

CONTRACTS AND COMMISSIONING SUB-COMMITTEE

Minutes of the meeting held at 7.00 pm on 19 September 2018

Present:

Councillor Stephen Wells (Chairman)
Councillor Neil Reddin FCCA (Vice-Chairman)
Christopher Marlow, Russell Mellor, Gary Stevens,
Michael Tickner and Angela Wilkins

Also Present:

Colin Brand, Nigel Davies, Claudine Douglas-Brown, Laurence Downes, Councillor Ian Dunn, Ellily Ponnuthurai, Councillor Simon Fawthrop, Lesley Moore, Doug Patterson, Emma Pearce, Dave Starling and Tim Woolgar

15 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies were received from the Deputy Chief Executive and Executive Director of ECHS (Ade Adetosoye).

16 DECLARATIONS OF INTEREST

Councillor Fawthrop declared an interest with respect to his employment with BT.

17 MINUTES OF THE SPECIAL MEETING HELD ON 25th JUNE

The Chairman requested three amendments to the minutes:

In page 4 of the minutes (paragraph 4), the word 'Mar' should have a 'K' added to it so that the word was changed to Mark.

In paragraph 6 of the same page, the word 'approached' should be changed to 'approaches'.

In paragraph 6 of the same page, the word 'big' should be changed to 'considerable'.

A Member and the Chairman agreed that the minutes were very comprehensive.

The Chairman requested that the matter relating to the progress of health care issues be updated upon during a meeting in spring 2019.

The Chairman referred to paragraph one on page three of the minutes where a reference was made to the 'base budget'. He asked if there was likely to be any growth in the base budget. The Director of Commissioning responded that she

was not aware of any growth in the base budget.

RESOLVED that subject to the amendments noted above, the minutes be agreed and signed as a correct record.

Post meeting note:

The amendments have been actioned and the amended version of the minutes has been published.

18 MINUTES OF THE MEETING OF CONTRACTS and COMMISSIONING SUB-COMMITTEE HELD ON 17th JULY 2018-- EXCLUDING EXEMPT INFORMATION

Members noted the minutes of the meeting that had been held on 17th July 2018.

No changes were required to the minutes. The Chairman commented that the minutes were detailed and splendid.

The Chairman referred to item six in the minutes which was the Commissioning Board Delivery Plan. He referred to Resolution 1 pertaining to this minute. The Resolution was an accurate recording of the meeting. However, in view of the response from the Chief Executive, the Resolution had been amended as reflected in the post meeting note.

RESOLVED that the minutes be agreed and signed as a correct record.

19 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC

No questions had been received.

20 MATTERS ARISING--EXCLUDING EXEMPT INFORMATION

CSD 18127

Members noted the progress made on matters that had arisen from previous meetings.

21 PROVISION OF LIBRARY SERVICES - CONTRACT PERFORMANCE REPORT

DRR 18/043

Members were presented with a report that provided them with an update on the provision of the Library Services contract with GLL over the first six months of operation. It was noted that the value of the contract over a ten year period was £40,739,536. The report indicated that the transfer of the library service had gone well, and that the contractor had been delivering the contract in accordance with

service specifications and key performance indicators. The report had also been scrutinised at the Renewal, Recreation and Housing PDS Committee on 18th September.

The Director of Regeneration (Colin Brand) and the Principal Client Officer for Libraries (Tim Woolgar) attended to present the report and to answer any questions.

The Committee was appraised that the contract was for a term of 10 years, with the option to extend by a further 5 years by mutual agreement. The contract had commenced on 1st November 2017. The transfer had been complex and had involved the TUPE transfer of over 130 staff, decommissioning and commissioning of major IT systems and hardware, as well as changes to the operational management of multiple satellite sites. The process had been achieved with minimal effect on customers and with the maintenance of all essential services.

The Chairman noted that the Committee had been provided with the various KPIs and default indicators for the contract pre-meeting. The Chairman commented that the information provided with respect to the KPIs was detailed and extensive. He felt that the level of attainment with respect of the KPIs had been set to a reasonably high standard.

Mr Woolgar explained that 20 KPIs had been selected to represent the key elements of the service. These were KPIs that would be necessary to grow and maintain the service. During the initial six months of the contract, it had been agreed that no default penalties would be applied. It had been highlighted to the contractor during that period that there were certain areas where penalties would normally have been applied. The contractor had taken these factors on board as the contractor was keen to avoid financial penalties.

The Chairman was pleased to note that minimum disruption had been caused by the transfer and by industrial action. The Chairman referred to the percentage of children visiting the library, and said that wherever possible he would prefer to receive actual numbers rather than percentages.

The Chairman stated that he was always interested in innovation, and he was pleased to note that there had been a 33% increase in the download of E-Books. Mr Woolgar explained that the increase was probably due to ongoing marketing of the service by the Library, and because of the fact that an increased number of titles were now available. The Chairman praised the joint working with two other libraries which had increased the book supply.

The Chairman asked if all libraries were part of the Community Toilet Scheme. The response to this was no, as in most cases the cost of refurbishing existing libraries for toilet facilities was prohibitive. However, when new libraries were being built, they would be built with toilets.

The Vice Chairman referred to section 3.15 of the report which discussed the review of learning and maturity, and he asked how these targets would be set.

Mr Woolgar responded that the contractor had to explain their proposals for this in a service plan that was measurable.

The Vice Chairman also enquired if ongoing efficiencies and performance figures would be built into the contract. Mr Woolgar responded that the contractor was expected to develop the service, and that savings would be reacquired into the service.

A Member stated that she was present at the Renewal and Recreation PDS Committee when the Library contract was first commissioned. She felt that the service level agreements and KPIs should have been seen at the meeting, and before the Gateway 1 stage. She also wondered if the type of service users were being monitored. It would be helpful to see if the number of users from groups such as ethnic minorities and children had increased.

Mr Woolgar confirmed that this type of question was asked in surveys, but the public were not obligated to answer.

A Member referred to section 8.1 of the report which was a table outlining responses to a survey. She requested clarification concerning the percentages noted in the table, as their meaning was unclear. Mr Woolgar stated that this was a matter that he would investigate further so that the relevant meanings could be provided.

The Chairman was happy with the report and with progress to date. He was pleased with the economies of scale that had resulted from the integration with other libraries.

A Member queried the cost of monitoring the KPIs, and asked how many staff were involved in the monitoring. The Director of Regeneration, Renewal, and Recreation answered that there was already a thin client team, and this was expected to get thinner.

RESOLVED that the report is noted, along with the performance of the service provider.

22 CORPORATE CONTRACT REGISTER & CONTRACTS DATABASE UPDATE-PART 1 REPORT

CEO 18003

The Committee was presented with the Part 1 report on the Corporate Contract Register and Contract Database update, and the accompanying print out of the corporate contracts register from the contracts database. Members were invited to consider the report and the contracts register.

The Chairman referenced contract ID 11, which was the Council Fleet Hire Contract, due to expire on 15th May 2019. The contract had recently been looked at by the Commissioning Board, and would shortly be going to the Executive for approval.

The Chairman noted a problem in that there was growth within the contract with respect to the existing fleet of cars. The Director of Regeneration, Renewal and Recreation had been unable to access all of the data and information that was required to answer the Chairman fully on this matter as officers had been on leave.

The Director of Regeneration, Renewal and Recreation identified two issues:

1- The need to enter into a commercial framework agreement with Crown Commercial Suppliers.

2- The Council policy with respect to the provision of lease cars would need to be looked at, and this would involve discussions with the Chief Executive and the Head of Human Resources.

The Director of Regeneration, Renewal and Recreation stated that it was not critical for all of the relevant data to be available now, as any issues relating to the contract could still be looked at by the November meeting of the Executive.

The Chairman expressed concern as to how the anticipated growth could be mitigated. He was happy to delay further discussion of the matter so that the relevant data could be provided, and so that the substantive issue of Human Resources policy with respect to lease cars could be clarified.

The Director of Commissioning stated that the contract had been flagged on the database as a framework issue that was time sensitive. A separate report would be required concerning Council policy with respect to lease cars. The Chairman was happy to progress with discussions around the framework agreement and he asked if there was a back-up plan if the framework agreement failed.

The Head of Commissioning and Procurement advised that LBB could use alternate framework agreements if necessary. The Director of Regeneration, Renewal and Recreation stated that the Fleet Manager was engaging in the process, and that the timescale in relation to the framework agreement was not a significant risk. The Director of Commissioning stated that what was required was to understand the total contract cumulative value. The Chairman said that he could not see how the growth could be mitigated.

The Chief Executive commented that the issue that needed to be dealt with was the issue of recruitment and retention, which added to the complexities of the situation. It could be the case that it would be necessary to still have a lease car policy due to recruitment and retention issues. The extra costs would then have to be mitigated in another way.

The Chairman expressed concern regarding the practice of incorporating lease cars in the remuneration package for a particular group of people in the Council. The Chairman stated that as far as he was aware, the Council had agreed to adopt a policy of decreasing its pool of leased cars, and that this policy had not been changed.

The Chief Executive explained that what he needed to ascertain was what level of posting in social care the lease offering was applicable to. The Chairman expressed concern that no meeting of Members had been held at any level to discuss what in effect may be a breach of policy. The Chairman was concerned that the number of lease cars had increased substantially. The Chief Executive pointed out that LBB needed social workers.

The Director of Commissioning outlined that a piece of work was required to ascertain how many social care staff took lease cars, and how many took cash alternatives. This would be investigated by the Director of Regeneration, Renewal and Recreation and the Director of Human Resources. This information would then be presented to the GP&L Committee and would form part of the next budget strategy. It would be necessary to determine also what the maximum contract value would be. The Chairman was worried about setting a precedent for policy reversal; he also suggested that in some cases the use of a pool car may suffice. He was also concerned that the number of cars being leased under the contract was increasing, and so the growth pressures would need mitigating.

The Executive Director of Environment and Community Services was called forward to provide an update around the Mortuary Contract. The Chairman expressed concern about the lack of competition for the contract. He was concerned about the length of time that had been taken in attempting to resolve the issue. He stated that LBB had missed the opportunity to build a mortuary themselves. He was perplexed as to how LBB had got into such a mess and was now seemingly backed into a corner.

The Executive Director explained that the market for the service was very restricted. An option had been looked at with respect to LB Croydon; this would have involved capital expenditure. The contract had been tendered in the normal way, but no other bids had been received. The Portfolio Holder had agreed to enter into negotiations with the PRUH, and these were now progressing. The prices that had now been quoted were higher than the prices that LBB had paid previously. However, it had been the case that the prices that LBB had paid over the last 10—15 years were less than the usual market price.

The Chairman stated that currently the number of post mortems undertaken on behalf of LBB was roughly 600 per annum at a cost of £250.00 each. He was concerned that this cost might treble. The Executive Director responded that the cost was likely to be at least double, but not treble. The Chairman enquired how this cost would be mitigated. The Executive Director replied that the cost pressure would either be dealt with within the portfolio or corporately.

The Director of Commissioning and the Chairman commended the work that had been undertaken by the Assistant Director for Public Protection in this regard. She was not only involved in the current negotiations, but had been working on developing a commissioning strategy for the future so that LBB would not find themselves in this position again. The Chairman stressed that officers should make clear at an earlier stage when problems were emerging. Now LBB was left in the difficult position of negotiating with a monopoly.

The Director of Commissioning assured that there had been no earlier indicators that LBB would not get a compliant bid.

A Member enquired if some form of joint mortuary contract agreement could be undertaken with LB Bexley. The Committee heard that LB Bexley was in the same position as LB Bromley, and would probably benefit from the current negotiations between LBB and Kings NHS Trust.

The Committee had a discussion concerning the risk element of entering into negotiations with Kings NHS Trust as they were in financial measures. The general consensus of the Committee and officers was that it would be better to enter into a negotiated agreement which involved LBB investing a capital sum. This would be of mutual benefit as Kings would appreciate the capital injection, whilst LBB could negotiate some form of control.

A Member asked if the service could be taken back in house. It was explained that this idea had been rejected in the past because it was deemed to be too expensive. A Member highlighted the fact that LBB had an investment fund that had been used to buy properties. She suggested that it may be prudent to investigate if the fund could be used to build a new mortuary or to refurbish the building in Beckenham that had been used as a public mortuary previously. This suggestion was seconded by another Member. The Chairman said that this was something that may be worth investigating. The Executive Director of Environment and Community Services felt that it would be better to have a partnership and capital investment agreement with Kings—this would save on the cost of building a mortuary from scratch. The Director of Commissioning briefed that going forward, a report would go to the Commissioning Board that would investigate the viability of LBB using its own mortuary.

It was agreed that when the new capital plan report regarding LBB building a mortuary from scratch, or refurbishing an existing building (like the former mortuary building in Beckenham) was available, it should be presented to the Contracts and Commissioning Sub Committee as an information item. The initial scrutiny of the report would be undertaken by the Environmental Services PDS Committee.

The Committee discussed the Highways Engineering Consultancy Contract with AECOM, and the Openview Security Solutions Contract, with Openview Security Solutions Limited. It was noted that the Highways Engineering Consultancy Contract was a framework contract that had been procured via a framework agreement. It was explained that in this case, a full procurement exercise was not required and that any modifications to the contract would be achieved via change control notices. The preferred option was to continue with the term contractor, but fall-back options were available if required.

The Chairman was concerned that there may be a systemic issue existing whereby issues were not being looked at early enough. The Chief Executive referenced the red flags on the database, and explained that officers were also working to ensure that the contracts that were marked with red squares, did not progress to contracts that would be flagged as red.

The Chairman received an update on the Openview Security Solutions Contract. It was noted that this was a contract for automatic bus lane cameras. Part of the contract was for maintenance, and part of the contract was for software. The maintenance part of the contract was no longer used as it was not cost effective. Investigations were under way to see if the CCTV maintenance could be undertaken as part of the wider CCTV contract. The contract had been red flagged as discussions had not been finalised, and because the contract manager's notes were not informative enough.

An update was provided on the Waste Disposal Contract. The final bids for the contract were due in by 2nd October, and it was anticipated that the contract would be in place by April 1st.

The more substantive issue was around ECHS contracts. The Chairman expressed concern about the number of ECHS contracts that had been delayed in going to the Commissioning Board. The Chairman asked what the Deputy Chief Executive and the Chief Executive would be doing to minimise the delay in the finalising of these reports, so that they did not end up in a 'red flag' status.

The Chairman referred to item 3 on the Commissioning Board Work Plan which was The Children's Commissioning Plan. The Chairman was very concerned about the number of times the plan was due to be presented to the Commissioning Board, but had not been presented. The Chairman was equally concerned that the reason given for this was that no one was available to present the report. It was noted that eight reports were due to be presented to the Commissioning Board on 24th September. The Chairman was concerned because the growth in the contracts needed to be looked at and mitigated. He was concerned that in many cases the business plan or Business Gateway reports had been delayed. The Chairman wanted to understand what was being done to prevent many of the substantial ECHS reports from going into the red-flagged category.

The Director of Commissioning explained that not everything on the Commissioning Plan was a new contract, some were service re-designs. The Chairman stated that he was equally concerned about service re-design as this was also indicative of cost pressures. He wondered if ECHS was being staffed correctly. The Chief Executive stated that this was something he would be investigating further. The Chairman continued that the matter raised the fundamental question of how the Council should be operating across all of its services. Should the Council be operating over two strands? One could be an Operational Group, and the other strand could be a Central Commissioning Control Group. The other matter was whether or not staff had received the correct training, were happy in their work, and possessed the required expertise. The Chief Executive assured that all of these matters were being considered.

A Member enquired if LBB had staff in this area that possessed the relevant knowledge, expertise and intellectual ability. He hoped that in the future the staff would have sufficient expertise so that consultants would not be required. The Chief Executive assured that the staffing levels in the Commissioning Team had been increased, and that this would be enhanced if required. It may also be

possible to transfer staff in from other areas. The Director of Commissioning said that she had a young team that she was developing, and who were growing in expertise and knowledge.

The Director of Commissioning referred the Committee to item 3 on the Commissioning Board Work Plan which was the Children's Commissioning Plan. This was a Plan that she had been working on with Mark Davidson (currently employed on a consultancy basis). The Plan was the first stage in the commissioning strategy, and the report was currently with the Director. This was an important strategy document that would impact on various strands including learning disabilities, the elderly and mental health. The Chairman voiced concerns about using high level consultancy staff. His concern was that in terms of contractual deadlines there was sometimes a drift; the other concern was that when contact with the consultant was lost, there was a loss of knowledge base.

A Member confirmed that in October, a report was being presented to the Executive, Resources and Contracts PDS Committee concerning contractors. He also expressed concern regarding situations where the contractor was also an official officer, and with the associated delegation of powers to the contractor in that role. He suggested that this was a matter that could be looked at by the Constitutional Improvement Working Party. The Chief Executive said that he would take the matter forward, and it was agreed that the Chief Executive attend the next meeting.

RESOLVED that:

1) When the new capital plan report regarding LBB building a mortuary from scratch, or refurbishing an existing building (like the former mortuary building in Beckenham) was available, it should be presented to the Contracts and Commissioning Sub Committee as an information item.

2) 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

3) The Chief Executive attends the December meeting

23 CORPORATE CONTRACTS REGISTER--PART 1

Please refer to the minute for item 22.

24 CONTRACT CHANGE CONTROL PROCEDURE

The Director of Commissioning referred to the Change Control Notice flowchart.

The Director explained that the green section of the flow chart was the process undertaken when a standard CCN (Change Control Notice) to the provider was being drafted. The CCN would need to be clear on specification and budget. Once authority to proceed had been received, then the CCN would be signed off. The

budget figure would then be revised on the CDB (Contracts Database).

Another strand on the flow chart showed a situation that related to variable budgets and one off projects. The project base budget would be retained. The flow chart showed the CCN procedure for when commissioning took place for one off project work. Again, clear written specifications would be required. LBB officers would complete the relevant paper work for the one off change control, which would be recorded and signed off. The information would then be input onto the CDB.

Another type of CCN was when a budget was required for a one off capital project. It was important to note the cumulative total of the contract, and not to confuse the revenue and capital budgets. The CCN would show on the CDB as a capital scheme. No one should be exposed with respect to the cumulative total.

Members noted the extensive work that had been introduced to improve the implementation and recording of change controls which had originated from previous criticisms from Internal Audit. The Director assured that the system was virtually fool proof as long as contract managers entered the correct data.

The Vice Chairman asked what the position was with respect to retrospective change controls. The Director responded that the situation had improved and now no changes would be authorised without her signature. The information relating to change controls was on the Managers' Toolkit.

RESOLVED that a demonstration of the CDB take place at the meeting of the Executive, Resources and Contracts PDS on 22nd November.

25 WORK PROGRAMME 2018/2019

Members noted the Work Programme report for 2018/2019.

26 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

27 COMMISSIONING BOARD DELIVERY PLAN

The Committee discussed and noted the Commissioning Board Delivery Plan.

28 CONTRACTS REGISTER PART 2 REPORT

Members noted the contracts mentioned in the Part 2 report, along with the additional comments from managers.

29 CORPORATE CONTRACTS REGISTER-SEPTEMBER 2018--PART 2

Agenda item 15 was the Print out of the part 2 Contracts Register with additional notes.

Some of the information pertaining to the Contracts Register had already been discussed in the Part 1 section of the agenda.

Any further confidential information relating to corporate contracts was noted in the part 2 minutes for agenda item 14 which was the part 2 report pertaining to the Corporate Contract Register and Contracts Database Update.

30 KPI'S FOR THE EXCHEQUER SERVICES CONTRACT

Members did not discuss the KPI's for the new Exchequer Services contract on the night as they had not received the information in enough time for an assessment to be made.

31 EXEMPT MINUTES OF THE MEETING OF CONTRACTS AND COMMISSIONING SUB-COMMITTEE HELD ON 17th JULY.

The exempt minutes of the meeting of the Contracts and Commissioning Sub-Committee held on 17th July were agreed and signed as a correct record.

32 AOB

No other business was discussed.

33 DATE OF THE NEXT MEETING

The date of the next meeting was confirmed as 11th December 2018

The Meeting ended at 10.10 pm

Chairman

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