

# MIDDLESBROUGH COUNCIL

## AGENDA ITEM 6

### OVERVIEW AND SCRUTINY BOARD

14 JUNE 2016

<p><b>FINAL REPORT OF AD-HOC SCRUTINY PANEL - COUNCIL USE OF CONSULTANTS</b></p>
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#### **PURPOSE OF THE REPORT**

1. To present the findings of the Ad-Hoc Scrutiny Panel following its examination of the Council's Use of Consultants.

#### **BACKGROUND**

2. Businesses across the public and private sectors commission the use of consultants to provide specialist advice and services that are not available within their organisation. Middlesbrough Council is no exception to this. Being aware that Middlesbrough Council has engaged, and continues to engage, consultants in a number of service areas and projects, the Ad-Hoc Scrutiny Panel sought to examine the issue as it affects the authority.
3. The scrutiny panel sought to investigate the position in Middlesbrough. This report sets out the scrutiny panel's findings.

#### **TERMS OF REFERENCE**

4. The scrutiny panel agreed the following terms of reference as the basis of its investigation:
  - a) To investigate the process of how consultants are engaged and for what projects/service areas.
  - b) To examine the level of consultant usage in the Council and the costs involved.
  - c) To consider how projects involving consultants are managed and objectives achieved.
  - d) To examine work that is being undertaken by the North East Purchasing Organisation (NEPO) in respect of the use of consultants by local authorities regionally.

## METHODS OF INVESTIGATION

5. The scrutiny panel investigated this topic over the course of four meetings held between January and March 2016. A final meeting was held on 21 April 2016 to agree the scrutiny panel's final report. A Scrutiny Support Officer from Democratic Services co-ordinated and arranged the submission of written and oral evidence and arranged witnesses for the investigation. Meetings administration, including preparation of agenda and minutes, was undertaken by a Governance Officer from Democratic Services.
6. A record of discussions at panel meetings, including agenda, minutes and reports, is available from the Council's Egenda committee management system, which can be accessed via the Council's website at [www.middlesbrough.gov.uk](http://www.middlesbrough.gov.uk).
7. This report has been compiled on the basis of information submitted to the scrutiny panel by Council Officers and by the Executive Member for Finance and Governance.

## MEMBERSHIP OF THE SCRUTINY PANEL

8. The membership of the scrutiny panel was as follows:

Councillors J Sharrocks (Chair), JG Cole, T Higgins, J Hobson, L Lewis, T Mawston, L McGloin, G Purvis and D Rooney.

## THE SCRUTINY PANEL'S FINDINGS

9. In the first instance, the scrutiny panel sought to define the term 'consultant.' In order to provide a focus for the panel's work, the following was agreed:

*"An individual or organisation that provides professional technical advice or expertise that is not readily available inside the Council, or is outside the scope of usual service delivery."*

10. The scrutiny panel's findings are set out below in respect of each of the agreed terms of reference.

**TERM OF REFERENCE: "To investigate the process of how consultants are engaged and for what projects/service areas" AND: "To consider how projects involving consultants are managed and objectives achieved."**

11. Due to areas of overlap, the above terms of reference are dealt with together in the following sections of the report. The scrutiny panel's findings are set out under the following sub-headings:
  - Information obtained from other local authorities
  - Examples of consultant use in Middlesbrough service areas

## Information obtained from other local authorities

12. Information was obtained from Tees Valley authorities and a selection of authorities nationally. While this was not intended as a definitive guide, the scrutiny panel was interested to examine some of the different approaches to this issue - such as whether other authorities have policies in place and/or the different approaches used in relation to the appointment of consultants.
13. Information was obtained from Tees Valley authorities as follows:
  - a. Hartlepool Borough Council - The issue was examined by scrutiny some time ago. A structured policy was produced as a result.
  - b. Redcar and Cleveland Borough Council - The authority has no agreed policy but applies normal procurement rules.
  - c. Stockton Borough Council - No agreed policy but a structured procurement process is used.
14. In terms of authorities nationally, information was obtained from a selection of authorities as shown below.
15. *Crawley Borough Council* used the scrutiny process to examine the issue in 2011. As a result, detailed recommendations were produced that included:
  - Producing a Procurement Toolkit for the engagement of consultants.
  - Ensuring the use of procurement officers in consultant appointments.
  - The introduction of a checklist to monitor progress and ensure satisfactory sign off of completed projects.
  - Ensuring expenditure on consultants is coded to a single, central, expenditure code.
  - Reporting annual expenditure on consultants to scrutiny, including any trends/anomalies.
16. *Torbay Borough Council* conducted a scrutiny examination of the subject in 2006. As a result, it was recommended to:
  - Strengthen procurement arrangements around the engagement of consultants.
  - Ensure that consultants' fees were monitored and recorded separately from professional fees.
17. *Worcestershire County Council's* Audit Service produced a 'Risk and Assurance' report on the topic in 2015. This highlighted that:
  - The authority has identified areas of best practice and has clear, documented processes contained in an agreed Procurement Code. There is a requirement to complete a corporate form for every consultancy engagement. This outlines reasons/rationale for the engagement.

- Details of consultancy contracts are publicised annually as part of the authority's Transparency Agenda and reports are considered twice per year by the authority's Management Team.
- Robust procurement processes are in place.
- There has been extensive publicity to ensure managers are aware of the required processes.

18. Risks that were identified by the Worcestershire auditors included:

- There was ambiguity over the definition of consultant, meaning that records were inconsistent or incomplete.
- The relevant corporate monitoring form was not always completed and the necessary approvals not obtained.
- Engagements did not always show clear, quantifiable and measurable outputs.
- Checks were not always conducted to ensure that adequate insurance was in place.
- Written contracts were not always in place.

19. *Powys County Council* introduced a two-fold policy on the use of consultants in 2015. The policy, which also defined the term consultant, was agreed as follows:

- Any expenditure on consultants above £10,000 requires the approval of the relevant Executive Member and Strategic Director following consideration of a written report on the issue.
- The relevant report is required to contain an assessment by the Strategic Director of Resources concerning whether the use of the proposed consultant represents value for money.

20. *Rotherham Metropolitan Borough Council* conducted a detailed scrutiny investigation on the use of consultants in 2009. A number of recommendations resulted, including:

- The need to ensure that a clear business case, including detailed costings, is presented for approval by the relevant Strategic Director.
- The need for all business cases to include: purpose of the project/how it aligns with corporate objectives; scope and duration of project; an assessment of type/level of skills required for the project; milestones to measure progress; expected outcomes/benefits to the council, including anticipated cost savings; total costs; plans for reporting outcomes through the political process.
- Encouraging consultants to engage local authority staff in projects - such as by shadowing or learning workshops.
- The need to plan ahead and anticipate consultant engagement - this should be reflected in annual service plans where possible.

- Establishing an internal database to draw on the expertise of other local authorities as an alternative to employing consultants.
- Identifying a lead officer in all service areas to oversee all consultant activity in his/her area.

21. The above information indicates that there are a number of approaches that can be used in respect of local authority use of consultants and confirms that there is no single best-practice approach that could be adopted.

### **Examples of consultant use in Middlesbrough service areas**

22. The scrutiny panel heard from two service areas that have regularly used consultants to assist with specific projects, namely Wellbeing, Care and Learning and Economic Development and Communities. The panel sought information on examples of projects where consultants have been engaged, the process used for their appointment and the reasons for the appointment.

23. The Head of Economic Growth for **Economic Development and Communities** explained that the department covered a very broad range of activity, including planning, transport, business development, physical regeneration and culture. Consultants have been, and are, engaged by the department to provide specialist/technical expertise where this does not exist in house. In such cases it is generally more cost-effective to engage a consultant rather than employ a Member of staff. Examples of this are regeneration projects for Gresham and Middlehaven and the forthcoming improvement works to Middlesbrough Town Hall.

24. In terms of procuring consultants, it was explained that Economic Development and Communities has used both the NEPRO Framework (covered elsewhere in this report) and also a Homes and Communities Agency (HCA) Framework for this purpose. HCA is a Government regeneration agency that has produced a framework to cover the procurement of consultants who focus on regeneration. It was confirmed that consultancy services obtained through HCA are procured in accordance with a set budget and a set rate. A project scope or brief is devised and forwarded to appropriate consultants via the HCA, which acts as a broker. This is a very similar arrangement to use of the NEPRO framework.

25. Consultants who are used are therefore working to a set brief and are monitored against this. Over the course of the project, regular update meetings are held in order to monitor progress and ensure the required outcomes. Following a question from the scrutiny panel, it was confirmed that additional work is sometimes required by the consultant at additional cost, although no records are kept of such instances.

26. It was also confirmed that, following payment of a deposit, the costs of the consultant are generally paid on completion of the project. As regeneration projects can be funded from different sources (egg Council, Heritage Lottery Fund, Arts Council) a pooled budget can be created that is used to cover the cost of consultants.

27. It was confirmed that, in general, the same broad pool of consultants is used for regeneration projects. However, it was highlighted that once the project brief has been prepared, a selection process is carried out involving a panel from the service area. As this process is completed for each project, it is not the case that consultants are selected for work solely because they have worked with the authority previously.
28. The scrutiny panel also heard from **Wellbeing, Care and Learning** in respect of that department's use of consultants. It was explained that, most recently, the department has worked with consultants in three main areas of work, as shown below.
29. The panel heard that the previous Executive Director had commissioned People too to undertake two projects. These were firstly a diagnostic of potential savings in Adult Social Care and secondly, to examine the high level of looked after children in Middlesbrough.
30. Members were advised that the resulting diagnostic report had been very detailed. It had identified a range of opportunities for the Council, alongside a programme of work to realise those opportunities. This coincided with work on achieving the budget savings targets that had been identified for Adult Social Care and Children's Social Care.
31. Following consultation with both internal and external colleagues, it was concluded that the most effective way of achieving progress would be to continue to work with Peopletoo, who would act as programme managers for the nine work streams that had emerged across both service areas. A transformation board for this work has been established. In terms of extension of the contract, this was conducted via use of the NEPRO procurement framework.
32. In response to questions from the scrutiny panel, it was confirmed that, Peopletoo has worked with the Council for just over a year. It was explained that Middlesbrough has had a dedicated Programme Manager and the Director of Peopletoo has attended contract monitoring and transformation board meetings as part of her own oversight of work being undertaken.
33. It was confirmed that the reason for using Peopletoo at the start of the project was because, at that time, the Council did not have the capacity to manage all of the projects that emerged from the required nine work streams.
34. The panel was also advised that, over the course of the project, it had been recognised that the work now being undertaken by Wellbeing, Care and Learning needed to be continued as part of the Council's service provision. Consequently, the department has created a new post as the most cost-effective way to support this work and achieve the desired outcomes.

35. It was explained that Peopletoo is also currently undertaking a piece of work for Adult Social Care. This is based around quality assurance and cultural change in order to improve service delivery. In addition, the Council will continue to work with Peopletoo, with the organisation acting as a 'critical friend' to the authority. Peopletoo has extensive knowledge about what is happening across adult and children's services nationally and can provide information on areas such as best practice elsewhere.
36. At the time of the scrutiny panel's investigation, a new piece of work was also scheduled regarding the potential undertaking of a diagnostic exercise for Children's Services. This was at an early stage, with an application/business case to be put forward to the Council's Change Fund. It was explained that a similar exercise undertaken in relation to Adult Services had achieved significant savings.
37. The scrutiny panel also heard details of work undertaken by consultants in respect of school improvement. Consultants were used for two separate projects that were undertaken during the period August 2014 to February 2016.
38. These consultants had assisted the Council with the School Improvement Ofsted inspection, resulting in the authority subsequently being commended for the improvements that were made. The consultants were initially employed because the Council did not have a Head of School Improvement in post (following unsuccessful advertising of the post) and urgent support was required. The post was eventually filled, with the post holder commencing work in September 2015. At that time, as there was also a vacancy for the post of Assistant Director for School Improvement, the consultant was asked to stay on to undertake that role for three days a week. A permanent Assistant Director for Learning and Skills commenced in post in February 2016 and the work of the consultant had come to an end. Consultant costs were £46,000 for the Head of School Improvement and £39,000 for the Assistant Director.
39. Reference was made to the Middlesbrough Achievement Partnership (MAP), which is a collaboration of local schools working to achieve mutual benefits. The Council has been involved in using funding from schools to engage consultants to work with schools on behalf of MAP. This has included the appointment of a Senior School Improvement Consultant, who then used further consultants in specialist areas such as maths, English, science and behaviour.
40. Reference was also made to a Government grant that has been provided to support special educational needs and disabilities reforms. This funding has been used by the authority to utilise consultants at a cost of approximately £23,000 to advise on developing and improving services.
41. The scrutiny panel heard that factors influencing the possible future use of consultants in Wellbeing, Care and Learning include an ageing workforce and a shrinking pool of available staff.

**TERM OF REFERENCE: “To examine the level of consultant usage in the Council and the costs involved.”**

42. In examining this term of reference, the scrutiny panel heard that there was no centralised record of consultant-related spending across the authority. The position is that, subject to budget funding being available, each service area is free to appoint consultants as they see fit and as they require. In addition, expenditure on consultants is not coded to one budget but can be located across different budget headings. Therefore at the time of the scrutiny panel’s initial investigations it was not possible to easily identify a total/current spend by

Middlesbrough Council on consultants. However, it was explained that, as a result of a Freedom of Information Request submitted in July 2015, it was calculated at that time that:

- In 2013/2014, 17 consultants had been appointed at a cost of £252,000.
- In 2014/2015, 14 consultants had been appointed at a cost of £214,000.

43. As a result of queries and discussions at the scrutiny panel, the Council’s Procurement Manager has begun an exercise to collate more detailed information on consultant spending. It was explained that a data collection template has been prepared and forwarded to each department for completion. The template covers information such as:

- Details of consultant appointed.
- Costs
- Benefits of employing the consultant.
- A risk analysis - ie the risks that the Council would have faced if not using the consultant.

44. Following the work that has been undertaken to date, details of consultant costs relating to Outcome Area 1 - Economic Growth (from the Council’s Change Programme) - were provided to the scrutiny panel. This information covered 25 consultant appointments from January 2014 to date, at a total cost of around £800,000. Individual project costs ranged from £500 to £600,000.

45. The submitted information showed a full breakdown of these costs and the projects concerned, including:

- Whether the consultant appointment was for a specific project, or part of routine service delivery.
- The purpose of the work.
- The name of the consultant.
- Start and end dates.
- Agreed and final costs, including reasons for any slippage.
- Benefits of using a consultant.
- Risks of not using a consultant.

46. Following consideration of the above information, it was indicated that, in order to ensure the availability of information on Council spending on consultants, the same exercise will now be completed for all Outcome Areas across the authority.

**TERM OF REFERENCE: “To examine work that is being undertaken by the North East Procurement Organisation (NEPO) in respect of the use of consultants by local authorities regionally.”**

47. The North East Procurement Organisation (NEPO) was established in 1976 by a consortium of local authorities as a means of making savings through bulk-purchasing. NEPO now undertakes high-value procurement in major strategic areas of spending - such as construction, energy, and social care - on behalf of twelve north east local authorities and a range of associate members.

48. The scrutiny panel was informed that, for a number of years, the North East Procurement Organisation (NEPO) has had a process - known as the *NEPRO Framework* - in place for the appointment of consultants by local authorities. The framework has been recently re-procured by NEPO via an <sup>1</sup>OJEU tendering process following which A4 Services were successfully re-awarded the framework.

49. The NEPRO Framework effectively offers Middlesbrough Council a neutral vendor process for the procurement of consultants. This means that the Council provides the details of its requirements to NEPRO, which then secures engagement of the required consultant. This can be through either competition or a direct award process.

50. The Council’s Procurement Manager introduced use of the NEPRO Framework to the Council in 2014/15. At present, the authority’s Commissioning and Procurement Team utilises the framework where it is made aware that a consultant needs to be commissioned. This is generally in cases where a formal tendering process would need to be conducted. In such instances, the team effectively acts as a ‘gatekeeper’, allowing procurement staff to understand and have knowledge of the areas of consultancy being utilised by the Council.

51. It was explained, however, that use of the NEPRO Framework is not mandatory. In accordance with the Council’s current Financial Standing Orders, staff across the authority are authorised to procure goods and services (including the appointment of consultants) via:

- a) Direct Award - up to £15,999.
- b) Quotation - £16,000 - £53,099.
- c) Tender - £53,100 - £164,174.
- d) OJEU Tender - £164,175 and above.

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<sup>1</sup> Contracts for works, supplies and services from public sector organizations in all EU Member States are covered by regulations known as ‘OJEU’ - ie the Official Journal of the European Union.

52. Since its introduction, Middlesbrough Council has appointed 14 consultants through the NEPRO Framework. Details of these contracts, which were valued at approximately £990,000 in total, were submitted to the scrutiny panel.
53. The scrutiny panel heard that the NEPRO Framework is still relatively new to the authority. The Procurement Manager anticipates that further work will be undertaken with NEPRO to further develop its use for maximum benefit in Middlesbrough - for example to introduce an electronic process for more effective and efficient use of the framework.

## CONCLUSIONS

54. Having considered the submitted information, the Ad-Hoc Scrutiny Panel reached the following conclusions:
1. Local authorities may not always have the necessary expertise in house for all projects and work that they wish to undertake. It may therefore be necessary to employ consultants where the required skills do not exist. This position has been exacerbated by the continued reductions in local authority budgets that have resulted from reduced public spending. It is acknowledged therefore that there is a need, in some cases, to engage consultants to provide specialist advice or services across the sector.
  2. In respect of Middlesbrough Council, there has been a perception that it has been necessary to engage an increasing number of consultants and that their use is widespread across the authority. However, the exact position has been difficult to ascertain by the Ad-Hoc Scrutiny Panel as, to date:
    - a) Overall consultant usage has not been recorded centrally.
    - b) There is no corporate policy in relation to consultant appointments and the only requirements to make such an appointment are an existing departmental budget and compliance with the Council's Standing Orders. Although the scrutiny panel has seen evidence that business cases and value for money exercises are carried out in some cases, there is no corporate requirement to do so.
    - c) The way information has been recorded by the authority and the way in which consultant appointments have been made has made it difficult to scrutinise spending. For example there is no centralised recording system or single budget code used. A more robust system of monitoring is required. The scrutiny panel welcomes the fact that, since its investigation began, work is now underway to gather and collate information on consultant spending across the authority.
  3. Information obtained from other local authorities indicates that there are a number of approaches that can be taken in respect of local authority use of consultants and confirms that there is no single best-practice approach that could be adopted. However, the scrutiny panel is of the view that the adoption of robust processes and agreement of a corporate policy in relation to consultant appointments is the minimum that is required. There is also a need to ensure that senior level approval is given for all consultant appointments.

4. In the service areas that it examined, the scrutiny panel saw examples of the positive contribution that consultants have made to the work of Middlesbrough Council. Nevertheless, the panel considers that systems should be improved to ensure that consultants are engaged only when this is imperative; where clear and defined benefits will result; and where the necessary expertise does not exist in house.
5. There are examples of high value consultant appointments costing many thousands of pounds and lasting for a number of years. While acknowledging that such appointments may well be justified, the scrutiny panel considers that more cost-effective alternatives should be explored in the first instance - for example through the use of fixed term contracts to appoint additional staff.
6. Existing procurement frameworks such as those used by North East Procurement Organisation (NEPRO Framework) and the Homes and Communities Agency (HCA) provide a valuable and independent safeguarding mechanism for consultant appointments by Middlesbrough Council and other local authorities. Although the use of such frameworks has been encouraged by the Council's procurement officers, there is no policy requiring their use.

## **RECOMMENDATIONS**

55. Following the submitted evidence, and based on the conclusions above, the Ad-Hoc Scrutiny Panel's recommendations for consideration by the Executive are as follows:

1. That, in order to ensure and improve accountability, a corporate policy is introduced on the appointment of consultants by Middlesbrough Council. This should include:
  - a. A definition of 'consultant,' as shown in the Ad-Hoc Scrutiny Panel's final report.
  - b. The need to set out a business case outlining out the reasons for a consultant appointment; the benefits of such an appointment; how progress will be monitored; how results will be measured; and including total costs of the project.
  - c. A mechanism for senior level approval of all consultant appointments, with a consistent level of authorisation to be implemented across the authority. Consideration should also be given to whether this process should involve the relevant Executive Member, or be reported to them.
  - d. The need to involve the Council's specialist Procurement Team for all consultant appointments. This will ensure best use of support from organisations such as North East Procurement Organisation and its NEPRO framework.

2. That, particularly in the case of high value, long-term consultant contracts, there should be an assessment made of whether it would be more cost-effective for the Council to employ staff on a fixed term contract for the duration of the project. Alternatively, the feasibility of engaging the necessary expertise from another local authority should be explored.
3. That work that has been commenced to identify spending on consultants across the Council is completed for all service areas. To ensure improved monitoring and accountability, steps should also be taken to ensure that this information can be more easily recorded and made available in future.

## **ACKNOWLEDGEMENTS**

56. The Ad-Hoc Scrutiny Panel would like to thank the following for their assistance with its work:

- R Broad - Middlesbrough Council.
- R Dowson - Middlesbrough Council.
- P Stephens - Middlesbrough Council.
- C Walker - Middlesbrough Council
- Councillor N Walker - Middlesbrough Council

## **BACKGROUND PAPERS**

57. The following sources were consulted or referred to in preparing this report:

- Reports to and minutes of the Ad-Hoc Scrutiny Panel meetings held on 5 and 26 January, 25 February, 24 March and 21 April 2016.

**COUNCILLOR JEAN SHARROCKS**

**CHAIR OF AD-HOC SCRUTINY PANEL**

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