

SCRUTINY BOARD (CITY DEVELOPMENT)

WEDNESDAY, 5TH AUGUST, 2009

PRESENT: Councillor R Pryke in the Chair

Councillors S Armitage, C Beverley,
B Chastney, M Dobson, G Driver,
T Grayshon, M Lobley, A Ogilvie,
D Schofield, S Smith and G Wilkinson

23 Chair's Opening Remarks

The Chair welcomed everyone to the Call-In meeting.

24 Exclusion of the Public

Following the advice of the Principal Scrutiny Adviser, the Board agreed to release a copy of the following document marked 'Not for Publication' within the public domain:-

'Delegated Decision Notification Form – Ref No D35700 – Sports of the Future- ICT Refresh – 15608'

RESOLVED – That the public be excluded from the meeting during consideration of the following parts of the agenda designated exempt on the grounds that 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 public were present there would be disclosure to them of exempt information so designated as follows:-

Appendix 2 to the report i.e. the Business Case referred to in Minute 28 under the terms of Access to Information Procedure Rule 10.4(3) and on the grounds that it contains commercially sensitive information and it was considered that the public interest in maintaining confidentiality outweighs the public interest in disclosing the information by reason of the fact that if disclosed could be prejudicial to the Authority.

25 Declaration of Interests

The following personal interest was declared:-

- Councillor C Beverley in view of his association with a close friend who works at Morley Leisure Centre

26 Apologies for Absence

Apologies for absence were submitted on behalf of Councillor R Downes, Councillor R Harington and Councillor T Murray.

The Board were informed that Councillor B Chastney was a substitute for Councillor R Downes, Councillor G Driver for Councillor R Harington and Councillor M Dobson for Councillor T Murray.

Apologies for absence were also received on behalf of Councillor B Atha (Minute 28 refers).

27 Call -In of Decision - Briefing Paper

The Head of Scrutiny and Member Development submitted a report regarding the procedural aspects of the call-in process.

Members were advised that the options available to the Board in respect of this particular called-in decision were:-

Option 1 – **Release the decision for implementation.** Having reviewed the decision, the Scrutiny Board (City Development) could decide to release it for implementation. If this option was chosen, the decision would be released for immediate implementation and the decision could not be called-in again.

Option 2 – **Recommend that the decision be reconsidered.** Having reviewed the decision, the Scrutiny Board (City Development) could recommend to the Director of Resources and the Director of City Development that the decision be reconsidered. If the Scrutiny Board (City Development) chose this option, a report would be submitted to the Director of Resources and the Director of City Development within 3 working days of this meeting. The Director of Resources and the Director of City Development would reconsider the decision and would publish the outcome of their deliberations on the delegated decision system. The decision could not be called-in again whether or not it was varied.

RESOLVED – That the report outlining the call-in procedures be noted.

28 Call-In - Review of Delegated Decision D35700 - Sports of the Future ICT Refresh - 15608

The Head of Scrutiny and Member Development submitted a report, together with relevant background papers, relating to an Officer Delegated Decision (ref no: D35700) of the Director of Resources as follows:-

‘Provide the Sport and Active Recreation Service with:-

- a replacement of the leisure management system
- an upgrade of the data communications network where required
- a minimum connection speed at all centres that do not meet the leisure management system operational requirements.

Re-assessment of priorities and realignment of funding had allowed the project to proceed sooner than anticipated, resulting in missing the July additions to the forward plan. The decision was required to be taken due to the Sport and Active Receptions Service’s current ICT systems reaching the end of the current contract at the end of February 2010’

Appendix 2 of the report i.e. the Business Case was designated as exempt under the terms of Access to Information Procedure Rule 10.4(3).

The decision had been called-in for review by Councillors B Atha, P Grahame, P Gruen, J Illingworth and A Lowe on the following grounds:-

“We the undersigned Members would like greater clarification regarding options considered during the contract allocation process relating to the Sport for the Future ICT refresh. Further information was needed with regard to the cost-benefit analysis of the various options considered and the reasons why the final recommendation were agreed.”

Councillors P Grahame, J Illingworth and A Lowe attended the meeting to present evidence to the Board and respond to Members' questions and comments.

The following Executive Member and officers were also in attendance:-

Councillor J Procter, Executive Member for Leisure

Ed Mylan, Chief Officer, Resources and Strategy, City Development

Andy Thomson, Business Relationship Manager, Resources

David Dixon, Senior IT Officer, Resources

Bhupinder Chana, Principal Finance Manager, Resources

The Board then questioned Councillors Grahame, Illingworth and Lowe, together with Councillor Procter and officers at length on the evidence submitted.

Some of the points raised by Councillor Grahame, Councillor Illingworth and Councillor Lowe were:-

- the acceptance by Members who had called in the decision of the necessity for a replacement of the leisure management system
- that they considered that the delegated decision process had not been transparent
- that they considered that the business case report was unclear as it suggested that the contract would be awarded to a single supplier and then went on to explain the competitive tendering process and the firms to be invited to tender
- that they were concerned that EU procurement rules could have been breached on this occasion
- a request for clarification of the project objectives and tendering process

In explaining the reasons for the decision, Councillor Procter and officers made the following comments:-

- the fact that the Leisure Flex system no longer supported the operation of the Sports Service as it was some 15 years old, and also from a

procurement viewpoint, the department would need to run a tendering exercise before the current contract expired in 18 months time

- that a competitive tendering exercise was being undertaken and would meet all EU requirements
- that the delegated decision seeking authority to incur expenditure was in order to allocate funding for this essential project and was a generous estimate of the likely costs that will be incurred.
- that the opening of the new PFI Health and Well Being Leisure Centres at Morley and Armley in 2010 required a new leisure management system to be in place by this date

The Chair then invited questions and comments from Board Members and the main areas of discussion were:-

- clarification of the discussions which may have taken place between the Call-In signatories and the relevant officers prior to the decision being Called In
(Councillor A Lowe responded and informed the meeting that discussions had taken place and the confidential business case report had been provided to them. However, she considered the report to be unclear, not sufficiently robust and lacking in detail which justified the Call-In. This was a legitimate use of the democratic process as Members wanted assurances from the Director of City Development that she would enter into a competitive tendering process and that all EU regulations would be met)
- the need to discuss the possible introduction of other mechanisms by which concerns over decisions taken by the Executive and Directors could be resolved or clarified at an early stage before the more formal process of a Call-In was progressed with
(The Chair responded and confirmed that he would speak to his fellow Scrutiny Chairs with a view to identifying how this might be achieved)
- clarification why there were specific amounts of money identified within the report prior to undertaking a competitive tendering process
(The Chief Officer, Resources and Strategy, City Development responded and confirmed that this was a normal practice of reserving monies within the Capital Programme)
- the concern expressed as to whether the tender specification would cover performance targets and a detailed timetable for implementation of the project
(The Business Relations Manager, Resources responded and confirmed that a detailed tender specification will be issued to suppliers covering the points raised by Members and will be fully compliant with EU contract regulations)
- the concern expressed that there had been a slippage within the timescale
(The Business Relations Manager, Resources responded and confirmed that the Director of Resources and the Director of City Development were ready to proceed to implement the tender process if the scheme) was released for implementation)

Following this process, the Chair allowed the Call-In signatories, Councillor Procter and officers to sum up.

On behalf of the Call-In signatories, Councillor A Lowe stated that having heard the evidence from the Chief Officer, Resources and Strategy, City Development, she was supportive of the process and reassured that a competitive tendering exercise would be undertaken.

In conclusion, the Chair thanked Councillor P Grahame, Councillor J Illingworth and Councillor A Lowe, together with Councillor J Procter and officers for their attendance and contribution to the call-in meeting.

RESOLVED – That the report and information provided be noted.

29 Outcome of Call-In

Following consideration of evidence presented to them, the Board passed the following resolution:-

RESOLVED – That the Officer Delegated Decision D35700 be immediately released for implementation.

(The meeting concluded at 12.40pm)