

**MINUTES OF A MEETING OF THE
OVERVIEW & SCRUTINY BOARD
Havering Town Hall, Main Road, Romford
8 October 2019 (7.30 - 9.20 pm)**

Present:

COUNCILLORS

Conservative Group	Philippa Crowder, Judith Holt, Robby Misir, Dilip Patel, Nisha Patel, Bob Perry, Christine Smith and Maggie Themistocli (Vice-Chair)
Residents' Group	Ray Morgon and +Gerry O'Sullivan
Upminster & Cranham Residents' Group'	Linda Hawthorn and +Ron Ower
Independent Residents' Group	Natasha Summers and Graham Williamson
Labour Group	Keith Darvill
North Havering Residents' Group	Darren Wise (Chairman)

Apologies were received for the absence of Councillors Barry Mugglestone and Chris Wilkins.

+Substitute members: Councillor Ron Ower (for Chris Wilkins) and Councillor Gerry O'Sullivan (for Barry Mugglestone).

The Chairman reminded Members of the action to be taken in an emergency.

1 DISCLOSURE OF INTERESTS

Councillors Osman Dervish, Robert Benham and Damian White declared a prejudicial interest in item 5 on the agenda as being Cabinet members and that they were originally part of the decision making process.

2 CALL-IN OF A CABINET DECISION RELATING TO PUBLIC REALM TRANSFORMATION

The report before Members detailed the call-in of a Cabinet decision relating to the Public Realm Transformation. A requisition signed by Councillors

Morgon, Darvill, Hawthorn, Mugglestone, Wilkins and Williamson had called-in the Cabinet decision. The grounds for the call-in were as follows:

- 1) To review and give greater scrutiny of the preferred option of 'outsourcing' the services currently provided 'in house'.
- 2) To review and scrutinise the alternative options set out in the report to Cabinet('the Report')
- 3) To examine how the proposal will improve the delivery of services.
- 4) To examine how the proposal will improve the way in which Havering looks and feels.
- 5) To review and consider the Cost Modelling & Financial Assessment set out in Part 11 of the Report.
- 6) To review and consider the assessment of qualitative factors and risks set out in Part 12 of the Report.
- 7) To review and consider the implications and risks set out in Part 13 of the Report.
- 8) To review and consider the Human Resources implications and risks set out in Part 15 of the Report.
- 9) To understand and evaluate the specification used in the soft market testing, in particular the proposed Service Level Agreement and the intended measured performance targets.
- 10) To understand and evaluate the Governance arrangements between the council and the contractor, together with how the contract will be managed by the streamlined Client team.
- 11) To understand and evaluate the interfacing of IT systems between the council and the contractor and how performance will be self-monitored by the use of effective technology.
- 12) To understand and evaluate the anticipated efficiency savings.
- 13)To understand and evaluate the payment by performance mechanism and how in the contract this will be articulated.
- 14) To understand and evaluate the roles of staff who will remain employed by the council after the proposed contract commences.
- 15) To understand the breakdown between statutory and non-statutory services proposed in the contract.

- 16) To evaluate and review the benchmarking data for the council against other London Councils.
- 17) To evaluate and review the information and data collated by Eunomia, in particular a full breakdown of cost assumptions.
- 18) To understand and evaluate increased income generation from the contract.
- 19) To identify and evaluate the stopping of lower priority activities.
- 20) To understand and evaluate the data provided to potential bidders.
- 21) To understand and review the wider corporate cost implications if the contract is outsourced, including existing depots, vehicles and equipment.
- 22) To understand and review the impact on operational managers and the Client Team in the event of the contract being outsourced.
- 23) To understand and evaluate the impact on the Pension Fund if the contractor achieves Admitted Body Status.
- 24) To understand and evaluate which services will be retained and which services will be outsourced, together with the rationale for this proposal.
- 25) To understand and evaluate what opportunities were provided to in-house staff to bid for the contract.

The following response to the questions, had prior to the meeting, been submitted to Members:

- 1) To review and give greater scrutiny of the preferred option of 'outsourcing' the services currently provided 'in house'.

Many of the outcomes to be obtained through the contract are not currently known or are not quantifiable until Competitive Dialogue has been completed as it is too early in the process to predict specific outcomes. The Competitive Dialogue procedure is selected as the technical specification cannot be defined with precision and the requirements may necessitate and involve innovative solutions which can be best delivered with the input of the market. As the Council is proposing to create a newly integrated contract for the Public Realm services, the Competitive Dialogue procedure offers significant flexibility as the Council can continue with the process until it is satisfied that a solution (or solutions) is available within the Council's budget that is capable of meeting the Council's needs has been identified.

The Council is to specify an 'outcome-based' contract, outlining to bidders of the service standards that must be met without defining the methods of delivery needed to achieve these outcomes. This allows bidders greater

flexibility to decide how and when to deliver the services and encourages keenly priced innovation. Approval for final award is a Cabinet decision.

Public Realm over the past two years has already delivered significant saving (£500k) through internal transformation. Public Realm is required to deliver another £500k as outlined in the current MTFs. As summarised at the All Member Briefing in November 2018, remodelling in-house services further would most likely lead to deleting many posts across the services resulting in reduced service standards such as less frequent road sweeping, fewer grass cuts, less shrub pruning, etc. These reduced standards are not acceptable to Members and residents. The alternative was to consider other options, including outsourcing models.

As outlined in the Cabinet report three options were explored in greater depth to deliver savings while protecting or enhancing services standards. These were:

1. Outsourcing the services to one external contractor to deliver the Public Realm services.
2. Keeping and bringing all the services in-house so that the Public Realm services are delivered directly by employees of the council.
3. Deliver the Public Realm services through a Local Authority Company either by setting up a new company or use an existing company founded by the Council to deliver the services.

A detailed analysis of the risks, benefits and potential savings, as outlined in the Business Case (exempt Appendix 1 of the Cabinet report), concluded that the option 1 (outsourcing) was the recommended model for the way forward that would achieve the desired outcomes.

Further discussion about the costs analysis and benefits of the programme will need to be held in a closed session as the detail refers to the information provided in Appendix 1 and Appendix 2 of the Cabinet report, both that are exempt as disclosure of this information may reduce the competitive nature of the process, particularly the financial analysis undertaken and the assessment of the market.

2) To review and scrutinise the alternative options set out in the report to Cabinet ('the Report')

As question 1 above

3) To examine how the proposal will improve the delivery of services.

Improved service delivery of an integrated contract will provide:

1. The potential to deliver better co-ordinated management of the Public Realm services as all services will be managed by one contractor, removing contractual barriers to service delivery

2. The potential to deliver a uniformed approach to service delivery, shared processes, procedures and contract monitoring systems.
3. One single brand, unifying the approach to the delivery of the Public Realm services with a local identity
4. The potential to lead to the development and retention of a multi skilled workforce, as the integrated solution may present more opportunities for staff that wish to develop their professional careers
5. Contribute towards other Council strategies such as improved air quality, social values and community benefits
6. The new contract will develop ICT systems to monitor contract performance that will enable to contractor to respond to services issues rapidly, offering residents improved services; this in turn will improve the way in which Havering looks and feels, helping residents feel better about their surroundings. The performance data collected by the contractors will be shared with the Council.

The detail of these outcomes will become more apparent after the competitive dialogue stages as it is currently too early in the process to predict outcomes.

4) To examine how the proposal will improve the way in which Havering looks and feels.

As question 3 above, and;

The procurement of the new contract contributes to achieving a number of the Council's objectives. The aim for the new contract is to improve the delivery of the services through an integrated approach, improving the look and feel of the local environment. This in turn will help residents feel better about their surroundings whilst contributing to the Council's savings programme.

5) To review and consider the Cost Modelling & Financial Assessment set out in Part 11 of the Report.

The cost modelling and financial appraisal is considered in depth in both Appendix 1 and Appendix 2. Cost modelling shows that the best value option is to outsource an integrated public realm contract that will deliver at least the savings required in the current MTFs (£500k).

Further discussion about the costs analysis and benefits of the programme will need to be held in a closed session as the detail refers to the information provided in Appendix 1 and Appendix 2 of the Cabinet report, both that are exempt as disclosure of this information may reduce the competitive nature of the process, particularly the financial analysis undertaken and the assessment of the market.

6) To review and consider the assessment of qualitative factors and risks set out in Part 12 of the Report.

As outlined in the Business Case the assessment concluded that the outsourced option would provide best value/VfM as, through the tendering process, the council would be able to ensure costs are kept competitive while benefiting from innovation and best practice that the private sector can offer.

Alongside the financial assessment of the main commissioning options, officers undertook an assessment of qualitative factors associated with each option, including:

- The ability to exert control over the contract through good contract management and KPI's
- The degree of financial risk transfer to an external provider and protection of the council's financial position
- The ability to transfer operational risk onto a contractor and reliance on the capability and experience of the service provider

These factors were considered significant features to favour the Outsourcing commissioning route.

7) To review and consider the implications and risks set out in Part 13 of the Report.

As question 5 above

Further discussion about the costs analysis and benefits of the programme will need to be held in a closed session as the detail refers to the information provided in Appendix 1 and Appendix 2 of the Cabinet report, both that are exempt as disclosure of this information may reduce the competitive nature of the process, particularly the financial analysis undertaken and the assessment of the market.

8) To review and consider the Human Resources implications and risks set out in Part 15 of the Report.

The staff impacted in this programme are employed in grounds maintenance, gully cleansing, elements of parks development and street cleansing. These services employ 162 staff directly, with additional seasonal agency workers as required.

Staff directly employed by the Council will be transferred to the new provider. The Transfer of Undertakings (Protection of Employment) Regulations (TUPE) applies. As employees of the Council would TUPE, their terms and conditions will be protected in law. Staff working in services that are already outsourced may also TUPE. This is a matter yet to be determined and agreed with individual contractors.

Three change management programmes, following the Council's policies, will also take place before the contract starts. These are:

1. Creating a robust client team. There is already a Client team to manage the waste collection, weed control and tree maintenance contracts. A new team will be created reflecting the skills, knowledge and experience necessary to client the new contract. The client team will be resourced to undertake its function robustly.
2. Current caretaking staff clean and maintain the internal and external features of housing estates. Only some of the external cleaning functions are to be included in the contract. The change management programme will assign posts and functions to internal and external functions. All grounds maintenance functions will be managed by the contractor.
3. Some posts that are in the Park Development team are likely to be assigned to the TUPE list; others will not as they will remain directly employed by the Council to deliver internal requirements. Posts that remain will continue to be employed by the Council.

The detail of these programmes have not yet been established and to some extent the final position will not be known until the end of the dialogue process. Staff and Trade Unions have been kept abreast and updated about this programme since the programme was discussed at the All Members Briefing in November 2018, before soft market testing commenced (see question 9 below).

9) To understand and evaluate the specification used in the soft market testing, in particular the proposed Service Level Agreement and the intended measured performance targets.

After advertising the Prior Information Notice (PIN) in the Official Journal of the European Union (OJEU), five companies requested to meet with the council as part of the soft market testing exercise. All companies were offered exactly the same confidential information, and asked to consider delivering services to the same specification as currently delivered. Information provided included:

- Havering's Vision
- List of services to be included in a possible future contract
- Number of staff in total working in these services (provided for in-house services only, across the whole of public realm (not broken down into the various services))
- Number of vehicles (provided for in-house services only)
- Current standards
- List of Council Depots
- Background to waste collection and disposal
- Overall budget for Public Realm and associated services (not broken down into the various services) included in the programme.

It was agreed with all participating companies that the information gathered during this exercise would not be shared as it was commercially sensitive. This exercise demonstrated the markets' appetite to participate in a future

tendering exercise and gave an indication to the potential models and savings that may be available.

10) To understand and evaluate the Governance arrangements between the council and the contractor, together with how the contract will be managed by the streamlined Client team.

As question 8 and;

An internal change management programme is yet to be undertaken. The client team's function will be 'streamlined', working smarter taking advantage of improved technology and ICT systems that are potentially available through the contract. The numbers of staff is likely to increase; the client team will be resourced to undertake its function robustly.

11) To understand and evaluate the interfacing of IT systems between the council and the contractor and how performance will be self-monitored by the use of effective technology.

It is too early in the process to predict what ICT systems will be offered. This will become more apparent after the competitive dialogue stages.

12) To understand and evaluate the anticipated efficiency savings.

As question 1, 9 and:

The programme will deliver savings of at least £500k, as outlined in the current MTFS.

Further discussion about the costs analysis and benefits of the programme will need to be held in a closed session as the detail refers to the information provided in Appendix 1 and Appendix 2 of the Cabinet report, both that are exempt as disclosure of this information may reduce the competitive nature of the process, particularly the financial analysis undertaken and the assessment of the market.

13) To understand and evaluate the payment by performance mechanism and how in the contract this will be articulated.

It is too early in the process to predict how the payment by performance mechanism will be implemented into the new proposed integrated contract. This will become more apparent after the competitive dialogue stages. The council will provide a baseline position for the payment mechanism during the competitive dialogue process and the bidders will be provided with opportunities to comment on the proposed mechanism. The new Contract will be largely self-monitoring and guided by the use of effective technology to measure performance. A concise number of KPIs, focusing on the strategic aspects of the services, will be included within the payment mechanism. The payment mechanism will describe, once agreed at the conclusion of the competitive dialogue process, the mechanism for the calculation of the invoice, the application of any performance deductions in

the event that KPI's are not achieved, and the application of, if relevant, any performance incentives.

14) To understand and evaluate the roles of staff who will remain employed by the council after the proposed contract commences.

As question 8 and;

It is too early in the process to predict the roles of staff remaining within the employee of the council. This will become more apparent after the competitive dialogue stages.

15) To understand the breakdown between statutory and non-statutory services proposed in the contract.

All statutory public realm functions will be contained within the contract as will several non-statutory services. These will be outlined in the specification as outlined in question 20 below.

16) To evaluate and review the benchmarking data for the council against other London Councils.

Benchmarking with other local authorities was undertaken informally. Comparing their services to Havering's it was apparent from conversations that tendering for an integrated contract rather than dividing responsibilities or tendering in lots would deliver greater efficiencies and improved outcomes. This conclusion was reinforced through soft market testing undertaken by the Council with industry market leaders (see question 9).

17) To evaluate and review the information and data collated by Eunomia, in particular a full breakdown of cost assumptions.

The modelling detail of the commissioning option assessment is commercially sensitive given that the modelling tools and techniques are the property of the consultants. The broad stages of the modelling undertaken, including the information and data collated, were as follows:

- The consultants requested operational information and financial data from the council in order to determine a baseline cost of the services.
- The information and data provided included all the services under assessment.
- Where financial information was not directly available for components of individual services, the consultant used assumptions. These assumptions were validated by reference to other existing contracts and discussed with officers to ensure relevance to the local circumstances.

- Consistent assumptions were applied to each of the three commissioning options, primarily for the following cost categories: pension costs and contributions, corporate overheads and profit.
- The soft market testing information concluded that an integrated service delivery model would achieve further efficiency. The companies involved in the soft market testing provided a range of financial savings. The most conservative amount of these savings was applied to all three commissioning options to determine a financial comparison of the options.

18) To understand and evaluate increased income generation from the contract.

It is too early in the process to predict if there is the potential for income opportunities that may be generated through this contract. This will become more apparent after the competitive dialogue stages.

19) To identify and evaluate the stopping of lower priority activities.

All current services delivered by Public Realm and associated services will continue. An 'as is' contract is specified as outlined in question 20 below. No activities are to cease.

20) To understand and evaluate the data provided to potential bidders.

The contract documents are still being produced. The services contained within the specification are:

- caretaking (litter picking and waste clearance from some external housing estate cleansing only)
- grounds maintenance
- gully cleansing
- elements of parks development
- park gates locking
- street cleansing
- tree maintenance
- winter maintenance
- waste and recycling collection
- weed control

The information provided in the service specification seeks to provide for at least an 'as is' service; i.e. the current standards are to be maintained or improved. The significant difference is where possible, an outcome is required for the contractor to deliver; the council will not be prescriptive about the way that services are delivery. Therefore, for example, the specifications requires waste to continue to be collected weekly but seeks for streets to be kept clean to a specified standard rather than the Council specifying the frequency of the service.

21) To understand and review the wider corporate cost implications if the contract is outsourced, including existing depots, vehicles and equipment.

There may be opportunities to make additional savings in the future after the contract is awarded. It is too early in the process to predict if there will be any additional savings. This will become more apparent after the competitive dialogue stages. The cost implications for the depot and vehicles are contained with Appendix 2 of the Cabinet report.

Further discussion about the costs analysis of the programme will need to be held in a closed session as the detail refers to the information provided in Appendix 2 of the Cabinet report, that is exempt as disclosure of this information may reduce the competitive nature of the process, particularly the financial analysis undertaken and the assessment of the market.

22) To understand and review the impact on operational managers and the Client Team in the event of the contract being outsourced.

It is too early in the process to predict the roles of staff and the Client Team. This will become more apparent after the competitive dialogue stages.

23) To understand and evaluate the impact on the Pension Fund if the contractor achieves Admitted Body Status.

Employees who are currently in the LGPS will have the option to remain in the fund if they TUPE transfer to the new employer. This will have the advantage of the Fund retaining the membership and be able to continue receiving employee and employer contributions, which will be set by the Fund's Actuary. Admittance to the Fund will be on the basis that the contractor meets all the regulatory requirements which include signing an admittance agreement and agreeing to have appropriate guarantees in place to mitigate the risk of the contractor failing to honour its commitments to the Pension Fund.

The risk impacts are not known at this stage and this will be drawn out during the negotiations with the contractor during the Competitive Dialogue stages.

24) To understand and evaluate which services will be retained and which services will be outsourced, together with the rationale for this proposal.

As questions 3 & 20 and;

Services to be retained are:

- Internal cleansing of estates, to include drying areas, gardens, etc. This is to be retained as the service is bespoke and does not feature in public realm contracts of this nature
- Elements of Parks Development. This is to be retained to continue develop parks management plans and improvement strategies.

25) To understand and evaluate what opportunities were provided to in-house staff to bid for the contract

The tendering process has not started yet. A company owned or partially owned by staff is able to bid for the contract if they so wish. All bidders will be required to satisfy the tendering criteria that will be available when the OJEU Contract Notice is published.

During the debate Members raised the following points:

Members were advised that Public Realm had already found £500,000 of savings but were required to find another £500,000 of savings.

A number of options had been considered including outsourcing, keeping services in-house and the formation of a local authority company, following investigations it had been decided that to maximise savings then the outsourcing option was the most viable.

Soft market testing had taken place to ascertain the appetite from external companies who would be prepared to provide the services that the Council required.

Members were advised that through economies of scale external companies providing the services would have better buying powers and be able to provide staff and replace fleet at more competitive prices.

Discussions had taken place with a number of other authorities that had gone through a similar process these included Brent, Bromley, Waltham Forest and Sutton who were in a four borough contract with Croydon, Merton and Kingston.

Members agreed that monitoring of the contract was key and needed to be robust.

Officers cited the refuse collection service which had been outsourced a number of years ago and was robustly monitored by officers which in turn led to very few complaints from residents.

Members were advised that the contract was weighted 50/50 in terms of cost and service provision.

Members commented that it was important that there was clear links between the Council and the contractor and also with residents by means of software and IT. It was envisaged that there would be a mobilisation period of about 12 months to implement the new systems.

Members also agreed that it was important the Councillors were kept up to date with the progress of reported works so that residents could be kept up to date.

Members were advised that approximately a year ago the Council launched the service level reviews and that this piece of work was probably the largest service review that had taken place. The idea of the reviews was to look at what the Council did at present and compare it with other models across the country.

Members were advised that going forward there would be improvements to the Council's Customer Relationship Management (CRM) system which in turn would lead to greater feedback to residents.

The Overview & Scrutiny Sub-Committees would be able to call in contractors to their meetings to discuss Key Performance Indicators and service provision. An example of this already in place was representatives of the refuse management contractor (SERCO) attending meetings of the Environment O&S Sub-Committee.

Members felt it would be useful if benchmarking information could be provided to the Sub-Committees and the Board of how other boroughs performed with in-house or outsourced public realm provision.

Members were advised that the procurement process would be designed to go through at least three or four gateways including publication of the notice, initial selection stage, detailed stage, final stage and then the contract award which would be a decision made by Cabinet.

In response to a question relating to future pre-Cabinet scrutiny of the process Members were advised they could contact officers to ascertain the optimum time for Member involvement in the process as it progresses.

With regard to sports facilities the proposed arrangements would not impact on fees and charges that would still be set by the Council.

At this point the Cabinet Member for Environment, any other Cabinet Members and supporting officers present left the meeting.

The Board voted to dismiss the call-in by 9 votes to 7.

Councillors Crowder, Holt, Misir, N Patel, D Patel, Perry, Smith, Themistocli and Wise voted to dismiss the requisition.

Councillors Morgon, O'Sullivan, Hawthorn, Ower, Summers, Williamson and Darvill voted to uphold the requisition.

RESOLVED

That the requisition of the Cabinet decision dated 18 September be dismissed.

The reasons for the dismissal were summarised as follows:

Much of the detail relating to innovation, monitoring and KPIs would be captured as part of the competitive dialogue process and Members would expect to see those details at a later stage and therefore do not wish to refer the matter back to Cabinet at this stage.

Chairman