

Minutes of the meeting of the Connected Communities Scrutiny Committee held in Conference Room, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Friday 14 October 2022 at 2.30 pm

Committee members present in person and voting: **Councillors: Paul Andrews, Chris Bartrum, Tracy Bowes (Vice-Chairperson), Barry Durkin, Jim Kenyon and Jonathan Lester (Chairperson)**

Others in attendance: M Averill (Interim Service Director Environment, Highways and Waste), B Baugh (Democratic Services Officer), M Carr (Interim Statutory Scrutiny Officer), R Cook (Corporate Director - Economy and Environment), Councillor G Davies (Cabinet Member - Commissioning, Procurement and Assets), A Deans (Interim Programme Director – Major Contracts), Councillor J Harrington (Group Leader for Independents for Herefordshire and Cabinet Member - Infrastructure and Transport) and A Rees-Glinos (Democratic Services Support Officer)

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Kath Hey.

2. NAMED SUBSTITUTES

There were no named substitutes.

3. DECLARATIONS OF INTEREST

Agenda item 8 - The Public Realm Future Operating Model: Councillor Paul Andrews and Councillor Tracey Bowes advised that they had non-pecuniary interests due to associations with people who worked with the current provider; and Councillor Jim Kenyon advised that he had a non-pecuniary interest due to an association with someone who sub-contracted for the current provider.

4. QUESTIONS FROM MEMBERS OF THE PUBLIC

No questions had been received from members of the public.

5. QUESTIONS FROM MEMBERS OF THE COUNCIL

No questions had been received from councillors.

6. ROLE AND OBJECTIVES OF THE CONNECTED COMMUNITIES SCRUTINY COMMITTEE

Details of the role of the committee, in accordance with the council's constitution, and the key strategic objectives for the committee were received.

RESOLVED:

That the general role and remit of the scrutiny committee be noted, and the Connected Communities Scrutiny Committee Objectives for 2022-2023 be agreed.

7. CONNECTED COMMUNITIES SCRUTINY COMMITTEE ANNUAL WORK PLAN 2022-2023

The Connected Communities Scrutiny Committee Annual Work Plan 2022-2023, drawn up in consultation with members of the committee, was received.

RESOLVED:

That the Connected Communities Scrutiny Committee Annual Work Plan 2022-2023 be agreed.

8. THE PUBLIC REALM FUTURE OPERATING MODEL

The committee was advised that public realm was part of three cabinet portfolios, these being: Cabinet Member – Commissioning, Procurement and Assets; Cabinet Member – Infrastructure and Transport; and Cabinet Member – Finance, Corporate Services and Planning (the latter member was not able to attend this meeting).

Cabinet Member – Infrastructure and Transport introductory comments included: the contract for the delivery of public realm services was currently with Balfour Beatty Living Places (BBLP) but this item was about the nature of the contract and not the provider; the current contract commenced in 2013, with an initial term of 10 years and with the potential for contract extensions subject to satisfactory performance; it was considered the right time to review the arrangements to ensure that the model was right for Herefordshire; and officers had been requested to look at the options moving forward.

The principal points of the discussion included:

1. A committee member questioned whether there was sufficient time for the development of options and proposals given the need for the council to form a new administration in May 2023. In response, the Cabinet Member – Infrastructure and Transport said that Cabinet did not intend to make a determination at this time, this was about reviewing the model, and the input of the committee would be welcomed.

The Cabinet Member added that each political group had been invited to appoint a representative to a working group.

2. In response to a further question about timing, the Cabinet Member – Infrastructure and Transport commented on the need for assurance that the arrangements provided value for money and that the contract worked for Herefordshire.
3. A committee member said that further information was needed on those aspects where the existing contract was considered lacking or requiring improvement. The Cabinet Member – Infrastructure and Transport commented on the need to understand whether a comprehensive contract was optimal; reference was made to the model operated by Telford and Wrekin Council which had retained technical staff 'in-house'. The Cabinet Member said that the current set up did not necessarily enable the council to monitor it effectively enough.
4. The Cabinet Member – Commissioning, Procurement and Assets commented on the reviews that had been undertaken, including by PricewaterhouseCoopers (PwC), which had identified issues with the council's contract management approach. The Cabinet Member said that, given considerations such as severe

weather events and the experiences of service users, there was the need to review objectives and performance indicators. The Cabinet Member emphasised the need to understand the timescales involved.

A committee member commented on the need for the committee to have access to key information, such as the PwC review, in order to undertake its scrutiny function effectively.

5. In response to a question from a committee member, the Cabinet Member – Infrastructure and Transport said that there was now a dedicated street works team that checked on the activity of utility companies but there was not an equivalent internal team for checking the works undertaken in connection with the public realm contract.

The Interim Service Director Environment, Highways and Waste outlined the process-driven approach of BBLP to checking its own works and making applications for payment, and said that the council's contract management team examined a small sample of the work undertaken. In response to a further question, the Cabinet Member noted that some authorities, such as Telford and Wrekin Council, had retained road and street works inspectors in-house.

6. In response to a question from a committee member, the Cabinet Member – Infrastructure and Transport noted the potential for certain services to be delivered in other ways but commented on current limitations in terms of deviation from the original agreement.

In response to a further question, the Cabinet Member noted the potential for an internal team to manage relationships with sub-contractors directly but there would be associated costs.

7. The Vice-Chairperson commented on the difficulty to demonstrate value for money through the current arrangements, said that the operating models being looked at should be specified, considered that there was a need for technical staff to undertake monitoring regardless of the model employed, and questioned the implications of moving to a different model, including the employment and financial considerations.

The Interim Service Director said that some authorities employed technical staff in-house but with resource topped up by consultants, reflecting the flexibility needed with capital programmes.

Further details were provided about the quantitative and qualitative compliance checks undertaken by the contract management team, including the use of before and after photographs of repairs undertaken.

8. In response to a question from the Vice-Chairperson, the Interim Service Director commented that technical staff were often local people, whether in-house or a single provider, but larger providers could offer their services to other clients and ensure that staff were fully deployed. The Interim Service Director added that there was no 'best model', with contract and relationship management being key to outcomes.

In response to a further question, the Interim Service Director commented on adjustments to the contract management team to separate the commissioning and management elements, and on recent recruitment into the team. It was acknowledged that there was a need to use technology more in terms of identifying failed defect repairs.

9. The Chairperson commented on the need to explore models being used elsewhere which could be optimised to meet the needs of this county.

The Interim Service Director drew attention to the extract from the Highways Maintenance Efficiency Programme toolkit (agenda page 34) which identified a range of models influenced by increasing employer risk or by increasing provider risk. It was explained that there would always be a need to sub-contract within any model; larger contractors could often obtain more competitive prices for materials and for plant and equipment, supported by well-developed systems. Therefore, the council needed to identify its goals and objectives and how it wanted to deliver on those aspirations, with pieces of work packaged and parcelled out accordingly.

10. The Chairperson questioned whether a future operating model could provide greater flexibility to enable the council to react to certain circumstances, such as the severe flooding events in 2019/2020.

The Interim Service Director said that anything could be contracted but there would be financial considerations. It was commented that larger contractors could often draw upon resources nationally in response to local situations, thereby enhancing resilience.

The Cabinet Member - Infrastructure and Transport commented on: the ability to commission capital works through the existing framework; complications around demonstrating value for money; larger providers could not always provide solutions, such as with the current shortage of ecologists; the need to factor in the cost implications of any change-over period; and the potential for local councils or contractors to work on the network.

11. In response to a question about bringing public rights of way and traffic management services back in-house, the Cabinet Member – Infrastructure and Transport said that it had not gone as well as it should have done initially, partly due to staff retention issues, but he was now more comfortable with the progress being made.
12. A committee member drew attention to the statements in the report on risk management, 'The one off funding required to develop and implement the FOM [Future Operating Model] has not been identified or secured' (paragraph 48 iii), and on legal implications 'External legal Advice has been obtained regarding the contractual issues and options detailed in this report. Once the council has a clearer position regarding the FOM further legal and contract advice will be obtained to ensure any changes to contract with BBLP or move to new contractual arrangements do not put the council at risk' (paragraph 47). In view of these positions, a concern was expressed about the timing of the review given the limited information available.

The Cabinet Member – Infrastructure and Transport said that this item provided an early opportunity to comment, a further item would be needed, and the appropriate financial and legal mechanisms would be put in place.

In response to a question about the contractual arrangements, the Interim Service Director said that the next phase would be to look at the various models and to identify potential costs of delivery.

The committee member also drew attention to the statement in the report 'The outcome of local elections in May 2023 may result in a reversal of any Decisions'

(paragraph 48 ii) and re-iterated the need for more detail to ensure that value for money was secured and decisions were robust.

13. A committee member noted that the current provider deployed staff in a flexible way in order to undertake road gritting efficiently.
14. In response to questions from a committee member, the Cabinet Member – Commissioning, Procurement and Assets advised that: the PwC report had focused on contract management and had made various recommendations; the report had not considered the quality and longevity of the materials being used but it was clear that challenge from the council was under resourced; there had been conversations with the current provider about services which could be delivered through other arrangements but legal opinion had highlighted risks around potential breach of contract given the limited degree of flexibility currently; and disputes had financial and staffing implications, therefore there was a need to adhere to the relevant processes and timelines.

The Interim Service Director advised that the current end date for the contract was 31 August 2024 and there was an application for a two year extension which was being considered.

In response to a question, some of the risks associated with further variance of the existing contract were outlined.

15. A committee member commented on the need for timely communications with staff about any potential changes. The Interim Services Director noted that communications with staff and interested bodies, such as local sub-contractors, would be essential to maintaining effective relationships.
16. In response to a question from a committee member, the Cabinet Member - Infrastructure and Transport provided a brief overview of complications experienced with a capital scheme in Lugwardine and said that the work would be reviewed to check whether anything should have been anticipated or avoided.
17. A committee member emphasised the need for appropriate communications with local ward members. The Chairperson questioned whether any particular operating model was better in terms of enhancing communications. The Interim Service Director commented that communications were managed by the contractor in some authorities or in-house in others, and it was for the council to determine the level of control and the frequency of communications.

The Cabinet Member – Infrastructure and Transport noted that the current provider managed communications both through media and with local councils, and acknowledged that this could work better. Using road closures and diversions as an example, the Cabinet Member commented that liaison in advance with local councils and with locality stewards could avoid unnecessary problems.

The Chairperson said that ultimate responsibility should sit with the council and this should form a cornerstone of the communications strategy.

The Vice-Chairperson said that communications were often made public before the local ward member or the local council were made aware, despite their depth of knowledge of particular areas and local events.

18. The Vice-Chairperson commented on: the value of flexibility; the need to demonstrate value for money to the public; there was not enough information on the potential operating models to scrutinise currently; many local councils were

proactive and could deliver works to a high standard; and there were many good people working for the current provider.

19. In response to a question from the Chairperson, the Cabinet Member – Infrastructure and Transport commented that locality stewards were introduced by BBLP but in-house arrangements could be explored. It was noted that the locality stewards were highly effective and were a good point of contact with the public, and the scope of their activities could also be considered.
20. A committee member drew attention to the identified risk ‘Lack of interest from suppliers’ (paragraph 48 vii) and questioned whether this had been tested. The Interim Service Director said that, even if the model was a good fit, there was always the risk that suppliers were already fully committed and, whenever the council did go to the market, there was a need to be confident that potential suppliers were in a position to respond to the offer.
21. The Interim Service Director explained the difference between Highway Safety Inspections and the activities of locality stewards, adding that the former sat best with the contractor undertaking the work in his view.
22. A committee member said that BBLP employees did a good job and it was important to consider the most appropriate inspection arrangements. The Interim Service Director commented that the checks would depend on the scale of the work being undertaken. The Cabinet Member – Infrastructure and Transport commented on the need to ensure that there was appropriate constructive tension.
23. The Chairperson, noting that sign making used to be undertaken locally, questioned whether the scope of the future operating model could consider sources of income for the council.

The Cabinet Member - Infrastructure and Transport commented on the potential of in-house sign making in terms of re-use of materials, speed of delivery, and commercial opportunities.

The Corporate Director – Economy and Environment said that ‘all options should be on the table’, including the potential for revenue streams.

The committee members suggested potential recommendations in respect of income stream generation, flexibility for local councils to undertake certain works, the need for more information including on the models being considered, and the timescales for the decisions on the future operating model should include sufficient time for all interested parties to be made aware of the alterations or changes.

At the end of the discussion, the Statutory Scrutiny Officer summarised the key observations and conclusions and this informed the resolution b) below.

The Chairperson noted the establishment of a cross party member working group but expressed concern about the potential to move forward within the short window of time before the election cycle and commented that there should be scope to include the views of local councils about the future operating model.

In response to a comment, the Cabinet Member – Infrastructure and Transport said that an ungrouped councillor would be invited to the working group.

RESOLVED: That

- a. The committee has noted and commented upon the council's current model for delivery of public realm services;
- b. The committee has noted and commented upon the council's requirements for a future operating model, and has raised issues about:
 - i. how the options are being drawn up in relation to the new contract
 - ii. the establishment of a cross party member working group to review the current model
 - iii. whether or not the future operating model should consider locality stewards being brought in-house
 - iv. the extent to which the council should be front-facing in communications with the public
 - v. how the future operating model may allow greater commercial opportunities for income generation, such as making signage
 - vi. how the options might consider the possible flexibilities within different models
 - vii. the timing for the development of detailed proposals
 - viii. the particular role that the council may have within the future operating model for contract management
 - ix. the timing of the decision on the future operating model
 - x. work to look at other local authority operating models
 - xi. scope to include the views of local councils about the future operating model
- c. The committee supports the establishment of a cross party member working group to review the current model, and support with selection of a future operating model for delivery of public realm services aligned with the council's long term objectives; and
- d. A further report be made to the committee before final proposals are considered by the Cabinet.

9. DATES OF FUTURE MEETINGS

The dates for scheduled meetings for the remainder of the 2022/23 municipal year were noted, with the next scheduled meeting being [Friday 18 November 2022, 9.15 am](#).

The meeting ended at 4.18 pm

Chairperson