

26 November 2014

Audit and Scrutiny Committee

William Hunter Way – Procurement

Report of: *The William Hunter Way Procurement Task and Finish Group*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

1.1 It was agreed at the Audit and Scrutiny committee meeting 28th October 2014, that a Task and Finish Group be established to review the documentation and communication between consultants; Leadership and Management (L&M) and the Council or any member of the Administration.

1.2 The Task and Finish Group was convened and established the following scope:

1.2.1 To identify whether, through the actions of Members or Officers, the Council has been put at risk of legal action through its relationship with Leadership & Management.

1.2.2 To investigate whether proper procurement procedures have been followed .

1.2.3 To identify whether any actions have compromised the integrity of the council or members thereof, particularly if an appointment has been made, official or unofficial.

1.2.4 To identify whether any actions have breached the constitution.

1.2.5 To make appropriate recommendations to the appropriate Officers and/or Committees.

2. Recommendation(s) that:

2.1 The report be received by the Audit and Scrutiny Committee.

2.2 A unit on public procurement procedures is added to the Councillor training programme to improve understanding and give confidence in processes.

2.3 The Monitoring Officer refers this report to the “Constitution Working Group” who should consider how 3rd parties can interact with both members and officers in the performance of their duties, so that any such contact or communication is not seen to favour the 3rd party or prejudice others who might wish to transact with the Council.

2.4 The Audit and Scrutiny Committee conclude that no further report to Council is required as a result of its findings.

3. Approach

3.1 The members of the Task and Finish Group were as follows:

- Cllr Clark (Chair)
- Cllr Barrett
- Cllr Hones
- Cllr Kerlake

3.2 The Task and Finish Group met 3 times in preparation of this report.

3.3 The Task and Finish Group were provided with copies of emails and reports from Members and Officers.

3.4 The Task and Finish Group received assistance from the following in compiling evidence for their findings

- Cllr Russell Quirk (Chair of the William Hunter Way Working Group)
- Philip Ruck – Contract and Corporate Projects Manager for the Council
- David Lawson – Deputy Monitoring Officer - Brentwood Council

3.5 The Audit and Scrutiny Committee will receive this report on 26 November 2014.

4. Findings of the Task and Finish Group

4.1 Relationship

There exists no evidence or indication of any form of inappropriate relationship between members, officers and any company who may seek to tender for work on the William Hunter Way project. Members were especially clear on their relationship, providing personal emails to underline the full background and status of the relationship.

4.2 Financial Commitments

No financial commitment was made; no financial costs have been accrued to potential partners being considered by this review. No financial liability will be held if any partner who has provided pro-bono or equivalent support is not chosen through the procurement process.

4.3 Procurement/Tender

Officers informed potential partners of relevant procurement procedures via email and reinforced this at public meetings. All organisations co-operated fully with this and acknowledged the procedure, acting appropriately. There is no cause for legal concern regarding prejudice either in favour or against any organisation that has provided pro-bono or equivalent support through the procurement process.

The Council (via the appropriate Officer/Committee), can proceed with the procurement process as planned, without need for concern that any inappropriate behaviour or relationship exists within the William Hunter Way Working Group.

4.4 'Appointment in Principle'

Given the status of Working Groups, the legal position of 'appointment in principle' was sought from the Monitoring Officer. The Group were advised that "the authority can proceed with a robust, transparent and objective procurement exercise, without being exposed to legal action in connection with this "appointment in principle", which is of no effect or relevance and even if interpreted as an advisory recommendation must be ignored in favour of the authority's specified procurement processes."

5. Reasons for Recommendation

- 5.1** To demonstrate the effective discharge of the '*Overview and Scrutiny*' function at Brentwood Borough Council.

6. Consultation

- 6.1** The Task and Finish Group met 3 times in preparation of this report.

7. References to Corporate Plan

- 7.1** The priority area *A Prosperous Borough* provides the 2013-14 action to: '*Deliver the William Hunter Way development scheme*'.

8. Implications

Financial Implications

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- 8.1 The financial implications of “*Overview and Scrutiny*” recommendations would only be assessed if those recommendations were to be accepted by the decision maker (Council, Committee, Sub Committee or an Officer). Should recommendations be accepted by a decision making body, a separate report may be produced by that body to enact those recommendations.

Legal Implications

Name & Title: David Lawson, Deputy Monitoring Officer

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- 8.2 The function of Audit and Scrutiny as an Overview and Scrutiny committee is under the Local Authorities (Committee System) (England Regulations 2012 SI 2012/1020) to recommend what action (if any) is required.
- 8.3 **Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 8.4 None.

9. **Background Papers** (include their location and identify whether any are exempt or protected by copyright)

- 9.1 Publicly available reports on William Hunter Way are available on the Council’s website.

<http://www.brentwood.gov.uk/index.php?cid=2571>

10. Appendices to this report

None.

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