

EXECUTIVE, RESOURCES AND CONTRACTS POLICY DEVELOPMENT AND SCRUTINY COMMITTEE

Minutes of the meeting held at 6.30 pm on 10 September 2020

Present:

Councillor Simon Fawthrop (Chairman)
Councillor Christopher Marlow (Vice-Chairman)
Councillors Gareth Allatt, Julian Benington,
Nicholas Bennett MA J.P., David Cartwright QFSM,
Mary Cooke, Ian Dunn, Will Harmer, Russell Mellor,
Keith Onslow, Michael Tickner, Stephen Wells and
Angela Wilkins

Also Present:

Councillor Graham Arthur, Portfolio Holder for Resources,
Commissioning and Contracts Management
Councillor Kira Gabbert, Executive Assistant Resources,
Commissioning and Contracts Management
Councillor Colin Smith, Leader of the Council

25 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillors Nicky Dykes, Robert Evans and Michael Rutherford. Councillors Keith Onslow and Bennett attended as respective substitutes for Councillors Evans and Rutherford.

26 DECLARATIONS OF INTEREST

Councillor Fawthrop declared that he was an employee of British Telecom (BT).

27 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions were received.

28 MINUTES OF THE EXECUTIVE, RESOURCES AND CONTRACTS PDS COMMITTEE MEETING HELD ON 1 JULY 2020 (EXCLUDING EXEMPT ITEMS)

The minutes of the meeting held on 1 July 2020, were agreed and signed as a correct record.

29 MATTERS OUTSTANDING AND WORK PROGRAMME Report CSD20087

The report set out matters outstanding from previous meetings and the proposed work plan for 2020/21.

RESOLVED: That the report be noted.

30 FORWARD PLAN OF KEY DECISIONS

The Committee noted the Forward Plan of Key Decisions covering the period August 2020 to November 2020.

It was noted that since initial publication of the Forward Plan it had been republished with several additions. In particular, Councillor Dunn raised concerns around the way in which the Part 2 (exempt from publication) Chislehurst Library report had been inserted into the republished Forward Plan. Citing concerns around lack of open governance, Councillor Dunn suggested that – in the interests of transparency - there should have been a Part 1 report published setting out those details of the proposals that were not exempt from publication.

The Committee noted that much of the discussion that had taken place at the Renewal, Recreation and Housing PDS (RRH PDS) Committee had been moved into Part 1. A Councillor commented that there would have been no way for the public to have known that this was going to happen and therefore had no opportunity to ask questions. References to information such as the costs involved, and details of the successful bidder remained exempt from publication and therefore had to be considered in Part 2 of the meeting. The Committee noted that the Part 1 minutes (together with a redacted report) were due to be published ahead of the decision by the Leader of the Council, and this would provide an opportunity for further questions if necessary.

The Legal Advisor to the Committee confirmed that a large amount of the information that was in the report could have been included in a Part 1 report such as the information relating to the process followed to secure the best bidder. It was only certain limited information that was exempt from publication. The Director of Housing, Planning, and Regeneration confirmed that the Part 1 discussion related to the marketing of the site and at the RRH PDS meeting the Committee, and any members of the public watching the live stream were provided with an overview of the process. It was further agreed that all elements that could be Part 1 would be included in the Part 1 minutes from that meeting which would be published as soon as practicable.

The Committee requested that, for the purposes of transparency and in the interests of public involvement, in future any Part 2 reports should have an accompanying Part 1 report (or at the very least an accompanying Part 1 agenda item) to enable any information that could be placed in the public domain to be discussed at Committee.

10 September 2020

**31 RESOURCES, COMMISSIONING AND CONTRACTS
MANAGEMENT PORTFOLIO - PRE-DECISION SCRUTINY**

The Committee considered the following reports where the Resources, Contracts and Commissioning Portfolio Holder was recommended to take a decision.

**a CAPITAL PROGRAMME MONITORING - 1ST QUARTER
2020/21
Report FSD20066**

On 8th July 2020, the Leader received a report summarising the current position on capital expenditure and receipts following the 1st quarter of 2020/21, and agreed a revised Capital Programme for the four year period 2020/21 to 2023/24. The report highlighted changes agreed by the Executive and the Leader in respect of the Capital Programme for the Executive, Resources & Contracts Portfolio. The revised programme for the portfolio was set out in Appendix A to the report and detailed comments on individual schemes were shown in Appendix B, with details of the 2019/20 outturn position are included in Appendix C.

RESOLVED: That the Portfolio Holder be recommended to note the changes agreed by the Leader on 8th July 2020.

**b TREASURY MANAGEMENT - ANNUAL REPORT 2019/20
Report FSD20064**

The report summarised treasury management activity during the March quarter and included the Treasury Management Annual Report for 2019/20, which was required to be reported to Full Council. The report ensured that the Council was implementing best practice in accordance with the CIPFA Code of Practice for Treasury Management. Investments as at 31st March 2020 totalled £336.1m and there was no external borrowing. For information and comparison, the balance of investments stood at £354.4m as at 31st December 2019 and £311.6m as at 31st March 2019, and, at the time of writing the report (21st August 2020) it stood at £386.6m.

In response to a question, the Director of Finance confirmed that interest income was being closely monitored. Much of the lending was over a two year period and consequently there was less of an impact in the current year however there was likely to be more of an issue for the next year and thereafter as a result of the reduction in interest rates.

RESOLVED: That the Portfolio Holder be recommended to

- 1. Note the Treasury Management Annual Report for 2019/20;**
- 2. Approve the actual prudential indicators within the report.**

32 PRE-DECISION SCRUTINY OF EXECUTIVE REPORTS DUE TO BE CONSIDERED BY THE LEADER OF THE COUNCIL

The Committee considered the following reports on the Part 1 agenda for consideration by the Leader on or after 16th September 2020.

(7) RESOURING THE COVID RESPONSE: COVID MANAGEMENT LDCS10151

The report provided an update on the paper “Resourcing the Covid-19 response: Contact tracing” considered by Members in June 2020. Since that time Bromley Public Health were now also leading on elements such as development of surge capacity to ensure that support to professionals and residents could be maintained in the event of a second wave of Covid-19 and preparations for some of the contact tracing function to be devolved from Public Health England.

The Chairman of the Adult Care and Health PDS (ACH PDS) Committee commented that it was an excellent report, however it may have been helpful to provide Members of ACH PDS with the opportunity to review and scrutinise the report as there considerable input which affected the ACH PDS.

RESOLVED: That the Leader be recommended to

- 1. Note that this assessment of the additional resources needed to execute this function is still subject to change in a highly fluid situation.**
- 2. Agree to continue to delegate authority to the Director of Public Health, in consultation with the Portfolio Holder for Adult Care and Health, to incur expenditure as required to undertake the required duties. Currently the sum required is up to £237k (the amount previously agreed was £100k) as detailed in the report, however there is some expenditure that we do not yet know the cost of (such as surge nurses), so in addition to the amount outlined in the report, an additional amount of £38,000 is requested as a contingency item.**
- 3. Note that under the Health and Social Care Act 2012, Directors of Public Health in local authorities have a duty to prepare for and lead the local authority public health response to incidents that present a threat to the public's health.**

(9C) TRANSFORMING PROPERTY: CREATION OF A £30M DISPOSAL PROGRAMME
Report HPL 2020/000

10 September 2020

The report sought the Leader's approval for the implementation of a programme of asset disposals with the aim of generating a further £30m of Capital receipts by 31 March 2023.

The aspects of this approval were:

1. To agree to dispose of assets which are not core to the Council's operations or which provide good revenue returns.
2. Such disposals will be achieved via open market transactions or by transferring assets to the Council's Housing Revenue Account at market value to provide additional funding for other capital schemes.
3. All transactions will be at market value referencing the Council's legal requirement to comply with S123 of the local government Act 1972 to ensure that best consideration is achieved.
4. The majority of assets disposed of or transferred to the Council's Housing revenue Account will facilitate Residential Development in the Borough together with Social Housing provision.
5. The proposed Programme approach will require a thorough evaluation of opportunities including a rationalisation of the Council's Operational holdings.
6. All disposals will be subject to member scrutiny and Executive approval of each proposed transaction whether on the open market or to the HRA or a wholly owned housing company.
7. To ensure that the Programme is adequately resourced to deliver its objective within the set timescale.

The Assistant Director for Strategic Property provided an update on the minor amendments to the paper that had been circulated earlier in the day clarifying the resource requirements of the proposals outlined in the paper. These included:

The resource cost of the proposal amounted to £1.24m calculated as follows:

- a. Marketing Costs estimated at £150K pa,
- b. Qualified Disposals Surveyor – 2 Year fixed term Contract £70K plus on-costs – assume £100K pa.
- c. Dedicated Legal resource for Programme – 2 Year fixed term Contract £65K plus on costs – assume £95K pa.
- d. Operational Portfolio Surveyor - 1 Year fixed term Contract £70K plus on-costs – assume £100K pa.
- e. Agents Fee based on market testing estimated at 1.5% assume total £450K.

The Assistant Director of Strategic Property estimated that this was a budget estimate to provide an idea of scale however Officers would work to reduce that estimate. The costs for staffing (outlined above) would not be full-time staff but would be 3-6 month time limited posts and the costs provided would be at the top end of the costings.

*Executive, Resources and Contracts Policy Development and Scrutiny
Committee
10 September 2020*

In addition recommendation 2.5 had been slightly amended to include reference to consideration by relevant PDS Committees.

The Director of Finance highlighted that costs needed to be linked to activity. As such if there was not the scale of activity costs would be rolled back.

Members discussed the current state of the commercial property market as being in a “state of flux” and expressed concerns around marketing and selling property when the market was falling. Whilst recognising that a target was helpful, a Member suggested that in the current market it could be more realistic to have an expression of desired outcomes rather than a target.

In response to a question concerning whether the Council’s policy of not undertaking routine property maintenance could impact on the value of the Council’s property portfolio, the Assistant Director for Strategic Property confirmed that all the Council’s properties complied with statutory requirements and the policy was to use resources carefully and where possible maintenance was undertaken on an invest-to-save basis. Equally, the Council had an ageing portfolio and as the properties aged repairs became more expensive. Part of the proposal before the Committee was to look at the operational portfolio in greater detail, taking decisions based on evidence from condition surveys. This would assist in identifying any emerging maintenance liabilities that were of significance and enable informed recommendations to be made to Members. The Assistant Director confirmed that it was the land that held the value rather than the actual building.

The Portfolio Holder for Resources, Commissioning and Contracts Management highlighted that the proposals were about the restructuring of the Property Division post Cushman and Wakefield. The intention was to make the service more streamlined, commercial and independent by using resources as and when necessary. The driver for the proposals was to provide affordable housing by firstly carrying out a careful examination of the Council’s property holdings that could not be used for operational purposes to see if any of the properties could be released; and secondly to conduct a root and branch review of the Council’s current property assets and identify whether they represented value.

RESOLVED: That the Leader be recommended to:

- 1. Adopt the proposal to create a £30M Disposal Programme.**
- 2. To note the process contained in the report as to the progression and identification of assets and how these will be reported to Members for decision.**
- 3. Delegate authority to award contracts via competitive tendering for the provision of a panel of Disposal Agents via the Crown Commercial Services Framework on an individual call off basis to**

10 September 2020

the Assistant Director of Strategic Property to be exercised with approval from the Director of Housing, Planning and Regeneration and the Portfolio Holder for Resources.

- 4. To note and approve the additional resources of £1.124m identified within the report at paragraphs 3.34 - 3.36 and to offset these costs against the capital receipts generated by the programme of disposals.**

- 1. To note and agree that all future Reports to the Executive and appropriate PDS Committees should contain a standard Property Commentary Section in the same way as Personnel, Legal and Procurement so that should there be a need for Property Commentary it can be provided.**

(Councillors Dunn and Wilkins requested that their vote against the proposals be recorded)

Following consideration of reports for decision by the Leader, the Committee discussed a constitutional question concerning whether, six months after the Council's Urgency Committee had agreed to implement the special arrangements for decision making currently operating in response to the Covid pandemic, the decision should be taken reinstate formal meetings of the Executive (albeit recognising that the current national restrictions in place arising from the pandemic would mean that meetings would be held virtually) in the interests of transparency and open decision making. A Member highlighted that at the heart of the issue was a point about scrutiny as the public would not be aware of the emails that were circulating concerning scrutiny of decisions or the many discussions that were taking place outside of meetings. It was argued that there was clear evidence that virtual meetings were far less time consuming and should therefore not take up too much additional officer time.

The Leader confirmed that at this point in time, given the pressure on Officer resource, every single item requiring an Executive decision was going to at least one PDS Committee for consideration prior to a decision being taken. If the general view was that Members wanted to reinstate Executive meetings and duplicate discussions and debates on reports this could be done but Members needed to be mindful on the inevitable impact on Officer time.

The Committee noted that no decisions had been called in by Members in the last six months. This suggested that Members were comfortable with the way in which decisions had been scrutinised prior to decision. A Member also highlighted that now was not the time to review the current processes as it was likely that more Officer time would be required in the coming months to respond to the anticipated second spike in cases of Covid-19.

Following an extensive debate it was

RESOLVED that the Urgency Committee be recommended to meet in January 2021 to review ongoing decision making arrangement in response to the Covid-19 pandemic.

(Councillors Bennett and Dunn voted against and Councillor Wilkins abstained from the vote having experienced technical difficulties during the debate)

33 SCRUTINY OF THE CHIEF EXECUTIVE

The Chief Executive, Mr Ade Adetosoye, attended the meeting to respond to questions from the Committee. The Chief Executive had circulated a written update for the Committee as part of the agenda papers and Members commended the Chief Executive on the quality of the report and the information provided. Mr Adetosoye responded to questions, making the following comments –

- In relation to the lessons learnt through the Covid pandemic, a comprehensive document was being produced and this could be shared with Members via PDS Committees.
- In relation to recognising the exceptional contributions made by staff over the past six months, responsibilities for staffing issues were delegated to the Chief Executive as Head of Paid Service. Consequently, the Chief Executive, in consultation with the Corporate Leadership Team would be putting together a short list of staff to be considered for national recognition.
- Staff had anonymously responded to the Staff Survey, although they had been asked to identify their Department. It was noted that a follow-up survey would be conducted in November 2020.
- The Transformation Programme had not experience any delays resulting from the challenges presented in the last six months indeed it should be recognised that significant progress had been made. Five reports were being presented to the Leader for decision the following week and a further six report would be presented in November 2020.
- Monitoring of staff absence throughout height of the pandemic demonstrated that there were very low rates of staff sickness compare to some other London Boroughs. Staff had also been encouraged to undertake Covid risk assessments. The Committee noted that from very early on in the pandemic staff had been encouraged to work from home and this had protected a large number of people from exposure to the virus.
- The Committee noted that there had been no rush to return staff to the office environment as the primary objective was for people to remain safe. In terms of the building itself the social distancing work programme had been completed and up to 25% of the overall staffing body could be accommodated at any one time. Currently, between 80 and 90 staff attended the Civic Centre on a daily basis. The Council had invested heavily on IT and this had enabled in excess of 90% of staff to effectively and productively work from home. Those staff that exceptionally had to attend the office for work purposes were doing so

10 September 2020

safely. The Chief Executive emphasised that the welfare of staff was absolutely paramount and he would rather have staff productively working from home and being effective. The alternative was that staff came into the office, were potentially exposed to the risk of infection and sickness and were consequently less effective.

The Committee thanked the Chief Executive for his update.

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

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summaries
refer to matters involving exempt information**

35 EXEMPT MINUTES OF THE MEETING HELD ON 1 JULY 2020

The Part 2 (exempt) minutes of the meeting held on 1 July 2020 were agreed, and signed as a correct record.

**36 PART 2 CONTRACTS REGISTER AND CONTRACTS
DATABASE
Report CEO20010**

The report presented September 2020's Corporate Contracts Register for consideration. Detailed scrutiny of individual contracts was the responsibility of the six PDS Committees but E&RC PDS took an overview of the Council's larger value (£200k+) contracts to ensure that commissioning and procurement activity was progressed in a consistent manner. This report provided both the Council wide £200k+ register together with the £50k+ register specific to the E&RC Portfolio. The Contracts Register presented in 'Part 2' of this agenda includes a commentary on each contract to inform Members of any issues or developments.

In respect of the Learning Disabilities Contract, the Committee noted that the contract owners had taken action in plenty of time and a short extension to November 2020, had been negotiated enabling re-procurement of the contract to take place. A report would be circulated to the ACH PDS Committee very shortly. The Chairman of ACH PDS Committee confirmed that she had been kept fully briefed throughout the process and supported the decision that had been taken.

*Executive, Resources and Contracts Policy Development and Scrutiny
Committee
10 September 2020*

In respect of the Energy Contract, the contract owner had completed the tender process and a report had been drafted with a decision expected imminently. The Assistant Director of Governance and Contracts confirmed that if no new contract was awarded by the end of the month the service would remain with the current supplier but on their generic (and therefore potentially higher) tariffs. The suggestion was that when available the report should be circulated to Members of ERC PDS prior to decision to allow comments.

RESOLVED: That the report be noted.

The Meeting ended at 7.58 pm

Chairman