

Report No:  
CSD 18167

## London Borough of Bromley

### PART ONE - PUBLIC

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**Decision Maker:** **Contracts and Commissioning Sub Committee**

**Date:** **11<sup>th</sup> December 2018**

**Decision Type:** Non Urgent                      Non Executive                      Non Key

**Title:** **MATTERS ARISING**

**Contact Officer:** Steve Wood, Democratic Services Officer  
Tel: 020 8313 4316 E-mail: [stephen.wood@bromley.gov.uk](mailto:stephen.wood@bromley.gov.uk)

**Chief Officer:** Mark Bowen, Director of Corporate Services

**Ward:** N/A

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1. Reason for report

1.1 **Appendix A** updates Members on matters arising from previous meetings.

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## 2. RECOMMENDATION

2.1 The Committee is asked to review progress on matters arising from previous meetings.

<b>Non-Applicable Sections:</b>	N/A
Background Documents: (Access via Contact Officer)	Previous Minutes and Matters Arising Reports.

## Corporate Policy

1. Policy Status: Existing Policy
  2. BBB Priority: Excellent Council and Sustaining Financial Independence and Sustainability.
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## Financial

1. Cost of proposal: No Cost
  2. Ongoing costs: Not Applicable
  3. Budget head/performance centre: Democratic Services
  4. Total current budget for this head: £343,810
  5. Source of funding: 2018/19 revenue budget
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## Staff

1. Number of staff (current and additional): 8 posts (6.87fte)
  2. If from existing staff resources, number of staff hours: Completion of "Matters Arising" Reports for PP&S PDS meetings can take up to a few hours per meeting.
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## Legal

1. Legal Requirement: Legal guidance has been provided with respect to the matter of Consultants functioning in the role of Bromley Officers.
  2. Call-in: Not Applicable
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): This report is intended primarily for Members of the Contracts Sub Committee.
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## Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A
2. Summary of Ward Councillors comments: N/A

<u>Minute Number/Title</u>	<u>Matters Arising</u>	<u>Update</u>
<b>Minute 3</b> <b>17th July 2018</b>  <b>Minutes for 29th March</b>	It was agreed at the meeting on 17th July, that at a future meeting of the Executive, Resources and Contracts PDS Committee, a demonstration would be provided around the functionality of the contracts database. It was agreed that members of the Contracts and Commissioning Sub Committee would be invited to the meeting.	The demo will take place early in the new year when the CDB functionality has been enhanced.
<b>Minute 7</b> <b>17th July 2018</b>  <b>Retender of the Exchequer Services Contract</b>	It was agreed at the meeting on 17th July, that a document be emailed to the Committee on around the 9 <sup>th</sup> October to appraise Members concerning the KPIs for the new contract after it had gone out to public tender.	The information was emailed out as planned and no feedback was received.
<b>Minute 17</b> <b>19<sup>th</sup> September</b>  <b>Minutes of the special meeting held on 25<sup>th</sup> June.</b>	The Chairman requested that the matter relating to the progress of health care issues be updated upon during a meeting in spring 2019.	This has been noted and allocated to the meeting scheduled for April 2 <sup>nd</sup> 2019.
<b>Minute 22</b> <b>19<sup>th</sup> September 2018</b>  <b>Corporate Contracts Register Part 1 Report</b>	It was resolved that when the new Capital Plan report for LBB building a new mortuary, or refurbishing an existing building is available, it should be presented to the Committee as an information item.	This has been noted and added to the work plan
<b>Minute 22</b> <b>19th September 2018</b>  <b>Corporate Contracts Register Part 1 Report</b>	It was resolved that the Chief Executive attends the December meeting.	The Chief Executive is leaving the Council and has sent apologies for the December meeting.
<b>Minute 22</b> <b>19th September 2018</b>  <b>Corporate Contracts Register Part 1 Report</b>	It was resolved that the Chief Executive should investigate the matter of consultants (in their role as official officers) receiving delegated powers, and whether or not this matter should be referred to the Constitutional Improvement Working Group.	<p>The Director of Corporate Services has provided the following legal advice:</p> <p>Section 112 (1) of the Local Government Act 1972 provides that a local authority shall appoint “such officers as they think necessary for the proper discharge of their duties”.</p> <p>It is important that the term officer is used rather than employee</p> <p>The case of Pinfold North Limited v Humberside Fire Authority in 2010 established that an Officer need not be an employee of a local authority and the High Court held that the Section 151 ((Chief Finance ) Officer did not need to be an employee of the relevant authority. The person in question was</p>

		<p>provided under an agency agreement ultimately through a personal services company</p> <p>This ties in with section 101 (1) (a) of the 1972 Act which provides that an authority may discharge its functions “by ...an officer of the authority” – which is mirrored in section 9 E (2) (b) Local Government Act 1972 which also allows for the discharge of the functions of the Executive by “an Officer of the authority.”</p> <p>Officer in both instances will, have the meaning ascribed by Section 112 of the 1972 Act and the Pinfold case and at the risk of labouring the point needn't be an employee.</p> <p>Therefore if we bring in someone from an agency to undertake a role whether it is a Director, lawyer or say an environmental health officer and they fill or cover a substantive role/post they will be officers of the Council and have all the necessary powers and duties under our various rules and procedures e.g. the Scheme of Delegation.</p>
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