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## Report of the Head of Scrutiny and Member Development

**Scrutiny Board: Central and Corporate Functions**

**Date: 6<sup>th</sup> September 2010**

**Subject: SCRUTINY OF VARIOUS PROCUREMENT ISSUES**

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### Electoral Wards Affected:

Ward Members consulted  
(referred to in report)

### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

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## 1.0 Purpose of Report

1.1 The purpose of this report is to help facilitate a discussion between Scrutiny Board (Central and Corporate Functions) and attending Procurement officers on a range of matters raised by Members of the Board.

## 2.0 Introduction

2.1 At its June meeting Board Members agreed to invite Procurement officers to its September meeting to discuss a range of issues relating to procurement. This paper helps to facilitate that discussion.

2.2 The issues identified for discussion were as follows;

- A progress report on implementing previous Scrutiny Board recommendations
- How, during a tender exercise, any material change to the original specification may or may not result in a fresh tender being advertised,
- How efficiency savings are evidenced
- How evaluation criteria is weighted in relation to renewables and other green issues.

2.3 Members of the Board have also asked for an update on revisions to Contract Procedure Rules including the involvement of elected Members early on in the procurement process.

### **3.0 Main Issues**

#### Implementing previous Scrutiny Board recommendations

- 3.1 Attached as Appendix 1 is a list of previously agreed recommendations, accompanied by a comment from the Chief Procurement Officer. The Board is asked to assess the progress made on these recommendations using the tracking system identified in Appendix 2.

#### How, during a tender exercise, any material change to the original specification may or may not result in a fresh tender being advertised

- 3.2 A recent Call In of a delegated decision to award a beer, wine and spirits contract has highlighted an issue of changes to contract mid tender.
- 3.3 In this specific case the original specification was to award a contract to supply both Leeds and Hull outlets. Mid tender Hull withdrew, however the tender process continued. The issue for Members of the Board was should that withdrawal be regarded as a 'material change' and the original process stopped. It was argued by some Members that had the tender been re-let, other companies, (who might have decided not to tender for a joint Leeds/Hull contract) might have been attracted to a Leeds only contract.
- 3.4 Using this case as an example, Members of the Board wished to explore with Procurement Officers the scope for recognising 'material changes' to specifications mid tender and the associated risks.

#### Efficiency Savings

- 3.5 Recognising the significant role procurement has in generating efficiencies, the Board wishes to understand how these efficiencies are evidenced. Members have been previously told that regular reports on this are provided to the Director of Resources. A monthly report is produced for the Resources and Performance Board (Chaired by Deputy Chief Executive and Director of Resources). A previous report presented on 25<sup>th</sup> June 2010 to the R&P Board demonstrated that efficiency savings of £7.2m had been made so far for 2010/11.

#### Evaluation criteria

- 3.6 Members of the Board wish to understand how the evaluation criteria is drawn up and weighted in relation to green issues.

#### Contract Procedure Rules

- 3.7 A recent Call In meeting around the decision to award a contract for the delivery of Connexions Intensive Support Services had raised a number of concerns with Members.
- 3.8 The Children's Services Scrutiny Board, who considered the Call In, were concerned that the specification and tender questionnaire used as a basis for awarding the contract, did not sufficiently reflect requirements which Members felt were key to the successful delivery of the contract, (for example the level of local knowledge and experience required).

- 3.9 This raised the question as to whether Members should have a greater opportunity for involvement in the specification of some contracts.
- 3.10 Following a discussion between Central & Corporate Scrutiny Board and the Chair of Children's Services Scrutiny Board, Councillor William Hyde, the Central & Corporate Scrutiny Board concluded that Member involvement would be more helpful and successful at an early stage, rather than late in the day at the tail-end of the process.
- 3.11 At this same time a decision to let new Neighbourhood Network Contracts had raised similar concerns about the perceived lack of Member involvement particularly in relation to the 'weighting' of various criteria.
- 3.12 The Chief Procurement Officer is currently reviewing Contracts Procedures Rules and the associated Code of Practice, and therefore it was agreed that a workshop made up of elected Members from Scrutiny Board Children's Services and Central and Corporate functions would be run to investigate whether more and timely Member involvement could be incorporated into the rules – particularly where the onus is on Directorates to be more proactive in Member engagement.
- 3.13 It was acknowledged that in many cases by the time Procurement were involved in a tendering exercise; the decision to let a contract had been made by the service department.
- 3.14 It was agreed that any revised procedures would require commissioning Council Departments to be more aware of political considerations and Member interest areas, and to be proactive in consulting appropriate Members at the appropriate time.
- 3.15 A full discussion took place at the workshop on which contracts would merit early Member involvement. Whilst no conclusions on this were reached a number of scenarios were suggested;
- Where there was likely to be strong local interest
  - Where the voluntary/third sector were involved
  - Where the value or nature of the contract required its notification on the Forward Plan
- 3.16 It was agreed that the majority of Procurements where Members were likely to have an interest would be in the Adult Social Care and Children's Directorates. It was agreed therefore that the Chief Procurement officer would investigate ways of strengthening dialogue between those directorates and Members.
- 3.17 A discussion took place on different models for service delivery. For example the scope for commissioning services outside of the traditional tender model. A discussion took place on both the legalities of such an approach and its robustness in terms of ensuring sound judgments are made on the value for money of those providing the service.
- 3.18 A discussion took place on the constraints placed on the Council with regards to favouring local providers. It was acknowledged that contract specifications could, 'at the margins' help skew the process in favour of local providers. Members were concerned that any criteria for awarding contracts should demand evidence of a good track record in the delivery of such services.

- 3.19 Members felt that the Council should help build the capacity of local organisations to be able to meet the procurement needs of the Council. This help should be provided by officers and local ward Members
- 3.20 A discussion took place on the legality of letting contracts which might jeopardise the future of providers. It was confirmed that the Council had no legal responsibility to ensure the viability of contractors. Members stated that whilst that might be the case, those drawing up the specification should be aware of the consequences on providers should they not win the tender.

#### **4.0 Recommendations**

- 4.1 Members are requested to discuss the above issues with attending officers.

#### Background Papers

Final Scrutiny Board Inquiry Reports