

Brighton & Hove City Council

Meeting: Council

Date: 11 March 2004

Report of: Director, Communications & Democratic Services

Subject: Call in and urgency

Wards affected: All

1 Purpose of the Report

1.1 The purpose of this report is inform Members of the decisions taken by Committees where the call in procedure set out in the Constitution shall not apply when a decision being taken is urgent.

2 Recommendations

2.1 That the report be noted.

3 Information/Background

3.1 Scrutiny Procedure Rule 14 sets out the rules for suspending the Call in procedure when appropriate. The suspension of the call in procedure can be applied where the decision being taken by the Executive Committee is urgent. A decision will be urgent if any delay, likely to be caused by the call in process, would seriously prejudice the Council's or the public's interests. A record of this decision is made in the Minutes of the Executive Committee. Procedural Rule 14 states that any decision to which the call in process does not apply for reasons of urgency are to be reported to Council.

3.2 The following decisions have been made at Sub-Committee or Committees where the call in rule has not applied. An extract from the Minutes of the meetings is attached at Appendix 2.

Committee	Date	Subject	Reason for Urgency
Housing Management Sub Committee	27 January 2004	New Contractual Arrangements	Services provided under the Ecovert/EML Contract were put out to tender and recommendations were made for the award of the contracts or to retain the services in house with effect from 1 April 2004. The reason for call in not applying to this decision was that any delay in the

			award of the contacts would have a detrimental effect on the procurement process
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Environment Committee	29.01.04	New Contractual Arrangements	As Above.
Special Policy & Resources	02.02.04	New Contractual Arrangements	As above.
Children, Families & Schools	09.02.04	Closure of East Brighton College of Media Arts	It was agreed that any delay would seriously prejudice the Council's interests and results in failure to comply with statutory time limits for the submission of the objections and comments to the School Organisation Committee.

Appendix 1

Meeting/Date	Council 11 March 2004
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Financial implications

There are none

Legal implications

Rule 14 of the Council's Constitution requires that any decisions not to apply with the Call in procedure should be reported to Council.

Corporate/Citywide implications

None

Risk assessment

None

Sustainability implications

None

Equalities implications

None.

Implications for the prevention of crime and disorder

None

Background papers

None

Contact Officer

Heather Jones 29 1057

**EXTRACT FROM THE MINUTES OF THE MEETING OF THE HOUSING
MANAGEMENT SUB-COMMITTEE HELD ON 27 JANUARY 2004**

Present: Councillor Councillors: Hazelgrove (Chair) Allen (Deputy Chair), Framroze, Mallender, Mears, Paskins, Turner, Wells (OS) and Willows.

Tenant Representatives: Joyce Clarke (Sheltered Action Housing Group), Jean Davis (Brighton East), Lynne Dever (Brighton East), Stewart Gover (North & East), John Jolliffe (Central), Pat Miles (West Hove & Portslade), Beryl Snelling (Central), and Jean Taylor-Bacon (High-Rise Action Group)

38. LETTING OF CONSULTANCY CONTRACT

38.1 The Sub-Committee considered a report of the Director of Housing & City Support entitled 'Contract Award for Consultancy Services Relating to the Annual Planned Maintenance Programme, the Procurement of Term Contracts and Mechanical Engineering' (for copy see minute book).

[This item was exempt from the call-in procedure due to the time needed to implement TUPE and the effect on the capital works programme].

[Reason for Lateness: To ensure that the Corporate Procurement Delivery Timetable was met].

38.2 **RESOLVED** – (1) That the recommendation to the Policy & Resources Committee to award both contracts for a period of 5 years to Hayward Property Services be noted.

(2) That the process by which tenders have been sought and evaluated be noted.

**EXTRACT FROM THE MINUTES OF THE MEETING OF THE ENVIRONMENT
COMMITTEE HELD ON 29 JANUARY 2004**

Present: Councillor Mitchell (Chair); Councillors Battle (Deputy Chair), Davidson, Mrs Drake (OS), Fitch, Forester, Kemble, Morgan, Pidgeon, Smith and Wrighton.

Also present: Councillors Bodfish, Edmond-Smith, Mrs Giebler, Mrs Norman, Norman, Pennington, Watkins, Williams and Ms Young

**155. AWARD OF CONTRACTS FOR LEISURE MANAGEMENT - EXEMPT
CATEGORY 9**

155.1 The Committee considered a report of the Director of Environment in relation to Leisure Facilities Management – Tenders.(see minute book).

155.2 The Committee noted that the reason for non-compliance with Section 100B(4) of the Local Government Act 1972 was that the financial information was not available at the time the agenda was printed.

**155.3 RESOLVED TO RECOMMEND TO THE POLICY AND RESOURCES
COMMITTEE – (1) That the contract for Leisure Facilities Management be
awarded to DC Leisure Management as it represents the most advantageous
tender in terms of cost and service delivery.**

(2) That the decision be not subject to the call in procedure, as any delay in the implementation of the decision will not enable the contract to come into effect from 1 April 2004.

**156. GROUNDS MAINTENANCE AND OTHER ASSOCIATED SERVICES -
EXEMPT CATEGORY 9**

156.1 The Committee considered a report of the Director of Environment in relation to Grounds Maintenance and other associated services (see minute book).

156.2 The Committee noted that the reason for non-compliance with Section 100B(4) of the Local Government Act 1972 was that the financial information was not available at the time the agenda was printed.

**156.3 RESOLVED TO RECOMMEND TO THE POLICY AND RESOURCES
COMMITTEE – (1) That the contract for grounds maintenance and other
associated services be awarded to the in-house team as it represents the most
advantageous tender in terms of cost and service delivery.**

(2) That the decision be not subject to the call in procedure, as any delay in the implementation of the decision will not enable the contract to come into effect from 1 April 2004.

157. ARBORICULTURAL MAINTENANCE TENDERS – EXEMPT CATEGORY 9

157.1 The Committee considered a report of the Director of Environment in relation to Arboricultural Maintenance Tenders (see minute book).

157.2 The Committee noted that the reason for non-compliance with Section 100B(4) of the Local Government Act 1972 was that the financial information was not available at the time the agenda was printed.

157.3 RESOLVED TO RECOMMEND TO THE POLICY AND RESOURCES COMMITTEE

(1) That all tenders be rejected on the basis that none meet the Council's threshold on finance or service delivery.

(2) That the service be brought in-house and a cost benefit analysis and options appraisal be carried out to ensure that the best option in terms of value for money and quality of service is pursued.

(3) That the decision be not subject to the call in procedure as any delay in the implementation of the decisions will not enable the arrangement to provide the service to come into effect on 1 April 2004.

157A GOLF COURSES – TENDERS – EXEMPT CATEGORY 9

157A.1 The Committee considered a report of the Director of Environment in relation to Golf Courses Tenders (see minute book).

157A.2 The Committee noted that the reason for non-compliance with Section 100B(4) of the Local Government Act 1972 was that the financial information was not available at the time the agenda was printed.

157A.3 RESOLVED TO RECOMMEND TO THE POLICY AND RESOURCES COMMITTEE – (1) That the service be brought in-house on a temporary basis to enable consideration to be given to other options to manage or dispose of the Hollingbury and Waterhall Golf courses over the next twelve months.

(2) That the decision be not subject to the call in procedure, as any delay in the implementation of the decision will not enable the contract to come into effect from 1 April 2004.

EXTRACT FROM THE MINUTES OF THE SPECIAL MEETING OF THE POLICY & RESOURCES COMMITTEE HELD ON 2 FEBRUARY 2004

Present: Councillor Bodfish (Chair); Councillors Burgess (Deputy Chair), Mrs Drake, Fitch, Hawkes, Hazelgrove, John (Deputy Chair), Mitchell, Mrs Norman, Oxley, Randall, Mrs Simson, Smith, Taylor and Watkins.

195. New Contractual arrangements (exempt categories 7, 9 & 12)

The special circumstances for non-compliance with Council Procedure Rule 19, Access to Information Rule 5 and Section 100B(4) of the 1972 Local Government Act as amended (items not to be considered unless the agenda is open to inspection at least five days in advance of the meeting) are that evaluation information was not available at the time the agenda was printed.

195.1 The Committee considered a confidential report of the Deputy Chief Executive & Director, Corporate Services which gave details of the tendering process and made recommendations for the approval of the award of the contracts or to bring the services in house (for copy see Minute Book).

(1) Leisure Facilities Management

195.2 **RESOLVED** – That the contract for Leisure Facilities Management be awarded to DC Leisure Management for a period of 5 years.

(2) Grounds Maintenance & Other Associated Services

195.3 **RESOLVED** – That the contract for Grounds Maintenance & Other associated services be awarded to the in house team for period of 5 years.

(3) Arboricultural Maintenance Tenders

195.4 **RESOLVED** – That the service be brought in house, that a cost benefit analysis and options appraisal be carried out and pursue the best option, including the possibility of sub contracting to the private sector, in terms of value for money and quality of service.

(4) Golf Courses

195.5 **RESOLVED** – That, temporarily, the service be brought in house and that other options to manage or dispose of the Hollingbury and Waterhall Golf courses over the next 12 months be considered.

(5) Consultancy services relating to the Annual Planned Maintenance Programme, the procurement of Term Contracts and Mechanical Engineering

195.6 **RESOLVED** – That the contracts be awarded to Hayward Property Services for a period of 5 years.

(6) Brighton Centre Catering

195.7 That the contract be awarded to Crown Venue Catering Limited for the period 1 April 2004 to 31 January 2006.

(7) Royal Pavilion Catering : The Queen Adelaide Tea Room

195.8 **RESOLVED** – That the service be brought in house and that a cost benefit analysis and options appraisal be carried out and, subsequently, the best option in terms of value for money and quality of service be pursued.

(8) Staff and Civic Catering

195.9 **RESOLVED** – That the contract be awarded to YES Dining (London) Ltd for a period of 3 years, with the option of up to a further 2 years extension, subject to YES Dining (London) Ltd fully satisfying the Council's officers on the following outstanding issues:

1. Provision of a satisfactory parent guarantee
2. Demonstrate compliance with Transfer of Undertaking (Protection of Employment) Regulation 1981.

195.10 That, in accordance with Overview and Scrutiny Procedural Rule 14, all of the above decisions will not be subject to the call in procedure due to the urgency of the procurement process.

EXTRACT FROM THE MINUTES OF THE MEETING OF THE CHILDREN, FAMILIES & SCHOOLS SUB-COMMITTEE HELD ON 9 FEBRUARY 2004

Present: Councillor Hawkes (Chair); Councillors Mrs Brown (OS), Carden, Fitch, Giebeler, Hyde, John, Mallender, Meegan and K Norman.

68. STATUTORY PROPOSAL TO DISCONTINUE EAST BRIGHTON COLLEGE OF MEDIA ARTS

68.1 The Chair stated that, if the Sub-Committee decided to refer the closure proposal to the School Organisation Committee, she would arrange for another councillor to attend that Committee in her place. Although it was not a legal necessity for her to do this, in view of her involvement processing the closure proposals as the Chair of the Sub-Committee, she felt it would not be appropriate for her to act as the Chair of the School Organisation Committee.

68.2 The Sub-Committee considered a report of the Director of Children, Families and Schools concerning the response to the statutory notices on the proposal to discontinue East Brighton College of Media Arts. The statutory notices were published on 5 December 2003 (see minute book).

68.3 The Sub-Committee were provided with the Authority's observations on the representations and approval was sought to continue the closure process.

68.4 The Sub-Committee considered whether the Call-in process should apply (paragraph 2.5 item 68 on agenda). The Council's legal representative suggested that the Call-in process should not be applied in this instance given the time constraints imposed by the statutory procedures which needed to be observed. The Sub-Committee voted on this issue and five members were in favour of the Call-in process not being applied and five members of the Sub-Committee were against the Call-in process not being applied. As there were equal number of votes for and against the recommendation the Chair had the casting vote. The Chair voted in favour of the Call-in process not being applied

68.5 **RESOLVED** – (1) That the objections and comments submitted in response to the statutory notice proposing to discontinue (close) East Brighton College of Media Arts from 31 August 2005 and the draft observations on them be noted.

(2) That the continuation of the closure process and the approach being taken in relation to the draft observations be approved.

(3) That the Director of Children, Families and Schools be authorised to send to the School Organisation Committee for the area, all the objections and comments made to the Council during the period specified in the public notice, together with the Council's observations on them.

(4) That the Director Children, Families and Schools be delegated all necessary powers to progress the proposed closure through the School Organisation Committee and, if that Committee cannot reach a decision, through the adjudication process.

(5) That it be confirmed that the call-in process shall not apply as, in the Sub-Committee's opinion, its decisions in this matter are urgent, because delay would seriously prejudice the Council's interests and results in failure to comply with statutory time limits for the submission of the objections and comments to the School Organisation Committee.