

CALL-IN SUB COMMITTEE

8 JANUARY 2007

Chairman: * Councillor Anthony Seymour

Councillors: * B E Gate * Jean Lammiman
 * Mitzi Green * Jeremy Zeid (1)

* Denotes Member present
 (1) Denotes category of Reserve Member

[Note: Councillors Ms Nana Asante, Marilyn Ashton, Christine Bednell, Margaret Davine, Navin Shah, Eric Silver and Bill Stephenson also attended this meeting in a participatory role].

PART I - RECOMMENDATIONS - NIL

PART II - MINUTES

15. **Attendance by Reserve Members:**

RESOLVED: To note the attendance at this meeting of the following duly appointed Reserve Member:-

<u>Ordinary Member</u>	<u>Reserve Member</u>
Councillor Mark Versallion	Councillor Jeremy Zeid

16. **Declarations of Interest:**

RESOLVED: To note that the following interests were declared:

<u>Agenda Item</u>	<u>Member</u>	<u>Nature of Interest</u>
5. Call-in of the Decision of the Cabinet Meeting on 14 December 2006: Key Decision - Outcome of Statutory Consultations on Three Particular Community Care Services (Decision relating to Wiseworks)	Councillor Ms Nana Asante	The Member, who was not a Member of the Sub-Committee, declared a personal interest arising from her involvement with A Connexion which had been involved with the Independent Steering Group campaigning for Wiseworks. The Member would remain in the room and take part in the discussion on this item.
5. Call-in of the Decision of the Cabinet Meeting on 14 December 2006: Key Decision - Outcome of Statutory Consultations on Three Particular Community Care Services (Decision Relating Home Care Charges)	Councillor Miss Christine Bednell Councillor Anthony Seymour	The Member, who was not a Member of the Sub-Committee, declared an historical personal interest arising from a relative having been in receipt of social service payments which ceased in 2005. The Member would remain in the room and take part in the discussion and decision-making on this item. The Member declared an historical personal interest arising from a relative having been in receipt of Home Care Service, which had ceased in 2004. The Member would remain in the room and take part in the discussion and decision-making on this item.

17. **Arrangement of Agenda:**

RESOLVED: That (1) in accordance with the Local Government (Access to Information) Act 1985, the meeting be called with less than 5 clear working days' notice by virtue of the special circumstances and grounds for urgency stated below:-

Special Circumstances/Grounds for Urgency: Under Overview and Scrutiny Procedure Rule 22, a meeting of the Call-in Sub-Committee must be held within 7 clear working days of the receipt of a request for call-in. This meeting therefore had to be arranged at short notice and it was not possible for the agenda to be published 5 clear working days prior to the meeting.

(2) all business be considered with the press and public present, with the exception of the following item, for the reason set out below:-

<u>Item</u>	<u>Reason</u>
6. Land at Gayton Road	The report contained exempt information under paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972 (as amended) in that it contained information in relation to the financial or business affairs of a particular person (including the authority holding that information).

18. **Minutes:**

RESOLVED: That (1) the minutes of the meeting held on 22 August 2006 be taken as read and signed as a correct record; and

(2) the minutes of the meeting held on 17 October 2006 be deferred until printed in the Council Bound Minute Volume.

19. **Call-in of the Decision of the Cabinet Meeting on 14 December 2006: Key Decision - Outcome of Statutory Consultations on Three Particular Community Care Services**

(a) Decision relating to Home Care Charges:
At its meeting on 14 December 2006, the Cabinet had received a report of the Director of Adult Community Care, which summarised the feedback from public consultation on the proposed merger of Anmer Lodge and Milmans Day Centres, changes to Home Care charges, the re-provision of services currently provided by Wiseworks and Direct Payments.

In relation to Home Care charges, Cabinet had resolved to reduce the level of subsidy, increase the hourly rate and increase the new level cap to £250. A call-in notice was subsequently received, calling in the decision and this decision had therefore been referred to the Call-in Sub-Committee for consideration under the call-in procedure. The decision had been called in on the grounds that the action was not proportionate to the desired outcome.

The Sub-Committee received the Cabinet report of 14 December 2006, the relevant extract from the Cabinet minutes, and the Call-in notice.

Responding to the issues raised in the call-in notice, the Portfolio Holder for Adult Community Care Services and Issues Facing People with Special Needs made the following points:-

- The decision was made to make financial savings but in the context of every other department within the Council.
- The alternative was to reduce the service dramatically as opposed to increasing the charges for those that could afford it.
- Every user would be individually assessed. If they refused the assessment then they would be supplied with a list of locally approved and registered service providers. Those assessed would pay only if they had sufficient funds.
- The Authority had a statutory duty to respond to eligible needs.
- The decision was not disproportionate.

A Member representing the signatories to the Call-in notice commented as follows:-

- The reduction of the home care subsidy hourly rate should have been made in steady increments and was unbalanced against the most vulnerable.
- Although other boroughs' rates were higher, the fee could have been recouped by renegotiating contracts.
- The hourly increase would affect service users and damage the service.
- The new cap level of £250 for the maximum assessed was not sustainable.
- Users of the service would be forced to use up their savings and either reduce their take up of their service or withdraw from it, thereby placing them at risk.
- Once users had used up an element of their savings, the Authority would have to subsidise their care package, which was considered to be a false economy.
- The decision needed to be reconsidered.
- How many service users had savings of £21,000 and what system users would use to notify the department that their funds had depleted to £21,000?

The Director of Adult Community Care Services responded as follows:-

- Assessments had not yet been carried out due to the call-in received;
- The number of services users with levels of savings of £21,000 would be provided, once assessments had been carried out.
- It was the responsibility of service users and domiciliary care workers to notify the department within a period of three months, that the service user's savings had diminished to £21,000. Procedures were in place and would be reviewed with a view to changing the notification period to six months.
- The new level of cap was in line with performance indicators.

Members of the Sub-Committee, having considered all the evidence, summarised their views relating to the grounds for call-in. Based on the written and oral submissions, and having been put to a vote, it was;

RESOLVED: That the grounds for the call-in be rejected and the decision of the Cabinet on 14 December 2006 to the proposed changes to Home Care Charges be implemented.

(b) Decision relating to the Proposed Re-provision of Services Currently at Wiseworks:

In relation to the re-provision of services currently provided by Wiseworks, Cabinet had resolved to merge the services of Wiseworks and the Bridge Day Centre, and to relocate them to the Bridge. A call-in notice had subsequently been received, calling in the decision and the decision had therefore been referred to the Call-In Sub-Committee for consideration under the call-in procedure.

The decision in relation to Wiseworks had been called in on the following grounds:

- inadequate consultation with stakeholders prior to the decision;
- the absence of adequate evidence on which to base a decision;
- the action was not proportionate to the desired outcome;
- potential Human Rights Challenge.

The Sub-Committee received the report to Cabinet, documents setting out the Cabinet's Code of Practice on Consultation, a response by Ann Freeman, co-ordinator of Harrow Rethink to the Cabinet report of 14 December 2006, an extract of the commissioning framework, the relevant extract from the Cabinet minutes, and the Call-in notice.

At the meeting, Maurice Hoffman, Chair of the Patient and Public Involvement Forum for the Central and North West London (CNWL) Mental Health Trust, together with Ann Freeman were given 10 minutes to make a statement. In reading out their statements, the following points were made.

- The consultation was flawed:
 - Whilst no decision had been made of the future of Wiseworks at Cabinet on 14 December 2006, the consultation did not offer the continuation of Wiseworks as an option.
 - The consultation did not follow the locally agreed Harrow Compact and the Government's Cabinet Offices Code of Practice on Consultation.
- Information had been requested from Councilor Janet Mote by the Forum, the information had not been provided.
- Any changes in service offered to CNWL would impact the users, their carers and also Harrow's Adult Mental Health Services provided by CNWL.
- The Council had failed to honour its duty of care.
- Consultation had not taken place with users of the Bridge Day Centre.
- Inaccurate information such as key facts and figures supplied at Appendix 1 to the Cabinet report of 14 December 2006 had been published on the Council's website
- Wiseworks appeared on the Cabinet supplemental agenda a few days prior to the meeting, which had made it difficult to prepare a deputation within the deadline specified.

In response, the Portfolio Holder for Adult Community Care Services and Issues facing People with Special Needs made the following points:

- In relation to the call-in on the grounds of inadequate consultation:
 - Full formal consultation had been undertaken.
 - The Government's Cabinet Offices Code of Practice on Consultation guidance was followed on consultation.
 - Cabinet had made an additional recommendation "alternative arrangements put forward by MIND in Harrow/Harrow User Group and Harrow Rethink be considered for future services should resources become available to expand the services beyond the core statutory functions of the local authority" which endorsed feedback and proposals suggested by MIND and Rethink.
 - The consultation followed the locally agreed Harrow Compact and the Government's Cabinet Offices Code of Practice on Consultation with service users, which was not mandatory.
 - The complaint regarding a breach of the locally agreed Harrow Compact on consultation with the voluntary sector, which was being addressed through the Harrow Strategic Partnership (HSP) was not upheld.
- In relation to the call-in on grounds of the absence of adequate evidence on which to base a decision:
 - An apology had been made to Ms Freeman for the late report to Cabinet.
 - All Members of Council had access to all the relevant papers including all consultation feedback. In addition, the officer had fully reported the position to Cabinet prior to any discussions on Wiseworks.
 - The report was factually accurate and not flawed.

- In relation to the call-in on the grounds that the action was not proportionate to the desired outcome:
 - The decision meant that the existing users of Wiseworks would receive a comparable building based service at the Bridge Day Centre.
- In relation to the call-in on the grounds of a potential Human Rights Challenge:
 - The European Court of Human Rights indicated that the Authority was entitled to make policy decisions which were proportionate.
 - Nevertheless, in addressing those concerns each service user would have their needs individually assessed to take into account their human rights.

A Member representing the signatories to the Call-in notice made a statement about the re-provision of Wiseworks and expressed the following concerns:

- On inadequate consultation with stakeholders prior to the decision:
 - There had not been a satisfactory level of consultation and scrutiny, and the impact had not therefore been properly considered.
 - The consultation did not meet the Government's Cabinet Code of Practice and was therefore flawed.
 - Users of the Bridge Day Centre had not been consulted.
 - There were misleading and inaccurate statements in the report to Cabinet on 14 December 2006 and the cost benefit analysis had not been included.
 - The report to Cabinet stated that respondents "did not fully understand the proposals", this was misleading as any details of the re-provided services had not been made available at the public meetings, or at any other time.
 - If the consultation had not been understood and feedback disregarded, the consultation was not meaningful.
 - There should have been a greater lead-in time for consultation to allow stakeholders to contribute towards the consultation processes.
- On the absence of adequate evidence on which to base a decision:
 - The Cabinet report did not include responses which highlighted factual inaccuracies.
 - Members had not been fully informed of the services provided by Wiseworks.
- On the action not being proportionate to the desired outcome:
 - The re-provision of Wiseworks was identified solely to make short-term savings.
 - No consideration had been taken of the loss of service to those vulnerable users.
- On a potential Human Rights Challenge:
 - The decision would have a negative impact on users and carers, and constituted a breach of human rights.

In response, the Director of Adult Community Care made the following comments:

- At least two public meetings had been held and the notes could be provided to Members, with the exception of information relating to staffing issues, which was confidential.
- The Commission for Social Care Inspectorate (CSCI) supplied the figures referred to in the Cabinet report of 14 December 2006. The information was placed in the public domain by them and it was not within Authorities remit to change or justify. CSCI were an independent regulatory body.
- The re-provision of services had to be based on individual needs, which would be individually assessed annually.
- In 2006/07 savings of £200,000 had been identified with Wiseworks. Due to severe financial pressure of the Primary Care Trust, their funding towards Wiseworks was under consideration.

Members of the Sub-Committee, having considered all the evidence, summarised their views relating to the grounds for call-in. Based on the written and oral submissions, there were concerns in relation to the validity of some of the evidence provided prior to the decision being made.

RESOLVED: That the Call-in of this decision be upheld on the grounds of the absence of adequate evidence on which to base a decision, and that the decision be referred back to Cabinet for re-consideration.

20. **Call-in of the Decision of the Cabinet Meeting held on 14 December 2006: Key Decision - Land at Gayton Road:**

At its meeting on 14 December 2006, the Cabinet had received a confidential report of the Director of Planning Services, which outlined proposals for a development at Gayton Road.

Cabinet had resolved, in principle, to dispose of the land at Gayton Road to Fairview Homes in order to facilitate the provision of a library/performing arts exhibition centre and replacement car park and that officers be authorised to negotiate terms. A call-in notice was subsequently received, calling in the decision and this decision had therefore been referred to the Call-In Sub-Committee for consideration under the call-in procedure.

The Decision had been called in on the following grounds:-

- inadequate consultation with stakeholders prior to the decision;
- the absence of adequate evidence on which to base a decision; and
- insufficient consideration of financial and legal advice.

The Portfolio Holder for Planning, Development and Enterprise made the following statement in relation to the various grounds for call-in.

- Inadequate consultation:
 - The site had been identified for redevelopment and discussed at the Town Centre Project Panel and Harrow Town Centre Project Panel (HTCPP).
 - A feasibility study had been approved at the HTCPP in July 2004, which in principle was aimed at meeting identified development needs as set out in cultural and leisure strategies.
 - The developers needed to know that the Authority was serious about the development before they were prepared to put more resources into developing their proposals.
- The absence of adequate evidence on which to base a decision:
 - The feasibility study was the initial stage of the project.
 - The feasibility study had been completed and it had been confirmed that the development would significantly improve the town centre and cultural provision which would benefit the Borough as a whole.
- Insufficient consideration of financial and legal advice:
 - The advice presented by Cabinet included a detailed report from well-known reputable consultants.

- The report had been cleared by the Monitoring Officer and the Chief Financial Officer.

Members representing the signatories to the Call-in notice expressed the following points.

- Inadequate consultation with stakeholders prior to the decision:
 - The grounds for consultation were flawed.
 - The HTCPP had had no opportunity to give their views.
 - The HTCPP meeting on 12 December 2006 had been cancelled due to lack of substantive business. The proposed development was significant and this meeting would have been the ideal opportunity to discuss this matter.
 - The local development framework should have been considered at the HTCPP first.
 - The Authority had not considered the significant revenue costs.
 - The scope of the project had not been thought through carefully and could result in a legal challenge.

The Director of Planning Services referred Members to the report and advised as follows.

- In relation to the library and car park, negotiations between the developer and the Authority would need to consider an agreed specification and final costs.
- Revenue costs associated with a business plan would need to be considered by officers.
- Subject to the Cabinet's approval, a Development Agreement plan would be drawn up and reported back in due course. The timescale for this was six months.
- Consultation at the stage of planning application would be widespread.

Members of the Sub-Committee, having considered all the evidence, summarised their views relating to the grounds for call-in. Based on the written and oral submissions, the Sub-Committee

RESOLVED: That the grounds for the call-in be rejected and the decision of the Cabinet on 14 December 2006 to the proposed redevelopment of land at Gayton Road be implemented.

21.

Extension of Meeting:

In accordance with the provisions of Overview and Scrutiny Procedure Rule 6.6(ii)(b), it was

RESOLVED: (1) At 9.55 pm to continue until 10.30 pm;

(2) at 10.25 pm to continue until 11.00 pm;

(3) at 10.59 pm to continue until 11.15 pm;

(4) at 11.14 pm to continue until 11.20 pm;

(5) at 11.19 pm to continue until 11.30 pm.

(Note: The meeting having commenced at 8.00 pm, closed at 11.25 pm)

(Signed) COUNCILLOR ANTHONY SEYMOUR
Chairman