

## **ITEM 10            Communications and Procurement Panel Review**

Report of the Chairman of the Panel, Cllr John Cockaday.

### **Recommended:**

- 1.     Sport England be asked to consider adding to its toolkit to include advice on how and when to involve the public in consultation processes where a Design, Build, Operate and Manage solution is being pursued.**
- 2.     More effort should be made in future, in situations similar to the renewal of the Leisure Contract, to undertake a high profile public consultation on the broad specifications, including expected outcomes, to be given to the bidders prior to entering the competitive bidding phase.**
- 3.     That in future procurement exercises and large projects, using broad specifications such as expected outcomes, and where a degree of commercial confidentiality will be required, the Council should actively explain to the public at the onset of the process the reasons for this confidentiality and what benefits the Council intends to gain for the community. It should also explain why details of the proposed solution, such as the design of new buildings, may not be the subject of traditional public consultation at least until, in the case of new buildings, the relevant planning application is submitted.**
- 4.     Topic specific bulletins and all Councillor briefings should be made more use of in future for complex procurement exercises and large projects.**
- 5.     Where a recommendation is being made to full council which refers to, or draws heavily on, a Cabinet report then that cabinet report should be copied to all councillors as part of the full council agenda.**
- 6.     Arrangements be made for new Members to receive briefings, as part of their induction process, on major areas of work that already underway, such as the leisure procurement process.**

### **SUMMARY:**

This report considers what lessons can be learnt about the way we communicate about procurement exercises and large projects arising from the experiences of the recent award of the Leisure Management Contract.

## **1        Introduction**

- 1.1     On 26<sup>th</sup> April 2017 OSCOM established a task and finish panel to consider what lessons can be learnt about the way we communicate about procurement exercises and large projects arising from the experiences of the recent award of the Leisure Management Contract to People for Places**
- 1.2     The Panel, under the chairmanship of Cllr John Cockaday met on two occasions and has now come up with recommendations based on their findings. In addition to Cllr Cockaday, Cllr Richards and Hurst formed the membership of the Panel.**

## **2 Background**

- 2.1 The Panel considered three areas in particular, namely:
- a. Pre-procurement communication.
  - b. What the legal constraints of the procurement process will allow in terms of communications to the public.
  - c. Communication to Borough Councillors and specifically what communication/opportunities for involvement occurred.
- 2.2 At its meeting in January 2017 OSCOM considered a report that reviewed the procurement process for the Leisure Management Contract. That report is attached as Annex A as the Panel used it as background information in the course of its work.
- 2.3 That report outlines that in October 2014 the Council formally commenced a full market testing exercise for the re-letting of its Leisure Centre Management Contract. The approach followed Sport England guidelines contained in a dedicated procurement toolkit developed for Local Authorities. The outcome of this work culminated in a presentation to Cabinet and Full Council for approval in November 2016.

## **3. Findings**

- 3.1 The Panel was positive about the benefits that the DBOM (Design, Build, Operate and Maintain) contract and competitive dialogue procurement route would deliver to residents and the Council. The Panel felt that the Council had taken the right decision to pursue this form of contract and procurement process. Annual savings compared to historic management and lifecycle costs and improved/new facilities would not have been delivered through a traditional form of contract and procurement route. The Panel's view is supported by statements made by the Council's external Auditors published in their recent Annual report of the Council's activities. They have made specific reference to the Leisure Management Contract process as follows:

*"The new contract is forecast to bring significant net revenue benefit to the Council over its 30 year life, and as such is expected to strengthen the Council's overall financial position in the medium and longer term."*

A full extract from the report is attached at Annex B.

- 3.2 The Panel considered that against its original aims the procurement process was likely to prove very successful over its 30 year term. The Panel was also satisfied that on balance it was the correct approach to follow. The original aims of the process were to:
- (a) Make major capital investment into the Council's Leisure Centres and sites
  - (b) Deliver innovative on-going service development
  - (c) Make substantial savings in operating costs.
  - (d) Transfer the risks of life cycle and maintenance costs to the operator

### **Public Consultation and Involvement**

- 3.3 The Panel first turned its attention to communications with and involvement of the public. The Council had specifically chosen to use the Sport England toolkit and DBOM contract. These documents had been refined over a number of years and provided a standard approach to this type of procurement. It was noted in particular that the essence of the approach was to seek solutions from leisure providers against broad outcomes, as opposed to providing a tight specification against which contractors bid. The implication of this approach is that the Council would not in a position to specify the detail of what should be contained in a proposed solution. For instance how any new building should be designed or, indeed, whether the solution should contain any new building proposals at all. As a result the council was not in a position to consult on the details of any proposed solution, including new buildings, at the commencement of the procurement process.
- 3.4 The council was further constrained by the competitive nature of the procurement process which means that the Council had to adhere to strict non-disclosure of information. So that even when details of proposed solutions began to emerge the council was still not in a position to consult the public. The Panel accepts that this market led approach meant that traditional forms of public consultation would have been very difficult for the council to pursue without breaching commercial confidentiality and opening itself up to legal challenge.
- 3.5 The panel felt that more efforts could have been made to undertake a higher profile public consultation on the broad outcomes that had been specified to the bidders. At the same time more could have been done to “warn” the public that solutions could be proposed that included, inter alia, new buildings which would not be the subject of detailed public consultation, at least until the relevant planning application was made. The Members noted that the Sport England Toolkit did not make such provision. The Panel considered that it should be recommended to Sport England that they include advice on how and when to involve the public in the process when a DBOM solution was being pursued, as part of its toolkit.
- 3.6 A complaint was made to the Local Government Ombudsman that TVBC had ‘decided to replace Andover Leisure Centre on the same site without any public consultation, leaving the community without leisure facilities over two years and failing to meet the growing community’s needs’. The Ombudsman investigated and decided that there was no fault by the Council.

Members also noted (and valued) the proactive approach that was (and continues to be) taken in responding to public and social media, and local action groups.

### **Council Members’ Involvement**

- 3.7 The Council’s external auditors in their Annual report make specific reference to the Leisure Management Contract process and the involvement of and information given to members. They indicate that;
- “From the evidence provided we concluded that officers maintained robust processes to inform members of developments and seek their approval at all key stages of the contract award process.”*

- 3.8 However, Panel members considered that some Council members had not fully appreciated the implications of the process that the Council had entered into. It was noted that this was despite there being a communications plan in place and that there had been a number of regular communications to Members either through reports to Cabinet/Council, or through mechanisms such as the Members' Information Bulletin.
- 3.9 Members commented that they did not receive hard copies of Cabinet documents even when a full Council decision was required as a result of a recommendation from Cabinet. Members also commented that Members' Information Bulletin was not universally read by all TVBC Councillors.
- 3.10 The Panel did consider, however, that communications were significantly improved when Cllr Ward, the Portfolio holder, commenced publication of his regular leisure management bulletin. The Panel felt that this was an example of good practice and that this topic specific type bulletin should be introduced for complex procurement exercises and large projects in future. They also felt that the presentation that Cllr Ward had given to full Council, in November 2016, was an example of the type of briefing that would have been useful for Members earlier in the process.
- 3.11 It was noted that the process of planning for the procurement process has taken place over a number of years. The Panel felt that arrangements should be made for new Members who are elected to the Council at a later date to receive briefings, as part of their induction process on major areas of work that already underway, such as the leisure procurement process.
- 4.0 **Conclusion**
- 4.1 This report considers what lessons can be learnt about the way we communicate about procurement exercises and large projects arising from the experiences of the recent award of the Leisure Management Contract. The Panel consider that the implementation of the recommendations above will improve communications with the public and council members alike, in future.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	2.		
Author:	Cllr John Cockaday	Ext:	8121
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