

# Brighton & Hove City Council

## Policy & Resources Committee

Agenda Item 34

**Subject:** Recommendations of PSV Member Working Group

**Date of meeting:** 29 July 2022

**Report of:** Executive Director Housing, Neighbourhoods & Communities & Executive Director Governance, People & Resources

**Contact Officer:** Jo Player Head of Safer Communities, Cliff Youngman Head of Procurement & Alice Rowland Head of Commercial Law

**Ward(s) affected:** All

### For general release

#### 1. Purpose of the report and policy context

1.1 In Autumn 2020 Brighton & Hove City Council (BHCC) along with East Sussex County Council (ESCC) the Office of the Sussex Police and Crime Commissioner (OSPCC) launched a procurement exercise for the re-commissioning of Domestic Abuse, Domestic Violence and Sexual Violence services in the City and across Sussex. Following the award of the contracts in January 2021, there was significant concern about the fact that RISE had not been successful in relation to two BHCC only contracts: the provision of a refuge and the special victim support service. There was a petition to the Council which had 30,000 signatures.

1.2 On 18 March 2021, Policy & Resources Committee agreed to establish a cross party member working group to:

(i) Carry out a thorough investigation into the events leading to changes to Domestic Abuse, Domestic Violence and Sexual Violence service arrangements.

(ii) Review the Council's policy and practice regarding social value and community wealth-building from a commissioning and procurement perspective including the above-mentioned services.

(iii) Recommend any necessary changes and actions for improvement.

- 1.3 This report provides an update on the work of the Procurement, Social Value and Community Wealth Building Member Working Group (PSVWG) and makes a number of recommendations to improve the Council's procurement processes.

## **2. Recommendations**

- 2.1 That Committee notes the findings of the Procurement, Social Value and Community Wealth Building Member Working Group and approves the proposals set out in paragraph 3.5 .

## **3. Context and background information**

- 3.1 The PSVWG met on a number of occasions between July 2021 and July 2022. The members of the group included Cllrs Powell (Chair), Druiitt, Grimshaw, Evans and Simson. The group was supported by officers from Legal, Procurement, Democratic Services and Housing, Neighbourhoods & Communities. The group was given access to all the relevant procurement documents, including all the confidential papers. Members asked officers a series of questions about the procurement exercise which led to the contract award decision. The group also met with a group of survivors of domestic violence.

- 3.2 Members looked at bids submitted in order to understand the procurement process which had taken place. They also reviewed the documents to understand what other factors may have impacted on the process, for example, the change of lead officer.

- 3.3 As a result of their work, the PSVWG found no evidence to suggest that there were any flaws in the procurement process itself or that award decisions for the two BHCC DV contracts were wrong. However, the group made the following findings:

- a) There was a committee decision on October 2018 to set up a member working group. This group was not established. The reasons for this failure were set out in the report to Tourism, Equalities, Communities & Culture on 11 March 2021 which said: 'This was a result of the existing contract being extended to November 2019, key people leaving the organisation and unfortunately it coincided with a time when officer capacity was very stretched in dealing with the Covid 19 pandemic'. The reasons were further explored by members at meetings of the PSVWG and officers apologised for the oversight.
- b) The procurement of the contract should have been considered at the Procurement Advisory Board (PAB). Again, this did not happen. This was because the procurement was led by officers from East Sussex who were not aware of the requirement to take contracts over £1m to PAB. Members agreed that further guidance should be provided to Executive

Directors in relation to which contracts should be discussed at PAB – see 3.5 c) below.

- c) The findings at a) and b) led to a lack of member oversight of the procurement and led to concern among some service users, the unsuccessful incumbent bidder and more widely about the award of these two contracts which led to reputational damage to the Council.

3.4 The PSVWG noted that a number of steps had already been taken to ensure that these failings were not repeated in future procurements:

- a) Committee decisions will be logged and tracked to ensure that they are always actioned. Officers are currently working on a committee decisions tracker.
- b) PAB is now updated on all procurements that the Council is involved in but is not leading on. Orbis Procurement's Senior Leadership Team have been made aware of this requirement. Those procurements are identified on the Forward Plan which lists all procurements over £25,000. The Forward Plan identifies the lead officer who will be responsible for providing and presenting relevant reports to PAB. If the lead is not a BHCC employee, they will now be supported by BHCC Procurement to ensure the correct templates/format are used.
- c) The PSVWG noted that the Procurement Team are developing a Social Value Procurement Policy and it is anticipated that a first draft will shortly be brought to PAB. PAB will consider whether to include wording which encourages increasing the marks attributed to social value above the current minimum for social value of 10%. The group noted that consideration would be need to be given to the legal, practical and financial implications of such a change.

3.5 The PSVWG have decided to make a number of recommendations. These are that:

- a) Officers should always follow the Council's Social Value Framework ([Brighton and Hove Social Value Framework.pdf \(brighton-hove.gov.uk\)](#)) and there should always be a separate social value question in Invitation to Tenders i.e. social value should not be embedded in other questions; there should always be a standalone social value question.
- b) There is a named lead officer responsible for the overall procurement process including actioning relevant Committee decisions for each procurement exercise. If the lead officer leaves, particular care should be taken to ensure that comprehensive handover arrangements are put in place. The Executive Director shall ensure that this takes place.
- c) The group recommends that Executive Directors/ the Chief Finance Officer should refer highly politically sensitive procurements or procurements relating to services for vulnerable users (such as Domestic

Abuse Services) to PAB. “Politically sensitive” should usually be interpreted as including services traditionally provided by the community and voluntary sector. This advice is consistent with the Terms of Reference for PAB which say that PAB should ‘review and advise on the procurement of Council services, works or supplies where the estimated lifetime value of the contract to be awarded: exceeds £1,000,000; or where, in the judgment of the relevant Executive Director or the Chief Finance Officer, the procurement should be referred to the Procurement Advisory Board’. This recommendation will support Executive Directors/ the Chief Finance Officer to determine when they should exercise their discretion to refer matters to PAB.

- d) The group noted that the Joint Unit was being disbanded and that in future domestic abuse procurements would be carried out by BHCC only.
- e) The group welcomed the decision tracker and recommended that reports should refer to relevant decisions taken previously and confirm that they had been actioned. The decision tracker will be updated by Democratic Services. Executive Directors will be responsible for implementing the decisions recorded in the tracker.
- f) Officers should consider carrying out pre-market engagement with service providers and service users where appropriate prior to commencing a procurement for a contract which provides services to members of the public.
- g) Procurements involving services delivered to vulnerable people should have a greater emphasis on the qualitative aspects of the service delivery, including an assessment of the in-person support offered. The group noted that such support might be evaluated by asking for staff training, suitable qualifications, or accreditation (where applicable). The group also noted that specific performance indicators were critical to monitoring users’ satisfaction and that the procurement should evaluate bidders proposals for delivering the service to ensure compliance with those key performance indicators.
- h) There should be a reminder of the help available to Third Sector organisations via Community Works. The link can be found here: [Top tips for tendering with Brighton & Hove City Council \(brighton-hove.gov.uk\)](https://www.brighton-hove.gov.uk/top-tips-for-tendering-with-brighton-hove-city-council)

#### **4. Analysis and consideration of alternative options**

- 4.1 The Committee could decline to adopt the PSVWG’s proposals but this would not lead to an improvement in the Council’s practices.

#### **5. Community engagement and consultation**

- 5.1 The PSVWG had two separate confidential sessions with survivors where they discussed the survivors experience of using Domestic Abuse Services.

Members found hearing their testimony insightful and powerful and listening to their experiences informed the recommendations set out in this report.

## **6. Conclusion**

- 6.1 Whilst the PSVWG did not find any failings in the way the procurement was conducted, officers did not establish a member working group as directed and did not take a report to PAB. Members noted that there had also been a local election. This led to a lack of member oversight which may have contributed to a loss of confidence in the process. However, there is no evidence to suggest that this lack of oversight impacted on the final decision on contract award. The recommendations reflect the group's finding on lessons learned and propose specific improvements to address a range of issues associated with the Council's processes.

## **7. Financial implications**

- 7.1 There are no direct financial implications arising from the report which is principally concerned with improving oversight using existing mechanisms, ensuring social value is given a stronger focus, improving decision tracking, and providing advice and support to CVS organisations where they are able to bid for commissioned services.
- 7.2 The report notes that a revised Social Value Procurement Policy will be developed but that the legal, practical and financial implications will be provided to members through PAB and, if appropriate, the relevant policy committee.

Finance officer consulted: Nigel Manvell      Date consulted: 19/07/22

## **8. Legal implications**

- 8.1 The PSVWG received advice on the requirements of the Council's Contract Standing Orders, the Public Contracts Regulations 2015 and the Public Services (Social Value) Act 2012. There is no suggestion that the procurement was carried out otherwise in accordance with these requirements.

Name of lawyer consulted: Alice Rowland Date consulted: 14/1/21

## **9. Equalities implications**

- 9.1 An Equalities Impact Assessment was undertaken in relation to the domestic abuse contract and was reviewed by the PSVWG.

## **10. Sustainability implications**

- 10.1 There are no specific sustainability implications arising from this report.

## **11. Other Implications**

### **Social Value and procurement implications**

Social value and procurement implications are referred to the main body of the report.