

# OVERVIEW AND SCRUTINY COMMITTEE MINUTES

## 15 MARCH 2011

**Chairman:** \* Councillor Jerry Miles

**Councillors:**

* Sue Anderson	* Paul Osborn
* Kam Chana	* Bill Phillips
* Ann Gate	* Sachin Shah
* Barry Macleod-Cullinane	* Stephen Wright

**Voting Co-opted:** (Voluntary Aided) (Parent Governors)

† Mrs J Rammelt  
Reverend P Reece

**In attendance:** Thaya Idaikkadar Minute 108  
(Councillors) Mrs Rekha Shah

\* Denotes Member present  
† Denotes apologies received

### 103. Attendance by Reserve Members

**RESOLVED:** To note that there were no Reserve Members in attendance at this meeting.

### 104. Declarations of Interest

**RESOLVED:** To note that there were no declarations of interests made by Members.

## **105. Minutes**

The Committee agreed to consider the minutes of the previous meeting as a matter of urgency as they had not been finalised at the time the agenda was printed and circulated.

**RESOLVED:** That the minutes of the meeting held on 22 February 2011 be taken as read and signed as a correct record.

## **106. Public Questions, Petitions and Deputations**

**RESOLVED:** To note that no public questions were put, or petitions or deputations received at this meeting under the provisions of Committee Procedure Rules 17, 15 and 16 (Part 4B of the Constitution) respectively.

## **107. References from Council/Cabinet**

**RESOLVED:** To note that no references had been received.

## **RESOLVED ITEMS**

## **108. Leisure Facilities Management Contract**

The Chairman welcomed Marianne Locke, Divisional Director of Community and Culture, Richard Hawtin, Interim Head of Procurement, Councillor Idaikkadar, Portfolio Holder for Property and Major Contracts, Councillor Rekha Shah, Portfolio Holder for Community and Culture, to the meeting.

Members agreed that a report, which had just become available, entitled 'Leisure Facilities Management Contract' be considered as a matter of urgency in order that the Committee's comments could be submitted to Cabinet on 17 March 2011. Members received the report of the Divisional Director of Community and Cultural Services, which set out the procurement and evaluation processes undertaken for the award of an interim two year contract for the management of the Council's leisure facilities. The Chairman drew Members' attention to the Part II appendix which detailed the tender evaluation data and the Committee agreed that they would only exclude any press and public present if it became necessary to discuss the detail of the appendix during the course of the meeting.

The Portfolio Holder for Property and Major Contracts introduced the report and advised that the current contract with Leisure Connection was due to end on 31 March 2011. He advised that following Cabinet on 13 January 2011, officers had reported to Portfolio Holders on their ongoing discussions with that contractor. Officers, as a result of those discussions, had come to the view that it was likely that a more financially advantageous offer could be obtained by procuring an interim two year contract and the Portfolio Holders had requested that officers proceed on this basis. The Portfolio Holder concluded that this appeared to have been a good decision and congratulated officers on the achievement of savings in such a short timeframe.

Whilst Members were of the view that the Council was now in a good position in that Greenwich Leisure Ltd offered a good deal, they did have concerns as to the process following the Cabinet decision of 13 January 2011. In considering the report, Members asked questions and made comments, which were responded to as follows:

- A Member questioned as to how it was proposed to increase usage at the Leisure Centre. The Divisional Director advised that usage was one of the measures that had been used to test all tenders. Greenwich Leisure Ltd (GLL) had provided key performance indicators and was experienced, as were all the tenderers, in driving up performance. It was felt that GLL had provided sufficient information to indicate that they could increase usage.
- In terms of the kind of usage expected of a successful Leisure Centre, the Divisional Director advised that she could provide the Member with figures but that Leisure Centre usage was seasonal. All of the contractors had indicated that they could increase footfall.
- A Member challenged the accuracy of the report to Cabinet in January 2011, the process following that meeting and its transparency. He drew Members' attention to the minutes of that meeting. He acknowledged that a new Interim Head of Procurement was now in post which had impacted on the procurement of the contract but he was concerned that the process had been rushed and had therefore resulted in less scrutiny. He questioned why the option that had now been pursued had not been flagged up earlier. If the process had commenced earlier, increased savings may have been realised due to a larger pool of tenderers. The Divisional Director advised that it had become apparent, during the course of the negotiations, that the Council could achieve a better deal but that the previous report to Cabinet had set out an accurate picture at that point. The Interim Head of Procurement advised that as this was a Part B service under the European Union public procurement rules, it was felt that this opportunity was in the best interest of the Council. He added that the process had been fair and proper and that legal advice was that the Council could defend its position.
- A Member questioned why the procurement for the contract had not been started earlier and expressed concern that it appeared that the Council had not had officers in post to deal with the contract between April and October 2010. The Portfolio Holder for Property and Major Contracts advised that there had been a delay as there had been a new administration, he had been a new Portfolio Holder and that he had been aware of the imminent appointments of a new Divisional Director and Interim Head of Procurement. He was, however, confident that a better deal than that before Members would not have been obtained.
- As Leisure Connection had indicated that they had felt unable to respond to the tender and had not submitted a bid, a Member

questioned what information they had provided. The Divisional Director advised that information was still being received and until Cabinet had made a decision on the contract, discussions on this issue could not progress. The Interim Head of Procurement added that the Council had been clear with Leisure Connection that they could bid as part of the tendering process.

- In terms of change management, a Member questioned the risks associated with the potential change in contractor. The Divisional Director advised that whilst there were risks, Leisure Connection had given assurances that they would act in a professional manner during any potential handover.
- In response to a Member's question, the Interim Head of Procurement advised that no contractors, other than those detailed in the report, had expressed an interest in the contract. Under Part B rules, there was no requirement to advertise and the tenders received were from well known, quality providers.
- In terms of the project team evaluation, a Member challenged officers in terms of the weightings given to some of the evaluation criteria and sought clarification of the rationale. The Interim Head of Procurement advised that the contract was a two year interim arrangement seeking improved service and performance. The information available to officers was that performance could be significantly improved. In terms of health and safety, the Divisional Director advised that GLL had a suite of key performance indicators that would be monitored on a quarterly basis as part of formal contract monitoring arrangements.
- In response to a Member's question in terms of pricing, the impact of the contractors' different arrangements on VAT and the quantification of benefits, the Divisional Director undertook to provide a written response.
- Members commented that the staff at the Leisure Centre could be rude and have a poor attitude. A Member indicated that the biggest barrier for people with disabilities using facilities was the attitude of staff and he sought assurances that quality training would be a contract requirement. The Portfolio Holder for Property and Major Contracts advised that feedback on GLL from other boroughs on this aspect had been positive. The Divisional Director added that staff training procedures would be reviewed on a regular basis and mystery shopping exercises would be undertaken. She undertook to feed Members comments on staff attitude back to the contractor.
- A Member commended officers for trying to obtain an improved contract but questioned the future of those organisations currently located at the Leisure Centre. The Divisional Director advised that the Council would expect the successful contractor to work with those organisations and to provide a full programme and to monitor classes offered.

- As GLL was a co-operative, a Member questioned whether those staff subject to TUPE would be absorbed by the co-operative. Another Member questioned how officers were going to deal with the TUPE of poor staff. The Divisional Director advised that the staff would be part of any TUPE arrangement and that, in the past, GLL had given staff full rights. She acknowledged the concerns in relation to the current staff which was an issue of management, training and possibly pay and conditions. The Portfolio Holder for Property and Major Contracts added that staffing was a management issue.
- Members expressed concern at the condition of the Leisure Centre and therefore the ability to increase its usage. Concern was also expressed that the capital available to make improvements had not been used. The Divisional Director advised that she would expect any potential contractor to have looked at the facility in order to determine its business case and that the indications were that GLL had a good reputation for driving up performance. There had not been a full programme for repairs which was an issue for both the Council and contractor.
- In response to Member's question, the Interim Head of Procurement advised that the successful contractor would be tied into the contract for two years. Members were also advised that there would be no financial penalty clauses in the contract for under performance as experience had shown that sanctions should not be imposed in the first few months of a contract as it was a period of bedding in. Members questioned what sanctions would be used to deal with under performance and sought reassurance that robust contract management would be in place. Members were advised that the Council had made it clear that it was the client and that details of the contract would be finalised once it was awarded and would thereafter be closely monitored.
- A Member indicated that the Performance and Finance Scrutiny Sub-Committee would welcome the receipt of regular reports on the performance of the contract.

The Portfolio Holder for Property and Major Contracts indicated that both he and the Portfolio Holder for Community and Culture would take on board the comments and welcomed the cross party agreement that the Council was now in a good position in terms of the contract.

The Chairman thanked Divisional Director of Community and Culture, the Interim Head of Procurement, the Portfolio Holder for Property and Major Contracts and Portfolio Holder for Community and Culture, for their attendance at the meeting and for the responses provided.

**RESOLVED:** That the Committee's comments on the Leisure Facilities Management Contract be forwarded to Cabinet for consideration at its meeting on 17 March 2011.

**109. Exclusion of the Press and Public**

**RESOLVED:** That the press and public be excluded from the meeting for the following item for the reasons set out below:

<u>Item</u>	<u>Title</u>	<u>Reason</u>
8.	Leisure Facilities Management Contract – Appendix A – Tender Evaluation Data	Information under paragraph 3 – it contains information relating to the financial or business affairs of any particular person (including the authority holding that information).

**110. Leisure Facilities Management Contract**

**RESOLVED:** That the appendix be noted.

(Note: The meeting, having commenced at 7.30 pm, closed at 9.14 pm).

(Signed) COUNCILLOR JERRY MILES  
Chairman