

MINUTES of the meeting of Strategic Monitoring Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday, 10 September 2008 at 9.30 a.m.

Present: Councillor PJ Edwards (Chairman)
Councillor WLS Bowen (Vice Chairman)

Councillors: PA Andrews, KG Grumbley, TM James, RI Matthews,
PM Morgan, AT Oliver and JK Swinburne

In attendance: Councillors MD Lloyd-Hayes and RJ Phillips

24. APOLOGIES FOR ABSENCE

Apologies were received from Councillor WU Attfield and SJ Robertson.

25. DECLARATIONS OF INTEREST

Councillor PJ Edwards declared a personal interest as a former Cabinet Member in the agenda item on suggestions by members of the public.

26. MINUTES

RESOLVED: That the Minutes of the meeting held on 16 July 2008 be confirmed as a correct record and signed by the Chairman.

27. SUGGESTIONS FROM MEMBERS OF THE PUBLIC ON ISSUES FOR FUTURE SCRUTINY

(Councillor PJ Edwards declared a personal interest as a former Cabinet Member.)

In summary, a member of the public requested that the Committee call-in Council's decision on the Notice of Motion submitted to the extraordinary meeting of Council on 4 September relating to the legal challenge to the Herefordshire Unitary Development Plan, the majority of the points raised in the Notice of Motion not having been accepted by Council. He said that no answers had been given to these points and questions raised in the Notice of Motion and that they warranted further investigation and clarification.

The Assistant Chief Executive – Legal and Democratic Services advised that the legal power of call-in did not apply to Council's decision. The Council's constitution only permitted key decisions taken by the Executive to be called in. The Council had properly debated the Notice of Motion and an amendment to the motion had been properly put and carried by Council. The matter had been fully debated and accordingly scrutinised by Council.

A Member noted that an appeal had been lodged by Bloor Homes against the High Court judgment on the challenge to the Council's resolution of July 2006 allocating land for housing at Bullinghope and was ongoing. It was suggested that this limited the extent to which the issues involved could be discussed.

In summary, another member of the public requested the Committee to examine the Council's approach to disclosure of evidence in connection with the High Court challenge to the Unitary Development Plan.

The Assistant Chief Executive – Legal and Democratic Services advised that Legal Services had acted in accordance with the advice of Counsel and had complied with the Court Rules. The Judge had expressed his dissatisfaction with the Court Rules and it was understood he intended to issue a new practice directive.

The Chairman said that he looked forward to the directive being received.

28. REVIEW OF THE SERVICE DELIVERY PARTNERSHIP WITH AMEY WYE VALLEY LIMITED

The Committee considered what comments it wished to make to Cabinet on the Service Delivery Review of the Council's Service Delivery Partnership with Amey.

The report to be considered by Cabinet on 11 September had been circulated with the agenda papers. This sought authority to commence formal negotiations with Amey based on a Herefordshire Model of service delivery, as outlined in the report, as the preferred model. This was a "managing agent" model under which, subject to successful negotiations, Amey would take on the relevant Council staff responsible for the relevant service areas under TUPE arrangements. It was proposed that a further report would be submitted to Cabinet on conclusion of the negotiations. Negotiation of the preferred model would not restrict the recommendation of a different model if it was clear that this would be in the Council's best interests.

The report also proposed that Asset Management and Property Services should be excluded from the negotiation whilst a wider review of the property estate and its management was carried out, to be completed by the end of March 2009.

The Director of Environment and Culture invited comments on the report, the substance of which had been previously debated by the Committee in June.

In the course of discussion the principal points were made:

- Concern was expressed as to whether due weight was being given in the discussions to the importance of quality of service. It was suggested that it was hard to accept that savings of £1million per annum could be generated in the context of the current level of the contract and improvements made to the quality of service at the same time. The Director said that he considered it was possible both to make savings and improve the quality of service. The detailed report it was proposed to provide to Cabinet in December would set out how improvements in quality would be secured.
- A number of questions were asked about the views of staff on the proposals and the effect the proposals would have on them. The Director noted that the report to Cabinet was seeking approval to enter into detailed negotiations. He believed staff were satisfied with the way the process had been conducted and communicated to date. There had been regular newsletters and briefings. However, staff had understandable concern about the implications of transferring to Amey. Advice would need to be offered to staff on their individual positions.

Members observed that the TUPE provisions protecting terms and conditions on

transfer to Amey did have their limitations in that they ceased to apply if an employee changed their role or, for example, secured a promotion.

- That there had been considerable tension between the Council and the contractor. The managing agent model seemed to be the best way of resolving that difficulty. However, it was important that reassurance was provided on the employment issues.
- In response to a question the Director confirmed that the Trades Unions had been invited to all meetings of the Project Board, although they had only attended a few times, and would continue to be involved in the process and in discussions about staff transfers.
- It was asked how many posts would be cut under the proposals and at what levels. The Director said that the negotiations would determine how many staff would transfer and the number of posts the Council would need to retain and contract management arrangements that would need to be put in place. He said that the Directorate had managed vacancies in the last year and that there were currently 20 vacancies within Highways some of which are being covered by temporary agency staff. This would help to minimise the need for any redundancies and the associated costs.
- Reference was made to a newspaper report in autumn 2007 that 60 posts were to be cut to make savings of £2 million. It was asked if this reduction had taken place or whether it was linked to the current proposals. The Director replied that this figure had been produced by the Trades Unions. The need for savings had been identified to address budgetary pressures. The Medium Term Financial Strategy specifically excluded provision for inflation on non-pay budgets. Budgetary pressures to be met from within existing budgets included a reduction in budgeted fee income from planning services, and inflation in contract costs which had a particular impact because the directorate held some of the largest contracts. Investment in ICT also needed to be financed. There had been some redundancies in Environmental Health and Trading Standards and a reduction in the provision of specialised services. Further information could be provided if requested.
- The cost of renegotiating the contract was estimated to be £200,000 including consultancy fees for external legal and contract negotiation advice. Questions were asked about the need for this expenditure and the sum involved. The Director said that the expenditure needed to be considered in the context of the size and length of the contract and the level of expertise required given the complexity of the negotiations. The Council's advice would be secured through a consultancy firm owned by the Local Government Association that had a reputation for being extremely competent. He expected Amey would be spending considerably more than this on its advisors.
- An explanation was sought of the estimated savings of £308,000 per annum through the recovery of costs for damage to immobile property (eg highways, street lighting, and signage) by individuals and businesses, as referred to on page 74 of the agenda papers, and why this was not currently being achieved. The Director replied that the potential for securing this level of savings had been identified during the review.
- It was suggested that one of the key failings of the current arrangements was that the specification provided by the Council as client to the contractor often

seemed to be flawed. In addition quality of service varied from area to area. This suggested that it was the teams on the ground and how they were managed that was also a key factor. It was asked how the proposed move to a managing agent model would lead to an improvement. The Director said that it was important to shift the emphasis to a focus on outcomes. The interim Head of Highways said that the onus would be on the contractor to design and develop a scheme to their own specification. The Council as client would need to manage the contract to ensure the outcome was then delivered to its satisfaction and, through auditing a sample of jobs, ensure that value for money was achieved.

- It was asked how Amey would be accountable and be seen to be accountable. The Director said that the agreement would be based on transparency and Amey's books being open to Council inspection.
- Further concern was expressed about how to ensure that quality of service was being delivered and the Council was getting what it was paying for. The Director said that a large amount of performance data was already available to the Council in addition to the national performance indicator data that could be used to measure quality. Part of an agreed performance framework would include a greater focus on material already in the Council's possession. It would be important, however, that the steps taken to measure quality were proportionate.
- The Chairman remarked on the importance of the Council ensuring robust monitoring arrangements were in place and insisting on timely reporting, noting the slippage in presenting the Council's own Integrated Performance and Finance Report to the Committee.
- The Director noted that despite the complaints about the current contract hardly any variations to it had been negotiated during its life. In future where there was evidence of difficulties these would need to be addressed and changes made to the contract
- Further concern was expressed about the level of supervision of the contractors. It was suggested that there should not be overreliance on the "Watchman" scheme referred to in the report as a substitute for regular supervision.
- In response to a question the Assistant Chief Executive – Legal and Democratic confirmed that the contract as a whole was not being renegotiated. That would require a new procurement process. The negotiations were confined to service delivery arrangements and were practical and pragmatic.
- Reference was made to the provision in Bedfordshire's contract with Amey for incentives to Amey to deliver on target. The interim Head of Highways confirmed that it was the intention to seek to negotiate financial and contractual incentives as part of the performance management regime.
- There remained some concern about how the Council could satisfy itself that value for money was being secured and whether the projected savings would materialise. The Director acknowledged that the public sector generally had not been good at making savings. He was more optimistic that the current proposals would achieve savings because of the disciplines that governed the way in which Amey as a private contractor operated. The Council could not afford to monitor every action of Amey and therefore had to ensure in the negotiations that any inefficiency on the part of the contractor would be to Amey's financial detriment not the Council's.

- It was noted that the financial implications would be the subject of further detailed negotiations.
- That the Audit Commission had highlighted that good contract management was key to delivering core benefits and that savings from these types of service delivery partnership contracts were not guaranteed. The Herefordshire model it was proposed to adopt was the most costly option to introduce. The Director of Resources reported that the Project Board had taken careful account of the Audit Commission publication, "For better or worse: Value for money in strategic service-delivery partnerships."
- It was asked whether the proposals had any implications for works at schools. The Director of Resources replied that schools were not obliged to take property services from the Council. The Council had service level agreements with schools for property matters. There was no proposal to change the current arrangements but consideration might be given to this issue as part of the wider review of property services that was being undertaken. It was noted that the elements of the contract with Amey in relation to property matters would not be part of the proposed negotiations because of the implications of imminent decisions on the Council's accommodation strategy and would be subject to the recommended review of Asset Management and Property Service. It had been considered important not to await the outcome of that review which would have delayed making progress with negotiations on highways and related issues as a priority.
- The Director of Environment and Culture outlined the timetable for taking the proposal forward, subject to Cabinet approval. This envisaged a further report to Cabinet in December, with staff being consulted and notified of proposed changes and TUPE arrangements in accordance with Human Resources and legal requirements with a view to new arrangements coming into force in April 2009.

RESOLVED

- That (a) the Committee broadly supports the recommendations being made to Cabinet on the Service Delivery Review of the Council's Service Delivery partnership with Amey;**
- (b) the Committee notes that detailed negotiations will give rise to a further opportunity to scrutinise the methods being proposed to measure both quality and value for money of both individual projects as well as the contract as a whole;**
 - (c) further reassurance be sought on the employment matters and financial implications once firm proposals have been agreed by both parties;**
 - (d) the Committee be reconsulted once the asset management and property review is completed at the latest by March 2009; and**
 - (e) regard be had by Cabinet to the Committee's other principal observations as set out above.**

29. WORK PROGRAMME

The Committee considered its work programme.

Further to discussion at the Committee's meeting in July the Chairman of the Children's Services Scrutiny Committee had requested that the proposal by the Children's Services Scrutiny Committee regarding the appointment of Councillors on the Committee as champions for one of each of the outcome areas of the Every Child Matters agenda be authorised to proceed.

The following addition was noted: a report consulting the Committee on completion of the asset management and property review.

It was requested that consideration be given to the agenda for the October meeting which already appeared too heavy, even after agreeing to move consideration of the Medium Term Financial Strategy to November.

A request was made that lengthy reports should be accompanied by a proper summary of their content.

RESOLVED:

- That**
- (a) the work programme as amended serve as a basis for further development; and**
 - (b) the proposal by the Children's Services Scrutiny Committee regarding the appointment of Councillors on the Committee as champions for one of each of the outcome areas of the Every Child Matters agenda be authorised to proceed.**

The meeting ended at 11.10 a.m.
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CHAIRMAN