosable pecuniary or other significant interests declared at the meeting.

DECLARATIONS OF A PARTY WHIP

OSC58/21 There were no declarations that any member was subject to a party whip.

NOTIFICATION OF PERSONS REGISTERED TO SPEAK

OSC59/21 Councillor Dawlings was in attendance on behalf of the Cabinet in respect of item OSC63/21.

There were no members of the public or Visiting Members registered to speak.

MINUTES OF THE MEETING DATED 22 NOVEMBER 2021

OSC60/21 No amendments were proposed.

RESOLVED – That the minutes of the meeting dated 22 November 2021 be approved as a correct record.

ITEMS CALLED- IN

OSC61/21 There were no items which had been called-in.

SCRUTINY REVIEW: PROCUREMENT

OSC62/21 Dan Hutchins, Procurement Manager, presented on the Council's procurement procedures. Topics covered by the presentation included:

- The structure of the procurement team and its reporting lines.
- The criteria of the various bands of contracting procedures.

- Procedures for monitoring contractual terms.
- Statutory regulations.
- The commissioning cycle of planning, contracting and review.
- Responsibilities of contract managers to set the contract specification and manage the operation of the contract.
- Tendering processes and the various routes to market (Requests For Quotations (RFQ), Invitations To Tender (ITT) and Public Sector Frameworks).
- Advice to contract managers when setting contract specifications.
- Different options for tender evaluation (Standard Differential models, Fixed Cost models, Ceiling Cost/Savings models and Cost:Quality ratios).
- Tender evaluation processes.
- The presentation also addressed a number of pre-submitted questions.

In answer to questions it was confirmed:

- Options to extend contracts were often included in contracts at the specification stage without necessarily expecting them to be necessary.
- Members could influence the terms of forthcoming contract specifications through the relevant contract manager. Agreed evaluation criteria could not be changed after the fact.
- The Council's constitution already had a requirement that local suppliers will form part of any tender process, where possible.
- A tenderer's contract mobilisation plans could be designated as an evaluation criteria.
- Contracts were managed through the relevant operational service rather than the procurement team. All contracts would have formal mechanisms for notifying defaults and penalties which could ultimately result in termination.
- In the event that a contract was terminated, the Council had powers to enter a short-term contract with another supplier in order to ensure continuity of service provided a formal procurement process was commenced at the same time.
- Procurement procedures in the public sector were largely governed by legislation. New rules hoped for next year may help streamline the process.
- Redaction of personal details on contract registers was chiefly a data protection issue. There was a presumption for redaction in the case of individuals/sole traders and requests for disclosure were handled on a case-by-case basis in accordance with data protection principles.
- Current procedure rules came into effect in 2017. These were due to be reviewed in light of expected new legislation.
- Contract Key Performance Indicators (KPI) and Service Level Agreements (SLA) for each contract were designed by the relevant contract manager.
- Contract specifications were designed to allow tenderers to showcase the aspects most important to the Council however the Council did not covertly seek references or third-party verification as doing so could open the Council to challenge. It was possible to build this into future procurement.

- Previous contract holders could not be excluded from re-tendering unless there was formal evidence of default and failure to rectify the situation.
- Number of complaints would not in itself be evidence of default unless there was a specific KPI on number of complaints and formal action had been taken.
- There was no formal definition of an 'abnormally low tender'. However, where it was believed that such a tender was received a notice would be issued requiring the tenderer to confirm their pricing model and/or proposed operation model. If the tender was still suspiciously low they would have a final opportunity to clarify their bid and if, after this final stage, the tender was still unsatisfactory the tenderer could be excluded. If satisfactory explanation could be provided the tender may be accepted.
- Conformity to established standards when purchasing goods was often made a contractual requirement. Not so often when procuring services.

Debate included:

- There were matters which would benefit from further exploration:
 - How members can shape the social value and local supplier requirement.
 - The competence of a district to shape KPI and SLA on large contracts.
 - The relationship between the Council and procurement in reviewing contract performance.
 - Dealing with poor performance and the competence of this Council to manage large contracts.
- Contract mobilisation should also be investigated.
- There needed to be further investigation of the relationship between a centralised procurement service and the operational services managing contracts.
- Procurement and contract managers worked closely, closer than they ever have before, but their roles were separate.
- There was a sense that procurement operated without having to deal with the consequences of bad contracts so members needed to be satisfied that both procurement and operational services were as much integrated as possible.
- The process of procuring contracts was highly regulated. The key concern to members and residents was how contracts were run and managed.

RESOLVED – That a Task and Finish Group be instructed to examine procurement and contract management with terms of reference to be determined and brought back to the next meeting for agreement.

CABINET RESPONSE TO POVERTY TASK AND FINISH GROUP INTERIM REPORT AND NEXT STEPS

OSC63/21 Councillors Dawlings, Leader of the Council, commented on behalf of the Cabinet which included:

- Stephen McGinnes, Mid Kent Services Director, would be leaving the Council shortly and William Benson, Chief Executive, would take over as the Council's lead on Poverty. It was the intention that a working party of officers would be set up to advise on this issue.

- Resources would be limited:
 - Stephen McGinnes was yet to be replaced.
 - Sheila Coburn, Head of Revenues and Benefits, had also left the Council.
 - The Council was entered annual Council Tax billing with the added burden of establishing a discount scheme to help with increasing energy costs.
 - Officers were exploring expanding the Revenues Partnership with Maidstone to a three-way partnership with Swale.
 - Still administering Covid isolation grants and preparing for a new Covid Additional Relief Fund for which guidance had only recently been announced.
 - Jane Lang, Housing Services Manager had recently left the Council.
 - The new Housing Manager, Stuart Clifton was dealing with the consequences of Kent County Council's proposal to terminate the Kent Homelessness Contract.
 - Finance teams were fully engaged in the end-of-year accounts.
- The Council's newly introduced dashboard of poverty metrics had been presented at an All-Member Briefing.
- The commitment to engage with residents in a meaningful way would be helped by the ongoing work in setting up the energy grants.
- There was no budget for community surveys and the Council was facing a £1million deficit in its budget for next year.
- The Cabinet supported the continuation of the Task and Finish Group subject to recognising the aforementioned limitations.

Debate included:

- It was proposed to continue with the Task and Finish Group.
- There needed to be a better process in place for Overview and Scrutiny Committee reports to be considered by Cabinet to avoid long delays again.
- The chief concern regarding the Cabinet response was the lack of commitment to the recommendation to engage in community surveys to understand residents expectations as set out in the original motion.
- In addition to the Council's loss of staff, several key people at partner organisations who had contributed to the work of the Task and Finish Group had also left, so there was a need to re-establish those relationships.
- Many partner organisations did great work in the community but the Council could have a much greater facilitation and coordination role to maximise the opportunities.
- The Cabinet would consider any recommendations by the Overview and Scrutiny Committee but would have to balance them against the cost and resource implications.
- The Council was obliged to administer the various grant schemes as determined by the government, but there was a growing recognition that local government was actually more efficient and more knowledgeable on how to put the funds to best use. Work necessary to administer the schemes had helped the Council better understand the needs of the poorest in society.

- Aside from the statutory responsibilities of the Council, alleviation of poverty was a political choice which, currently, did not appear to have been made.

RESOLVED – That the Poverty Task and Finish Group be resumed.

STATEMENT OF PRINCIPLES

OSC64/21 Mark O’Callaghan, Scrutiny and Engagement Officer, introduced the report set out in the agenda.

The report was taken as read.

RESOLVED – That the Statement of Principles as set out at Appendix A to the report be adopted.

WORK PROGRAMME

OSC65/21 The Work Programme was presented for information.

URGENT BUSINESS

OSC66/21 There was no urgent business for consideration.

DATE OF THE NEXT MEETING

OSC67/21 The next meeting was scheduled for Monday 4 April 2022.

NOTE: The meeting concluded at 8.20 pm.