

Overview and Scrutiny Management Committee

Meeting held 18 October 2018

**PRESENT:** Councillors Denise Fox (Chair), Penny Baker, John Booker, Douglas Johnson, George Lindars-Hammond, Pat Midgley, Mick Rooney, Cliff Woodcraft and Andrew Sangar (Substitute Member)

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**1. APOLOGIES FOR ABSENCE**

1.1 Apologies for absence were received from Councillors Ian Auckland (with Councillor Andrew Sangar attending as his substitute), Ben Curran, Ian Saunders and Steve Wilson.

**2. EXCLUSION OF PUBLIC AND PRESS**

2.1 No items were identified where resolutions may be moved to exclude the public and press.

**3. DECLARATIONS OF INTEREST**

3.1 There were no declarations of interest.

**4. MINUTES OF PREVIOUS MEETING**

4.1 The minutes of the meeting of the Committee held on 19th July 2018, were approved as a correct record.

**5. PUBLIC QUESTIONS AND PETITIONS**

5.1 The Committee received the following questions from members of the public:-

5.2 Paul Wimpenny

5.2.1 At a previous meeting of this Committee, the Stop G4S Group made the Committee aware of concerns with regard to the Council's interpretation of one of the Procurement Regulations, specifically regarding its powers relating to discretionary exclusion. Is the Committee aware that the legal advice offered to the Council, on this issue, and accepted by it, could mean that this permission is significantly limited in application?

5.2.2 In response, David Hollis (Assistant Director of Legal and Governance) stated that the Council had worked closely with the Stop G4S Group, and other similar groups, on this and other issues regarding the Council's procurement regulations. As part of this work, the Council had sought independent legal advice from a procurement specialist, and, whilst accepting the point being made, concluded that the advice clearly indicated that the Council could only look at one legal entity, i.e. the bidder, as part of its procurement process. The test the Council had to adhere to was

whether or not that individual or company had committed gross/grave professional misconduct, rather than assessing the group of companies, unless the Council could show that the bidder was complicit.

5.3 John Grayson

(a) Following assurances from officers and elected representatives that the Council has a robust policy, which would now deter and exclude companies with questionable integrity. Does the Council therefore think that such policy should exclude companies such as G4S, Capita (enforceable tagging of asylum seekers and Go Home campaigns) and Amey (ties with US corporation GEO)?

5.3.1 In response, Filip Leonard (Head of Procurement and Supply Chain) stated that, under the procurement Regulations, the Council needed to be open, fair and transparent, and was not able to place a carte blanche ban on any one company. Every company had the opportunity of bidding for a contract and the Council would assess each individual bid. If the Council had any specific concerns with a company however, it would approach that company, and raise such concerns with them, offering them the opportunity to provide an explanation.

(b) In terms of the Council's procurement policies, will the Committee itself monitor the policy in action, and assistant citizens in checking that this flagship policy lives up to its promise and, would the Committee ensure that an easily accessible and user-friendly register of companies be produced so the public could check if the Council had managed to employ only reputable firms?

5.3.2 In response, Filip Leonard (Head of Procurement and Supply Chain) stated that the Council wished to report on the performance of its procurement policy in a transparent manner. The Council already published data on spend on a monthly basis, on [data.sheffield.gov.uk](http://data.sheffield.gov.uk), and all the awarded contracts registers on Yortender and Contracts Finder. Unfortunately, the Service had little control over the [data.sheffield.gov.uk](http://data.sheffield.gov.uk) site, to who it provided the raw data, in terms of how this was published. This was something the service planned to review, but this could prove difficult in the light of the potential costs in purchasing and running new systems to accommodate this.

**6. HOW SHEFFIELD WOULD LIKE TO DO BUSINESS (ETHICAL PROCUREMENT)**

6.1 The Committee received a report of the Executive Director, Resources, on How Sheffield Would Like to do Business (Ethical Procurement).

6.2 The Committee had requested a review of the Council's commissioning cycle, specifically with regard to its ability to address a number of topics, which included Tax Compliance, Ethical Procurement, Grave Misconduct, Living Wage, Blacklisting, Local Economic Impact and Social Value, and the report contained details of a series of revisions to protocols, processes and tools associated with these topics.

6.3 The report was supplemented by a presentation from Filip Leonard (Head of Procurement and Supply Chain) and also in attendance for this item were David Hollis (Assistant Director of Legal and Governance) and Councillor Mark Jones (Cabinet Adviser for Finance).

6.4 As part of the presentation, Mr Leonard reported on the Council's ambitions in terms of ethical procurement, indicating that the Council aimed to maximise its ability to use its discretion to apply ethical standards to behaviour throughout its supply chain, whilst being effective and efficient. He referred to the Ethical Procurement Policy products used by his Service, specifically highlighting the fact that the Council had recently been accredited to the Living Wage Foundation.

6.5 Members of the Committee raised questions, and the following responses were provided:-

- The Council accepted the need for companies to use sub-contractors. It was also accepted that there was a need for the Council to vet the contract partners, particularly with regard to their payment terms, in an attempt to try to push money down to smaller contractors. The Council was currently working with the Living Wage Foundation to provide it with data in terms of how many employees were not currently in receipt of a real Living Wage. Ultimately, the contractual obligation was on the main contractor, and they should not be able to downgrade any specification. There was therefore a need for the Council to actively manage this position.
- Generally, a contract would last for a four-year term, therefore, within four years from now, all contracts offered by the Council should have been re-procured, thereby giving the Council the opportunity to ensure all its tendered contracts had been subject to the ethical requirements and standards. The Council had worked with the University of Sheffield to produce a toolkit to help suppliers to achieve sustainable supply chains and excellent employment practices. The toolkit brought a number of benefits to both the Council and suppliers. An event had been organised for 29<sup>th</sup> October 2018, at which the online toolkit would start to be rolled-out to suppliers, with a view to recovering data from them by the end of March 2019. Apart from final amendments to that part of the supplier questionnaire relating to grave misconduct, it was considered that the toolkit was almost complete.
- The only exceptions, at the end of a four-year period, with regard to the Living Wage will be in those circumstances where the Council was not the main contracting authority. The Council was pushing to ensure that the Living Wage was being paid by all its contracted suppliers, and was working closely with all procurement heads in the City in an attempt to ensure this was happening across Sheffield.
- The powers in the Council's Ethical Procurement Policy enabled the Council to deal with any misconduct issues regarding groups of companies, and was stronger than the policies of many other local authorities in this regard. If the Council had any concerns or suspicions regarding the conduct of a company

within a group of companies, it would make investigations, and ask questions regarding its conduct.

- There had been a number of noticeable differences following the approval of the Policy six months ago, including external validation of the real Living Wage and specifically in the improvements to the security contract outcomes, which at one point involved around 60 different companies, and now there were just five, with four of these comprising small and medium size enterprises, and three being based in Sheffield.
- In terms of any further revisions to the Policy, officers would incorporate any amendments or suggestions arising from this meeting, and forward a report to Councillor Olivia Blake (Cabinet Member for Finance) for approval.
- It was accepted that there was a need for clearer reporting mechanisms in terms of informing members of the public what the Council had achieved in terms of its Ethical Procurement Policy. It was important that the Council made it clear what it was trying to stop under the Policy. The Council was looking to improve in a manner that was easy to understand, yet demonstrated tangible outcomes achieved.
- Whilst it was accepted that, in some circumstances, a multi-national company which the Council had offered a contract to may comply with our Policy, but not meet the required standards in other countries, the Council was only able to look at the organisation that was bidding for the contract, and make a decision whether it passed the two-part test with regard to grave misconduct. The Council was not restricting the evidential basis to this country and may look at actions abroad.
- If there were grounds, under the legislation, for the Council to exclude a company or organisation, which, in the opinion of the Council, has committed grave misconduct, the Council could exclude them from tendering.
- Specific weighting was given, under the procurement process, to local economic impact, with the Council mandating that one local quote should be sourced where possible from certain procurements less than £150,000 in value. Additionally, the Council was providing training to assist local suppliers through the procurement process.

6.6 RESOLVED: That the Committee:-

- (a) notes the contents of the report now submitted, together with the information reported as part of the presentation, and the responses to the questions raised;
- (b) thanks Filip Leonard, David Hollis and Councillor Mark Jones for attending the meeting and responding to the questions raised; and
- (c) requests a report back on the progress of the Ethical Procurement Policy to a meeting in or around June 2019.

## **7. 2019/20 REVENUE BUDGET**

7.1 The Committee received a presentation from Marianne Betts (Director of Finance and Commercial Services) on the budget planning approach for the 2019/20 budget, and the financial targets set for the Council. Also in attendance for this item was Councillor Mark Jones (Cabinet Adviser for Finance).

7.2 Ms Betts stated that, whilst the Council intended to propose a balanced budget for 2019/20, this would prove very challenging due to continuing constraints on Central Government funding and the rising demand for social care. In the light of service pressures remaining very high, which was not dissimilar to many other local authorities, there was a need to deliver further savings in the medium-term, as well as having to use reserves to achieve the balanced budget. Ms Betts provided a summary of the financial position and referred to the approach the Council intended to take in order to achieve a balanced budget. She reported on the proposed approach, highlighting the savings required by the Council's portfolios, and on what the future held in terms of budget planning, with regard to terms of risks, opportunities and the Capital Programme. Ms Betts concluded by referring to the timetable in respect of the budget setting process.

7.3 Members of the Committee raised questions, and the following responses were provided:-

- It was highly likely that there would be an overspend carried forward to 2019/20, which was forecast to be £15.3 million as at August 2018, though could be lower in value as the Council continued to review budget pressures to achieve savings throughout the remainder of 2018/19.
- The Council continued to bear significant social care pressures, and detailed discussions had been, and would continue to be, held, with the Clinical Commissioning Group, which included frequent conversations at the monthly meetings of the Executive Management Group to review and change the system-wide issues and cost pressures forced in care provision.
- A considerable amount of work had been undertaken to ensure that Sheffield does not suffer the same fate as Northamptonshire, and everyone needed to be aware that, unless there were significant changes in the next few years, a number of other local authorities could find themselves in similar circumstances. As well as the need for a series of incremental changes in the medium-term, there was also a need for fundamental changes at the present time.
- Due to market factors, the contributions the Council was required to make to its pension fund may reduce, thereby providing a short-term release of funds into the budget. However, the value of the contribution available still remained subject to the actuarial review, and a Government White Paper regarding this review and pension cycle, may push the availability of the contribution out from 2021/22 to 2022/23.

- The £15m one-off funding provided corporately for social care 2019/20 comprised a combination of Council reserves and contingencies around health and care.
- The introduction of Universal Credit was not forced to have any major impact on Council House rents in 2019/20, though a marginal loss was anticipated due to the initial roll-out only affecting new claimants or those declaring a change in circumstances to the Department for Work and Pensions. Other local authorities had seen a material loss in housing rent and increases in arrears by tenants, but principally, this occurred when all benefit claimants were transitioned wholly to Universal Credit. For Sheffield, this was currently planned to occur in 2022/23 when, at this point, there may be a material adverse effect on the budget. During the roll-out of Universal Credit up to 2022/23, it was anticipated that existing benefits caseloads managed by the Authority would reduce by 1-3%.

7.4 RESOLVED: That the Committee:-

- (a) notes the information reported as part of the presentation, together with the responses to the questions raised;
- (b) thanks Marianne Betts and Councillor Mark Jones for attending the meeting, and responding to the questions raised; and
- (c) arrangements be made for senior NHS Officers to attend a future meeting of the Committee to discuss the relationship between NHS and Council budgets.

**8. WORK PROGRAMME 2018/19**

8.1 The Committee received a report of the Policy and Improvement Officer, which set out its Work Programme for 2018/19.

8.2 The Chair referred to the item on the Role of the Lord Mayor, scheduled for the meeting on 15<sup>th</sup> November, 2018, indicating that the Director of Legal and Governance had been requested to draft a report on this.

8.3 Emily Standbrook-Shaw (Policy and Improvement Officer) stated that a request had been received from Full Council for this Committee to scope out a discussion on community safety for the Council meeting in January 2019, and that this would be considered at the Committee's meeting to be held on 15<sup>th</sup> November, 2018.

8.4 RESOLVED: That the Committee:-

- (a) notes the contents of the report now submitted, together with the comments now made; and
- (b) approves the contents of the Work Programme for 2018/19.

**9. DATE OF NEXT MEETING**

- 9.1 It was noted that the next meeting of the Committee would be held on Thursday, 15<sup>th</sup> November 2018, at 1.30 pm, in the Town Hall.

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