

FAREHAM

BOROUGH COUNCIL

Minutes of the Scrutiny Board

(to be confirmed at the next meeting)

Date: Thursday, 30 May 2013

Venue: The Collingwood Room - Civic Offices, Fareham

PRESENT:

Councillor D C S Swanbrow (Chairman)

Councillor Mrs K Mandry (Vice-Chairman)

Councillors: Miss S M Bell, J V Bryant, Mrs M E Ellerton, J S Forrest,
N R Gregory, Miss T G Harper and P W Whittle, JP

Also Present: Councillor N J Walker, Chairman, Planning Committee.



1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. MINUTES

It was AGREED that the minutes of the meeting of the Scrutiny Board held on 21 March 2013 be confirmed and signed as a correct record.

3. CHAIRMAN'S ANNOUNCEMENTS

The Chairman made an announcement concerning the order of business for the meeting, indicating that the Question and Answer Session with representatives of the Environment Agency would take place before the call-in item and the related deputation as the item had been arranged for some time and as some of the Environment Agency representatives needed to leave before 7pm.

4. DECLARATIONS OF INTEREST AND DISCLOSURES OF ADVICE OR DIRECTIONS

There were no declarations of interest or disclosures of advice or directions made at this meeting.

5. QUESTION AND ANSWER SESSION WITH REPRESENTATIVES OF THE ENVIRONMENT AGENCY

The Board received a presentation from Colette Heggie, Environment, Planning and Engagement Manager, Sally Taviner, Sustainable Planning Team Leader and Jemma Colwell, Flood & Coastal Risk Management Advisor on the work of the Environment Agency. The presentation included details of the Environment Agency Role and Vision, the Solent and South Downs Area, the Agency's role in Planning and Development, Strategic Planning, Pre-Application and Applications, involvement in the development of Welborne, Managing flood risk in Fareham, with particular reference to Wallington and Useful Contacts. The presentation sought to give answers to members' questions arising from consideration of the scoping report at the meeting of the Board on 22 November 2012 (minute 7 refers). Following the presentation the Environment Agency representatives answered members' questions. Matters raised included responses to consultations on planning applications and flood risk management at the Welborne development, Wallington and Titchfield.

It was AGREED that:

- (a) Colette Heggie, Sally Taviner and Jemma Colwell be thanked for their presentation and for answering members' questions; and
- (b) it be noted that copies of the presentation and notes could be provided to members at the conclusion of the item.

6. DEPUTATIONS

The Board received a deputation from Mr S Cunningham in support of agenda item 6 - Call-in of Executive Decision 2013/14-6: Improving Customer Satisfaction and he was thanked accordingly (see minute 7 below).

7. CALL-IN OF EXECUTIVE DECISION 2013/14-6: IMPROVING CUSTOMER SATISFACTION

The Chairman confirmed that this item was to consider the Executive's decision made on 13 May 2013 to waive contract procedure rules and approve the appointment of Vanguard Consultancy to provide guidance, expertise and support in implementing fundamental change to the way the Council delivers its services to customers. The decision had not yet been implemented because it had been called-in by 3 non-Executive members, as per the Council's Constitutional arrangements.

The Chairman explained how consideration of the item would proceed.

The Scrutiny Board considered a report by the Director of Regulatory and Democratic Services and Monitoring Officer which outlined the reasons given for the call-in of the Executive Decision (copy of report sb-130530-r02-gwh circulated with agenda). The Director of Regulatory and Democratic Services presented the report which included a number of appendices to further assist the Scrutiny Board in its review of the decision.

At the invitation of the Chairman, Councillor P W Whittle, JP, the representative of the call-in, explained the reasons for the call-in as being that:

- 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 un-sound for use of public funds.
- iv. The funds are not available without forward commitment of future unapproved budgets.

At the invitation of the Chairman, the Executive Leader Councillor S D T Woodward joined the meeting and was called upon to advise the Scrutiny Board of the rationale of the Executive decision and what was taken into account in making it.

The Executive Leader explained that the requirements of the Council were to identify a solution to further improve customer satisfaction for the services it provides because although many Council services are currently rated positively by customers, there is evidence to suggest that systems are currently designed in a way to best meet organisational needs, rather than the

needs of customers. As a result, it is clear that customers do not always receive a proactive, responsive, easily accessible and positive service.

The Executive Leader stated that using a partner to act as a mentor would ensure that the Council could deliver continuous improvement for the long term, by fundamentally altering the culture and management approach within the organisation. He confirmed that although the Council does not presently have the depth of knowledge and therefore needs external support in the first instance, it is an organisation committed to developing and retaining the skills so as to limit the dependency on external consultancy support.

The Executive Leader advised the Scrutiny Board that following soft market testing work, Vanguard appeared to be the only consultancy that offered a bespoke service/product which meets the Council's requirements, and demonstrated a strong understanding of the organisational needs and the needs of each individual service within it, through its track record with other local authorities. On closer inspection, the Vanguard Method contains vital differences that make it unique in helping organisations change from command and control to a systems approach to the design and management of work, putting the customer first, which is the approach that the Council wants to take.

The Executive Leader explained that, on the basis that the methodology is genuinely proprietary to Vanguard, there is a sound argument that running a tender for the service would be difficult, because it would involve the Council seeking a service from suppliers which was Vanguard's own intellectual property. This would fall under the "protection of exclusive rights" procurement regulations.

The Executive Leader stated that European Union Regulations require contracting authorities to adhere to the overriding EU principles of transparency and equal, non-discriminatory treatment of suppliers. He advised that the regulations also allow for public authorities to contract for the supply of services without conducting an OJEU (Official Journal of the European Union) 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".

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 within 10 days of publication. 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.

The Executive Leader confirmed that it was always intended that Fareham Borough Council would publish a Voluntary ex ante transparency notice after the call-in period had expired. He confirmed that this process was now

delayed due to the call-in notice, but could recommence, dependent on the decision of the Scrutiny Board.

The Executive Leader confirmed that whilst the budget had been set, the rationale is not necessarily to spend the entire available budget but to review the progress of the new techniques as the work continues.

The Executive Leader then answered questions put to him by members of the Scrutiny Board. At the request of the Chairman, questions were asked on each of the four reasons for the call-in in turn.

The Chief Executive Officer also answered questions for clarification put to him by the members of the Scrutiny Board.

The Executive Leader was thanked for his answers and was advised that he was no longer required at the meeting.

Members of the Scrutiny Board considered each of the call-in reasons in turn and debated whether or not they had been fully answered.

The Chairman confirmed that, having considered all the reasons given for the call-in, the Scrutiny Board now had to consider its options as set out in the report, that being either:

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

A motion was proposed and seconded to request that the Executive reconsider its decision on the grounds that the reasons for the new approach had not been adequately proven.

Upon being put to the vote, the motion was declared NOT CARRIED (3 members voting for and 6 against).

A motion was then proposed and seconded to accept the decision made by the Executive and to allow the decision to be implemented which, when being put to the vote, was declared CARRIED (6 members voting for and 3 against).

It was AGREED that the Scrutiny Board accept the decision made by the Executive and allow the decision to be implemented to waive contract procedure rules and approve 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.

8. SCRUTINY BOARD WORK PROGRAMME 2013/14

The Board considered a report by the Director of Finance and Resources on the Board's work programme for 2013/14.

It was AGREED that:-

- (a) the programme of items as set out in Appendix A to the report be noted;
and
- (b) the progress on actions since the last meeting, as set out in Appendix B to the report, be noted.

9. EXECUTIVE BUSINESS

The Chairman invited members to indicate if they wished to consider any other item of business dealt with by the Executive since the last meeting of the Board. There were no other items of Executive business considered.

(The meeting started at 6.00 pm
and ended at 9.39 pm).