

CALL-IN SUB-COMMITTEE**22 SEPTEMBER 2009**

Chairman: Councillor Anthony Seymour

Councillors: * Mrs Lurline Champagnie (2) * Mitzi Green
* B E Gate * Dinesh Solanki (3)* Denotes Member present
(2) and (3) Denote category of Reserve Member

[Note: Councillor Paul Osborn attended this meeting to speak on the item indicated at minute 47 below. Councillor Bill Stephenson also attended this meeting.]

PART I - RECOMMENDATIONS - NIL**PART II - MINUTES**44. **Attendance by Reserve Members:****RESOLVED:** To note the attendance at this meeting of the following duly appointed Reserve Members:-Ordinary MemberReserve MemberCouncillor Stanley Sheinwald
Councillor Mark VersallionCouncillor Dinesh Solanki
Councillor Mrs Lurline Champagnie45. **Appointment of Vice-Chairman:****RESOLVED:** To appoint Councillor Mitzi Green as Vice-Chairman of the Call-In Sub Committee for the 2009/10 Municipal Year.46. **Declarations of Interest:****RESOLVED:** To note that the following interest was declared:

<u>Agenda Item</u>	<u>Member</u>	<u>Nature of Interest</u>
7. Learning and Development	Councillor Paul Osborn	Prejudicial interest in that he was the Portfolio Holder for Performance, Communication and Corporate Services and had taken the decision on this item. He remained in the room for the purpose of explaining the reasons for his decision and answering questions.

47. **Minutes:****RESOLVED:** That the minutes of the meeting held on 30 July 2009 be taken as read and signed as a correct record.48. **Call-In of the Decision of the Portfolio Holder Decision Meeting on 3 September 2009: Learning and Development:**

Prior to the commencement of the consideration of the Call-In matter, the Chairman advised that the Portfolio Holder for Performance, Communications and Corporate Services was in attendance at the Sub-Committee to respond to the call-in as part of the requirement of that process.

It was reported that the Portfolio Holder for Performance, Communications and Corporate Services (the Portfolio Holder) had agreed a decision in relation to the Learning and Development Project. A Call-In Notice calling in the decision had been subsequently received, signed by more than 150 members of the public, and the decision had therefore been referred to this Sub-Committee for consideration.

The Sub-Committee received the notice invoking the call-in procedure, the report of the Director of Business Transformation and Customer Services submitted to the Portfolio Holder and the relevant minutes.

The decision had been called-in on four grounds:

- inadequate consultation with stakeholders prior to the decision;
- insufficient consideration of legal and financial advice;
- absence of adequate evidence on which to base a decision;
- action not proportionate to the desired outcome.

The Chairman outlined the procedure to be followed at the meeting, and invited Darren Butterfield to speak on behalf of the signatories.

Mr Butterfield, addressed each of the points raised within the Call-In Notice, outlining the concerns Unison had with regard to each and where they believed failures had occurred in the process followed to date. Having fully participated in the consultation process, Unison had submitted a response which included a request for a full Equality Impact Assessment (EIA) to take into account the impact the decision would have in terms of equality on staff. It was alleged that:

- at no stage during the agreed consultation period had an EIA been conducted;
- the decision to then extend the consultation period was unilateral and had affected facility time;
- no explanation had been given as to why the EIA was not conducted during the agreed consultation period;
- there was no evidence in the Full Business Case that alternative options had been explored;
- there was no service performance data of the current function, no options appraisal or improvement examination;
- the options put forward in the Unison response had not been explored;
- it was not a competitive process;
- the action was not proportionate to the desired outcome as the decision would result in redundancies for limited cost savings;
- Unison requested independent scrutiny to define the figures involved.

Upon being invited to respond, the Portfolio Holder for Performance, Communications and Corporate Services advised that the process leading to his decision had been underway for nine months, allowing for substantial consultation with Trade Unions, staff involved and the BTP (Business Transformation Panel). An EIA was required to be completed and the outcome reported prior to the decision being made, not necessarily during the consultation period. In response to a request, he had suspended Standing Orders to enable representations to be made by Unison at the relevant Portfolio Holder Decision meeting. He had made provision for earlier consultation in future, but this did not mean that there was inadequate consultation in this instance.

The Portfolio Holder stated that he was unaware of any legal or financial advice that had not been considered. He stated that redeployment, not redundancies, was the expectation, with one member of staff having already been redeployed.

The Portfolio Holder added that a robust business case had been applied with confirmation of the financial implications by the Corporate Strategy Board and BTP Panel. He advised that this option would deliver the expected savings.

The Sub-Committee was advised by the Portfolio Holder that the in-house option had been examined and significant problems had been identified including higher software and infrastructure costs and the additional resilience required for sale to other Local Authorities. Capacity problems would arise as the option would take managers away from their core responsibilities. Due to the financial constraints and capacity problems the in-house option was therefore considered not to be sustainable.

With reference to the business case, the Portfolio Holder stated that the decision had been taken not only to deliver savings, but to access the technology. He further stated that if savings were not realised over 10 years, it was still worth doing as the software capability would be within the organisation.

In response to questions from Members of the Sub-Committee, clarification was provided on the following issues by the signatories:

- 2 days' notice had been given that the consultation was extended;
- the employees affected by the decision were from BAME (Black, Asian and Minority Ethnic) groups;
- involvement in consultation commenced from the Outline Business Case in December 2008;
- Unison provided information in response to the consultation on the Full Business Case.

In response to questions from Members of the Sub-Committee to the Portfolio Holder, clarification was provided on the following issues:

- an EIA was required prior to change or a decision to make change and should include stakeholder views. The time required to complete the assessment depended on the scale of the proposed change;
- an EIA questionnaire checklist was completed subsequent to the request from Unison on 18 August 2009. It was important to note that this was part of the decision making process and not the consultation process and Unison had the opportunity to comment right up to the point the decision was made;
- consultation started in November 2008, and included site visits to Capita operations with staff and trade unions. All views were reported in the questionnaire checklist which was updated with the responses were received from staff;
- whilst alternative options were considered, in depth examination did not take place where information indicated that a proposal was not viable, such as the cost of the in-house option and the consequence of management time being required on other than the core subject. The wording 'viability tested' in the minutes of the Portfolio Holder Decision meeting could have been worded as 'considered';
- the requirement for a Portfolio Holder's meeting had been included in the forward plan from at the beginning of August 2009;
- substantial efficiencies could be made, with service improvements that were self-financing due to the implementation of technology. Three business cases had recently been approved by the Portfolio Holder which had the benefit of service improvements in addition to budget savings (the Portfolio Holder was delegated to approve full Business Cases relating to the Business Transformation Project on behalf of the Council and wanted to ensure maximum engagement). He did not consider that his request, that mechanisms be put in place to allow options on future projects to be explored more widely at an earlier stage, would have affected the result of this case if introduced earlier;
- he had allowed Members and Harrow Unison Branch representatives to address the Portfolio Holder Decision meeting on 3 September 2009;
- the recent summer holiday period should not have been an issue for Unison as the consultation process commenced in November 2008. Additionally, Unison had not raised this as part of their objections;
- it had not been considered that there was anything substantial for the Overview and Scrutiny Committee to examine in connection with the item. However, he was content for the Committee to review the item should it wish to consider the matter.

The Sub-Committee agreed that, without setting a precedent, both Unison and the Portfolio Holder would have the opportunity to sum up for two minutes.

In summing up, the representative of the petitioners agreed that the process had taken place over a long period of time, but that it had taken the trade union's actions to initiate and remind the decision makers of their equality duty. He expressed the view that that the process had not been competitive as an options appraisal had not been

undertaken and there was no comparative data to substantiate that other options had been considered.

The Portfolio holder, in summing up:

- reiterated that the EIA had been undertaken and considered prior to the decision;
- stated that adequate consultation had taken place as the process had taken nine months and had included opportunities for relevant parties to speak at all meetings;
- that there had been sufficient consideration of legal and financial advice;
- strongly felt there had been overwhelming evidence on which to base the decision taken;
- felt that the decision was clearly proportionate as it would deliver improved services and make savings.

The Chairman thanked Darren Butterfield and the Portfolio Holder for their attendance.

(The Sub-Committee then adjourned from 8.35 pm – 9.35 pm to receive legal advice.)

Members of the Sub-Committee, having considered all the evidence, summarised their individual views relating to the grounds for call-in, noting that:

- on ground a (inadequate consultation with stakeholders prior to the decision), ground f (insufficient consideration of legal and financial advice) and d (the action is not proportionate to the desired outcome), it was the opinion of the Sub-Committee that there was insufficient evidence to support the validity of the challenge;
- on ground b (absence of adequate evidence on which to base a decision) Members expressed various views both supporting and opposing the stated grounds. On being put to the vote, the majority decision was that the Call-In was not proven on this stated ground.

RESOLVED: That the challenge to the decision be taken no further and the decision be implemented.

49. **Exclusion of the Press and Public:**

RESOLVED: That the press and public be excluded from the meeting for the following item for the reasons set out below:

<u>Item</u>	<u>Title</u>	<u>Reason</u>
5.	Learning and Development	Information under paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972, relating to the financial or business affairs of any particular person (including the authority holding that information)

50. **Learning and Development:**

The Sub-Committee noted the appendix to the report of the Director of Business Transformation and Customer Service.

(Note: The meeting having commenced at 7.30 pm, closed at 9.55 pm)

(Signed) COUNCILLOR ANTHONY SEYMOUR
Chairman