

FAREHAM

BOROUGH COUNCIL

Report to Scrutiny Board

Date: **30 May 2013**

Report of: **Monitoring Officer**

Subject: **Call-In of Executive decision 2013/14-6: Improving Customer Satisfaction.**

SUMMARY

Call-in can be triggered by three members giving due notice to the Chief Executive Officer before the end of a call-in period following an Executive decision. A call-in was received on Monday 20 May 2013 relating to the decision made at the meeting of the Executive on Monday 13 May 2013. The call-in relates to the decision of the Executive in respect of Improving Customer Satisfaction and the appointment of Vanguard Consultancy to provide guidance, expertise and support in implementing changes to the way the Council delivers services to its customers.

This matter is now referred to the Scrutiny Board to determine. The options open to the Scrutiny Board are:-

- (a) to accept the decision made by the Executive, in which case the decision can be implemented; or
- (b) to request that the Executive reconsiders the decision, giving reasons for such a request.

INTRODUCTION

1. At the meeting held on 13 May 2013, it was resolved that the Executive waives contract procedure rules and approves the appointment of Vanguard Consultancy to provide guidance, expertise and support in implementing a fundamental change to the way the Council delivers its services to customers.
2. On Monday 20 May 2013, the Chief Executive Officer received a notice of call-in letter signed by Councillors J S Forrest, R H Price, JP, and P W Whittle. The reasons for the call-in are contained within the notice and state that the grounds of the call-in are that the decision is contrary to the Council's Policy Framework and contrary to, or not wholly in accordance with the Council's budget. A copy of the call-in notice is included at Appendix A.
3. As a notice of call-in has been received, the implementation of the decision stands suspended until the matter has been reviewed by the Scrutiny Board.
4. The information contained within the call-in notification now needs to be considered by the Scrutiny Board.

MATTERS FOR CONSIDERATION

5. The reasons given within the call-in notice are as follows:-
 - i. The Council has high levels of customer satisfaction and therefore the justification is not sufficiently proven for the levels of expenditure for small incremental improvements.
 - ii. The methodology proposed has not been adequately demonstrated to be the best solution in the circumstances.
 - iii. The grounds for waiver of Council Contract Procedure Rules have not been evidenced and the circumvention of open competitive tendering process is unsound for use of public funds.
 - iv. The funds are not available without forward commitment of future unapproved budgets.
6. To assist the Scrutiny Board in its review of the decision, a copy of the report considered by the Executive in relation to this matter is included at Appendix B (reference [xps-130513-r02-lan](#)), together with a copy of the record of the Executive decision 2013/14-6 at Appendix C.

POLICY FRAMEWORK

7. It is the opinion of the Monitoring Officer that the Executive decision is not contrary to the Council's Policy Framework.
8. The call in makes reference to the Council's Policy Framework and that the decision made by the Executive is contrary to what is contained in the Corporate Vision and Priority Actions. This is in effect the Corporate Strategy 2011- 2017 that was approved by Council on 23 June 2011.
9. To further assist the Scrutiny Board in its review of the decision, a copy of the Corporate Strategy approved by Council is provided to members of the Scrutiny Board at Appendix D. (http://www.fareham.gov.uk/pdf/about_the_council/vision.pdf refers).

10. The strategy sets out the Council's priorities for 2011 to 2017 and emphasises our determination and commitment to ensure that Fareham remains a prosperous, safe and attractive place to live and work. The Council has a set of values which include listening to and being responsive to our customers as well as being efficient and effective in providing value for money.
11. Customer satisfaction surveys show that residents are satisfied with the way the Council runs things and that it provides good value for money. It performs well and is good at keeping Fareham an attractive and prosperous place to live, work and visit.
12. The strategy sets out the Council's priorities, one of which is to be a **dynamic, prudent and progressive council**. Within this context our overall priority is to ensure the Council offer good value for money by providing high quality services and maintaining high levels of customer satisfaction whilst keeping Council tax levels low. In order to achieve this, the Council needs to focus on customer needs and satisfaction.
13. As such and as highlighted in the report that was presented to the Executive our services, systems and procedures should be designed from a customer's perspective. Whilst there are many examples of good customer service it is accepted that there are also areas that need to improve and there are many opportunities where improvements can be made. To this effect it is important that we do not become complacent.
14. The report that was presented to the Executive highlights there is room for significant improvement and as customers become more demanding and discerning it will be necessary to look at how our services are delivered from their perspective in order to maintain or increase levels of satisfaction. Put simply the Council cannot afford to 'stand still' but we need to regularly challenge ways of working.
15. This is very much about delivering one of our corporate priorities of **being a dynamic, prudent and progressive Council** and as such the decision of the Executive is not contrary to the Corporate Strategy that contains the Corporate Vision and Priority Actions referred to in the Notice of Call-In which is part of the Council's Policy Framework.
16. In addition through this process the costs of providing services are normally reduced in the long term and whilst this is not the main purpose of such an approach any savings achieved will be captured as part of the Council's efficiency programme, an outcome that also contributes to this priority.
17. The reason for the Vanguard approach being recommended is clearly set out in the report that was considered by the Executive (Appendix B). It explained that there were a number of methods that drive improvements in the public sector and alternative service providers have been considered and investigated by officers. However none met the long standing approach of the Council in putting the customer at the centre of everything we do. The Vanguard method contained key differences as set out in the report that enables a more tailored approach to be developed that fitted in with what the Council see as the way forward.
18. The report to the Executive explained that Directors and Heads of Service have all had familiarisation sessions on the Vanguard approach and it highlighted many

opportunities were customer service and satisfaction could be improved. The Trade Union, UNISON have also been consulted on the approach and have responded formally in support of the approach. A copy of the letter of endorsement from UNISON is included at Appendix F.

19. Therefore the work that has been undertaken to date highlights that the methodology proposed has been adequately considered and demonstrated to be the best solution and fit for the Council in improving customer satisfaction.

COUNCIL'S BUDGET

20. Within the call-in notice the grounds for the call-in are identified as being contrary to, or not wholly in accordance with the Council's budget. The specific areas listed in the notice of call-in are:
 - i. That the decision contravenes Financial Regulations; and
 - ii. That the budget has not been fully identified with approvals.

Contracting Arrangement

21. The proposed contracting relationship with Vanguard would be a call-off arrangement. This means that the extent to which services are procured from Vanguard rests wholly with the Council. The decision made by the Executive was to commit a maximum of £300,000 over 3 financial years. However, it is possible that this cost could be less, depending upon the speed of engagement and subsequent improvement across the organisation.
22. Funding for expenditure in year 1 was wholly identified within previously earmarked cash-backed reserves. Expenditure for subsequent years is to be identified in the budgeting process for the respective period, or when considering any underspending from 2012/13 (in July 2013). However, as the arrangement would be on a "call-off" basis, the Council would not be committing expenditure in the absence of a budget. If, during the budget setting process, it was not possible to secure funds for the latter phases of the work, then the arrangement with Vanguard could be immediately curtailed without financial recourse to the Council. If it becomes apparent that the maximum level of spending is not required, then the earmarked funds would be returned to the revenue reserve.

The Council's Contract Procedure Rules

23. To assist the Scrutiny Board in its review of the decision, a copy of the Contract Procedure Rules from the Financial Regulations contained within the Council's constitution is provided to members of the Scrutiny Board at Appendix E.
24. Section 9.1 (Contracts with a value in excess of the EU public procurement thresholds) states "Where the estimated contract value exceeds the relevant EU public procurement threshold any contract must be let in compliance with the relevant legal requirements, in particular the Public Contracts Regulations 2006 (as amended) and these Rules."
25. Section 18 (Waivers of Contract Procedure Rules) states "Where a contract has an estimated value of £50,000 or more, the Executive, relevant Executive Member or

Committee as appropriate may agree to waive the provisions of these Rules provided that no such waiver shall permit a breach of any relevant domestic or European legislation.”

Financial Regulation 15: Contracts and Procurement Procedures

26. Section 15.3.7 states “Limited Suppliers: Where there are limited suppliers of the required quality available for goods and services (e.g. use of specialists), less than the required number of price comparisons can be sought, on agreement with the Monitoring Officer or the appropriate Director/Chief Officer that a limited supply exists.”
27. Section 15.3.8 states “Single Suppliers: In the cases of only a single supplier being available, or to ensure continuity of a specialist supply, attempts should be made to demonstrate that use of the supplier is still offering the Council value for money (e.g. comparison to previous years, other local authorities etc.)

Requirement of the EU Public Contracts Regulations 2006

28. The EU Regulations require contracting authorities to adhere to the overriding EU principles of transparency and equal, non-discriminatory treatment of suppliers. The default position for public contracting bodies is that the services above the EU threshold (£173,934), one of the following competitive procurement methods should be adopted
 - a) Open tender (where an open invite to tender is advertised, and all suppliers that submit by the due date must be considered)
 - b) Restricted tender (where, following an open invite seeking expressions of interest, a limited number of suppliers are invited to submit a tender for the supply)
 - c) Competitive Dialogue (this is similar to the restricted procedure, but the public body conducts dialogue with the shortlisted suppliers to develop their proposed solutions to its requirements before seeking formal tenders from them)
 - d) Competitive Negotiated (a limited number of suppliers are selected in the same way as the restricted procedure, then the contracting authority negotiates with those suppliers to select the winning bidder).
29. The regulation also allows for public authorities is to contract for the supply of services without conducting an OJEU competitive process. This is set out in Regulation 14(1)(a)(iii), which states that “when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the public contract may be awarded only to a particular economic operator”.
30. Where public bodies apply Regulation 14 (1)(a)(iii), it is incumbent upon the public authority to demonstrate that the test applies. This is often a judgement based on subjective evidence, and in order to test the assumptions made, the regulations allow for public bodies to publish a “Voluntary ex ante transparency notice”. This is a public notice advising of the intention to award a contract without prior publication of a contract notice in the Official Journal of the EU. On publication, all suppliers within the EU are given the opportunity to challenge the rationale for a limited period. The outcome of this exercise will either support the view of the public body or it will identify

other suppliers that have an interest in the supply.

CONCLUSION

31. In the opinion of both the Monitoring Officer and the Section 151 Officer, the decision was not a departure from approved policies or budget.
32. On considering this matter, the Scrutiny Board will need to decide if it wishes to accept the decision made by the Executive, in which case the decision can be implemented; or request that the Executive reconsiders the decision, giving reasons for such a request.

Appendices:

A: Call-in notice - setting out reasons for call-in,

B: Report to Executive 13 May 2013 – Improving Customer Satisfaction (reference [xps-130513-r02-lan](#))

C: Record of the Executive decision 2013/14-6

D: Corporate Strategy 2011-2017

E: Contract Procedure Rules

F: Letter of endorsement from UNISON

Enquiries:

For further information on this report please contact Garry White (Ext 4395).