



Councillor Meirion Jenkins

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Councillor Mohammed Aikhlaq
Chair
Finance & Resources Overview and Scrutiny Committee

Dear Councillor Aikhlaq,

**OVERVIEW AND SCRUTINY TASK AND FINISH GROUP: PROCUREMENT GOVERNANCE
ARRANGEMENTS**

Further to discussions at the O&S task and finish group on procurement, I have been disappointed with the findings of this review and write to outline my objections, and those of the Conservative Group, as to the direction of travel of the Council on this subject. I believe that the proposals as drafted are bad for democracy, bad for taxpayer value, and bad for the quality of services we deliver to residents.

Councillors are elected to make decisions on behalf of their communities and Birmingham generally. As such, councillors are ultimately responsible for every decision that is taken and every penny that is spent.

It is of course important that decision making is timely and not hampered by unnecessary bureaucracy, but as a council that spends £1bn a year on externally procured goods and services, it is essential that there is appropriate oversight and transparency around how this money is spent. There has been a worrying trend from the current Labour administration to absolve itself of responsibility by delegating more and more decisions to unelected officers, who can now make decisions on contracts up to £10m a year without referral to any elected representative. This is *forty* times the average limit of other English Core Cities.

Whilst Birmingham is the largest local authority, it is not twenty times bigger than Manchester or forty times bigger than Sheffield, and yet their procurement delegation thresholds are twenty and forty times smaller than ours. Newcastle City Council require cabinet member involvement for any contract over £100,000 - 100 times less than the level given to officers in Birmingham. None of these cities are struggling to make effective procurement decisions in a timely manner and none of them have had any, let alone three, Section 24 notices from their external auditor due to concerns about financial management. It is also worth noting that cabinet members making those decisions have far less generous allowances than in Birmingham.

There are particular concerns about these delegated powers in respect of single contractor negotiations (SCNs), and late renewal of contracts. Requiring additional, rigorous oversight and accountability, SCNs should only be used in exceptional circumstances. Late renewal of contracts (which on occasion has been some time after contracts have expired) should never be needed. It

should also be noted how often the two seem to go hand in hand, with a common reason for requiring a single contract negotiation being the lack of time that has been allowed to go to market. Removing delegations for these types of procurement would increase transparency and accountability and act as an incentive to officers to ensure their use is minimised.

Similarly, as I and others in our group have said on a number of occasions, this council has a worrying reliance on the use of external consultants, where spend has increased in recent years with seemingly little benefit to the taxpayer. The Council spent £17.5m in 2020/21 on consultancy fees, 48% more than 2 years ago. There have been further lucrative contracts this year, often in areas where consultants have been used before such as the SEND children's service where those previous exercises by consultants yielded no improvement in the service and the government have had to appoint a commissioner. There are of course times when consultants can add value, but they remain a contentious area of spend with the public. Trade unions often point to consultancy costs when cuts to services are being made. Removing delegations would not only act as a check on overall spend, it would also send a clear message that we are engaging consultants only where there is a compelling reason to do so and where the cabinet member is willing to attach their name to that decision.

It is also important to note that we have previously proposed, and indeed Council agreed, a register of interests for chief officers with delegated authority but that this has never been progressed. We do not have any concerns about the propriety of any officer, rather this is an important point of principle. It is surely right that where officers are taking executive decisions on our behalf, that they are subject to safeguards and scrutiny. Of course, officers are not the same as members and they have a justified expectation of a greater level of privacy with regard to their private life. That is why we proposed a register of 'professional' interests only, in accordance with the decision of the information tribunal in *John Greenwood and Bolton Metropolitan Borough Council v Information Commissioner*.

For the reasons set out above, I would urge you to consider including within the task and finish group recommendations, the following proposals:

- Officer procurement delegation to be brought down from £10m to £500k in line with other core cities.
- A new lower threshold of £10,000 for the procurement of management consultancy, so as to get consultancy spend back under control.
- A register of 'professional' interests of all officers with delegated decision-making powers to be published annually online.
- Late approval of contracts (e.g. renewal\extension after expiry or procurement that does not allow enough time for a full procurement exercise) to require cabinet member approval and a public report.
- Single contract negotiations to require cabinet member approval and a public report.

In conclusion, the point I would ask all members to consider is what we think the role of the Executive and wider elected representatives should be: Do we want to absolve ourselves of responsibility and allow unelected officials to take decisions on our behalf, or do we want to own, and be seen to own, the decisions we take on how we spend taxpayer's money?

Yours sincerely
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