



Leicester
City Council

Minutes of the Meeting of the
STANDARDS COMMITTEE

Held: WEDNESDAY, 4 FEBRUARY 2015 at 5:00 pm

P R E S E N T :

Councillor Waddington (Chair)
Councillor Senior (Vice Chair)

Councillor Shelton

Councillor Sood

Also present:

Ms Amanda Fitchett	Independent Member
Mr Desmond Henderson	Independent Member
Mr Stephen Purser	Independent Member
Mr David Lindley	Independent Person

Members of the Overview Select Committee in attendance

Councillor Kitterick

Councillor Newcombe

Councillor Westley

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26. APOLOGIES FOR ABSENCE

Apologies for absence were received from Fiona Barber, Independent Member.

Apologies for absence were also received from Councillors Cooke and Dawood as members of the Overview Select Committee.

27. DECLARATIONS OF INTEREST

Members were asked to declare any interests they might have in the business to be discussed.

Councillor Sood declared an Other Disclosable Interest as Chair of the Leicester Council of Faiths and as a patron of CLASP.

In accordance with the Council's Code of Conduct the interest was not considered so significant that it was likely to prejudice Councillor Sood's

judgement of the public interest. Councillor Sood was not, therefore, required to withdraw from the meeting during consideration and discussion on the item.

28. PROCUREMENT

The Council's Overview Select Committee had considered a briefing note at its meeting on 15 January 2015 on how decisions on the procurement of goods, services and contracts were taken at the Council. During the discussion on the item, concerns were expressed by members on the implications of the briefing note from the City Barrister on member involvement in procurement exercises. As a result, the Chair of Standards was requested to arrange a special meeting of the Standards Committee to discuss these issues and report back to a future meeting of the Overview Select Committee.

The briefing note from the City Barrister was circulated to Members prior to the meeting.

The minute extract from the Overview Select Committee meeting is shown below.

EXTRACT FROM THE OVERVIEW SELECT COMMITTEE MINUTES for the meeting held on 15 JANUARY 2015

82. PROCUREMENT BRIEFING

The Committee received a presentation concerning how decisions on the procurement of goods, services and contracts were taken at the Council.

A note from the City Barrister was submitted which commented on Member involvement in the procurement exercise.

The Committee expressed concern at the content of the City Barrister's note, particularly at its comments concerning casework and involvement in scrutinising bids during the procurement exercise.

Concern was also expressed at the views concerning the rights to access information and the restrictions on members' rights.

Having regard to the issues of concern raised, it was suggested that the matter be referred to Standards Committee to allow for the concerns of Members to be answered by the City Barrister and to report back to this Committee on its outcomes.

RESOLVED:

that the matter be referred to Standards Committee and a follow up report be submitted to this Committee in due course.

The Chair commented that this item had generated considerable discussion at the Overview Select Committee. The discussion at this meeting was not about the procurement process itself but about the involvement of members in the procurement process. Procurement had received poor national press in recent years and it was important for public confidence that best practice was maintained in Leicester.

The Monitoring Officer stated that he had been asked by the Chair of the Overview Select Committee to prepare a briefing note on the involvement of members in the procurement process. The purpose of the note was not to restrict members' legitimate activities as an elected councillor. He had often been asked to interpret members' involvement in casework and had consistently advised members as liberally as possible in line with approved political conventions. He recalled only two instances where he had advised members not to take part in relation to a child protection issue and a prosecution under the Council's enforcement policy. However, there were parts of the procurement process relating to the period for evaluation of bids and before a preferred bidder was selected, where it was not appropriate for members to be involved.

Members discussed the issues in detail and made the following observations and comments:-

- a) It was accepted that there should be a structured approach to the procurement process to take account of comments made in previous Audit Commission reports.
- b) The procurement process needed to be robust and accountable, particularly as more goods and services were procured on the open market compared to when services were procured through ESPO.
- c) Given the increased role of officers in the procurement process it was equally important for checks and balances to be incorporated in the system to provide accountability and prevent abuse.
- d) The Chair of Audit felt that the natural place for monitoring the procurement process should be with the Audit and Risk Committee.
- e) Reference was made to the Police and Crime Panel commissioning services for partnership working which not only involved the procurement of services but also the arrangements for working in partnership.
- f) Elected Members had local knowledge of needs and in their wards and should have a role in discussions on what services were being procured in them. Members also had knowledge of local voluntary sector groups and could give advice on their capability to deliver services.
- g) It was recognised that Members' interests in particular contracts may be difficult to quantify in advance as some may only have a political sensitivity depending upon the time they were negotiated or procured. However, where there was a political sensitivity and interest in a contract, it also needed to be recognised that members' were likely to hold strong views.
- h) In addition to elected councillors having an interest in procurement through their ward involvement, they also had interest as members of the scrutiny process and as members of differing political groups on the council. Each of these interests were different but nevertheless still relevant to an involvement in discussing procurement proposals.

- i) Experience had shown that difficulties with some procurement contracts had arisen from lack of member involvement at an early stage in the process. Whilst it was accepted that members should not be involved in the detailed evaluation of tender submissions, members felt that their views could be helpful in shaping the requirements of procurement prior to advertising the process and in commenting upon the criteria for the evaluation of tenders received.
- j) It would be helpful for the briefing note to give specific advice on what involvement it would be appropriate for members to have in the following stages:-
 - i) What does the Council Procure? – choices around what should be procured involve political considerations particularly in relation to determining priorities during public sector spending reviews.
 - ii) How much does the Council Procure? – Choices around procuring more or less of a service or supply.
 - iii) How does the Council best procure services etc? – Choices for deciding whether the service should be procured in –house, direct tender negotiation with a provider or secured by an open tender process.
 - iv) Service Delivery Details and Partnership Arrangements
 - v) How does the Council monitor procured services? – Especially when services were poorly performing.

In response to Members' comments, the following responses were received:-

- a) The Monitoring Officer stated that:-
 - i) He felt that adequate checks and balances were in place for contract and performance monitoring through the work of the Audit and Risk Committee and the Audit Section.
 - ii) The references to political conventions in the guidance had been included to provide a basis for the advice on member involvement in procurement.
 - iii) He would provide a new paper on the issues raised in the meeting to provide the advice requested.
- b) The Director of Finance commented that:-
 - i) The procurement process was bound by many legislative and regulatory constraints, which when compounded by the rules and conventions affecting members could give rise to areas of conflict.
 - ii) Much progress had been made in addressing the issues raised in the Public Interest Report issued in 2007.

- iii) Whilst members' concerns and issues were recognised, the procurement system need to ensure that existing and potential suppliers had confidence that the procurement system was fair, open, transparent and honest.
- iv) Suppliers had previously questioned the involvement of members in some small contracts when much larger contracts had progressed with no member involvement. It was important to demonstrate the reasons for such involvement in order to maintain and safeguard the openness and transparency of the process.
- v) It was possible for Members to be involved in the form of shaping the design phase of a procurement exercise and at the end of the process to scrutinise the reasons for officers taking decisions on contract evaluations, but the evaluation itself must be an officer process.

The Independent Members and the Independent Person on the Committee were asked for their views on the discussion. They offered the following comments:-

- a) It was important to maintain high levels of public confidence in the process as well as demonstrate openness and transparency to contractors.
- b) In the event of a complaint being made against a councillor, the initial consideration of the complaint involved an assessment of the nature of the complaint against the Code of Conduct for Members and any other guidance issued to members, so robust guidance on member involvement in the procurement process would be welcomed.
- c) Should a complaint be referred for further investigation then the external investigating officer would also need to make a judgement on the complaint against any relevant codes and guidance.
- d) The differing concerns of members and officers were understood arising out of their respective roles and responsibilities, which made it more desirable to have clear and robust guidance differentiating between the areas where members could be involved and the areas which were reserved to officer responsibility. Clear guidance on these issues would provide robust protection to both parties in the event of an unfounded complaint being received.

In summary the Chair thanked everyone for their contribution to the discussion which had clarified a number of the issues and areas of concern, and it was:-

RESOLVED:-

- 1) That the Monitoring Officer be asked to write a new guidance note to take account of the comments made at the meeting and to focus advice and guidance around the five areas listed in paragraph j of the members' comments above.

- 2) The monitoring processes must be more transparent so that both those engaging in the process can have confidence in the system and members can have confidence that public finances are used appropriately.
- 3) That the revised guidance on members' involvement in the procurement process be submitted to the Overview and Select Committee at its meeting on 23 March 2015, prior to the formal consideration of the Revised Contract Procedure Rules at Council.

29. REQUEST FOR DISPENSATION UNDER SECTION 33 LOCALISM ACT 2011

The Monitoring Officer reported that the Chair and Vice Chair had agreed to allow the item to be discussed as a matter of other urgent business in accordance with Rule 4(2) of Part 4 E of the Constitution – Scrutiny Procedure Rules.

The Monitoring Officer stated that the Committee had granted dispensations in the previous two years for Councillors who were Council tenants or whose family members were Council tenants to enable them to participate in discussions on the Council's Budget 2015/16 at the next Council meeting. This would allow Councillors to remain in the Chamber to discuss the Budget Report and in particular the Housing Revenue Account report when, as Council tenants, they might otherwise have a prejudicial Other Disclosable Interest where any proposed changes to Council tenants' rents and services was discussed.

RESOLVED:

That a dispensation be granted to any Councillor who is a Council tenant, or has a family members who is a Council tenant, to enable them to take part in the discussion on the Councils Budget for 2015/16 in relation to any proposed changes to Council tenants' rents and services.

30. CLOSE OF MEETING

The Chair declared the meeting closed at 5.47 pm.