

CALL-IN SUB-COMMITTEE MINUTES

28 FEBRUARY 2012

Chairman: * Councillor Jerry Miles

Councillors: * Sue Anderson * Ajay Maru (3)
* Tony Ferrari (1) * Paul Osborn

**In attendance:
(Councillors)** Graham Henson Minute 18
Barry Macleod-Cullinane
Bill Phillips
Stephen Wright

* Denotes Member present
(1) and (3) Denote category of Reserve Members

14. Attendance by Reserve Members

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

Ordinary Member

Councillor Susan Hall
Councillor Sachin Shah

Reserve Member

Councillor Tony Ferrari
Councillor Ajay Maru

15. Declarations of Interest

Members of the Sub-Committee referred to the Councillor Code of Conduct and raised concerns about the presence of three Members of Cabinet in attendance at the meeting. Following advice from an officer and clarification as to their role in the meeting, the three Cabinet Members left the room due to their prejudicial interest in the item that was the subject of the Call In notice.

RESOLVED: To note that the following interests were declared:

Agenda Item 5 – Call-In of Cabinet Decision (9 February 2012) – Transformation Programme Mobile and Flexible Working

Councillor Sue Anderson declared a personal interest in relation to the HMRC working from home allowance. She would remain in the room whilst the matter was considered and voted upon.

Councillor Graham Henson declared a personal interest in that he had a cousin who worked for the Council and a prejudicial interest as a member of the Cabinet that had taken the decision on mobile and flexible working. He would remain in the room whilst the matter was considered and voted upon as he was responding to the Call In.

Councillor Barry Macleod-Cullinane, who was not a member of the Sub-Committee, declared a personal interest in that his sister was a teacher in a Harrow School. He would remain in the room whilst the matter was considered and voted upon.

Councillor Paul Osborn declared a personal interest in that he had received hospitality from Capita that was in excess of £25.00 in value. He would remain in the room whilst the matter was considered and voted upon.

16. Minutes

RESOLVED: That the minutes of the meeting held on 5 December 2011 be taken as read and signed as a correct record subject to noting that a Member of the Sub-Committee had given an undertaking that the Corporate Director of Place Shaping would carry out consultation.

17. Protocol for the Operation of the Call-In Sub-Committee

The Chair drew attention to the document 'Protocol for the Operation of the Call-In Sub-Committee' which was included with the agenda papers and read paragraphs 5 and 8 to the meeting. The Chairman outlined the procedure to be followed at the meeting and explained that, in accordance with Committee Procedure Rule 46.5, a notice seeking to invoke the call-in procedure must state at least one of the following grounds in support of the request for a call-in of the decision:-

- (a) inadequate consultation with stakeholders prior to the decision;
- (b) the absence of adequate evidence on which to base a decision;
- (c) the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework;
- (d) the action is not proportionate to the desired outcome;
- (e) a potential human rights challenge;
- (f) insufficient consideration of legal and financial advice.

RESOLVED ITEMS

18. **Call-In of Cabinet Decision (9 February 2012) - Transformation Programme Mobile and Flexible Working**

The Chairman welcomed Councillor Macleod-Cullinane, lead signatory to the call-in notice, to the meeting. He also welcomed the Portfolio Holder for Performance, Customer Services and Corporate Services, who was in attendance, with his Cabinet Assistant, to respond to the call-in as part of a requirement of that process, the Corporate Director of Place Shaping and the Director of Customer Services and Business Transformation. In accordance with Committee Rule 4.1.1, the Sub-Committee agreed that Councillor Stephen Wright could speak on behalf of the signatories at the meeting.

The Chairman, prior to the commencement of the consideration of the call-ins in relation to the decision made by Cabinet on 9 February 2012 on the Transformation Programme Mobile and Flexible Working, detailed the papers available to the Sub-Committee. The call-in notice was submitted by seven Members of Council and cited 2 of the grounds set out in the Protocol (a and b).

Councillor Macleod-Cullinane confirmed that the Members call-in related to the decision made by Cabinet on the Transformation Programme Mobile and Flexible Working taken on 9 February 2012. He also confirmed that the basis of their reasons for call-in related to grounds (a) and (b) of the Protocol, namely that there was inadequate consultation with stakeholders prior to the decision and there was an absence of adequate evidence on which to base a decision.

Councillors Macleod-Cullinane and Wright outlined their reasons relating to each of the grounds raised in the call-in notice. During the course of their presentation, they raised the following issues:

- Members of the Overview and Scrutiny Committee were a key stakeholder and as such had requested a briefing on Mobile and Flexible Working. The proposals were a fundamental change, involved a significant amount of resource and affected a number of staff.
- Members of the Overview and Scrutiny Committee had not been given sufficient opportunity to challenge the proposals and had been led to believe that there would be a briefing prior to Cabinet.
- Insufficient attention had been given to Members of the Overview and Scrutiny Committee as stakeholders.
- There had been a briefing to the Administration on 14 January 2012 but the same opportunity had not been given to Members of the Opposition and therefore paragraph 3.1 of the Member/Officer Protocol had been breached. In addition, the leadership of the major Opposition had not been kept informed on the proposals.

- Part II information had not been provided to members of the Overview and Scrutiny Committee nor to Cabinet Members and therefore it was stated that information had not been available to Members in making their decision.
- The table detailing the savings did not explain how these would be made year on year. There was no justification for the decision.
- Whilst the outcome of the decision might be correct how it was arrived at was not supported by documented evidence.
- The Sub-Committee needed to determine whether the correct decision-making process had been followed.
- The briefing to members of the Overview and Scrutiny Committee had been held on 22 February 2012, after Cabinet had taken its decision. A briefing had been requested before Christmas but the date set, 24 January 2011, was subsequently postponed and re-arranged until after Cabinet on 9 February 2012. At the re-arranged briefing on 22 February, Members of the Overview and Scrutiny Committee were provided with papers additional to those submitted to Cabinet and were therefore not afforded the opportunity to assess them prior to the decision being taken.

In conclusion, it was stated that there was inadequate consultation with stakeholders prior to the decision and an absence of adequate evidence on which to base a decision. The representatives of the signatories stated that whilst there may have been evidence, it had not been presented to Cabinet. The process had, in the signatories view, not been transparent.

The Chairman then invited the Portfolio Holder for Performance, Customer Services and Corporate Services to address the Sub-Committee. He made a statement to the meeting which included the following points:

- At no time had he been advised that the Members had requested a briefing and he was not aware of any repeated requests. There had been a meeting with the lead officer, the Vice-Chair of the Overview and Scrutiny Committee and the Chair of the Performance and Finance Scrutiny Sub-Committee on 17 October 2011 to discuss the project. Further to this, there had been a briefing on 15 December 2011 with a scrutiny lead Members briefing held prior to that on 7 September 2011.
- There was no statutory or Constitutional requirement to consult with the Overview and Scrutiny Committee on this project. The published Forward Plan had identified the relevant stakeholders as staff and Trade Unions.
- The October Forward Plan had advised that Mobile and Flexible Working would be considered by Cabinet in November 2011. The November Plan amended this to indicate that the report would be considered in February 2012. Similarly, a response provided to a

Cabinet question in January included reference to the report being considered by Cabinet in February. This would mean that the proposals would be considered alongside the budget which was his preference.

- It was unfortunate that the briefing scheduled to be held on 24 January 2012 had to be re-arranged but officers from the Scrutiny team had organised the briefing on 22 February 2012. Place Shaping had played no part in organising the re-arranged briefing.
- Members would be welcome to work with him and his Cabinet assistant on the project.
- In terms of the evidence on which the decision was based, Cabinet made strategic level policy decisions. As Portfolio Holder, he had been fully involved in the review of the business case and he was satisfied that Cabinet had received all the information they needed to make the decision.

In conclusion, the Portfolio Holder stated that project was crucial to the development of the Council's business. Subject to the outcome of this meeting, the project could be initiated and there would be a full and detailed review and input from Councillor colleagues would be welcomed.

The Chairman invited the representatives of the signatories to ask questions of the Portfolio Holder for Performance, Customer Services and Corporate Services. The questions were responded to by the Portfolio Holder and the Corporate Director as follows:

- The evidence for increased productivity referred to on page 22 of the report was set out in Appendix A and the summary on page 21 listed the organisations that had done similar work. The lead signatory challenged this response and requested details of the case studies and comparisons with other local authorities.
- Cabinet made strategic long term decisions and evidence had been gathered through the compilation of the business case. The revenue and capital figures had been demonstrated at a high level and the project manager had worked closely with the Portfolio Holder.
- The project would enable many staff who worked in field based situations to have access to business systems and to deal with enquiries in real time.
- In terms of the timeline, the strategic policy had to be considered alongside the setting of the Council budget.
- In response to the concern expressed that the project had been rushed through and that there had been no opportunity to scrutinise it, Members were advised that, since October, it had been made clear that this project was linked to the budget process. There had been

discussion by officers at one stage that report might go to March Cabinet but Members had been clear that it need to be tied in to the budget discussions. Furthermore, as this project had already been included in the budget, it had not really been necessary to submit it to Cabinet as a separate item.

- Following reference to the financial implications and performance issues paragraphs and the challenge that decision makers were not presented with options, the Corporate Director advised that the other organisations contacted about this project had indicated that Harrow's solution, with hindsight, would have been their preferred option. The key message from other organisations had been that the implementation of the technology had been the easiest part of the project and that business and cultural change were the more challenging aspects. There had been extensive investigations with other organisations who had run similar projects and officers were of the view that the appropriate recommendations had been made to Cabinet.
- The scope had not been rushed through and the focus had been on having complete confidence in the recommendations put forward.
- Referring the lead signatory's comments in relation to adherence to paragraph 5.7 of the Member/Officer Protocol and the issue of whether Opposition Members should have been informed as to whether a report had been prepared, the Corporate Director stated that whilst he was disappointed that it appeared that Members expectations had not been met, the publication of the entry in the October and subsequent Forward Plans did, in his view, meet the requirements of the Protocol.

The Chairman then invited Members of the Sub-Committee to ask questions of the signatories and the Portfolio Holder for Performance, Customer Services and Corporate Services and to make comments. The questions and comments were responded to as follows:

- The level of briefing expected by Members had not materialised and whilst the project manager had met with some Members and 1.5 pages of information provided, no further briefings had been provided after 17 October.
- A Member of the Sub-Committee stated that following the briefing in the autumn, Members had advised the Scrutiny team that Mobile and Flexible Working was an area they wished to consider. The only date that been available was 24 January and this had subsequently been cancelled. If it had been drawn to both her and the scrutiny team's attention that the new date, 22 February, would affect Members ability to consider the proposals she would have raised this as an issue. The Corporate Director stated that it was unfortunate that there had been slippage but it seemed that there had been a mismatch between the officers organising the meeting and his department and he undertook to take this on board.

- The Corporate Director stated that he could not recollect advising the Vice Chair of the Sub-Committee that the report would be submitted to March Cabinet but apologised if he had. There had been discussion at officer level only about the possible change of submission date. The Portfolio Holder added that he would have advised Cabinet at its January meeting when considering the Forward Plan if there had been any intention to change the submission date.
- It was acknowledged by a Member that a briefing on the technology had been received but not on the resources issues. When he had been a Portfolio Holder he had ensured that Members from all Groups had received briefings and this had also been written into the Constitution.

(The Sub-Committee adjourned from 7.27 pm - 7.40 pm to enable the Overview and Scrutiny Committee that was scheduled for the same evening to commence and then be adjourned until the conclusion of the Sub-Committee meeting).

- A Member stated that he had read the full business case, Outline Business Case and Cabinet report and challenged what specific examples there were of the savings made by other Councils. The Corporate Director advised that the documentation was set out in the business case and that the figures had been discussed in detail with the Portfolio Holder. The cost model, which was an A3 appendix to the business case, provided a summary of the figures. He added that the Cabinet report set out, at a high level, the technology solution and figures. Cabinet had approved the strategic policy proposition and Council had approved the resourcing and it was now intended to move forward to the initiation stage, the first action of which would be to review and update the business case.
- A Member expressed concern that there appeared to be no document detailing the source of the projected benefit and stated that he would have expected to see details of both the best and worse case scenarios. He added that there was no evidence upon which to base a £10m decision. The Corporate Director responded that in relation to the source of the benefits, whilst he could not provide that level of detail, the project manager had spent a significant amount of time fine tuning and rationalising the recommendations to Members. In terms of the decision itself, it would result in less than a 2% shift in productivity over 9 years. The Portfolio Holder added that the budget had been signed off by the Section 151 Officer.
- In response to the comment that it appeared that Opposition Members were not regarded as stakeholders, the Portfolio Holder advised that no one had raised the issue of consultation with him nor had it been raised at Council. A Member stated that the issue of the briefing had been raised with both the Leader and Chief Executive, following the Special

meeting of the Overview and Scrutiny Committee held on 31 January 2012.

The Chairman thanked the signatories, Portfolio Holder and Corporate Director for their attendance and participation.

(The Sub-Committee then adjourned from 8.02 pm – 8.35 pm to receive legal advice).

Upon reconvening, having noted a Member of the Sub-Committee's concerns in relation to lack of evidence to support the savings expected from the project, the Chairman announced the decision of the Sub-Committee and it was

RESOLVED: That

- (1) (unanimously) the call-in on ground (a) – inadequate consultation with stakeholders prior to the decision - be upheld and referred back to Cabinet for re-consideration as Members felt let down by officers because when the Overview and Scrutiny Committee Members requested a briefing on an item before Cabinet, they would expect to have received it before the Cabinet meeting took place.
- (2) the call-in on ground (b) - the absence of adequate evidence on which to base a decision – not be upheld due to insufficient grounds.

(Note: The meeting, having commenced at 6.01 pm, closed at 8.40 pm).

(Signed) COUNCILLOR JERRY MILES
Chairman