



Portsmouth CITY COUNCIL

Finance & Resources Scrutiny Panel

INQUIRY INTO PORTSMOUTH CITY COUNCILS USE OF CONSULTANTS

Date published: 4 February 2010

Under the terms of the Council's Constitution, reports prepared by a scrutiny panel should be considered formally by the Cabinet or the relevant Cabinet Member within a period of eight weeks, as required by Rule 11 (a) of the Scrutiny Procedure Rules

FINANCE & RESOURCES – USE OF CONSULTANTS REVIEW

Preface

The Finance & Resources Scrutiny Panel set out to gain a better understanding of the cost to Portsmouth City Council of engaging consultants to carry out work on behalf of the City Council.

The main aim of the review was to understand the complexities of engaging consultants and whether there were capacity or capability issues within the organisation, which led to the use of consultants. The panel wanted to test the robustness of the procurement process when engaging consultants and determine the level of engagement with elected members in this process.

The review commenced in May 2009 and heard from representatives from Legal Services, Audit & Performance, Democratic & Community Engagement, Asset Management, Traffic & Transportation, Housing and Corporate Communications. During this period the panel examined consultants costs for financial years 2006/07, 2007/8 and 2008/9 across four service areas.

I would like to convey, on behalf of the panel, my sincere thanks to all those who contributed to making this review a success.

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Councillor Mike Blake

Chairman, Finance & Resources Scrutiny Panel

Date: 4 February 2010

Purpose

The purpose of this report is to present the Cabinet with the recommendations of the Finance & Resources Scrutiny Panel following its review of, “*the City Councils use of Consultants*”.

Background

At a meeting on 8th May 2009 the Finance & Resources Scrutiny Panel agreed the following objectives for a scrutiny review of the “*City Councils use of Consultants*”.

1. To review and establish the reasons for incurring expenditure on Consultants.
2. To understand how the expenditure in 2008/09 has been financed and consider whether there is scope to make savings.
3. To review temporary employees who have been retained by the City Council for more than one year.
4. To formulate guidance as to when and how consultants should be employed and to set parameters for employing temporary staff.

The panel agreed to deal with these objectives in three clearly defined phases.

The review was allocated to the Finance & Resources Scrutiny Panel which comprised:

Councillors Luke Stubbs (Chairman)
Darron Phillips
Lee Hunt
Caroline Scott
Eleanor Scott
Alistair Thompson

Standing Deputies were Councillors Andy Fraser, Paula Riches and Simon Boshier.

Following the Appointments to Committees and Panels for 2009/10 municipal year, which was agreed and implemented at Full Council on 12th May 2009, the composition of the panel changed to comprise:

Councillors Mike Blake (Chairman)
Richard Jensen
David Stephen Butler
Paula Riches
Darron Phillips
Luke Stubbs

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Standing Deputies were Councillors Margaret Adair, Simon Boshier, Cheryl Buggy, Andy Fraser, Donna Jones and Lee Mason.

At the time of publication of this report, the Finance & Resources Scrutiny Panel had met formally on seven occasions between 8 May 2009 and 15 January 2010.

A list of the meetings held by the panel and details of the written evidence received are attached as Appendix One. The minutes of the Panel's meetings are published on the Council's website and copies of all non-exempt documentation reviewed by the panel are available from the Democratic & Community Engagement Service upon request.

The panel agreed to hear the evidence for this review in three distinct phases as shown below:

Phase 1 – 8 May till 24 July 2009

- (a) “what is meant by the term “Consultant” for the purposes of this review”**
- (b) “review the reasons for employing consultants”**
- (c) “consider the costs of consultants employed during 2008/09 and how the costs have been funded”**

Phase 2 – 2 October 2009

- (a) “review the number of instances where a temporary appointment has been made for a period which has exceeded one year.**
- (b) “review how those temporary contracts have been funded and whether there is scope to make savings by appointing on a permanent basis”**

Phase 3 – 30 October 2009 till 15 January 2010

- (a) “draft guidelines to be followed when consultants are employed and the role of Members in the process”**
- (b) “review the procurement of Consultants”**

The panel anticipated that the review would provide the evidence to make meaningful recommendations to suggest ways in which the costs of consultants could be reduced as a cost-saving measure. The panel sought to understand the extent of the apparently rising cost implications of employing external and internal consultants and whether the development of in-house staff could help to bridge some of the skills gaps that consultants currently fill.

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This premise that reducing consultant's costs would reduce departmental budgets does not appear to have been supported throughout the review. Conversely the evidence that has been presented to the panel has raised awareness amongst members of the occasions when it is essential to engage consultants on specific capital and revenue projects.

Early evidence received by the Panel demonstrated that the understanding and interpretation of what a "consultant" is can vary greatly as this is a generic term often used as a means of making payments to external providers. The panel felt it would be helpful to define the term, "consultant" for the purposes of this review in line with the definition used within Finance that; *"A consultant is usually an expert or a professional in a specific field who has a wide knowledge of the subject matter. A consultant usually works for a consultancy firm or is self-employed and engages with multiple and changing clients. Use of consultants enables the City Council to have access to deeper levels of expertise than would be feasible to retain in-house, and to purchase only as much service from the outside consultant as desired. Consultant costs include all externally purchased Intellectual services such as advice, reports and consultation"*.

Phase 1

The Cabinet Member for Resources offered the services of the Efficiencies Team to the panel to assist them in undertaking in-depth analysis of data.

The panel sought to understand the following;

- What are the reasons for engaging consultants?
- How frequent is this?
- How predictable is this?
- How avoidable is it?
- What is the effect of not engaging them?
- What is the impact of engaging them?
- How does the authority recoup the costs of consultants?
- What are the legal requirements for engaging consultants?

The panel also sought to determine what the differences were between "consultant" and "temporary staff"

- What are the differences?
- How do we differentiate in accounting terms?
- What is the true cost of employing consultants?
- How much of this cost can be offset?

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There are a variety of reasons why it is necessary to employ consultants and it is not always due to lack of suitably qualified staff. On occasions, there are issues of capacity within certain departments which means there is a pressing and urgent need for work to be carried out in a timely manner. As a result of this, a suitable alternative can often be to employ a consultant for a short period of time to alleviate the pressure within that department. This can also give departments the opportunity to carry out a needs analysis of their service to determine whether to recruit to vacant posts or use the opportunity to re-structure thereby providing a long term cost saving.

Examples of when consultants are engaged include when compiling certain funding bids, where a high level of expertise in that particular area is required if the bid is to have an increased chance of succeeding. The cost of consultants in these cases are from within cash limits, however, if the bid were unsuccessful, the money spent on consultant fees would have to be borne by the authority. There are other occasions when funding is received and needs to be spent within a short time frame otherwise it would be lost. On these occasions, consultants can be engaged to provide, amongst other things, specific project management skills and are often engaged after the funding has been approved. The cost of consultants engaged in capital projects is monitored from the outset by cabinet and included within the operational costs of the specific project. It is generally accepted that consultant's costs are an integral part of most capital projects.

It would not be cost-effective to retain in-house knowledge and experience in every area that the authority operates such as specialist contract lawyers or Engineering Project Managers for large capital projects such as Spinnaker Tower or Copnor Road Bridge. In these instances, it would appear to be more appropriate to engage consultants for the duration of the project as the likelihood of requiring that level of expertise on an ongoing basis is limited and therefore unlikely to provide value for money, if retained in-house.

Due to the volume and complexity of the information that had been received by the panel, it was agreed that they would examine the cost of consultants across four areas of the authority as it was deemed impractical to look at the entire organisation within the remit of this review. The four areas that were identified were:

1. Legal Services
2. Engineering (incorporating Asset Management and Transport & Street Management)
3. Community Engagement
4. Procurement Management and Local Strategic Partnership Work
Procurement

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The panel were keen to understand how the cost of consultants was recorded and accounted for. The information that was compiled to explain the cost of consultants for 2008/09 included:

- Name of the consultant
- Type of consultant
- Brief details of work carried out
- Total payments made in 2008/09 (excluding VAT)
- Whether expenditure was revenue or capital
- Whether expenditure was one-off or on-going
- How the expenditure was funded
- Whether the Portfolio holder was consulted before the consultant was employed
- Value of the work that could have been carried out in-house if resources had been available and whether this would have resulted in a saving
- Any other relevant information

Whilst the panel were grateful for the level of detailed information that was put before them, this reinforced the need to have this information supplied in a more easily digestible format.

Improvements in accounting principles regarding the way that consultants fees are coded have made it easier to extract meaningful cost data, which in turn helps to monitor costs and ensure that relevant expenditure is recovered. The overall cost for consultants during 2008/09 totalled £5,032,040 across capital and revenue projects.

Phase 2

The purpose of phase two of the review was to review the number of instances where a temporary appointment has been made for a period, which has exceeded one year and to review how these temporary contracts have been funded and whether there is scope to make savings on a permanent basis.

There are certain vacancies within the authority where it is problematic employing full time employees as the salary being offered is well below market rates which affects the recruitment and retention of suitable staff, such as various Quantity Surveyors, Planners and Lawyers.

Other reasons for engaging temporary contracts in excess of 12 months include, increasing capacity within services, short term planning of maintenance or capital

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programmes, providing interim cover, long-term sickness cover for key permanent staff, utilising temporary staff whilst undertaking staffing structure review.

In these instances the costs would be borne from departmental budgets as well as being within cash limits. The executive member for the service involved as well as the employment committee monitors these costs.

The panel heard that whilst there are potential savings in some instances by making temporary appointments permanent, conversely, they provide the organisation with a flexible approach to dealing with peaks and troughs in workloads.

The panel heard that in some cases, the individuals currently providing a service to the authority (who have been engaged in excess of 12 months) have been invited to apply for the position on a permanent basis but have declined, preferring their terms and conditions as a consultant.

Agency staff

It is important to specify the clear distinction between consultants and agency staff. Agency staff is often recruited directly through a high street employment consultancy or through the internal register. These engagements are often to specifically respond to the operational requirements of reduced manpower levels and can be for any duration upwards of one day. The use of agency staff enables the authority to maintain staffing levels where there is demand for services.

The in-house agency staff (which has been operating since 2007) employees are only paid for the hours they work although they are paid for sick leave and holidays. In-house agency staff has the ability to move around different departments building upon their knowledge and increasing their value to the organisation due to the flexibility they provide, especially as they are often trained in the use of Portsmouth City Council IT systems, which can be particularly beneficial in respect of accounting. Another benefit of in-house agency staff is that they are paid at the prevailing rate of pay for the role they are engaged in.

Across the entire authority, 41 external agency staff have been employed in excess of 12 months and 13 internal staff employed in excess of 12 months. Of the 41 external agency staff, 15 have been engaged in the Systems Thinking Intervention that is ongoing within Local Authority Housing and are funded through the Housing Revenue Account, whilst 4 of the appointments are covered as part of ongoing capital projects. The remaining 22 are funded through revenue expenditure. The 13 internal agency staff employed more than 12 months includes 5 posts that are funded through the Housing Revenue Account, 2 grant funded posts and 6 funded through revenue expenditure.

Budget Monitoring

It is right and proper that authority for spending of departmental budgets is delegated to Heads of Service within cash limits and that any deviation from this agreed process is properly monitored and reported on. There are monitoring processes in place which scrutinise how consultants are engaged and paid for which includes budget monitoring by service heads, employment committee, executive members and ultimately Full Council in the case of large scale projects.

Departmental budgets are monitored through quarterly reports to Cabinet, whilst Heads of Service monitor their budgets monthly and are empowered to exercise their delegated powers to commit spending routine expenditure in accordance with Financial Rules.

Phase 3

Procurement

The panel heard how the procurement process is utilised to engage consultants in accordance with Portsmouth City Council's Standing Orders, Financial Rules and European Legislation.

In order to improve the way that procurement is dealt with, a streamlined procurement process has been introduced which acts as a filtering system to ensure compliance with legislation and financial rules, thereby reducing the level of Standing Order Waiver requests.

An element of this involves the Procurement Gateway Process, which monitors all contracts over £50k. This is a six-stage process from the formation of a business case through to ensuring continuing value for money and potential justification to extend.

It is recognised that for major schemes, where insufficient resources are available internally, external consultants are procured through a competitive process. The main shortfall in available skills with these projects appears to be financial, legal and technical. There are standard procurement contracts in place in relation to Traffic & Transportation, which allows them to flexibly manage peaks in workload without the need to recruit additional staff.

The tendering process is based on suitability and evaluated on price, skills, experience of working on similar projects, references and volume of work required to be undertaken to complete task.

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Once this process has been completed, it is essential that close monitoring of costs be applied to ensure original estimates are maintained at agreed levels.

The panel heard that the role of elected members in the process of engaging consultants was minimal and due to the delegated responsibility of Heads of Service, portfolio holders were seldom approached prior to consultants being engaged for routine matters. It should be noted however that the Full Council when agreeing to undertake major capital schemes agrees substantial sums of consultant spending.

Competitive fixed price tendering (which has been used in the Somerstown Project) where the cost is known in advance eliminates the risk of additional costs for completing the work. Processes also currently exist to challenge what extra work is being done beyond the original brief of a project to eliminate cost creep. As a result of operating a retrospective payments system, the authority will not pay for work that is not done to the agreed standard.

Elected Members should note that they are often asked to authorise the overall level of expenditure which may be incurred on consultants for a particular project, for example the Somerstown Regeneration papers submitted to Council in December 2009, based on officers' internal assessment of the likely costs, and before quotations or estimates are obtained from consultants for particular pieces of work.

The estimate of costs for new Capital schemes has to be agreed by elected members and the funding streams have to be identified before the project can be approved. The project cannot go out to tender until this has been done

Conclusions

- Portsmouth City Council on occasions are legally bound to procure the services of external consultants, especially in certain child protection cases or when a conflict of interest exists such as the authority being the Corporate Parent
- Lack of specialist knowledge especially with large contracts such as Northern Quarter and Spinnaker Tower requires the engagement of specialist legal advice to protect the authorities financial and legal interests
- The in-house agency staff employees are only paid for the hours they work although they are paid for sick leave and holidays
- In-house agency staff have the ability to move around different departments building upon their knowledge and increasing their value to the organisation due to the flexibility they provide

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- Some consultants are employed in excess of 12 months on long term capital projects and the forecast costs of the scheme should have been accounted for this at the outset of the project
- Some consultants are employed in excess of 12 months due to difficulties in filling the vacancy due to uncompetitive salary compared with market rates
- Procurement processes that have been introduced have led to greater transparency in the procurement process and greater awareness of the need for compliance with relevant legislation whilst obtaining value for money
- Members on occasions request that external consultants are used
- Regardless of employing suitably qualified staff, lack of capacity within certain departments necessitates the engagement of consultants
- Interim cover is required for vacant senior posts
- Managers have delegated authority to incur routine expenditure within their cash limits as well as a process for seeking approval from the Portfolio holder before incurring any expenses
- There have been three requests to have Standing Order Waivers applied for consultant services to be bought in over the past year
- The total cost of consultants fees has increased year on year from £4,030,680 in 2006/07 to £5,032,040 in 2008/09
- The cost of some consultants can be offset or recharged to other agencies or projects
- Reducing the annual spend on consultants would not necessarily reduce departmental budgets, conversely, it could have a negative effect on investment opportunities within the city
- The in-house graphic design team are self funding and represent savings in real terms to services as they charge on average about 50% less than external agencies
- The quality and standard of the design work for the world cup bid has led to new graphic design business
- The graphic design team carry out work for external agencies such as the local NHS Primary Care Trust and Police
- The outline business case is being compiled to determine the affordability of the Somerstown Regeneration Project
- There is a break clause in force within the contract with the Homes & Communities Agency and our consultants which allows Portsmouth City Council to withdraw from the Somerstown project at the affordability stage

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Recommendations

Recommendation	Action By	Deadline	Resource implications
1. Compile draft guidelines for employing consultants, to include the rationale for engaging consultants.	Heads of Procurement and Audit & Performance	September 2010	N/A
2. Consider developing a Corporate Policy for the use of consultants, where this would add value to the process and provide efficiency savings and value for money for the authority.	Head of Audit & Performance	December 2010	N/A
3. Cabinet Members to monitor better use of consultants costs by receiving quarterly reports on the costs and an explanation of any unexpected increase	Head of Financial Services	End of first quarter of financial year 2010/11	N/A
4. Compilation of a crib sheet to be included within Financial Rules, which would set out the reason or business case for engaging consultants? (ensuring scope is clear to reduce likelihood of rising costs)	Head of Financial Services	September 2010	N/A
5. Six monthly monitoring report to the Employment Committee, possibly using the same format for engaging consultants	Head of Financial Services	End of 2 nd quarter of financial year 2010/11	N/A
6. Introduce a mandatory policy for all	Corporate	June 2010	N/A

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departments to seek the advice and guidance of the in-house graphic design prior to commissioning any graphic design work.	communications manager		
7 The corporate communications manager could provide a waiver to this policy where appropriate, however services would need to work with corporate communications to achieve the best value for money option available.	Corporate communications manager	June 2010	Projected savings to be determined on a case by case basis
8. Any service, with corporate communication manager approval, requiring the engagement of external design consultants to go through corporate communications who will work with the service to achieve value for money and adhere to corporate standards	Corporate communications manager	Ongoing	N/A
9. That the in-house graphic design team continue to charge for the work they do in order to self fund their function.	Head of customer, community & democratic services	Ongoing	Self-funding service
10. That a Somerstown Regeneration Board be set up to oversee and monitor the costs incurred during this project and provide Finance &	Strategic Director and Section 151 Officer	June 2010	N/A

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<p>Resources Scrutiny with regular reports on the cost of this project. This board to be comparable in the way they oversee the project to the board which has been set up to monitor the Building Schools for the Future Project.</p>			
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APPENDIX ONE

Meetings held by the Panel

DATE	WITNESSES
8 May 2009	Valerie Lane – Head of Financial Services Jon Bell – Head of Audit & Performance
29 May 2009	Roger Ching – Strategic Director and Section 151 Officer Valerie Lane – Head of Financial Services
19 June 2009	Roger Ching – Strategic Director and Section 151 Officer Valerie Lane – Head of Financial Services Jon Bell – Head of Audit & Performance Suki Binjal – Head of Legal Services Ian Clark – Team Leader Prosecution and Enforcement Team, Legal Services
24 July 2009	Roger Ching – Strategic Director and Section 151 Officer Michael Lawther – Strategic Director and City Solicitor Jon Bell – Head of Audit & Performance Charles Stunnel – Interim Head of Transport & Street Management John Bean – Head of Maintenance, Asset Management Service Mandy Lindley – Partnerships Manager (Voluntary Sector)
2 October 2009	Roger Ching – Strategic Director and Section 151 Officer Valerie Lane – Head of Financial Services Sue Page – Finance Manager Jon Bell – Head of Audit & Performance Simon Moon – Head of Transport & Street Management

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	Mike Arthur – Interim Head of Asset Management
30 October 2009	Councillor Hugh Mason - Cabinet Member for Resources David Pointon – Head of Procurement Roger Ching – Strategic Director and Section 151 Officer Valerie Lane – Head of Financial Services Jon Bell – Head of Audit & Performance
15 January 2010	Debbie Button – Corporate Communications Manager Launce Morgan – Housing Development Manager Louise Wilders – Head of Customer First Valerie Lane – Head of Financial Services Jon Bell – Head of Audit & Performance David Pointon – Head of Procurement

Documents received by the Panel

1. Use of Consultants (27 March 2009)
2. The Scrutiny Review Project Brief, *“Review into use of Consultants Report”*
3. Use of Consultants (29 May 2009)
4. Analysis of Consultants costs for 2006/07, 2007/08 and 2008/09
5. Use of Consultants in Legal Services (***exempt report in accordance with paragraph 11 of Part 12A to the Local Government Act 1972***)
6. Consultants Fees for Community Engagement and Project Management in connection with the Local Strategic Partnership (LSP)
7. Engineering Consultants Fees
8. Engineering Consultants Fees 2006-2009 – Transport & Street Management
9. Use of Consultants – Phase 2 Temporary Appointments for more than 12 months

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10. Engineering Consultants Fees 2006-2009 – Asset Management Service
11. Queries from Scrutiny Panel for 2 October meeting
12. Use of Consultants – Procurement Service
13. Standing Orders in Procurement
14. In-house graphic design team presentation
15. Procurement of Consultants, Somerstown Regeneration
16. Exempt Appendix, Somerstown Regeneration consultants projected costs