

Task group on the Council's use of consultants: final report

Report by the Chief Executive

1.0 Findings and recommendations

- (a) Finding: successive governments' habit of changing rules, programmes and frameworks can create a need to make short-term use of specialist knowledge which the Council does not already have at its disposal and would not need to retain in the longer term;
- (b) Finding: the total amount spent by the Council on consultants (broadly defined) is very small in relation both to its overall budget and to the budgets of the individual directorates concerned (see Appendix A);
- (c) Finding: going out to tender has enabled the County Council to reduce the cost of its public liability insurance from £6,000,000 to £5,000,000;
- (d) Finding: that where consultants are engaged to fill a gap, the cost is typically met by directorates from staff vacancies or delayed recruitment;
- (e) Finding: difficulties are being encountered in attracting suitable applicants for certain senior management posts. This is because of the increasing tendency of individuals to constitute themselves as companies (with attendant financial advantages). Many now prefer to hire themselves out as consultants/interim managers rather than accept permanent employment. This creates clear difficulties for any succession planning by the Council;
- (f) Finding: information submitted by the Corporate Management Board included one instance of a retired officer being re-engaged as a consultant. This is something inconsistent with assurances previously given to the Council;
- (g) Finding: the Panel has been assured by Directors that they understand and abide by the £100,000 limit on their delegated power to engage consultants;
- (h) Recommendation: a small number of consultant or interim manager appointments are of such significance that they ought to be discussed and ratified by the Executive as a whole;
- (i) Recommendation: when interim managers are retained, elected members and in particular to the relevant Overview/Scrutiny Committee(s) should be informed and an early opportunity taken to introduce them to members;
- (j) Recommendation: that the Council should establish a common corporate mechanism for the monitoring of contractors' performance and for dealing with complaints about them from partner organisations and the general public;
- (k) Recommendation: that each Directorate should maintain a register, accessible to members, of all consultants currently engaged (detailing who, why and for how long they are likely to be retained).

2.0 Membership and terms of reference

2.1 The Task group consisted of Councillors Hart (Chairman), Boote, Brooke, Clatworthy, Cox and Owen.

2.2 It was established by the Policy & Resources Overview/Scrutiny Committee on 14 November 2007 (Minute 125(a) refers) with the following remit:

“to look at the County Council’s use of consultants. This should include who the consultants are, in what areas their skills are utilised and why, the costs and what corporate policy is applied to their use and retention.”

2.3 The group met on 21 January, 18 February, 10 March, 14 April and 7 May 2008 and has interviewed the County Solicitor; Director of Finance, IT & Trading; and the Executive Members for Environment, Children & Young People’s Services; and Executive Member for Adult & Community Services.

3.0 Lines of enquiry

3.1 At their first meeting, members discussed a briefing paper by the Scrutiny Officers suggesting possible lines of questioning and summarising the findings of similar reviews by Bromsgrove (July 2006); North East Lincolnshire (October 2006); Torbay (April 2006); and Worcestershire (March 2005) Councils.

3.2 The group addressed a number of questions to the Corporate Management Board and received responses as follows:

(a) *Is there a corporate policy on the use of consultants?*

There is a specific expenditure code for expenditure on consultants and no central register of those retained. There is no corporate policy beyond what appears in Financial Regulations:

A11.1 If any professional person is to be engaged as a lead consultant for a major organisational review or to lead a major project on behalf of the County Council the approval of the Executive Member must first be obtained .

A11.2 For projects and activities under their control, Directors may appoint specialist sub-consultants up to the value of £100,000 per consultant.

(b) *How does the Council define a consultant as distinct from (say) a contractor or fixed-term employee, or — if there is no common standard — what definition does each directorate apply?*

There is no corporate definition of a consultant as distinct from (say) a contractor, interim manager or fixed-term employee.

(c) *Is there a budget line or specific expenditure code for the use of consultants? If not, how does each Directorate record these costs and is there consistency across the organisation?*

There is a specific code for expenditure on consultants which all Directorates are expected to use.

(d) *Can they be engaged on a Directorate’s initiative, without reference to any corporate authority?*

Yes, if the expenditure is below £100,000.

(e) *Which officers have the authority to retain a consultant and within what limits (e.g. of cost and duration)?*

Covered by Financial Regulations, with the exception of the duration issue.

(f) *What procurement processes (e.g. competitive tender) apply when consultants are sought? How are the abilities and track records of prospective consultants assessed?*

(g) *How many consultants is the Council retaining at the moment and how many last year? How much was spent on consultants in each directorate last year?*

See Appendix A.

- (h) *May the Task Group be provided with a copy of any corporate or directorate register of the consultants presently retained; the work they are doing; the period of their retention; and the cost?*

There is no register but individual Directorates were able to provide a tabulation of the consultancies they currently retained (see Appendix A).

- (i) *Does the Council or individual directorates have any plan or projection of the consultants likely to be retained over (say) the coming year?*

Some requirements can be foreseen but others are not predictable.

- (j) *Is the repeated use of consultants a pointer to areas of weakness in the in-house organisation?*

Consultants were generally used for particular tasks where the Council would have no continuing need (or financial justification) to retain the relevant expertise in house.

In some service areas however, there was an increasing tendency for individuals to constitute themselves as companies (with attendant financial advantages) and hire themselves out as consultants/interim managers rather than take permanent employment.

While the Council might wish to engage permanent staff in its senior managerial posts, it was not always able to do so.

- (k) *When consultants have been employed a number of times for similar work, is there any mechanism to assess whether there is a business case for developing a corresponding in-house capacity?*

None of the interviewees identified any formal process or mechanism for this.

- (l) *What benefits and improvements have been brought to the organisation by the consultants it has retained hitherto?*

Expertise and knowledge unavailable in-house; capacity to address rare or non-recurring issues; persons to fill management positions where permanent recruitment proves impossible; a different perspective.

3.3

The County Solicitor presented the Management Board's collective response to the above questions and with appendices setting out the consultants engaged by each Directorate in the past year. Among the points emerging during the discussion were that:

- whether there might be a tendency to "find another job" for consultants whose engagement was about to end;
- how confident could the Council be that Executive Members themselves were fully in the picture?
- the apparent fallibility of outside expertise demonstrated by the problems with the refurbishment of the Exeter Swing Bridges;
- how was it that consultants "seem to know so much more than we do"?
- the desirability of drawing on external expertise (including that of other local authorities) when Devon was a comparatively late adopter of schemes such as PFI;
- the continuing need for external specialist advisors on the Exeter Schools PFI;
- that all consultants retained by Adult & Community Services reported to the Strategic Management Group, an arrangement adopted in the light of the need to address the demographic and financial pressures bearing on those services;
- the expenditure on facilitation of the Devon Strategic Partnership conference (£6,500) had taken place during the last year;

- whilst consultants might be retained to study risks to the Devon coast from maritime accidents, the forthcoming *MSC Napoli* inquiry was expected to be supported in-house. Although some expense would undoubtedly be incurred, the example of 2001's Foot and Mouth Disease inquiry suggested that a modest sum should suffice;

4.0 Use of Consultants

4.1 The task group recognised that by virtue of their ability to specialise, consultants were sometimes more up to date on government regulations in a given field than the council's own officers. The group was concerned that sometimes consultants appeared to be giving guidance to the Council on basic "rules of engagement" which its own officers might reasonably be expected to know. Members were concerned that consultants should be called in only where there was a genuine need for their services and that the Council should not find itself doing so merely out of habit.

5.0 Finance, IT & Trading

5.1 The Director answered members' questions about his Directorate's use of consultants:

- the sums for contracts related to the implementation of the PRiSM system were in some cases aggregates covering several individuals retained to carry out a particular aspect of the work;
- the changes to the PAYE regime from April 2008 had led to the engagement of some of these contractors, to ensure that the payroll system was set up accordingly;
- once PRiSM was fully operational, it was envisaged that its maintenance from then on would transfer to the budget of Personnel & Performance.

6.0 Environment (Councillor Rogers, Executive Member)

6.1 The Council had lists of approved contractors and consultants and Directors had a delegated power to engage consultants (see above). The Directorate made only limited use of them as it disposed of a wide range of in-house expertise as well as a rigorous culture of financial control.

6.2 Asked about the present delegation arrangements, Councillor Rogers did not feel it necessary for the Director to advise her each time consultants were engaged because of she had confidence that the Directorate exercised careful control of its expenditure. She had frequent meetings the Director and/or his Deputy as well as continual contact via email and telephone. This ensures that she is aware of any issues affecting the department.

6.3 The group questioned the role of the consultants undertaking the repair and renovation of the Exeter Swing Bridges and why they had been paid irrespective of their apparent failings and the problems which had ensued. Councillor Rogers advised that the problems had arisen as a result of:

- the route being reopened too soon;
- the equipment used being too old; and
- the failure of the consultant to anticipate what would happen.

She undertook to respond to detailed issues if members wrote to her about them.

6.4 The Council's relationship with South West Highways was contractual and procured through a tendering exercise in which SWH had submitted the successful bid.

- 6.5 Councillor Owen raised the issue that, in relation to SWH, there is no mechanism for recording complaints about consultants and contractors. It was felt that records of complaints could be useful when considering contract renewals. Councillor Rogers agreed that there was scope for complaints to be recorded and considered in the manner suggested. She added that contracts are not generally renewed where there had been a large number of complaints.
- 6.6 Councillor Rogers suggested that issues of contractors' performance should be raised at HATOC meetings. If the HATOC recommended it, the matter could be passed to the Overview/Scrutiny Committee for investigation.
- 6.7 The task group raised the re-engagement of retired County Council Officers for specific purposes and for limited periods and whether Directorates anxious to meet financial targets were dispensing with essential expertise. Councillor Rogers was not aware of this having happened to any great extent in the Environment, Economy & Culture Directorate.
- 6.8 Asked if the Executive discussed the use of consultants, Councillor Rogers responded that it did on occasion and the Parsons Brinkerhoff consultancy had recently been considered there.

7.0 Children & Young People's Services (Councillor Smith, Executive Member)

- 7.1 CYPS spent in the region of £200,000 a year on consultants, a very small fraction of the overall budget for the service. There was specific consultancy provision, rather appointments were financed from underspent parts of the budget
- 7.2 The Joint Area Review had called for prompt action to address a number of issues. After an Assistant Director left, an Interim Assistant Director, Children Young People & Families had been engaged through an agency and had, in Councillor Smith's view, brought about "enormous improvements in the social work team."
- 7.3 Councillor Smith spent a half-day each month with the Director, reviewing performance data. Most of the indicators were now at green and many of the most important at 100%. Engaging an interim manager had therefore been "money well spent." The individual concerned was to remain with Devon until September 2008, so he would be in post to deal with the summer inspection.
- 7.4 The task group pointed out that these arrangements had never been explained to most elected members and that the interim manager had not been introduced to them in person or in writing in the way that a regular senior officer would have been.
- 7.5 "Consultant B", mentioned in the Corporate Management Board's paper, had been engaged to do a specific job in Special Education but then retained for other work. Councillor Smith had reviewed the position and the consultancy had been ended in October 2007. Judith Johnson, who taken up her post as Director, Learning and Schools on 1 April 2008 had previously worked in a consultancy role with VT4S (set up by Surrey County Council to run schools support services and completely outsourced in 2004 with the council retaining a minority shareholding).
- 7.6 Recruitment problems were being encountered more and more. Even for very senior posts the Council was now doing well to attract two or three candidates. Councillor Smith expressed particular concern at the number and calibre of candidates for children's social work that Devon was currently able to attract.
- 7.7 The group asked how far the shortfall was influenced the salaries offered, the specialised nature of the job or the job description? Councillor Smith replied that there were resource issues. Plymouth had adopted the Hay job evaluation template and Devon the JNC's. In consequence, Plymouth was offering better pay to Senior Practitioners. Devon ran a training course to take Social Workers from unqualified to qualified status but was not yet doing enough to take people further. This shortfall in training and development was evident throughout local government, the public sector and the wider economy.

- 7.8 The group asked if people with the requisite abilities were opting for some other line of work. Councillor Smith was aware from his own professional experience of the demands that children's social work made on those who did it; it was a field where consequences of being wrong were extremely serious and it was not surprising if careers in fostering, adoption or adult social care appeared more attractive.
- 7.9 Asked if the Council was doing enough to develop its own staff for future senior management positions, he responded that Devon took part in the Peninsula Training Programme for just that reason. Although far from being a complete answer, this programme was well in advance of anything underway in most other regions.
- 7.10 Consultancy services were procured by CYPS in a variety of ways, including the invitation of tenders, depending on the scale and nature of what was sought.
- 7.11 Councillor Smith felt that the attractions of working as a consultant included greater autonomy, employee (albeit consultancy income was likely to be intermittent).
- 7.12 "As of today" JS saw no imminent issue likely to require the engagement of consultants. However management structures had now been stripped out to the extent that the system functioned properly "as long as everybody's there." Given the tendency of Whitehall to spring new initiatives on local government, one could not rule out the possibility of additional management capacity being needed at relatively short notice.
- 7.12 Before 2010 however the Council expected to have new duties regarding guaranteed education or training until age 18. At present there were no plans either for the accommodation of these additional students/trainees or the courses they might follow. The Council would also have to consider how it might deal with those disaffected from both education and vocational training. Application of these new policies in a sparsely-populated area was also likely to pose questions of choice and accessibility (e.g. which courses could some young people actually get to by public transport) that would also need to be addressed.

8.0 Adult & Community Services (Councillor Rawlinson, Executive Member)

- 8.1 Almost all Adult & Community Services' consultants were retained in connection with aspects of the Modernisation Programme. They were engaged through the Modernisation Programme Group (which included the Leader of the Council; the Director of Finance, IT & Trading; and the Modernisation Programme Manager). The Older Persons' Support Programme was the only aspect of modernisation not overseen by the this group (Devon was working with the Districts on this and had retained consultants for a specific piece of work, using funds provided by Central Government for the purpose).
- 8.2 Councillor Rawlinson saw consultancy as protecting the authority in areas where it did not retain the relevant expertise in-house or where those with the requisite knowledge were needed for other work. The Audit Commission also tended to look more favourably on authorities which ensured they were able to call on the expertise appropriate to a particular undertaking.
- 8.3 Apart from the externalisation of residential care (see below) spending on consultancy for the modernisation programme had been in a little over £200,000 in all, against an upper limit of £400,000. The biggest piece of these expenditure was for modernisation of the Care Management System while other consultancies were related to:
- the Housing Support Strategy (£20,000); and
 - housing for migrant workers (£15,000).
- 8.4 Members asked how the work of consultants was monitored and their effectiveness evaluated. JR advised that this was the responsibility of Donna Pearson (Modernisation Programme Manager). The Directorate had dismissed a consultant working on telecare when it became apparent that there was little or nothing to show for the five weeks they had been retained. One Assistant Director had moved into consultancy after being headhunted (see below) but currently there did not seem to be a general problem with recruitment at that level.

- 8.5 The group raised several questions on the proposed externalisation of residential care services to Shaw Healthcare. From the outset, the proposal had been overseen by an Assistant Director who had recently left to become a consultant. By agreement with his new employer he remained on Devon's payroll for one day per week to complete the transfer. Councillor Rawlinson found that this had curtailed his contacts with "intermediary" between the Council and Shaw, inhibiting the flow of information and posing obvious problems for proper accountability to the Executive Member.
- 8.6 Despite an earlier expectation that draft contracts would be completed during April 2008, this had not happened by May and the Executive Member did not see completion in the immediate future. The main issues outstanding were trade union recognition and the financing of extra care housing in which Devon was expecting to invest £15,000,000. In his view there should be no further need to use consultants except possibly to check the wording of the final contact.
- 8.7 Councillor Rawlinson explained the effort that had been put into information, communication and consultation about Shaw's proposals, saying that he would wish to hold a question and answer session for elected members before the deal was finally signed. The group suggested that similar steps should be taken with the other parts of the modernisation programme.
- 8.8 The group went on to discuss aspects of the proposed externalisation including:
- Shaw currently operated partnership arrangements in other counties but the proposed Devon arrangement would represent a substantial addition to their business;
 - whether and to what extent Shaw's bid had included domiciliary care services;
 - what additional costs would be incurred (and for how long) before the Council began to realise any benefits;
 - how far the Council would share in the proceeds of developments that Shaw were understood to be planning on the sites they were to operate;
 - Messrs King Sturge were valuing the sites due to transfer to Shaw.

John Hart (Chairman)
Roger Boote
Jerry Brook
John Clatworthy
David Cox
Jill Owen

Electoral Divisions: All
Executive Member: All

Local Government Act 1972 List of Background Papers		
Officer contact:	Nick Beale	
Room:	G.36	
Tel No:	01392 382296	
Background Paper	Date	File Reference
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APPENDIX A

Consultants retained as at February 2008 (information compiled for the Task Group by the Corporate Management Board)

Children & Young People's Services

3 consultants:

Projected total 2007/08	Anticipated end date
£170,000	September 2008
£70,000	March 2008
£20,000	December 2008
Total	£260,000

5 specialist firms: total £211,000 (of which £26,000 funded by DCSF)

1 officer from another authority (cover for long-term sickness)

Adult & Community Services

3 consultants (Modernisation Programme Office):

Annual total £	
£101,250	
£111,375	
£106,875	
Total	£319,500

2 firms (financial and legal advisers re externalisation of in-house provider services): estimated total in the range of £150,000 – £400,000 dependent on the number and complexity of issues arising. Funded from the ACS Modernisation Fund.

3 consultants assisting the Supporting People programme: total of £59,000.

1 consultant for Link Age Plus (government funded): estimated total of £50,000.

1 consultancy and 2 business analysts supporting My Life, My Choice: estimated total of £87,000.

Environment, Economy & Culture

1 term contract for engineering consultancy (Parsons Brinkerhoff): £1,700,000 per year.

1 partnership developing a finance model for highway maintenance: £6,500.

+ short term contracts to support specific pieces of work, usually to provide skills not available within the directorate (e.g. Hydrogeology, wildlife habitats) or to complete a unique piece of work.

+ individuals are contracted as consultants to cover variations in work load and demands on specialist skills or to cover crucial posts until a replacement can be appointed.

Not including the amount paid to the major firms for consultancy, a broad estimate suggests the total is in the region of £750,000 per year from an overall annual budget for the Directorate of just under £160,000,000.

Finance, IT & Trading

7 to support technical aspects of the introduction of the PRISM HR management system: total £995,737.

3 for technical support of ICT strategy projects and the Customer Service Centre: total £263,160.

1 contractor for Customer Service Centre and mainframe support: £348,061.

(Note: work on PRISM and the Customer Centre was complete at the time of the report and so the above expenditure was ending)

1 consultancy re appointment of Pension Fund Custodians: £50,000 (resulting in an ongoing annual saving of £60,000 per annum for the next 3 years).

1 contract for money market and capital finance advice: £17,000 per annum.

1 Pension Fund actuary: average £32,000 per annum.

1 advisor on letting the banking services contract: £4,000.

1 consultant commissioned to provide financial evaluation of the High Bickington Project: £25,000.

Legal and financial advise commissioned re the Waste to Energy Plant: 5,000.

Agency staff sometimes engaged to cover critical vacancies: annual cost not exceeding £50,000 per annum.

Chief Executive

2 consultancy firms retained to advise on the Council's case opposing the Exeter unitary bid: £60,000 at time of report.

Consultants employed to facilitate the Devon Strategic Partnership Conference: £6,200.

1 consultant to provide management training necessitated by the Corporate Manslaughter Act (not quantified at time of report).

+ Instruction of external solicitors (depending on length and complexity of a case) and counsel (e.g. in Crown Court cases): £200,000 in 2007.