

SCRUTINY MANAGEMENT PANEL

MINUTES OF THE MEETING of the Scrutiny Management Panel held on Friday 5 July 2013 at 2.00 pm in the Executive Meeting Room, third floor, Guildhall, Portsmouth.

(NB These minutes should be read in conjunction with the agenda for the meeting which can be viewed at www.portsmouth.gov.uk.)

Present

Councillor Michael Andrewes (Chair)
Councillor Peter Eddis (Vice-Chair)
Councillor Will Purvis
Councillor Ken Ellcome
Councillor Sandra Stockdale
Councillor Phil Smith (deputising for
Councillor Matthew Winnington)
Councillor Robert New
Councillor Mike Park
Councillor Jim Patey

Lead Cabinet Member - Councillor Gerald Vernon-Jackson
Lead Call-in Member - Councillor John Ferrett

Officers

Michael Lawther, City Solicitor, Strategic Director &
Monitoring Officer
Julian Pike, Deputy Head of Finance
Rachael Dalby, Head of Health, Safety & Licensing

NB Councillors Lee Mason, Luke Stubbs and David Fuller attended in the public gallery.

12 Apologies for Absence (AI 1)

Apologies for absence were received from Councillor Matthew Winnington. Councillor Phil Smith attended the meeting today as his standing deputy.

13 Declarations of Members' Interests (AI 2)

There were no declarations of members' interests.

14 Minutes of the Meeting held on 21 March 2013 (AI 3)

RESOLVED that the minutes of the meeting held on 21 March 2013 be confirmed and signed by the chair as a correct record.

15 Call-in of Pyramids Decisions taken by Cabinet on 10 June 2013 (AI 4)

(TAKE IN REPORT AND ATTACHMENTS)

The City Solicitor advised that there would not be a need to move into exempt session even if the appendix to the Pyramids report had to be referred to as matters had now reached a stage where the reason for the original exemption no longer existed.

The chair of the committee, Councillor Andrewes, outlined the procedure for the meeting as set out on the agenda and advised that the decision for the panel to make today was to determine whether the Cabinet decision had been taken without adequate information. He said that if the panel was satisfied that adequate information had been supplied to enable the Cabinet to reach its decision then no further action is required and the matter would end here.

If however the panel was not satisfied that adequate information had been supplied, the panel may refer the matter back to Cabinet stating the reasons why the panel considers there had been inadequate information on this matter.

The chair advised that three deputations had been received from members of the public all in favour of upholding the original decision.

The first deputation was made by Mr Jim Fleming.
The second deputation was made by Mr Deane Clark.
The third deputation was made by Mr Malcolm Reeves, advisory committee member at the Pyramids.

The chair thanked the contributors for their deputations.

The chair invited the lead call-in member, Councillor John Ferrett to present his case for calling in the Cabinet decision.

Councillor Ferrett explained the reasons he had requested a call-in of the Cabinet decision. He said that the bidders did not appear to have confidence in the maintenance and repair situation as none of them had been prepared to sign up to cover all the maintenance costs that might arise during the contract period. He said that PCC would have to foot the bill for any maintenance costs that arose. He said that the potential maintenance costs should have been quantified and that in the absence of this, the council and the public do not know the extent of the risk.

Councillor Ferrett made reference to the condition survey report. He said that in 2008 the air handling units were given an expected lifespan of five years but that this had been revised following a more recent condition survey. Councillor Ferrett said that the council and the public do not know the full risks involved in keeping the Pyramids open and therefore urges the Scrutiny Management Panel to refer the matter back to Cabinet on the grounds that their decision had been taken without adequate information.

The chair of the Scrutiny Management Panel then invited questions from the panel. In response to questions the following matters were clarified:

- In response to a query about whether there was any more detail available concerning the likely maintenance obligations and the possibility of other financial pressures leading to claims for compensation by the operator, the Deputy Head of Finance advised that it was not possible to quantify the risk with any degree of accuracy. For example if a pipe were to burst, then if this resulted in damage and closure of the gym then that would be a much greater cost than if the damage occurred to the café area. In the event that a major unforeseen maintenance issue arose this would be met from the Council's Central Contingency.
- The costs of the maintenance had been included in the report that went to Cabinet. A briefing had been offered to all the groups which included information from the condition survey report.
- The difference in reports by the two engineers ie the assessment in 2008 and the assessment in 2012 occurred because the equipment is based on the survey at the time and if the expected wear and tear had not occurred, then the later assessment would reflect that.
- With regard to information before Cabinet, members were kept informed as the contract evolved and briefings were offered to the political groups.
- The new contract would be approximately half the amount being paid to the current operator. In addition to the annual cost of operating the centre, approximately £2.9 million remains outstanding on the loan for which the council is guarantor. The £4.98 million referred to in paragraph 11.3 of the Cabinet report includes repayment of the loan guarantee. The difference between the investment (£2.2m) and the value of the loan guarantee is interest due over the 15 year loan period.

The Chair then invited Councillor Gerald Vernon-Jackson, lead Cabinet Member to make his response. Councillor Gerald Vernon-Jackson said that the decision at Cabinet to let the contract had been made after the appropriate procurement exercise. He said that the report looked at the costs of allowing someone else to operate a council owned building and that usually in these circumstances the maintenance is undertaken by the council and there is always a level of risk. If the council were to take no risks, there would be more money going into the contingency fund and less into services. He said that their aim was to balance risk. He gave examples of other services which had been given to private companies to run such as the waste collection contract, the care contract and the waste disposal contract. He said that the procurement exercise had been done well and that the recommendation was to go with the cheapest operator that provided the best quality. The Cabinet decision was made on all the available information. He said that the risk was unquantifiable as different problems would require different times to mend. In addition he said that there was no way of knowing what the risk would be if the Pyramids were to close. There were many other

instances where the council as landowner takes the risk and the running of the Guildhall by a company was another example. He said that the decision the Cabinet made was to let a contract in the same way as for other council buildings and services. He said that every member of the Cabinet spoke at the meeting and that the matter had been well debated before they came to their conclusion.

In response to questions, the following matters were clarified:

- All councillors have the right to see background documents relevant to reports.
- If the Pyramids had been closed the council would still have to meet its obligations under the loan guarantee and either meet the cost of demolition (£512k) or the moth balling of the building until an alternative use was implemented.
- In response to a query about whether or not there was a break clause in the five year contract agreement, members were advised that the contract details had not yet been negotiated. Should such a clause be introduced it would be costly to invoke. The earlier the break in the contract, the more costly it would be. Payment of breakage costs is normal where a contract is terminated early for reasons other than as a result of default by the contractor.
- It was confirmed that the new contract is scheduled to start from 1 October 2013 to facilitate a smooth handover to the new operator. The current operator would continue to receive cash flow support until the new contract commenced.
- It was confirmed that there would be a close scrutiny of the costs being incurred by the current operator up to the point they vacate the centre. A process was also being implemented to prevent the current operator from taking actions not supported by the incoming operator.
- It was confirmed that the major items of gym equipment were subject to lease agreements. There was also a very detailed inventory of assets within the building at the time the present operator took it over. It was therefore unlikely that there would be any asset stripping, especially since the city council had a very good relationship with the current operator.
- It was confirmed that the city council fully understood its maintenance obligations. It was also confirmed that it was in the new operator's interests to ensure that all equipment was maintained properly to enable them to achieve their income projections.

The Chair of the Scrutiny Management Panel invited a further response from the lead call-in member and invited him to sum up his case. The lead call-in member said that a briefing meeting had taken place for his group and that a response had been submitted to the 10 June Cabinet meeting in the form of a deputation from Councillor Jim Patey. He expressed disappointment that Councillor Lee Hunt, portfolio holder for Culture, Leisure & Sport was not here today. He felt that the second survey findings were rather surprising considering the survey findings made in 2008. Although the Cabinet had access to the condition survey, he felt this could have been made more widely available to members generally. He said that there were risks that had not been quantified and he would like those risks to have been made known. He said that in light of the cuts to local authorities' budgets this represented an opportunity to call a halt to spending further on the Pyramids.

The Chair of the Scrutiny Management Panel then invited the lead Cabinet Member to sum up his case. Councillor Gerald Vernon-Jackson said that Councillor Lee Hunt was unable to be at the meeting today owing to ill health and sent his apologies. He said that the city council takes views on risk and sets money aside for things that were likely to happen plus a contingency for unknown risks. The Pyramids contract was similar to many other contracts let by the council. The amount of money concerned is set out in black and white on page 9 of the report. He said that Portsmouth was dependent on its visitor economy and closing a big attraction like the Pyramids on the seafront would be a risk to that quite apart from the 140 jobs which would also be at stake. He expressed disappointment that the matter had been the subject of further debate as Cabinet had had adequate information before it to make the decision it had. He said that if the matter were to be referred back to Cabinet, the same report would be submitted and they would therefore be likely to come to the same decision. At the meeting on 10 June every member of the Cabinet spoke, the matter was well discussed and in his view the right decision had been reached.

The Chair thanked the lead Cabinet Member who then left the meeting. The Chair then invited general debate among Scrutiny Management Panel members. During discussion the following points were made:

- The Scrutiny Management Panel's role is not about whether the decision taken was popular or not. Members of the panel were here to decide whether Cabinet had had adequate information upon which to base its decision. The groups had been briefed and it was open to opposition members to ask for a copy of the condition report and to make deputations should they so wish.
- Members felt that there was always going to be some risk that was unquantifiable.
- One member said he was not convinced that all members had had the opportunity to receive a copy of the condition survey report.

It was proposed by Councillor Peter Eddis, seconded by Councillor Rob New that the decision by Cabinet on 10 June 2013 should be upheld as the Scrutiny Management Panel is satisfied that adequate information had been supplied to enable the Cabinet to reach its decision and therefore the matter be not referred back to Cabinet. Upon being put to the vote this was carried.

RESOLVED that the panel is satisfied that adequate information had been supplied to enable the Cabinet to reach its decision on 10 June 2013 and that it be not referred back to Cabinet for reconsideration.

16 Work Programme 2013/14 (AI 6)

The Chair of the Scrutiny Management Panel invited members to put forward the topics that had been selected by the individual scrutiny panels for review.

Traffic, Environment & Community Safety Scrutiny Panel

Councillor Phil Smith put forward the topics that had been selected by the Traffic, Environment & Community Safety Scrutiny Panel (TECS). These were:

1. Review on domestic abuse
2. Review on anti-social behaviour
3. Review of re-offending

Ms Rachael Dalby, Head of Health, Safety & Licensing gave the panel some more detail about these topics.

1. Domestic Abuse

Ms Dalby said this was to review a community service review that had been looking at best practice and putting a number of the recommendations into place over the last 18 months. She said that it would be very helpful if the scrutiny panel could look at the recommendations that had been made with a view to checking on the progress made against those recommendations particularly in light of the changing environment. She said that this was a high priority for the city as many of the city's looked after children were in care as a result of domestic abuse.

2. Anti-Social Behaviour Review

Ms Dalby said that it would be useful for a review to be carried out on this topic to ensure that the review was on the right track.

3. Re-offending

Ms Dalby said that there was no-one with direct responsibility on the part of the Probation Service, the Prison Service or the Police but that part of the commitment and obligations of the city council were to work with partners to reduce re-offending levels. It had been seen that those serving 12 months or less need to be supported when they are released from prison for example given help with job seeking, accommodation and friendship as if this support was not forthcoming they would be very likely to re-offend.

In response to questions, the following matters were clarified:

- Ms Dalby explained that a review into domestic abuse would provide a valuable check on the implementation of the recommendations and would add value in that there were still some tricky issues that needed to be resolved. Since the review had begun, new issues had arisen (for example honour-based violence).as this is a very fast moving area.

The Scrutiny Management Panel agreed the topics put forward for review in the order stated.

Councillor Will Purvis, vice-chair of the **Economic Development, Culture & Leisure Scrutiny Panel (EDCL)** put forward three topics that had been agreed for consideration by the Scrutiny Management Panel which were

1. Pathways into work for young unemployed people in Portsmouth - This was intended to be a short review timed to coincide with the Youth Employment Fair with a view to taking evidence from attendees on the day.
2. Improving sport and physical activity participation in the city
3. Revitalising local high streets and secondary shopping areas in the city

The Scrutiny Management Panel agreed the topics put forward for review in the order stated.

Councillor Will Purvis, chair of the **Education, Children & Young People's Scrutiny Panel (ECYP)** put forward the following four topics for consideration at this meeting. These were

1. Home to school transport - It was intended that this would be a short review in order to see whether the policy was being achieved and if not why not.
2. Child sexual exploitation
3. Pupil premium -
4. School governor strategy

In answer to a query as to why the child sexual exploitation review had not been placed first in the list, Councillor Purvis said that the background work on the child sexual exploitation would need some time to prepare although members had been assured that both reviews could be carried out reasonably quickly.

It was agreed that the topics put forward by ECYP be carried out in the order stated.

Councillor Sandra Stockdale, chair of Housing & Social Care Scrutiny Panel (H&SC) advised that the topics being put forward for consideration were

1. Discharge from hospital - assessment and arrangements
2. Winterbourne View - improvement strategy and response
3. Autism strategy

- (i) Councillor Peter Eddis as chairman of the Health Overview & Scrutiny Panel (HOSP) said that he would fully support the review on discharge from hospital and all the other Scrutiny Management Panel members concurred with this view.

There was some discussion about whether this review should be carried out jointly with Hampshire but on balance the panel came to the view that this would not be feasible. The Scrutiny Management Panel agreed the topics put forward by the Housing & Social Care Scrutiny Panel in the order stated.

RESOLVED that

- (1) the TECS Scrutiny Panel reviews the following topics in the following order:**

- (i) Review on domestic abuse**
- (ii) Review on anti-social behaviour**
- (iii) Review on re-offending**

- (2) the EDCL Scrutiny Panel reviews the following topics in the following order:**

- (i) Pathways into work for young unemployed people in Portsmouth**
- (ii) Improving sport and physical activity participation in the city**
- (iii) Revitalising local high streets and secondary shopping areas in the city**

(3) the ECYP Scrutiny Panel reviews the following topics in the following order:

- (i) Home to school transport**
- (ii) Child sexual exploitation**
- (iii) Pupil premium**
- (iv) School governor strategy**

(4) the H&SC Scrutiny Panel review the following topics in the following order:

- (i) Discharge from hospital - assessment and arrangements**
- (ii) Winterbourne View - improvement strategy and response**
- (iii) Autism strategy**

17 Date of Next Meeting (AI 7)

The next meeting is scheduled for 12 September 2013 at 4.00 pm.

The meeting concluded at 3.55 pm.

Chair