

**Democratic Services**

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Date: 6 March 2015  
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**To: All Members of the Resources Policy Development and Scrutiny Panel**

Councillor John Bull  
Councillor Roger Symonds  
Councillor Colin Barrett  
Councillor Paul Myers  
Councillor Charles Gerrish  
Councillor Barry Macrae  
Councillor Nigel Roberts

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Resources Policy Development and Scrutiny Panel: Monday, 16th March, 2015**

You are invited to attend a meeting of the **Resources Policy Development and Scrutiny Panel**, to be held on **Monday, 16th March, 2015** at **5.30 pm** in the **Community Space, Keynsham - Market Walk, Keynsham**.

**A number of items on the Agenda refer to presentations to be made at the meeting. Copies of these will be forwarded to Members early next week.**

The agenda is set out overleaf.

Yours sincerely



Michaela Gay  
for Chief Executive

**If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.**

*This Agenda and all accompanying reports are printed on recycled paper*

## NOTES:

- 1. Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact Michaela Gay who is available by telephoning Bath 01225 394411 or by calling at the Guildhall Bath (during normal office hours).
- 2. Public Speaking at Meetings:** The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. Advance notice is required not less than two full working days before the meeting (this means that for meetings held on Wednesdays notice must be received in Democratic Services by 4.30pm the previous Friday)

The public may also ask a question to which a written answer will be given. Questions must be submitted in writing to Democratic Services at least two full working days in advance of the meeting (this means that for meetings held on Wednesdays, notice must be received in Democratic Services by 4.30pm the previous Friday). If an answer cannot be prepared in time for the meeting it will be sent out within five days afterwards. Further details of the scheme can be obtained by contacting Michaela Gay as above.

- 3. Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting Michaela Gay as above.

Appendices to reports are available for inspection as follows:-

**Public Access points** - Reception: Civic Centre - Keynsham, Guildhall - Bath, The Hollies - Midsomer Norton. Bath Central and Midsomer Norton public libraries.

**For Councillors and Officers** papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

- 4. Recording at Meetings:-**

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control.

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- 5. Attendance Register:** Members should sign the Register which will be circulated at the meeting.

6. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.

**7. Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

**Resources Policy Development and Scrutiny Panel - Monday, 16th March, 2015  
at 5.30pm in the Community Space, Keynsham - Market Walk, Keynsham**

**A G E N D A**

1. WELCOME AND INTRODUCTIONS

2. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 6

3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* **an other interest**,  
(as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

6. ITEMS FROM THE PUBLIC OR COUNCILLORS - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS RELATING TO THE BUSINESS OF THIS MEETING

At the time of publication no notifications had been received

7. MINUTES: 9TH FEBRUARY 2015 (Pages 7 - 10)

To approve as a correct record the Minutes of the previous meeting held on Monday 9th February 2015

8. OFFICE SPACE ALLOCATION - CHANGING THE WAY WE WORK - UPDATE

There will be a presentation at the meeting updating the Panel on Office Space Allocation – Changing the Way We Work

9. WELFARE REFORM - UPDATE

There will be a presentation at the meeting updating the Panel on Welfare Reform

10. PERFORMANCE MANAGEMENT UPDATE

There will be a presentation at the meeting updating the Panel on Performance Management

11. IMPACT OF TASK AND FINISH GROUPS - RESOURCES PDS PANEL (Pages 11 - 32)

To consider reports relating to (A) Use of Consultants and Agency Staff; and (B) Community Asset Transfer

12. CABINET MEMBER UPDATE

The Cabinet Member will update the Panel on any relevant issues. The Panel Members may ask questions.

13. PANEL WORKPLAN

To discuss any items for future consideration by the Panel

The Committee Administrator for this meeting is Michaela Gay who can be contacted on 01225 - 394411

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**BATH AND NORTH EAST SOMERSET**

**RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL**

Monday, 9th February, 2015

**Present:-** Councillors John Bull (Chair), Roger Symonds (Vice-Chair), Colin Barrett, Paul Myers, Charles Gerrish, Barry Macrae and Nigel Roberts

**Also in attendance:** Councillors Paul Crossley and Eleanor Jackson

**56 WELCOME AND INTRODUCTIONS**

The Chairman welcomed everyone to the meeting.

**57 EMERGENCY EVACUATION PROCEDURE**

The Chairman drew attention to the emergency evacuation procedure.

**58 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**59 DECLARATIONS OF INTEREST**

There were none.

**60 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN**

There was none.

**61 ITEMS FROM THE PUBLIC OR COUNCILLORS - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS RELATING TO THE BUSINESS OF THIS MEETING**

A member of the public, Mr Jonathan Rich, made a statement to the Panel on the subject of the A367 and Bath Road in Peasedown St John. A copy of this statement is amended to these minutes.

*(Note: see RESOLUTION for minute 63 'Budget and Council Tax 2015/16 and Medium Term Financial Outlook' which captures members response to this issue)*

**62 MINUTES - 10TH NOVEMBER 2014**

The Panel confirmed the minutes of the previous meeting as a true record and they were duly signed by the Chairman.

## **63 BUDGET & COUNCIL TAX 2015/16 AND MEDIUM TERM FINANCIAL OUTLOOK**

Tim Richens, Divisional Director Business Support, introduced the report.

Panel members considered the comments from the Policy Development and Scrutiny Panels made in the November meetings on the medium term plans.

The Leader of the Council, Councillor Paul Crossley (in place of Councillor David Bellotti, Cabinet Member for Community Resources) introduced the budget.

Panel members asked the following questions and made the following points:

Councillor Macrae asked some questions about the PDS comments, Andrew Pate – Strategic Director for Resources, explained that no recommendations had come forward from these meetings to suggest a change in the budget and that the Cabinet member had taken these comments into account when setting the budget. He added that there are no outstanding issues arising from these comments. Councillor Macrae stated that he did not feel the comments useful in his consideration of the budget. There was some discussion around the rise in cost of entry to the Roman Baths, Councillor Gerrish suggested that this did not sit well with the surplus in Heritage Services.

Councillor Jackson (Chair of Housing and Major Projects PDS Panel) reported that her Panel had not made any formal recommendations but asked that the Panel's comments on the waterways and parking in the context of regeneration be noted.

Regarding the budget papers presented by the Council Leader, Councillor Macrae asked about 'deprivation of liberty safeguards'. Jane Shayler (Divisional Director Adult Care, Health and Housing Strategy and Commissioning) explained that this meant keeping an individual in a place of safety against their will. She explained that a recent judgement had affected how the legislation is applied and the Council now has responsibility to undertake 'best interest assessments'. She reported that costs have doubled as a result of the judgement and assured the Panel that arrangements are in place. Councillor Macrae asked about the costs resulting from the Care Act and Welfare Support Team – he asked if officers were not aware of these things coming up half way through the year and expressed concerns that attempts to be prudent are overridden by these examples. Councillor Bull pointed to Appendix 2 which sets out how the shortfall is being made up. Tim Richens talked through Appendix 2. Councillor Crossley explained that the Care Act came into place in 2014 when budgets had been set and staff had done very well to cope.

Councillor Gerrish asked a number of factual questions on the budget papers which were addressed by officers. He raised the following points which Louise Fradd (Strategic Director – Place) said that she would follow up and report back on:

- Why is money being spent on a highways scheme in Sally in the Woods when similar work was carried out there recently (Appendix 1, Annex 3 – Highways Maintenance Programme);



- Ashton Way Car Park (page 74) - why are we paying for resurfacing work when contractors could also contribute.

Councillor John Bull stated that he welcomed the inclusion of an equivalent living wage in the budget. He also asked about the progress of the Governor's enhanced version (page 37) of the plan for Paulton Junior School. Tim Richens stated that he would find out and get back to Councillor Bull.

Councillor Macrae asked about the nature of the 'Equalities Work' in Kingsmead Square (page 74). David Trethewey (Divisional Director Strategy and Performance) explained that this would be work to make facilities more accessible or disabled parking spaces and was carried out by the Property Services so he could not give full details. Paul Crossley explained that 'Equalities Work' covers a variety of works and he would seek to get more details on this. He explained that this information used to be presented as a global figure and that there is more transparency in the figures now. Councillor Macrae indicated that this was a positive move. Councillor Colin Barrett was advised to speak to a property officer regarding the proposed work in Weston (page 74)

Councillor Macrae referred to pages 67/68 'Highways Maintenance Programme' and stated that he felt the work carried out in the City compared to Midsomer Norton was not balanced. The Chairman advised him that the schemes are decided on criteria in the Highways Department and that he is free to propose amendments to the budget. Councillor Gerrish stated that Highways decisions are clearer now.

Councillor Gerrish referred to page 92 'Further Potential Community Asset Transfers' and asked that the 'Paddock' in Keynsham be added. It was agreed that he would speak to the Strategic Director before this could be added to the list.

Councillor Macrae asked if cycle schemes and 20mph limits are the Cabinet's priority. Councillor Crossley answered that his administration is convinced that slower traffic promotes safety.

The Chairman thanked all those present for their contributions and informed the Panel that he would take their comments to the Cabinet meeting on Wednesday 11<sup>th</sup> February.

The Panel **RESOLVED** to:

1. Note the comments from the Policy Development and Scrutiny Panels from their consideration of the medium term plans at the November meetings; *(Councillor Macrae stated that he did not feel the PDS comments paper was useful in his consideration of the budget)*
2. Note comments from the Leader of the Council, Councillor Crossley (in place of Councillor David Bellotti, Cabinet Member for Community Resources);
3. Highlight the following issues for the Cabinet to give further consideration to:

- Ask the Cabinet to look at working up a scheme to improve the safety of the junction of the A367 and Bath Road at Peasedown St John using 106 monies  
*(Voting: 5 members for, 0 against and 1 abstention)*

**64 CABINET MEMBER UPDATE**

There was no Cabinet Member Update.

**65 PANEL WORKPLAN**

Panel members noted the Future Workplan.

The meeting ended at 7.10pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

<b>Bath &amp; North East Somerset Council</b>	
	<b>Resources Policy Development &amp; Scrutiny Panel</b>
<b>MEETING DATE:</b>	<b>16<sup>th</sup> March 2015</b>
<b>TITLE:</b>	<b>Impact and progress made on the use of Consultants and agency staff within B&amp;NES</b>
<b>WARD:</b>	All
<b>AN OPEN PUBLIC ITEM</b>	
<b>List of attachments to this report:</b>	
1. A review of the Councils use of consultants 2012 ( Historical report)	

## **1 THE ISSUE**

The Resources Panel have requested an update at the Panel meeting on the (16<sup>th</sup> March 2015) on the use of Consultants since the Panel undertook a task & finish group review on the use of consultants 2012 –( see appendix 1). The report is an update on the progress on these issues and also a measure of the impact the scrutiny process has made.

## **2 RECOMMENDATION**

The Panel is asked to consider the update report and make any further comments on current and future progress.

## **3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

No resource implications

## **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

All arrangements regarding the use of agency staff and consultants must comply with the Council's Contracts Standing Orders and the Public Contract Regulations 2015.

The use of agency workers is also governed by the Agency Worker Regulations 2010.

## **5 THE REPORT**

This report follows up the Resources Policy Development and Scrutiny Task and Finish Group (TFG) Report - "A Review of the Council's Use of Consultants" produced in 2012 and provides the Panel with further information about what progress has been made on these issues and what impact they have had on the Council.

The review was based on the National Audit Office (NAO) - "Central Government's Use of Consultants and Interims" (2010).

### **5.1 Some of the historical issues**

The report highlighted a number of issues where panel members felt the Council needed to strengthen its policies, processes and procedures. These included:-

- The need to strengthen transparency and accountability
- The need to revised Contract Standing Orders (CSO's) including the introduction of a proportionate risk assessment as part of planning an engagement process for the appointment of consultants identifying appropriate routes to market.
- Developing and rolling out processes to staff
- Sharing of successful good practice examples.
- The use of corporate contracts to reduce costs and ensure higher levels of control and transparency.
- Collaboration with other local authorities/public or use existing national or regional framework for specific skills sets that the Council does not possess nor has the capacity to deliver in-house.

### **5.2 How have things now changed**

The Council has strengthened the Council's Corporate Procurement Team. The Team has concentrated on ensuring that there are good governance processes in place to ensure transparency of the process. Since the TFG issued its report the Council has changed its Procurement Strategy by introducing the "Think Local" Strategy. This has been supported by staff training and increased engagement with suppliers. This does change the emphasis in provision in that it moves the Council away from traditional nationally or regionally based frameworks.

The arrangements around Comensura and NEPRO have taken the TFG report into account. They have been developed to help the Council meet its requirements around skill shortages, project work etc. as well as where required to source (locally where possible) experts to help the Council challenge service delivery. The Team has developed two key contracts to manage the provision of agency workers and consultancy services.

## **Comensura**

The Council has a neutral vendor arrangement for the appointment of agency workers. This provides one electronic portal for the appointment of agency workers from a wide variety of agencies. This can be a relatively high cost option due to market forces and agency on costs but allows for short term needs to be met. The Corporate Procurement Team receives regular reports on usage which are shared with our Human Resources colleagues and senior management. The Corporate Procurement Team has delivered an extensive training programme supported by Comensura to maximise the benefits of the arrangement.

Benefits include:-

- Clear governance arrangements
- Good management information
- Agency Worker Regulation compliance
- Terms and conditions in the favour of the Council
- Greater use of local agencies (Think Local)

The Corporate Procurement Team manage risk from off contract spend by reviewing any contracts with non Comensura agencies and where possible encouraging them to sign up with Comensura. There are still occasions where this occurs but they are becoming less frequent.

## **NEPRO**

NEPRO is a Specialist Professional Services framework that simplifies the arrangement for the appointment of professionals with a wide range of skills. It is mainly used for specific projects (Project Management, QS work, Planning Advice, Specialist Financial Evaluation) rather than traditional management consultancy.

Clear guidance notes on the use of NEPRO have been provided to managers supported by comprehensive training on the use of the framework.

Benefits include:-

- It encourages output based specifications (i.e. fixed cost) with the supplier taking an element of risk regarding delivery of the work.
- The system is now fully online and has governance built in.
- It is “Think Local” and SME friendly

## **Other Contractual Arrangements**

Outside of the arrangements highlighted above the Corporate Procurement Team encourages services to use the best routes to market, in line with Council’s Procurement & Commissioning Framework, and tools such as the Council’s E Procurement System (Pro-Contract) and specialist spend analysis tools.

### 5.3 What impact have these changes had on the Council?

The TFG report has helped the Council to focus attention on ensuring there has been improved transparency and governance around the appointment of agency staff and the use of consultants. The Corporate Procurement Team is currently reviewing the impact of the changes in more detail.

### 5.4 Moving forward (Future plans and potential impact)

Contract Standing Orders have not been revised since the publication of the Working Groups Report. They are currently being updated in the light of the Public Contract Regulations 2015. Following consultation with the Corporate Audit Committee it is expected that revised CSO's will be adopted by the Council in July 2015. The Working Groups recommendations will be considered as part of the review.

## 6 EQUALITIES

6.1 An EqIA has not been completed as the report relates primarily to factual Information / past events.

## 7. CONSULTATION

7.1 None, as the report is a statement of facts.

## 8. RISK MANAGEMENT

No risk assessment has been undertaken as it is not applicable.

## 9 ADVICE SOUGHT

9.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the Opportunity to input to this report and have cleared it for publication.

<b>Contact person</b>	<i>Richard Howroyd – Corporate Procurement Manager 01225 477334</i>
<b>Background papers</b>	<i>Donna Vercoe Lead Policy Development &amp; Scrutiny Officer 01225 396053</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

**Bath and North East Somerset Council  
A Review of the Council's Use of Consultants**

**An Investigation by the Resources Policy Development and Scrutiny Panel**

**Councillor Working Group**

**Review Panel Members**

**Councillor John Bull (Chair)**  
**Councillor Colin Barrett**  
**Councillor Dave Laming**  
**Councillor Nigel Roberts**

**Supporting Officers:**

**Lauren Rushen (Policy Development and Scrutiny)**

**For more information about the report please contact the Policy Development and Scrutiny Team:**

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## Recommendations

### Recommendations to the Resources Policy Development and Scrutiny Panel:

1. To strengthen transparency and accountability the working group recommend that individual Service Action Plans which are presented to the Resources Panel for scrutiny as part of the budget process in January of each year, should detail the existing and proposed service needs for consultants within the workforce planning section of these plans.
2. The working group recommend that the Panel is briefed on the results from the latest staff satisfaction survey and how this compares to the previous years to their list of potential future items on their workplan.

### Recommendations to the Council's Corporate Audit Committee:

3. As part of considering the revised CSOs (Contract Standing Orders), we recommend that the Corporate Audit Committee considers the introduction of a proportionate risk assessment as part of planning an engagement process for recruiting a consultant.

### Recommendations to the Cabinet (lead Member: Community Resources):

4. When the revised CSOs have been agreed by full Council, the role out of the supporting documentation should:
  - a. Incorporate an outline of the 'procurement toolkit' as part of any new third tier and above management induction pack or online induction course.
  - b. Include training for staff involved in the commissioning/procurement process to ensure that staff feel confident using the new CSO and can demonstrate that there is transparency in the procurement of consultants.

5. The Cabinet should encourage:

- a. Sharing of successful good practice examples (e.g. shared contracts, joint working with other local authorities and up-skilling internal employees) between senior officers e.g. Divisional Directors group, to ensure good communication between departments and to promote cross-service and partner working.
- b. The use of corporate contracts for specific skills requirements to reduce costs and ensure higher levels of control and transparency.
- c. An increase in collaboration with other local authorities/public bodies to establish joint contracts or use existing national or regional framework contracts for specific skills sets that the Council does not possess nor has the capacity to deliver in-house.

## **Introduction**

At their Panel meeting on the 1<sup>st</sup> August 2011, the Resources Policy Development and Scrutiny Panel agreed to set up a small working group to investigate the ways in which consultants have been used by Bath & North East Somerset Council.

The working group had an initial meeting to scope the project and decided that as well as investigating how the local authority was using consultants, they would also look at how we seek to attain good value for money.

## **Aims and Objectives**

**Aim:** The overall aim of this investigation is to find out whether the Council's use of consultants is providing value for money.

### **Objectives:**

- 1) Conduct desk research to find other examples of reports on the use of consultants in the public sector
- 2) Examine financial figures provided by the Divisional Director of Finance on the use of consultants across the Council
- 3) Compile three case studies based on interviews with divisional directors on their use of consultants. The group would also investigate the possibility of interviewing consultants on their experiences of working for Council.

## **Methodology**

### Phase One:

Initially the working group undertook a brief desk research exercise and identified a report by the National Audit Office (NAO) entitled "*Central Government's Use of Consultants and Interims*" (2010). The report examined the spending of 17 central government departments and compared them against best practice for the recruitment of consultants and interims. The key findings/recommendations from the report were:

- Management of information about consultants was poor. Few departments could identify the role or number of consultants they employed, the length contracts or the classification of spending (NAO, 2010:5)
- Departments were not smart customers i.e. there was often no clearly defined specification for consultancy use; departments were not clear how the use of consultants were contributing to achieving their overall aims and objectives; inadequate training was provided to staff responsible for supervising/recruiting consultants, consultants were not held to account during monitoring of their contracts (NAO, 2010:6)
- More involvement from staff outside of procurement teams was required if services were going to make difficult changes that deliver better value for money (NAO, 2010:7)
- There was an overreliance on consultants rather than seeking to fill skill gaps with internal staff (ibid)
- Departments should be collating and sharing information about consultancy use (ibid)

The group were also provided with a set of financial figures from the Divisional Director of Finance which detailed spending across all Council departments on consultants for the years 2009/2010 and 2010/2011.

Based on the NAO report and analysis of the financial figures, the group developed a set of potential interview questions and identified three directorates within the Council which had a consistently employed the use of consultants.

The group then discussed these potential questions and the financial figures with the Council's Divisional Director of Finance. This meeting helped the group to gain a greater understanding of the financial figures and refine the questions they planned to ask directors.

#### Phase Two:

The second phase of the research process was to undertake interviews with three Divisional Directors. These were conducted during September-November 2011. Each interview lasted for approximately an hour and was based on a core set of questions identified by the Panel. All interviews were conducted with at least two members of the working group and an officer from the Policy Development and Scrutiny team attended to take notes.

In addition to speaking to Divisional Directors, the working group also met with Jeff Wring (Head of Audit, Risk and Information) and Eddie Hale (Corporate Procurement Manager) to discuss what support they provide to departments looking to recruit a consultant, refresh a framework contract and what research has been undertaken with other Councils to ensure value for money.

#### Phase Three:

Finally, the working group met to discuss what the key findings from the interviews and their research in the form of a SWOT (Strengths/Weaknesses/Opportunities/Threats) analysis. This was followed up with a recommendations workshop to discuss the draft report and recommendations.

## **Findings**

### *Spending on consultants:*

The working group discovered that over the past three years, spending on consultants has remained relatively static with spend in 2008/09 at £1.762mn, 2009/10 £1.957mn and in 2010/11 £1.918mn.

*Panel Recommendation: To strengthen transparency and accountability the working group recommend that individual Service Action Plans which are presented to the Resources Panel for scrutiny as part of the budget process in January of each year, should detail the existing and proposed service needs for consultants within the workforce planning section of these plans.*

#### *Procurement Toolkit:*

The Council's Contract Standing Orders (CSO) set out the procedural framework for procurement activity and also form part of the Council's Policy and Budget Framework. To support the CSO, there is a comprehensive procurement toolkit which sets out a pack of guidance to support the formal rules and procedures. This toolkit includes a section on the 'Engagement and the Use of Consultants' and if used correctly should ensure the Council is seeking good value for money from consultancy use. This section of the document covers the following areas:

- Defining what a 'consultant' is and why/when they should be used
- Planning an engagement process for recruiting a consultant
- Monitoring and reporting arrangements

The working group were impressed with the guidance document but noted that it was not easy to locate on the Council's intranet and were therefore concerned that there could be a lack of awareness of the guidelines within the Council. If used correctly there should be clear audit trails for all consultancy use but Councillors were concerned that not all tiers of management were aware or/using the 'Procurement Toolkit'.

The working group learnt that the Contract Standing Orders and Procurement toolkit will be refreshed and revised during the coming year as part of a larger project to improve Strategic Commissioning. They will then be subject to formal scrutiny through the Corporate Audit Committee before being taken to Full Council for final approval.

The working group felt that whilst the toolkit contained pertinent information about consultancy use, this could be presented in a more user-friendly way for Officers using the toolkit, such as having more robust templates or checklists for establishing the arrangements. The existing toolkit does contain different procurement thresholds for recruiting a consultant but the working group felt that part of this re-design should incorporate building in a wider risk assessment to the scoping and tendering process that did not rely on a price threshold alone.

The purpose of the risk assessments would therefore be to assist the officers in applying an appropriate and proportionate approach within the rules on the appropriate pathway to the market.

The working group also felt that when the revised CSO are agreed, there should be a clear communications and engagement plan to roll them out across the Council. This should include as a minimum training for staff involved in the commissioning/procurement process to ensure that staff have the confidence to negotiate good value for money and know how to effectively evaluate contracts in a transparent way.

Councillors also felt that the public would feel more assured about the Council engaging the use of consultants if they were aware of the comprehensive guidelines we have in place.

*Corporate Audit Committee Recommendation: As part of considering the revised Contract Standing Orders (CSOs), we recommend that the Corporate Audit Committee considers the introduction of a proportionate risk assessment as part planning an engagement process for recruiting a consultant.*

*Cabinet Recommendation: When the revised CSOs have been agreed by full Council, the role out of the supporting documentation should:*

- a. Incorporate an outline of the 'procurement toolkit' as part of any new third tier and above management induction pack or online induction course.*
- b. Include training for staff involved in the commissioning/procurement process to ensure that staff feel confident using the new CSO and can demonstrate that there is transparency in the procurement of consultants.*

*Reasons for using consultants:*

From the three interviews undertaken, Councillors identified four possible reasons for recruiting a consultant:

- 1) The department was under capacity and needed to recruit staff on a short-term/temporary basis to provide more capacity
- 2) To bring in specialisms that were not available in-house and/or not financially viable to employ full-time
- 3) To offer greater flexibility within the department's workforce to manage peaks and troughs of workflow
- 4) To demonstrate independence (NB: This last reason was not applicable to all Divisional Directors that were interviewed but it was apparent in some areas)

This corresponds with information given in the Council's procurement toolkit which suggests that at Divisional Director level, the guidance is being followed.

All three interviewees stated that they felt we had excellent in-house staff and tried to ensure any consultants they employed integrated with the department. One interviewee stated that if it were feasible, it would be worthwhile investigating whether the Council could set up an in-house register or database of employee's skills/qualifications which other services could look at when trying to fill a skills gap within their team. The working group did consider this and felt that whilst it is a good idea, actually establishing and maintaining the database would be too time and resource intensive.

Despite assurances, Councillors were concerned that with cutbacks across the public sector, employing consultants could be seen as a tempting stopgap and as such the working group felt it was important to maintain a consistent dialogue with permanent staff and to monitor staff satisfaction levels.

*Panel Recommendation: The working group recommend that the Panel is brief on the results from the latest staff satisfaction survey and how this compares to the previous years to their list of potential future items on their workplan.*

*Good Practice and Information Sharing:*

Overall, the working group were pleased to see that the issues identified in the National Audit Office report were not present in Bath & North East Somerset Council:

- Overall spend on consultants across the Council appears to relatively static
- The number of ex-employees returning as consultants has reduced and if this does occur it is as a result of a full procurement process
- All interviewees were using framework contracts
- All directors obtained both formal and informal references from any consultant they engaged with
- All directors had agreed objectives and specifications with consultants which they monitored on a regular basis
- At Divisional Director level there appeared to be a clear understanding of the procurement process for consultants and good working relationships with the Council's Procurement Team
- All of the Directors interviewed were in regular contact with counterparts in other local authorities to share good practice.
- The Council was working more collaboratively across the region and using national frameworks to reduce bureaucracy and maximise value.

Specific examples of good practice included:

Below are some of the examples of good practice that the working group discovered during their case study interviews with Divisional Directors.

Good practice: One interviewee stated that they had recently appointed a consultant who offered specialist project management skills. The consultant worked closely with two members of permanent staff, who were able to learn from the consultant and are now excellent project managers. As a result, there is no longer a skills gap in this area so this type of work can be completed in-house in future.

Good practice: The interviews highlighted that in certain areas, B&NES were working actively with other Councils/public bodies to share our expertise. The Council had recently set up an arrangement with Bristol City Council to increase collaboration over a number of different areas of spend and share resources and skills. This had already seen savings from its early work and had improved control and transparency with clear plans for the future.

Good practice: One interviewee stated that before considering using a consultant, they consider the skill set of their own department and also other departments within the Council and may seek to build project teams from different departments to complete projects

Good practice: All interviewees stated that they agree a set financial budget and objectives with consultants at the start of a project and then monitor the consultant's progress against these objectives and if these objectives were not achieved, they may consider using penalty payments.

Good practice: The interviews highlighted the significant work on-going through the Change Programme to create a 'Community-Led Commissioning' organisation and noted the detailed work required to align commissioning and procurement frameworks and incorporate them within the programme for up-skilling of officers. The panel would like to recommend that officers continue to ensure procurement and commissioning resources are aligned to maximise the skills and resources we have available.

The working group were pleased to find examples of good practice and would encourage these to be shared amongst senior officers across the Council.

*Cabinet Recommendation: The Cabinet should encourage:*

- a. Sharing of successful good practice examples (e.g. shared contracts, joint working with other local authorities and up-skilling internal employees) between senior officers e.g. Divisional Directors group, to ensure good communication between departments and to promote cross-service and partner working.*
- b. The use of corporate contracts for specific skills requirements to reduce costs and ensure higher levels of control and transparency.*
- c. An increase in collaboration with other local authorities/public bodies to establish joint contracts or use existing national or regional framework contracts for specific skills sets that the Council does not possess nor has the capacity to deliver in-house.*

## **Conclusion**

In conclusion the working group set out to discover how consultants were being used at Bath & North East Somerset Council and how we seek value for money from the consultants we used.

The working group found that spend on consultants had been relatively static over the past three years and through case studies, identified clear reasons for using consultants as well as a number of good practice examples.

The working group also learnt that whilst there is a Procurement Toolkit available for staff, this is current subject to revision as part of a review of the Council's Contract Standing Orders (CSOs). The working group support the review of CSOs and the desire to link this to training for officers involved in procurement.

This report will be discussed and finalised at the Resources Policy Development and Scrutiny Panel on the 26<sup>th</sup> March. Once the report has been agreed, the recommendations will be sent to the Corporate Audit Committee and the Cabinet, as identified on pages 3-4.

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## Bath & North East Somerset Council

MEETING/ DECISION MAKER:	<b>Policy Development &amp; Scrutiny Panel</b>	
MEETING	<b>16 March 2015</b>	
TITLE:	<b>SCRUTINY IMPACT REPORT - COMMUNITY ASSET TRANSFER TASK AND FINISH GROUP</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM SESSION</b>		
<b>List of attachments to this report: Appendix 1 - SCRUTINY IMPACT REPORT - COMMUNITY ASSET TRANSFER TASK AND FINISH GROUP</b>		

### **1 THE ISSUE**

- 1.1 The Resources Policy Development and Scrutiny Panel have requested an update on the review undertaken on Community Asset Transfer by the task and finish group.
- 1.2 The review made five recommendations. This report will identify the progress made in relation to these; or where it has proved necessary the alternative steps taken to facilitate the Community Asset Transfer process.
- 1.3 The report will also provide an explanation on the general approach to granting the Community Asset Transfers, together with an update on the specific transfers which have either been or are on their way to being implemented within Bath & North East Somerset.

### **2 RECOMMENDATION**

- 2.1 The Panel is requested to note the report attached in Appendix 1.

### **3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 3.1 The transfers involve disposals of property at less than market value. Each disposal is the subject of Cabinet Member approval.

### **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

4.1 None

## 5 THE REPORT

5.1 The report is set out within Appendix 1 of this report.

## 6 OTHER OPTIONS CONSIDERED

6.1 None

## 7 CONSULTATION

7.1 Monitoring Officer; s151 Officer.

## 8 RISK MANAGEMENT

8.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

<b>Contact person</b>	Andrew Pate – Strategic Director, Resources Ext 7300 Richard Long – Head of Property Ext 7075
<b>Background papers</b>	<i>None</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

## APPENDIX 1.

### RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL

#### SCRUTINY IMPACT REPORT

#### COMMUNITY ASSET TRANSFER TASK AND FINISH GROUP

March 2015

#### Introduction

The Resources Policy Development and Scrutiny Panel have requested an update on the review undertaken on Community Asset Transfer by the task and finish group.

The review made five recommendations. This report will identify the progress made in relation to these; or where it has proved necessary the alternative steps taken to facilitate the Community Asset Transfer process.

The report will also provide an explanation on the general approach to granting the Community Asset Transfers, together with an update on the specific transfers which have either been or are on their way to being implemented within Bath & North East Somerset.

#### A summary of the general approach to granting Community Asset Transfers

The first series of Community Asset Transfers were set out within the Medium Term Service & Resource Planning 2013/14 – 2015/16 and Budget and Council Tax 2013/14 report. This report identified the intended approach to be adopted for granting the asset transfers. As further transfers have been pursued these have been the subject of their own Member approval.

Under these transfers, which are generally for a term of 99 years although this may vary, the leases reserve a market rent which is abated to nil. This abatement is dependent upon the tenant satisfying the landlord that it uses the property only for appropriate purposes in line with its constitution and charitable aims and with the Council having an option for the return of the asset at nil consideration should this community use not continue.

The leases impose restrictions ensuring that the premises can only be used for the charitable purposes set out in the tenant's constitution.

Prior to the lease being granted, Council officers ensure that the tenant is a properly constituted body that is suitable and sufficient to take on the responsibility for managing a council property asset.

Each lease contains a provision that the tenant has a 6 month rolling break option throughout the term.

**Recommendation 1:** *Develop a Community Building Value Index which brings together the following three elements:*

- *Financial return on an asset*
- *Community benefit*
- *Measure of organisational sustainability*

#### Financial return on asset

## APPENDIX 1.

Whilst the development of a meaningful index has proved difficult every transfer involves consideration of the three components in recommendation 1 prior to the granting of a lease.

Under the *Local Government Act 1972 s123*, any disposal by the Council of an asset in excess of 7 years (including leasehold interests) must obtain “best consideration”, unless the General Disposal Consent can be applied or a specific consent is obtained.

The *Local Government Act 1972 : General Disposal Consent (England) 2003* allows specified circumstances where the consent can be applied:

a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;

- i) the promotion or improvement of economic well-being;
- ii) the promotion or improvement of social well-being;
- iii) the promotion or improvement of environmental well-being;

and

b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).

The Royal Institution of Chartered Surveyors has set out guidance specifically to deal with this issue and puts in place an audit trail so that any decision to dispose at less than market value is demonstrably robust. The guidance is attached in full at Appendix 2 and in summary requires:

- a valuation exercise which understands the maximum theoretical market value for the asset to be transferred.
- calculation of the reduced values that apply because of any restrictions that the Council applies relating to things such as use, alienation, clawback, etc.
- the value added to the Council through the outcomes of the transfer has been assessed to be not less than the difference between market value and the actual price to be paid.

### **Community Benefit**

An exercise is undertaken in consultation with colleagues in Strategy & Performance prior to entering into a lease to ensure the value added to the Council through the outcomes of the transfer is not less than the difference between market value and the actual price to be paid. Community benefit is challenging to value in pure financial terms alone and any assessment must therefore also heavily rely upon a significant element of subjectivity in respect of the benefits to be gained.

However, consideration is given to the community benefits that are expected to be achieved by the transfer of the relevant property assets. The basic assumption is that the transfer will enable an organisation to grow its capacity to deliver better services within the communities the Council serves.

Furthermore, in order to ensure that ongoing delivery of these outcomes is protected reviews are undertaken throughout the term of the lease to check that the constitutional aims and objectives of the organisations remain unchanged and that the outcomes being delivered by the group are similar to those at the beginning of the lease. In the event that any group is failing to deliver the outcomes originally envisaged then provision exists within the lease for a market rent to become payable.

### **Measure of organisational sustainability**

## APPENDIX 1.

Prior to any transfer the Council needs to be satisfied that any organisation is sufficiently robust in their constitution to take on the liability for a long lease of the nature proposed. This does not simply relate to financial stability but also involves ensuring that any group is fully equipped with the skills, abilities and resources to take on the responsibility of managing a Council property asset. Given the length of many of these transfers the membership and leadership of these organisations will change. Where it is possible to do so, consideration will also be given to any succession planning arrangements the group has in place.

**Recommendation 2:** *Encourage the use of flexible leases for community asset transfer projects rather than just long term leases for 25 years and over, these could be small leases of 3-6 months initially and once a project becomes established longer term leases of 6-10 years could be made available.*

### **Flexible leases.**

Whilst the general approach involves the granting of a 99 year term, it will be noted from the schedule below that a variety of different lease lengths have been adopted each suited to the particular circumstances of the transfer. The 99 year leases have mainly been granted at the tenant's request. It has been viewed that a term of such length provides an organisation with the certainty of occupation to embed their community services. However, provision is made in leases of this length that the tenant has a 6 month rolling break option throughout the term.

In certain circumstances, where it is beneficial for an organisation to take occupation before they are in a position to enter into a lease for a substantial term, consideration is given to the granting of a short term flexible tenancy. This may be to assist a group in establishing itself or commencing fund raising or addressing a particular community need that cannot wait until the negotiations for a long lease have been concluded. This arrangement is currently being considered in respect of Fairfield House.

**Recommendation 3:** *We suggest developing a committee/ working group which brings together key representatives e.g. Property Services, Policy and Partnerships, Health and Safety, Business Continuity, Parish/Town/Council Members to assess the feasibility of community asset proposals, similar to the way the existing Safety Advisory Group operates for events.*

### **Development of a working group**

Whilst a formal committee has not to date been created, there is now an established group of officers across the Council who work closely together on each of the transfers. This consultative group include representatives from Property & Project Delivery, Strategy & Performance, Finance, Legal Services.

The Group has also benefited from the close involvement of Cabinet Members including Cllr Crossley, Cllr Bellotti and Cllr Dixon who have all given their full support to facilitating these transfers.

**Recommendation 4:** *The existing Resources Policy Development and Scrutiny Panel could have a standing item on their agenda to consider:*

## APPENDIX 1.

- *Requests for asset transfer policy and individual cases (this would not be a decision making forum but provide the opportunity to offer advice/support to interested groups)*
- *Provide a reference point for all those buildings happily ticking over who either suddenly face a crisis or who want to initiate a development project and need advice.*

### **Community Asset Transfers as a Standing item**

It is understood that this recommendation was deferred.

**Recommendation 5:** *Facilitate community asset projects with the creation of a self-help group. This would allow 'successful' community asset projects and newly established projects to share information and develop best practice.*

#### **Creation of a self-help group**

Colleagues in Strategy & Performance have reported that The “Connecting Capacity” project (funded by the Council) has provided tailored, bespoke support to organisations considering and developing community asset transfer proposal. This has included governance, finance and related issues. For example, support has been given to Fairfield House and to WHISTY in developing their plans, and feedback from the organisations involved has been positive. Although no specific “self-help” group has been established this has led to the sharing of good practice, learning and experience across the various community asset transfer projects - eg in establishing the most appropriate forms of governance relevant to each proposal.

#### **Update on current Community Asset Transfers**

Please refer to the table below in Appendix 2, which provides an update on the status of the Community Asset Transfers currently being progressed.

Richard Long – Head of Property, Property & Project Delivery

Andrew Pate – Strategic Director, Resources.

**1 March 2015**

APPENDIX 1.

APPENDIX 2

Property	Proposal	Current Stage
Beacon Hall/Beacon Field, Peasedown St John	50 year lease of Beacon Hall and field to Peasedown St John Parish Council	Lease Completed
Chapel Arts Centre, St James Memorial Hall, Bath	Sale of freehold, subject to restricted covenants	Sale completed 6 August
97-101 Walcot St, Bath	99 year lease to Genesis with provision for total refurbishment of the premises.	All terms agreed for the new lease
MSN Town Hall and various plots plus Orchard Vale Com. Centre	99 year lease to MSN Town Council	Draft lease issued to the Town Council for agreement
Whisty Community Centre, Stoneable Road, Radstock	99 year lease to Whisty Community Association	Draft lease issued to the community association for agreement.
Alexandra Park Bowls Club, Bath	99 year lease to Alexandra Park Bowls Club	Draft lease issued to the Bowls Club for agreement.
Midsomer Norton Railway Station, Silver Street, Midsomer Norton	99 year lease to Somerset and Dorset Railway Heritage Trust.	Draft lease issued to the Trust
Land at Kelston Rd, Bath	99 year lease of the existing Scout camp and adjoining fields.	Draft lease issued to the Scouts for agreement.
Percy Community Centre, New King Street, Bath	99 year lease to Percy Community Association	Draft lease to be issued to the community association for agreement.
Batheaston Gardens car park and WC block	99 year lease to Parish Council	Draft lease to be issued to the Parish Council for agreement
Former Organ Works, Walcot Street	99 year lease to Bath Canoe Club	Draft lease to be issued to the Club for agreement. .
4 Abbey Street, Bath	16 year lease to 44AD, a newly established Community Interest Company.	44AD already in occupation under a short term licence. Draft lease to be issued to the Community Interest Company for agreement.
Timber Drying Shed, Spring Gardens Rd	16 year lease to River Regeneration Trust	Draft lease to be issued once of scheme of works finalised.
Fairfield House, Newbridge, Bath	Transfer to a newly established Community Interest Organisation, eventually on a 99/125 year lease of the building, but initially on a short-term 1-2 year lease.	Terms of transfer under negotiation
YMCA , Broad St, Bath	Transfer under consideration	External valuation has been commissioned.
Saltford Brassmill, The Shallows, Saltford	Transfer under consideration.	Consideration being given to the appropriate organisation to take the transfer
Cleveland Pools, Hampton Row, Bath	Long lease to Cleveland Pools Trust under consideration	Discussion ongoing with Trust

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