

AD HOC SCRUTINY PANEL

A meeting of the Ad Hoc Scrutiny Panel was held on 26 January 2016.

PRESENT: Councillors : J G Cole, T Higgins, J Hobson, L Lewis, T Mawston, L McGloin and G Purvis

ALSO IN ATTENDANCE: Councillor N Walker.

OFFICERS: A Crawford, P Stephens, C Walker and C Lunn.

APOLOGIES FOR ABSENCE Councillors: D Rooney and J Sharrocks.

15/9 ****IN THE ABSENCE OF THE CHAIR, IT WAS PROPOSED, SECONDED AND AGREED THAT COUNCILLOR T MAWSTON BE APPOINTED FOR THIS MEETING ONLY****

15/10 **MINUTES - AD HOC SCRUTINY PANEL 5 JANUARY 2016.**

The Minutes of the Ad Hoc Scrutiny Panel held on 5 January 2016 were submitted and approved as a correct record.

The Council's Procurement Manager, who was not in attendance at the 5 January 2016 meeting, provided the following additional comments for Members' information:

- In reference to the first page, paragraph 3, it was indicated that, as with any procurement, the following processes must be adhered to when securing consultancy:
 - Any spends up to £15,999 could have been directly awarded;
 - Any spends between £16,000 - £53,099 required 3 quotations to be sought;
 - Any spends between £53,100 - £164,176 required completion of the Council's tendering process; and
 - Any spends above £164,176 required completion of the full OJEU tendering process, unless exemptions had been applied on the basis of specialisms.
- An exemption from Standing Orders could be requested where section 5 of the Standing Orders applied, and only following signing by internal audit and the Chief Finance Officer. An exemption could not be sought where the OJEU contract value had been met - i.e. any contract that was in excess of £164,176.

In response to an enquiry, it was explained that the Council's procurement regulations and associated Standing Orders were last reviewed in May 2014. However, the financial thresholds had just changed on 1 January 2016. The OJEU threshold had decreased from £172,415 to £164,176. The actual contract procedure rules, as part of the Constitution, were last reviewed in May 2014.

AGREED

15/11 **COUNCIL USE OF CONSULTANTS - FURTHER INFORMATION AND DRAFT TERMS OF REFERENCE.**

The Scrutiny Support Officer presented a report, the purpose of which was to agree the terms of reference and to provide the Ad Hoc Scrutiny Panel with further information in respect of its current Scrutiny investigation into the Council's use of consultants.

Following discussions at the 5 January 2016 meeting of the Panel, and subsequent consultation with the Chair, terms of reference had been drafted and were shown at paragraphs 2a to 2d of the submitted report.

In respect of point 2d, the Council's Procurement Manager had been invited to the meeting to provide information in respect of the North East Procurement Organisation (NEPO). As mentioned at the previous meeting, NEPO had produced a framework for use by Local Authorities in engaging consultants. A briefing note and statistical information had been prepared and was shown at Appendix A of the submitted report.

The Procurement Manager explained to the Panel that the procurement of consultants fell under the same processes as goods and services; financial thresholds were in place which staff were required to follow. Depending upon the expenditure amount, the thresholds concerned direct award, quotations bracket (obtaining three quotations and using local suppliers where possible), a formal tendering process, and a formal OJEU procurement process.

It was explained to Members that NEPO, a purchasing organisation comprising of twelve Local Authorities, had commissioned a framework entitled NEPRO, which offered a vendor neutral solution. The process was that Middlesbrough Council would approach NEPRO with a project brief (a document detailing such matters as to why consultants were required, what the Authority would expect consultants to achieve, budget requirements, etc.), and NEPRO would secure appropriate consultants on a competitive basis, who could meet the requirements of the project. If the Authority was aware of an appropriate consultant who could be contracted to complete work, then they could be secured via this process too.

The NEPRO framework was fully OJEU compliant and was introduced to the Council in 2014/2015.

At the moment, Council services could secure consultancy as they wished, without following the NEPRO procurement process. However, the Panel heard that the issue with this method was that an identifiable budget code for consultants could not be utilised, and at present did not exist. Therefore, if centralised data was required, separate approaches to the different service areas to seek information would be required.

It was felt that one of the key advantages of following the NEPRO framework was that it would negate the need for the Council to undertake the OJEU tendering process, which could be time consuming and costly. Therefore, there was potential for efficiencies to be achieved. NEPRO did run competitions on behalf of the Council, which meant that the market could be tested and evaluated, even if the knowledge and understanding of potential service providers were not known by the Authority.

Through the NEPRO framework, it was indicated that the Commissioning and Procurement Team acted as a gatekeeper, whereby a NEPRO project form was forwarded to service areas to determine their reasoning for using a consultant, the outcomes that they wished to achieve, their budget code, funding available, and whether they knew of any specific consultants that they wished NEPRO to contact as part of the competition, etc. This form was then forwarded to NEPRO and they carried out the process to get the proposal actioned. It was highlighted that although NEPRO would be aware of what the Authority's budget for a particular project was, they would still negotiate to ensure that the best deal possible was made.

In response to an enquiry, it was explained that the NEPRO framework was currently used for projects at the tendering threshold stage.

In response to an enquiry, it was explained that if a tender amount was exceeded, this would be considered to be a contract management issue. It was felt that once a contract had been put in place, any additional funds would not be released unless there had been budget approval, and the impact that the additional amount required would have on the initial contract identified, as it could have been considered a significant variation to what was agreed. If this did occur, and there was clear understanding that the additional expenditure was required, further discussion between procurement, the budget holder and the legal department would be undertaken in order to ensure that the appropriate process was followed. If this was in agreement, then the providers' contract would be looked at and amended to ensure that what was agreed could be delivered. Consideration was given to project planning and the identification of milestones to assist with financial planning, and the ability to vary contracts if

required.

In response to an enquiry, it was explained that NEPRO was a framework contract and there was a percentage charge that they acquired from the consultant. NEPRO added an additional percentage onto the contract value; the maximum expenditure amount of the Authority would not be exceeded. Under this framework, both the Authority and the consultant were contracted to NEPRO: essentially, the Authority paid NEPRO and NEPRO paid the consultant. One of the benefits of this approach was that a good termination clause was put in place; if a consultant was under-performing, the termination notice period was quite short.

It was explained that since its introduction in June 2014, 14 consultants had been appointed through the NEPRO framework, which equated to a total cost of £988,959. A list of these was shown at Appendix B of the submitted report. Members were advised that a couple of these were for joint projects. For example: project 19 - Tees District Authority; whilst the total cost of that consultancy was £98,200, only an element of this was Middlesbrough funded, as this was a joint sub-regional project. This contract had been broken down into phases and Middlesbrough had acquired funding for phase 1.

The NEPRO framework was relatively new to the Local Authority; it was not mandatory that every consultant would be procured through this route. However, the Procurement Manager did look to promote use of the framework above tendering level in order to secure the best use of resources for the Authority. It was acknowledged that there was still room for improvement, for example: a full overview of consultancy use and increased focus on value for money was required.

In response to an enquiry regarding the total amount of money being spent on consultants and the monitoring of this, it was felt that if everything was secured through the NEPRO framework, it would be easier to see the exact amount of money that was being spent on consultants, as opposed to approaching each department in turn. There was potential that this could be rectified by identifying a GL code for consultancy, however, the use of consultants had increased over time, potentially owing to the Change Programme and the current issues facing the Authority. It was felt that transparency would also be improved and monitoring of outcomes facilitated if there was increased use of the NEPRO framework.

During discussion, a Member commented that a significant amount of money was being spent on consultants, and queried the general reasoning as to why consultants needed to be engaged. It was suggested that the change being looked to implement was potentially beyond what employees were expected to do. The purpose of engaging consultants was to offer specific advice and guidance on the project(s) being undertaken. Supplementary to this point, the Chair made reference to value for money, the expectation of this, and the concern that this may not have always been offered.

The Panel considered the definition of consultancy and what this should encompass in terms of this review. It was felt that in order to identify how much was being spent on consultants, the starting point would be to define exactly what this incorporated.

Councillor Nicky Walker, Executive Member for Finance and Governance, explained to the Panel that when a consultancy-based review had been conducted previously, an unofficial definition had been used, i.e. consultants provided specialist knowledge and advice, which was different from providing additional resources / manpower to directly support service provision. It was suggested that this be used as the definition for the Panel's investigation.

Members considered the comparative use of consultants and agencies across the authority, with reference also being made to the importance of obtaining best value for money.

In response to an enquiry regarding the recent Corporate Peer Review that the Council had been involved with, it was explained that the Council had not paid a separate fee for this. This would have been included in the Council's subscription to the Local Government Association.

A discussion ensued with regards to the internal recording of consultancy spends. It was commented that in order to align with International Financial Reporting Standards and

ProClass Procurement Classification Standards, a sole central budget code to record this specifically may not have been required.

Regarding the cost breakdown of the use of consultants per department, the Head of Performance and Partnership explained that this could be achieved, but it would be dependent upon such matters as the definition of consultancy, and whether work was one-off or routinely acquired. Canvassing of departments based on definition would need to be undertaken.

Members suggested that it would be useful if information pertaining to spends for the last two years could be provided - e.g. who the consultants were, whether they were routine or one-off, and how much was paid. The Head of Performance and Partnership indicated that this would be actionable.

Reference was made to the Change Programme and the information that would be available in respect of this.

It was suggested that a review of the costs, risks and benefits associated with the use of consultants on the projects identified should also be included in the information, including whether consultants were essential to the project undertaken.

Members felt that it would be useful to focus on service areas where consultants were regularly engaged, e.g. Wellbeing, Care and Learning, ICT, Social Care and Regeneration, in order to determine how projects that involved consultants were managed and their objectives achieved. It was acknowledged that although initial contact with consultants had been made in respect of some ICT projects, not all of these had been taken forward. Reference was made to one ICT-related contract that had been terminated due to the poor performance of the consultant(s).

In response to an enquiry regarding the management of consultants once a contract had been awarded, it was explained that a manager within the respective service area would be responsible for this. A project brief would be set-out to determine the requirements and expectations of both the consultant and the project, with appropriate action being taken if the desired outcomes were not being delivered.

AGREED:

1. **That the terms of reference, as outlined in the report, be approved.**
2. **That the Head of Performance and Partnership would provide the Panel with the information on consultant spend, as detailed in the preamble.**
3. **That representatives from individual service areas be invited to attend a Panel meeting to discuss how consultant projects were engaged and managed.**

15/12

ANY OTHER BUSINESS.

AD HOC SCRUTINY PANEL - NEXT MEETING

The next meeting of the Ad Hoc Scrutiny Panel had been scheduled for Thursday, 25 February 2016.

NOTED