



OVERVIEW AND SCRUTINY VIEWS AND RECOMMENDATIONS TO Cabinet – 7 December 2016

Report Title	RECOMMENDATIONS OF THE OVERVIEW AND SCRUTINY COMMITTEE – ON THE CALL- IN OF CABINET DECISION OF 16 NOVEMBER 2016
	ITEM 11 – RE-PROVISION OF THE ENVIRONMENTAL SERVICES CONTRACT

Agenda Status: PUBLIC

1. Purpose

- 1.1 To submit a report to Cabinet detailing the Overview and Scrutiny Committee's findings following the Call-In Hearing that took place on Tuesday, 29 November 2016.

Recommendations

- 2.1 That Cabinet be formally notified of the Overview and Scrutiny Committee's findings following the Call-In Hearing of 29 November 2016: -
- (1) That after all the evidence had been heard the Call-In be accepted on the grounds that:
 - (i) there is the need for wider consultation;
 - (ii) the recommendations were ill-informed, based on assumptions regarding costs, before quality;
 - (iii) the areas of methodology used were flawed;
 - (iv) the contracting out option had been based on a failing contract.
 - (2) That there is Overview and Scrutiny involvement in the relevant stages of the process.

3. Background and Issues

- 3.1 The Cabinet decision: -
- i) Cabinet agreed that with effect from the 6th June 2018, to Contract Out Environmental Services to an external provider selected through an OJEU procurement process.

- ii) Cabinet delegated authority to carry out the OJEU procurement process to the Director of Customers and Communities, in consultation with the Cabinet Member for Environment.
- iii) Cabinet approved a supplementary estimate to create a budget for the OJEU procurement process of up to £400,000, to be funded from the 'Delivering the Efficiency Plan' reserve, in accordance with paragraph 4.2.8 of the report.
- iv) Cabinet agreed to receive quarterly update reports on progress against the programme.

was called-in for Scrutiny by Councillors Danielle Stone and Anamul Haque for the following reasons: -

1. The reports failed to provide sufficient information to support the Cabinet decision.

A. *"Cabinet agreed that with effect from the 6th June 2018, to Contract Out Environmental Services to an external provider selected through an OJEU procurement process."*

The current contract is £6.9 million. It is assumed the next contract will be higher but there is no indication of what will go into the contract. There are questions to be answered on -

Costs

- i. What will be the added profit margin for the contracted out service?*
- ii. What are the pension costs?*
- iii. Will we lose recycling credits?*

Service

- iv. We need to know what the performance standards are?*
- v. What is in and what is not in the service design?*
- vi. Will we be implementing the living wage as according to the Living Wage Foundation?*

B. *"Cabinet approved a supplementary estimate to create a budget for the OJEU procurement process of up to £400,000, to be funded from the 'Delivering the Efficiency Plan' reserve, in accordance with paragraph 4.2.8 of the report."*

There is insufficient explanation about costs for

- i. Expert consultancy support*
- ii. OJEU procurement process*

We need clarification on

- iii. What "both internal and external support will be required". What does that mean?*

C. *Cabinet has expressed a preference for Contract Out. Why? We need to have more details on the three options (in-house, local authority company and private sector provider) regarding their costs and expected service performance.*

Councillors Stone and Haque expanded upon their reasons for Call-In: -

Key points:-

- Details of an assessment of the three models was not contained within the report that went to Cabinet
- The report does not refer to an assessment of the need for flexibility within the contract, and did not make reference to social, economic, growth, expansion and the changes in technology landscape
- The Service Scope is not clear
- There is a need to know the expected outcomes around:
 - Excellent service
 - Value for money
 - Good employment conditions
 - Living Foundation Living Wage
 - Minimised risk

- A fourth option should have been included in the report – A Shared Service Model
- There was no in-house bid team
- The decision appeared to have been made in haste and creates a risk
- The decision should not have been made without the cost of transformation for each model
- There is not enough information available for a sound judgement to be made
- There is a need for community involvement, including tenants. There is a need for a thorough public consultation
- The options appraisal needs full Scrutiny
- Pre-decision Scrutiny should have taken place
- This is one of the biggest decisions to be taken by this Council and it needs to be right
- The Council needs to be in control of its services
- The report of PWC, the Council's internal Auditors, makes reference to problems with the report regarding the re-provision of the Environmental Services contract: -
 - The modelling and lack of challenge to the modelling
 - Assessments based on the present contract
 - Flexibility and transformation not part of the assessments.

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4.1 Evidence

The Committee received one address from a member of the public: -

- Mr Graham Croucher, St James Residents' Association

Comments made included:

- Resident Associations, such as St James Residents' Association, did not appear to have been involved in the consultation process

- There is a need for full consultation with organisations and stakeholders
- It seemed that the decision had already been taken
- None of the three options are significantly better
- Scrutiny involvement is needed in this process

4.2

The Committee heard from Councillor Brian Markham. Key points:

- There is a need for Overview and Scrutiny involvement in this process
- There is a need to ensure that we get services, such as waste management, maintenance of parks, street cleaning etc. right
- All three of the options are finely balanced; none significantly better than any of the others
- The Council should consider different options for waste and grounds maintenance

4.3

The Committee heard from Councillor Gareth Eales. Key points:

- The importance of Scrutiny consideration of the Call-In was highlighted
- There had been a lack of consultation; it is important to gather the views of the public
- The decision was made, then there was consultation
- It is important that the decision about the contract is right
- It is not right to base the success criteria provided by the current Service Provider

4.4

The Committee heard from Councillor Clement Chunga. Key points:

- Concerns were raised about how the decision was taken
- Limited consultation has taken place thereby causing missed opportunity for achieving Value for money (VFM) which is one of key concepts of accountability the other than lowest price and judgement (Reference from the Council's Procurement Guidance)
- There are more than three options available and unfortunately only three were considered
- The Environmental Services contract is key to the Council being placed into in a top quartile of all Councils and therefore every opportunity should be evaluated properly and informed decision taken. In this way, management can have confidence in answering any subsequent questions on the entire decision making process and provide full justification for the decision taken. The bedrock or Policy for this Council is to use best VFM which is the optimum combination of whole life cost and quality to meet the customer's requirement

4.5

The Committee heard from Councillor Jane Birch. Key points:

- Concerns were raised regarding the way that the statistics had been presented and interpreted for the next stage of the process
- Concerns were raised that the financial modelling had been built upon the current service
- Concerns were raised regarding the statistics provided by the consultation
- A number of Local Authorities have brought their Environmental Services contract back in-house, including Bristol, Middlesborough, Hounslow and Newcastle under Lyme. Liverpool has not renewed its contract with Enterprise
- A private company, such as Enterprise, is bound by its duty to shareholders to make a profit

5 Internal Witnesses

- Councillor Jonathan Nunn Leader of the Council
- Councillor Mike Hallam Cabinet Member for Environment
- Julie Seddon Director of Customers and Communities
- David Pietropaoli Expert Advisor, Eunomia

5.1 Councillor Jonathan Nunn, Leader of the Council, provided evidence. Key points: -

- A Cross Party Cabinet Advisory Group had been set up and was consulted upon at the various stages of the process. The Cabinet Advisory Group will continue throughout the process.
- All Councillors were given the opportunity to obtain a copy of the full report; no Councillors requested a copy
- An enormous amount of work has taken place on the process to date. The approach taken must be thorough. Expert advisors in this field of work were engaged to undertake the project.
- Contracting out is the best option based on professional expert advice.
- There is a need to ensure best value for the Tax Payers.
- A report will be presented to Cabinet on a quarterly basis.
- Consultation has taken place to date. Further full consultation will take place at the next stage of the process.

5.2 Councillor Mike Hallam, Cabinet Member for Environment, provided evidence. Key points: -

- This process started approximately 12 months ago.
- The cross party Cabinet Advisory Group was set up at the request of the then Leader of the Council.
- Multi-level consultation will take place at the next stage of the process.
- Ipsos MORI undertook interviews with a sample of 1,000 residents across the borough of Northampton.
- The external expert advisors provided excellent advice and support.

5.3 David Pietropaoli, Expert Advisor, Eunomia, provided evidence: Key points:

- The Cabinet report had been made available to all Councillors
- The full report had not been published as it contained commercially sensitive information.
- The Cabinet Advisory Group had supported the process taken
- Officers introduced a robust governance and control framework to support the delivery of the Environmental Services Re-provision Project. The Council's internal auditors, PwC, undertook a review of the project's governance arrangements and concluded that these were robust for the relevant stage of the project.
- The Council's current service provider had provided performance data
- The full report contains details regarding the profit margin

- Assumptions had been made for the three options regarding pension costs. Officers from HR, Financial Services and Pensions had been fully engaged in the process and had validated and refined the assumptions around pension costs, in particular contribution rates, pension fund deficit payments etc., as it was recognised that the pension costs drive a considerable proportion of the cost difference between the commissioning options. .
- Performance standards had been modelled and benchmarking took place – this process will carry forward to stage two of the process
- The living wage had not been considered as part of the Scope. However, it will be factored into each commissioning option.
- Internal support means officer time and LGSS support functions
- External support means the support that the Council may need to procure to enable successful delivery of the project and in particular during the OJEU procurement process for the provision of: technical and procurement support, legal support, HR and pension support, finance support. Officers will develop the Business Case for the next stage of the project, subject to the approval of the recommendation in the Cabinet report to implement the Contracting out commissioning option. The Business Case will also determine, through the people resource plan, where the Council will need access to specialist external skills.
- An estimated budget of £120,000 may be required to deliver high level consultation and communication with stakeholders.
- Eunomia assessed the three commissioning options against the following two criteria:
 - quality and risk
 - cost
- The Cabinet Advisory Group met in June 2016 and considered quality and risk, identifying the key areas of risk. Quality will be looked at as the process goes forward.
- The assessment of the risks followed a robust approach and various stages of refinement.
- Eunomia undertook the cost modelling by creating a bottom-up financial model to reflect the current commission as accurately as possible and a financial model for each commissioning option. Eunomia worked closely with the current contractor to make an assessment regarding profit margins etc. to compare each of the three options.

6

Legal Advice

6.1

The Borough Secretary and Monitoring Officer provided legal advice to the Call-In Hearing. The Call-In had, at Officer level, been deemed valid, meeting the criteria for call-in as set out in the Council's constitution.

7

Findings and Conclusions

7.1

During the deliberation session, the Overview and Committee concluded that there was a need for wider consultation, the recommendations were ill-informed, based on assumptions regarding costs, before quality; the areas of methodology used were flawed; and the contracting out option had been based on a failing contract. The Committee further concluded that there was a need for Overview and Scrutiny involvement at the relevant stages of the process.

7.2

Following the submission of all the evidence, it was proposed and seconded that the Overview and Scrutiny Committee upheld the Call-In.

7.3 The Call-In was upheld and the Committee asks Cabinet to reconsider its decision. Upon a vote, it was: -

Resolved:

(1) That after all the evidence had been heard that the Call-In be accepted on the grounds that:

- (i) there is the need for wider consultation;
- (ii) the recommendations were ill-informed, based on assumptions regarding costs, before quality;
- (iii) the areas of methodology used were flawed;
- (iv) the contracting out option had been based on a failing contract.

(2) That there is Overview and Scrutiny involvement in the relevant stages of the process.

8 Implications (including financial implications)

8.1 Policy

8.1.1 The work of Overview and Scrutiny plays a major part in the development of the Council's policy framework through its work programme.

8.2 Legal

8.2.1 The duties to undertake Overview and Scrutiny are set out in the Local Government Act 2000.

8.2.2 The Monitoring Officer advised the Call-In Hearing as set out in paragraph 6.

8.3 Equality

8.3.1 Effective Overview and Scrutiny is to the benefit of the citizens of Northampton.

8.4 Resources and Risk

8.4.1 The decision cannot be implemented until Cabinet has resolved and made a decision upon the Overview and Scrutiny Committee's report on the result of the Call-In Hearing.

9. Consultees (Internal and External)

9.1 The Overview and Scrutiny Committee held the Call-In Hearing.

9.2 Internal witnesses as detailed at paragraph 5.

9.3 The Call-In Authors, Councillors Danielle Stone and Anamul Haque, attended the Call-In Hearing to respond to the Committees questions.

9.4 The Call-In Hearing was published through the Council's usual channels and was attended by one member of the public, who addressed the Committee.

9.5 Six ward Councillors attended the Call-In Hearing, of which four addressed the Committee.

10 Background Papers

10.1 The key papers are:-

- Cabinet report of 16 November 2016 – Item 11 – Re-Provision of the Environmental Services Contract
- Decision notice – Cabinet of 16 November 2016 – Item 11 – Re-Provision of the Environmental Services Contract

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