

## **MATTERS FOR REPORT**

### **8/04 - HIC BREAKOUT SPACE SCHEME – POSSIBLE LITIGATION AND INTERNAL AUDIT INVESTIGATION:** The Chair invited the Chief

Solicitor, Mr Stephen Prosser, to refer to the reports detailed separately on the agenda in relation to “Possible Litigation” and “Internal Audit Investigation” submitted by the Director of Administration and Audit Manager respectively. These reports were considered in tandem during the Commission’s discussions and scoping exercise for the review.

The report submitted by the Chief Solicitor gave legal advice in respect of the Council’s rights of recovery against the agent employed by the Council in relation to the HIC Breakout Space Contract. Although issues raised in that report were separate from those considered by the Audit Manager’s report they arose out of the same facts. The Audit Manager’s report referred to the findings of the Internal Audit Investigation into the circumstances surrounding the HIC Breakout Space Scheme and the problems experienced as a result of the collapse of the contractor engaged to undertake the project.

The Chief Solicitor discussed the difficulties faced by the Council in carrying out a review at the same time as the litigation. Members expressed their concern that the review could prejudice the outcome of the litigation. The Chief Solicitor agreed that the lawyers defending the claim would be seeking to take advantage of the internal investigation and the Scrutiny review, as well as any public statements about the case made by officers or Councillors. However, given the losses incurred during the scheme and the public interest in ensuring that the problems did not recur, the Commission could not delay its investigation until the litigation was concluded, which might not be until 2006/07.

The Commission took the view that their remit should be to review the processes and procedures employed during the procurement of the scheme. The objective should be to recommend improvement to the Council’s procedures which would reduce the risk of similar losses in future.

In terms of evidence required for the scrutiny review it was agreed that the reports submitted by the Chief Solicitor and Audit Manager would provide a good foundation from which to launch a review. It was agreed that as far as possible the Panel’s work would be undertaken in open or public session, however there would be aspects of the review that would have to be dealt with in exempt session.

The Commission then discussed the detailed scope of the review to be undertaken in the following months. Members considered the definition of the review and possible aims and/or objectives and methods to be employed during the review itself, including any witnesses required.

It was unanimously agreed that despite the appointment of substitute Members to the

HIC Breakout Space Panel by the Council at its Annual Meeting held in June 2004, the Panel would not use Substitute Members. Due to the complex nature of the subject it was considered important that all Panel Members were able to attend every meeting. Substitute Members would not have the benefit of any knowledge gained through previous Panel meetings. The Chair advised that he would contact Councillor Theakston in relation to this matter and the Director of Administration would speak to Councillor Freeman on a similar basis.

In relation to the dates proposed by the Director of Administration for meetings of the HIC Breakout Space Panel it was agreed that the first meeting of the Panel would take place on Monday 9 August at 5.30 pm and subsequent meetings on 25 August, 14 September, 4 October and 25 October where it was anticipated that the Panel's final report would be agreed.

**RESOLVED (UNANIMOUSLY):**

That (1) the reports submitted by the Chief Solicitor and Audit Manager in relation to the possible litigation issues and Internal Audit investigation be received;

(2) the Commission agree the need to undertake a review of the policies and procedures relevant in the procurement of large construction projects in light of the HIC Breakout Space scheme via the HIC Breakout Panel;

(3) despite the appointment of substitutes to the HIC Breakout Space Panel by the Council at its Annual Meeting these members will not be required by the panel; and

(4) the meetings of the Breakout Space Panel take place on 9 August, 25 August, 14 September, 4 October and 25 October.

(5.40 pm – 7.00 pm)

(D)