

CALL-IN SUB-COMMITTEE MINUTES

4 MAY 2011

Chairman: * Councillor Jerry Miles

Councillors: * Tony Ferrari (2) * Paul Osborn
* Ann Gate (2) * Sachin Shah

In attendance: Mrs Rekha Shah Minute item 6
(Councillors) Bill Stephenson Minute item 6

* Denotes Member present
(2) Denotes category of Reserve Members

1. Attendance by Reserve Members

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

Ordinary Member

Councillor Sue Anderson
Councillor Susan Hall

Reserve Member

Councillor Ann Gate
Councillor Tony Ferrari

2. Appointment of Vice-Chairman

RESOLVED: To appoint Councillor Paul Osborn as Vice-Chairman of the Call-In Sub-Committee for the 2010/2011 Municipal Year.

3. Declarations of Interest

RESOLVED: To note that the following interests were declared:

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Councillor Paul Osborn declared an interest in that he had been the Portfolio Holder for Performance, Communication and Corporate Services and had taken the decision in relation to the Learning and Development Project which had been the subject of a call-in notice. He would remain in the room whilst the matter was considered but would not vote or take part in the discussion on this item. He indicated that he would leave the room if there was to be discussion on this item.

Agenda Item 6 – Call-In of the Decision of Cabinet Meeting held on 7 April 2011: Grant Funding 2011-12

Councillor Nana Asante, who was not a member of the Sub-Committee, declared personal interests in that she was the Chair of the Grants Advisory Panel and Flash Musicals was based in her ward. She would remain in the room whilst the matter was considered and voted upon.

Councillor Camilla Bath, who was not a member of the Sub-Committee, declared a personal interest in that she was the Chair of Bentley Priory Nature Reserve. She would remain in the room whilst the matter was considered and voted upon.

Councillor Margaret Davine, who was not a member of the Sub-Committee, declared personal interests in that Flash Musicals was based in her ward, she was a Trustee of Relate North West London and the Chair of the Women's Centre Management Committee. She would remain in the room whilst the matter was considered and voted upon.

Councillor Tony Ferrari declared a personal interest in that he had previously been a Member of Cabinet when decisions in relation to grant funding were made in 2010. He would remain in the room whilst the matter was considered and voted upon but would leave should the interest become prejudicial.

Councillor Ann Gate declared personal interests in that her husband was a member of Cabinet, but had left the meeting prior to the decision on Grant Funding, and was also a Trustee of Harrow Association of Voluntary Service (HAVS). She would remain in the room whilst the matter was considered and voted upon.

Councillor Brian Gate, who was not a member of the Sub-Committee, declared personal interests during the course of the meeting in that he was a member of Cabinet, a Trustee of Harrow Association of Voluntary Service (HAVS), a member of the Citizens' Advice Bureau and had been a member of the Overview and Scrutiny Committee that had considered the grants process. 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 previously been a Member of Cabinet from 2006-2010 and whilst he was absent from the Cabinet meeting in September 2009 that had considered the proposed assessment process he was present at the meeting in March 2010 when decisions in relation to grant funding were made. He would remain in the room whilst the matter was considered and voted upon but would leave

should the interest become prejudicial. The Member also declared a personal interest, during the course of the meeting, in that he knew John Hinkley, a trustee of Harrow in Europe.

4. Minutes

RESOLVED: That the minutes of the meeting held on 22 September 2011, be taken as read and signed as a correct record.

5. 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. 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.

He emphasised that the Sub-Committee were not able to change the decision made by Cabinet.

RESOLVED ITEMS

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6. Call-in of the Decision of Cabinet Meeting held on 7 April 2011: Grant Funding 2011-12

The Chairman welcomed representatives of Harrow and Wealdstone Shopmobility and of Harrow Association of Disabled people (HAD), Harrow Mencap and Flash Musicals as the signatories to two call-in notices to the meeting. He also welcomed the Portfolio Holder for Community and Culture, who was in attendance to respond to the call-in as part of a requirement of that process, the Corporate Director of Community and Environment and the Divisional Director of Community and Culture. In accordance with Committee Rule 4.1.1, the Sub-Committee agreed that the Portfolio Holder for Finance and Business Transformation could speak 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 7 April 2011 on Grant Funding 2011/12, outlined the procedure to be followed at the meeting. The call-in notice submitted by Harrow and Wealdstone Shopmobility contained 537 signatures and the notice submitted by HAD, Harrow Mencap, Flash Musicals and Harrow in Europe contained 421 signatures. The representatives of the signatories to both notices confirmed that their call-in related to resolution (1) of the Cabinet decision. The Chairman sought clarification as to the grounds for the call-ins and it was confirmed that Harrow and Wealdstone Shopmobility had cited 3 of the grounds set out in the Protocol (a, d and e) whilst the representatives of HAD, Harrow Mencap, Flash Musicals confirmed that 5 grounds (a,b,d,e and f) had been cited.

The Sub-Committee received the two notices that had invoked the call-in procedure, the report of the Corporate Director of Community and Environment submitted to Cabinet on 7 April 2011 on Grant Funding 2011/12 and the relevant minute of that meeting. The Chairman invited Angela Dias (HAD), Deven Pillay (Harrow Mencap), Tony Revill (Flash Musicals), Gabrielle Branch and John Allright (Harrow and Wealdstone Shopmobility) to speak on behalf of the signatories.

Angela Dias, Deven Pillay and Tony Revill outlined each of the grounds raised in the call-in notice. It was stated that a large number of service users would be affected by the Cabinet decision, staff could lose their jobs and Flash Musicals would not be able to function without the required funding. The representatives stated that the decision meant that people with disabilities were being discriminated against. During the course of their presentation, the representatives made the following additional points:

- The Grants Advisory Panel had not had sufficient time to look at the papers as they had been circulated the day before the meeting instead of the 5 clear working days required by the Council's Constitution. The Panel should have considered the Equality Impact Assessments (EIA).
- Cabinet had not agreed its Panel's recommendations.
- The appeals process was too narrow was felt to lack a level of openness and integrity.
- The adverse effects of the Cabinet decision on service users had not been assessed. Services provided by Harrow Mencap and Flash Musicals enabled users, who might otherwise suffer health problems, to work. In addition, special needs workshops and wheelchair dancing were held.
- Reference was made to an interview with the Leader of the Council in the local press and the representatives questioned whether or not Cabinet believed that their organisations provided value to the community.

- Referring to the equality impact of the Cabinet decision, the representatives stated people with disabilities had been affected disproportionately. It was stated that as benefits for this group were being reduced, these vulnerable people would be unable to meet additional costs. A representative reminded the Sub-Committee of the requirements of the Chronically Sick and Disabled Persons Act.
- EIAs were recognised as necessary by the Council and there were precedents in case law – Charter vs Harrow Council 2008 and Southall Sisters 2008. A decision by the High Court on 27 January 2011 stated that Members must have regard to their statutory duty under the legislation and consider equality issues throughout their decision making.
- Other organisations had submitted letters of support for HAD, Harrow Mencap, Flash Musicals and Harrow in Europe.

The Chairman invited the representatives of Harrow and Wealdstone Shopmobility to speak on behalf of their signatories and to outline the content of a letter dated 22 April 2011, which had been circulated to all Members of the Council, for the benefit of the attendees at the meeting. Gabrielle Branch outlined each of the grounds stated in the call-in notice and during her presentation made the following additional points:

- The new manager of Shopmobility had attended a training session on the grants process but had not found it helpful in terms of the completion of the application form.
- Shopmobility was not a project but an ongoing free service for disabled people in Harrow. It was open 5 days a week with a limited service on Saturdays.
- Shopmobility had been operating for 17 years and provided wheelchairs and power scooters. It was the only organisation that could provide a wheelchair immediately for emergency use until a long term solution could be found.
- Users could borrow wheelchairs and Shopmobility could provide for ages 5-95 and for users that were in excess of 25 stone in weight. The equipment had to be maintained and insured.
- Shopmobility had a part time management committee and volunteers and currently employed a part time manager using the Council's grant. An additional £5k funding was conditional on the Council grant being received.
- Closure would represent a massive loss to Harrow and if the Council were to run such a service it would cost more.
- An indication of Shopmobility's value was the number of people using a taxicard.

- Harrow and Wealdstone Shopmobility was part of a national organisation.
- The service gave disabled residents a wider holiday choice and helped those residents who had visitors from overseas who needed assistance.
- Care homes were able to borrow multiple wheelchairs.
- Some residents would become housebound if the service were closed.

The Portfolio Holder for Finance and Business Transformation stated that the Council would like to be able to fund all organisations that had requested grant funding. In March 2010 it had been made clear that £189,000 additional funding was a one-off top up and that future funding to organisations was not guaranteed. He reported that the current funding situation was much worse but that the Council would try to assist organisations in other ways. He added that he was satisfied that the EIAs were carried out.

The Portfolio Holder for Community and Culture made a statement to the meeting which included the following points:

- 131 applications, a record, for funding in 2011/12 had been received amounting to £2.3m compared to a budget of 606,711.
- Each application had been judged on its merit and determined on the basis of the completed forms alone.
- Organisations were advised of the process in December 2010.
- The decision had not yet been made and would not be until the appeals process had been completed.
- The Shopmobility letter dated 15 April 2011 read as if it was an appeal but the Call-In Sub-Committee could only consider the grounds for the call-in.
- The Cabinet report outlined how officers assisted organisations during the process.
- EIAs were carried out on the grants process in March 2010 and could not be completed on this year's round until all appeals had been dealt with. She referred to the grants application form to demonstrate that equality issues had been considered.

The Chairman invited representatives of the signatories to ask questions of the Portfolio Holder for Community and Culture. The questions were responded to by the Portfolio Holder and officers as follows:

- EIA had been carried out on the grants process.

- Difficulties experienced in completing the application form were a matter to raise during the appeals process.
- In relation to an organisation that had received grant funding but was due to close, the Sub-Committee were advised that financial checks were done and this funding would be returned to the grants funding budget.
- EIAs on individual organisations would not be made available as the EIA was on the whole process, not each individual application. Organisations would be advised of their score following the completion of the appeals process. No funding would be allocated until the completion of the appeals process.
- In response to the question as to how the Grants Advisory Panel were assured that the process had been rigorous given that they were not given sufficient time to scrutinise papers, the Sub-Committee were advised that this had been discussed at a previous Panel meeting.
- In terms of the 95% threshold set and whether a lower threshold should have been set in order to fund more organisations, the Portfolio Holder advised that this was not part of the call-in process and that it was not possible, given the budget available, to fund all organisations.

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

- Shopmobility were not aware that their funding was to be cut until they were contacted by the Harrow Times on 6 April 2011. Representatives then attended Cabinet in order to submit a petition.
- In relation to the difficulties experienced in completing the form, the manager of Shopmobility had attended the Council's event where there had been a presentation and discussion groups and had also tried to get further assistance. Whilst the organisation could get funding for its projects, the Council grant was used to employ a manager to run the office and to organise volunteers.
- The Divisional Director of Community and Culture advised that, in terms of the timeline for the grants application process, organisations were written to on 30 December 2010, the application programme opened on 14 January 2011 and had closed on 14 February 2011. Two information sessions, one in the evening and one in the morning, were held during that time. Application forms were available on the Council's website and an officer from Harrow Association of Voluntary Service (HAVS) was available to assist with the completion of the application form. Papers for the Grants Advisory Panel on 30 March 2011 were circulated on 29 March. Another officer advised that the deadline for the submission of public questions and deputations to the Panel would have been two clear working days before the meeting.

- The process had been considered by the Overview and Scrutiny Committee in 2009.
- EIA had been carried out on the whole process in 2010 and this year's could not be assessed until the appeals process had been concluded.
- In terms of assessing whether the alteration of the percentage thresholds would impact on organisations, it would not be known if a 95% threshold was appropriate until the appeals process had been concluded. A lower threshold might mean that some organisations would not receive enough grant to be able to function.
- In response to a question as to whether Cabinet Members were told about their equalities duties as neither the Cabinet nor Panel report set these out, the Portfolio Holder for Finance and Business Transformation advised that all Councillors were requested to attend equalities training.
- The process was made accessible by making the application form available online, a service that had been commended for use by people with disabilities. The guidance notes were not in easy read but assistance was offered. Signers would have been provided on request.
- Many other organisations had successfully applied using the application form. There had been a record number of applications in 2011.
- An officer confirmed that in some circumstances, such as receiving the outcome of a process that had been the subject of a full equality impact assessment, councillors could fulfil their statutory obligation in relation to equalities based on a single sentence in a report. In this case, the policy was not new, it was a reiteration. Grant recommendations had been made as a result of a competitive process, which the organisations knew, and the policy had been evaluated on that basis in 2010.
- The application process had been open for a slightly shorter period than in previous years.

A Member of the Sub-Committee expressed concern that an EIA had not been carried out on the 2010 outcome as the policy had now been running for a year. Cabinet would find themselves in a similar situation in 2012. Another Member expressed concern that there appeared to have been no consultation with the service users, only the applicant body.

The Chairman thanked the representatives of the signatories, the Portfolio Holders and officers for their attendance and participation.

(The Sub-Committee then adjourned from 9.30 pm – 10.40 pm to receive legal advice).

RESOLVED (unanimously): That

- (1) in relation to consultation - ground (a) - the Sub-Committee were concerned that groups were not given the opportunity to ask public questions or make deputations at the Grants Advisory Panel or to ask questions at Cabinet due to the late circulation of papers and, whilst the Sub-Committee did not feel that there had been inadequate consultation, Cabinet be requested to give sufficient time in the process for this in the future;
- (2) the call-ins on ground (b) - the absence of adequate evidence on which to base a decision – not be upheld due to insufficient grounds;
- (3) it be noted that ground (c) – the decision was contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework - was not cited as a ground for call-in the notices received;
- (4) the call-ins on ground (d) – the action was not proportionate to the desired outcome – not be upheld due to insufficient grounds;
- (5) the call-ins on ground (e) – a potential human rights challenge– not be upheld due to insufficient grounds;
- (6) the Sub-Committee uphold the call-in submitted by HAD, Harrow Mencap and Flash Musicals on ground (f) – insufficient consideration of legal and financial advice – and therefore refer the decision back to Cabinet on the grounds that there was no evidence that due regard had been given to the Council's equality duties when setting the percentage thresholds.

7. Termination of Meeting

In accordance with the provisions of Committee Procedure Rule 14 (Part 4B of the Constitution) it was

RESOLVED: At 9.30 pm to continue in the normal manner and complete the business remaining on the agenda.

(Note: The meeting, having commenced at 7.32 pm, closed at 10.44 pm).

(Signed) COUNCILLOR JERRY MILES
Chairman