

LOCAL JOINT CONSULTATIVE COMMITTEE

Minutes of the meeting held at 6.30 pm on 26 October 2016

Present:

Employer's Side

Councillor Russell Mellor (Chairman)
Councillor Nicholas Bennett J.P.
Councillor Stephen Carr
Councillor Simon Fawthrop
Councillor William Huntington-Thresher
Councillor Tom Philpott
Councillor Tim Stevens
Councillor Michael Turner
Councillor Angela Wilkins

Staff Side and Departmental Representatives

Kathy Smith (Unite) (Vice-Chairman)
Jill Crawley, Unite
Gill Slater, Unite Representative

35 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies were received from Councillors Kate Lymer, Colin Smith and Diane Smith.

Cllr William Huntington Thresher acted as substitute for Cllr Diane Smith.

Cllr Stephen Carr acted as substitute for Cllr Colin Smith.

Cllr Nicholas Bennett acted as substitute for Cllr Lymer.

Apologies were received from Mandy Henry, Kirsty Wilkinson, Jackie Goad, Duncan Bridgewater and Olumide Odubawo.

36 DECLARATIONS OF INTEREST

There were no declarations of interest.

37 MINUTES FROM THE PREVIOUS MEETING OF THE LOCAL JOINT CONSULTATIVE COMMITTEE HELD ON 9th JUNE 2016

The minutes had been adjusted subsequent to the previous meeting to incorporate a change that had been requested by a Member and Kathy Smith.

The minutes had been adjusted to read as follows:

'The Vice-Chairman and one Member raised concerns that the minutes of the LJCC meeting for 25th February 2016 did not properly reflect the tone and nature of the meeting regarding the Library Service.

There were no concerns raised regarding the factual accuracy of the minutes for 25th February 2016, and so they were agreed as a correct record'.

With this adjustment, the minutes were agreed as a correct record.

38 TRANSPARENCY

The Staff Side had asked the following question:

“TRANSPARENCY--Following the discussion about the public accessibility of the Risk Register at the last LJCC, the decision has been taken NOT to make this publically accessible. Similarly the requested “lessons learnt” reports on contracts are not currently public. Without transparency, how can Members be confident that lessons have been learnt, that the commissioning process is being undertaken in an appropriate manner, defining outcomes in terms of genuine sustainable economic, social, and environmental benefits, and that there is effectively Council accountability for decisions taken?”

The following written response had been provided by Mr Dave Starling (LBB Head of Corporate Procurement):

'In terms of Council Practice , for its contracts valued over £500k there are set requirements around reporting on performance of contracts and the matter is covered in a number of areas of the Procurement and Commissioning advice given – which are included in the attached documents – and which can be found within the ‘Managers Toolkit’. Essentially the answer is “The matter is covered, and to the extent they result in a Part 1 Report–are public documents, and therefore the Members are properly informed in making any decisions required.

There is also additional advice on the matter in the ‘Project and Programme’ element of the Toolkit. However, please note that all these Guidance Notes are being reviewed to reflect the new Council Structure. You may also be aware that he arrangements on Client and Contract Monitoring and Contract Management are under discussion at CLT level - and the content of the Toolkit will need to be amended to reflect the outcome from this management review.'

This written response had been provided and disseminated to all parties prior to the meeting. Three documents had also been provided with the written response:

- Procurement Gate Reviews Briefing

- Report Template for Gateway Reviews

- Issues to consider when looking at outsourcing of Services

The Procurement Gate Reviews Briefing was broken down into 5 sections:

1. Gate Review Zero was the Strategic Assessment

This “Gate” related to the report of procurement needs resulting from a Best Value or Service Review and the suggested implementation plan.

2. Gate Review 1 - Business Justification

This Gate related to the option appraisal stage of a procurement exercise.

3. Gate Review 2 - Procurement Strategy

This Gateway confirmed the preferred procurement option and method to be used (Open, Restricted, Competitive Dialogue or Negotiated etc.).

4. Gate Review 3 - Investment Decision

This Gateway would be applied just prior to contract award to ensure there were no factors that could prevent the successful completion of the project

5. Gate Review 4 - Readiness for Service

This Gateway applied after the contract was let and the Transition Plan agreed.

6. Gate Review 5 - Benefits Evaluation

Post implementation review was a valuable step that was often omitted. It was paramount that lessons were learnt and fed back into the Council's Procurement Strategy. Reviews should be undertaken periodically during the duration of any contract especially long-term, evolving partnerships. All contracts would be reviewed at least every five years to ensure they continued to deliver Best Value.

Another document had been disseminated prior to the meeting which was:

‘Issues to consider when looking at the outsourcing of Services’

This was broken down into 9 subsections which were:

1. Clear understanding of the Cost Base
2. Pension Obligations
3. Frameworks
4. IT issues
5. Property Issues

6. Specification
7. HR Issues
8. Contract Issues
9. General

The third document that had been disseminated was the Gateway Report Template. The template contained guidance for report writers in the sections dealing with the Commentary, Impact Assessments and Stakeholder Consultation.

With the provision of the written answer and attached documents, the Chairman had requested that the Staff Side give consideration to withdrawing the question. However, the Staff Side did not wish to do this, and so the question was brought to the LJCC for consideration.

The Vice Chairman expressed appreciation for the documents that had been disseminated pre-meeting. She expressed dissatisfaction because the Risk Register had not been made public, and stated that the Staff Side felt that their concerns regarding transparency were not being addressed. The Vice Chairman commented that the processes outlined in the pre-meeting documents were welcome, but she questioned whether or not the said processes were being undertaken fully.

The Vice Chairman asked if Members were aware of what the Staff Side perceived as ongoing problems with the Total Facilities Management Contract that had been awarded to Amey. She asked if Members were aware that the KPI's were only going to be agreed six months into the contract. The Staff Side were concerned that the problem of contractors monitoring themselves (as happened with a previous Capita contract) would reoccur.

The Vice Chairman stated that because there had been a delay in contractual agreements between Amey and Cushman and Wakefield, this had caused concern and uncertainty amongst staff. She declared that a Human Resources officer in Amey had informed staff in Strategic Property Services that they needed to be absorbed into Amey, as otherwise this would adversely affect their TUPE arrangements. The Vice Chairman informed the Committee that this was the wrong advice as their TUPE arrangements would be protected whichever route they took. The Vice Chairman highlighted that the contractual arrangements between Amey and Cushman and Wakefield had not been finalised.

The Staff Side continued by pointing out that on the day of the meeting there had been IT issues and that the main library doors were not working. Cllr Carr asked what relevance these matters had to the original question. The Staff Side responded that the issues were being raised as they were to do with Risk. The Director of Human Resources stated that the matters being raised by the Staff Side were not the same as the submitted question. The Chairman echoed this sentiment by commenting that these matters were operational issues that officers had to deal with daily, and that this was not what the

original question was about. The Chairman continued by pointing out that the submitted papers explained how risk was evaluated.

At this point the Vice Chairman asked it to be noted in the minutes that she had been interrupted and had not finished speaking.

The Director of Commissioning explained that the only issue that had delayed the signing of a contractual agreement between Amey and Cushman and Wakefield was an agreement concerning pensions. This was a lesson that had been learnt for the future. It had to be decided how the issue of managing KPI's should be developed going forward so that the matter was managed in a fair and creative way. This was an ongoing process and LBB were not looking to unduly or unfairly penalise the contractor. The Director of Commissioning referred to the matter of 'Risk' and explained that the Commissioning Board met every Monday to review issues and risks. The Portfolio Holder for Resources attended the meetings. Additionally, a quarterly meeting had been set up for staff involved in commissioning work, to update them on new regulations and lessons learnt to date. The Director of Commissioning was confident that LBB were as transparent as could be reasonably expected.

Cllr Carr stated that it was the Council's aim to make everything as public as possible, but it was still the case that certain information that was commercially sensitive would need to remain private.

The Vice Chairman stated that the Council's views on transparency differed from that of the Staff Side. She referenced contractors bringing books into the library, and the contractors making reference to where new services were being commissioned out to. She wondered how they got access to this private information which had not been disseminated to the Staff Side. At this point the Vice Chairman made a comment to the effect that she did not want to be disciplined for making any sort of reference to a disclosure of part 2 information.

The Director of Human Resources clarified that the Vice Chairman had never been subject to disciplinary action. He pointed out that as the Vice Chairman was involved in Tribunal proceedings against the Council, the reference to such matters was sub judice, and therefore prohibited from public discussion. The Chairman stated that in view of the comment made by the Director of H.R, no further reference was to be made by either Members or the Staff Side, further debate was to be of a general nature.

The Staff Side asked if a list of those organisations that had tendered bids for the library service could be disclosed. The Director of Commissioning explained that until all of the outstanding issues had been resolved with regards to the 3 bids received, no information would be discussed with staff, as some of the bids might not be compliant. The Vice Chairman stated that once the Staff Side were aware of the shortlisted bidders, they would be investigated by the Staff Side.

Councillor Angela Wilkins asked two questions, and raised a point of note:

- 1) She referred to minute 33 of the previous meeting, and asked for clarification concerning whether or not the 'Risk Register' was going to be published.
- 2) She referred to the documents that had been provided for the meeting, and asked when they were drafted.
- 3) She expressed concerns for staff that were anxious for their futures when contracts had remained unsigned, and no reassurances provided.

The Director of Commissioning addressed the question relating to the date when the documents had been drafted. It was the case that the documents had been around for several years. However, the documents were shortly going to be revised and updated; this work was expected to begin the day after the meeting.

Referring to point 3 made by Cllr Wilkins, the Vice Chairman added that if staff had been informed earlier that the reason for the delay in the signing of contracts was to do with agreement on pensions, then this would have provided assurances to staff.

The Director of Human Resources informed the Committee that letters had been sent to staff informing them that there had been a delay in the signing of the contract between Amey and Cushman and Wakefield. The Director of Commissioning explained that Amey did offer to second staff in the interim. However, it was the view of officers that 2 TUPE transfers may not have been a good idea, and could have complicated matters unnecessarily. This was a sentiment echoed by the Director of Human Resources who stated that it was better to avoid risk and delay the transfer.

Gill Slater referred to Gate Review 5 on the Procurement Gate Reviews Briefing, which was the Gate Review for 'Benefits Evaluation.' This was a post implementation review to look at lessons learnt in the procurement strategy. She pointed out that transparency would have the additional benefit of facilitating genuine staff feedback which would be beneficial to all parties.

The Chairman gave assurances that the concerns of the Staff Side were understood and that the matters being raised at the meeting were also looked at by the Executive & Resources PDS Committee and the Contracts Sub Committee.

Cllr Wilkins restated her question concerning the publication of the 'Risk Register.' The Director of Commissioning clarified that this was in fact the Risk Register managed by Internal Audit--it was different from the Contracts Register. The Committee heard that the Director of Finance was reviewing the Risk Register, and it was likely that it would be split into public and private sections. There were various views expressed concerning the assessment of the Risk Register.

Councillor Nicholas Bennett expressed the view that the Risk Register should come to Members for assessment. The Director of Commissioning suggested that it could come back to the LJCC after being assessed by the Corporate Leadership Team. Cllr William Huntington Thresher suggested that the Risk Register could be looked at by Internal Audit, and passed to the General Purposes & Licensing Committee before finally being published. He also mentioned that it was important to be aware that some aspects of the Risk Register would be dealing with security issues.

39 DATE OF NEXT MEETING

The date of the next meeting was agreed as 6th December 2016.

The Meeting ended at 7.10 pm

Chairman