

MINUTES OF A MEETING OF THE
CALL-IN SCRUTINY COMMITTEE HELD
IN THE COUNCIL CHAMBER,
WALLFIELDS, HERTFORD ON
MONDAY, 14 NOVEMBER 2005 AT
8.00 PM

PRESENT: Councillor M Wood (Chairman).
Councillors R Conway, R N Copping,
Mrs M H Goldspink, A M Graham, Mrs S Newton,
H Penson, P A Ruffles, S Rutland-Barsby,
J Warren.

ALSO IN ATTENDANCE:

Councillors H G S Banks, J Cain, J Demonti,
A D Dodd, G McAndrew, M Tindale, J D Thornton,
N Wilson.

EXECUTIVE MEMBERS IN ATTENDANCE:

Councillors M R Alexander, N Burdett,
M G Carver (Leader), D Clark, A P Jackson
(Deputy Leader), T Milner, R L Parker.

OFFICERS IN ATTENDANCE:

Simon Drinkwater	- Director of Corporate Governance
Jeff Hughes	- Head of Democratic Services
David Tweedie	- Director of Resources

439 APOLOGY

An apology for absence was submitted on behalf of
Councillor D M Hone.

The Committee also noted that one of the signatories to
the request to convene this meeting, Councillor D A A

Peek, would not be able to attend for the reason detailed by Councillor G McAndrew.

440 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed Members and the press to the meeting. He reminded all Members of the need to address questions through him during the meeting.

He further reminded the Committee that the main item of business on the agenda for the meeting related to the process that led to a supplementary budget approval request for £98,000 legal costs and £22,000 human resources consultancy in respect of a management issue.

RESOLVED ITEMS

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441 MINUTES

RESOLVED - that the minutes of the meeting of the Call-In Scrutiny Committee held on 27 October 2004 be confirmed as a correct record and signed by the Chairman.

442 SUPPLEMENTARY BUDGET APPROVAL REQUEST

The Director of Corporate Governance submitted a report advising that Councillors McAndrew, Peek, Ruffles, Thornton and Wilson had requested a meeting of the Call-In Scrutiny Committee to be convened to consider the matter now detailed.

Councillor Thornton, on behalf of the signatories to the request to convene a Call-In Scrutiny Committee meeting, explained that the Members concerned had received questions from their constituents in respect of this matter. This Call-In Scrutiny Committee meeting would give the Authority an opportunity to consider the subject in a more measured way. Further, it would bring the matter to a conclusion by producing a report that would reassure the public on the actions taken. He explained that he hoped

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that the Committee would address the following questions:

- What happened?
- How could it have been avoided?
- When did the problem become known?
- What can the Authority do in future to prevent it happening again?

Councillor P Ruffles asked the Leader to explain when the need for the levels of expenditure that were the subject of the supplementary budget approval became apparent. Further, were estimates obtained at the outset in relation to the costs of engaging consultants to advise the Authority and undertake investigations in relation to this management issue.

The Leader advised that it was clear from the outset that the Authority was required, by law, to engage an independent person to review the case given the seniority of the parties involved (one was the Head of Paid Service).

He advised that the Director of Corporate Governance researched the market place to identify a suitable person bearing in mind a request he had made for this matter to be dealt with as soon as possible. The Director also undertook an exercise to confirm that the rates identified in respect of the selected advisor were competitive.

The Leader stated that, at this stage of the process, the estimated cost of engaging independent legal advice was £30,000. This sum was well within officers' budgetary areas.

Subsequently, it was necessary for the Council to engage further external legal advisors to respond to matters raised by one of the parties concerned. He explained that one of the parties had engaged their own legal advisor who raised

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a number of challenges to the processes associated with the case. These costs were unexpected.

The Leader advised that the Authority also engaged an external human resource consultant to provide advice on the working arrangements between the individuals concerned given the circumstances of this case. Subsequently, one of the parties objected to the involvement of the consultant which necessitated the Authority obtaining further external human resource advice.

During the progress of the investigation into this management issue, the Director of Corporate Governance had realised that further time was required in order for it to be completed (particularly in relation to the interviewing of witnesses). As a consequence of the additional time required, the costs of the consultants increased.

The Director of Corporate Governance confirmed the Leader's account, as now detailed, in relation to the engagement of legal and human resource consultants.

The Deputy Leader stated that it was not until September 2005 that any clarity on the sums of the money involved in utilising external consultants was obtained. The Deputy Leader detailed the timeframe in which costs associated with this matter were incurred. He reaffirmed that the Council's costs increased because of legal challenges from the parties involved.

The Leader stated that, in terms of timing and because of the nature of the case that would ultimately involve a Member Panel hearing the matter, it was not possible to bring the costs of engaging consultants to the knowledge of the Council. Such information would have created a potentially prejudicial position in the minds of those Members selected to sit on the staff panel. It was only prudent, based on legal advice, to bring the details of the costs to Council's attention once the panel had met to address this matter and the subsequent time period for any

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appeals had lapsed.

Councillor Mrs Goldspink asked the Leader why an emergency meeting of full Council could not have been held in September to be advised of the costs associated with this matter. Further, if this matter had been discussed with a number of officers, why was it not possible to advise Council of any details.

The Deputy Leader clarified which officers were involved, highlighting that one particular officer was only involved in relation to human resource aspects only. He explained that, when the original estimate of costs was identified, it was felt that this sum could be met from within existing budgets. Subsequently, it had become clear that this would not be the case.

Councillor Graham asked the Leader to explain why it was deemed to be prejudicial to inform Members of the costs associated with this exceptional situation. Expenditure was incurred over a period of time and it must have become clear to the Leader that this was not a normal situation. Further, when the costs were known and were brought to Council's attention it was done so in a "hidden" manner at an Executive meeting. The item of additional expenditure gave Members no connection to the matter in terms of its seriousness.

Councillor Carver reminded the Committee that, approximately one week after the case started, all Councillors had been advised that it involved the Authority's two most senior officers. Costs escalated as a consequence of having to respond to six/seven matters raised by one party and a whole plethora of issues from the other. The Leader stated that he was guided at all times by professional advice which indicated what could be said and when. The Leader stated that only he and the Deputy Leader knew of this matter. The remaining Members of the Executive were not told. All actions taken were in the interests of the Authority based on internal and external advice.

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The Deputy Leader advised that, during September 2005, the Leader and he did consider presenting information to Council on the costs associated with the case. However, due to the deferral of a proposed panel hearing, this proved not to be possible. Following agreement of the Director of Resources, it was felt appropriate to report on the costs to the October Executive meeting.

The Leader stated that it was not possible to tell Members of the Council of any details of the cost of this case. Whatever forum was chosen to impart such information it would, ultimately, become known in the public domain.

The Deputy Leader highlighted the potential consequences for the Authority if the legal advice that was being obtained on the matter was not followed.

Councillor Newton asked the Leader to comment on the working relationship of the two officers involved before the formal process associated with this matter commenced. She invited the Leader to comment on the Executive's remit in relation to this case. Further, she invited the Leader to consider what changes, if any, needed to be implemented to prevent a situation such as this occurring in the future. Councillor Newton invited the Leader to detail the Executive team's relationship with the officers concerned and to indicate whether their hands were tied by existing Council policies. She asked the Leader to detail what role the Authority's Human Resources Service had in identifying any problems between the officers and did it implement measures that would have provided a solution in advance of any formal process commencing.

The Leader advised that the Authority had in place protocols and processes in relation to human resource issues. However, the case highlighted a gap in these policies. He advised that one of the responsibilities of the Human Resources Service was to draw up policies covering the case such as the one involving the Authority's two most senior officers. Even if such a comprehensive policy was in place it may not have been possible to

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address the problems identified through a more informal process.

The Leader explained the circumstances that led to the formal process in this case being commenced. He advised the letter that commenced the process was received by him prior to a Bank Holiday weekend. On the next working day following the Bank Holiday, he received confirmation from the individual that they wished to proceed with the formal process. On this basis, he and officers moved to protect the Authority's interests.

The Leader advised that a staff policy that would provide an informal resolution process was currently being considered by the Local Joint Panel.

The Leader stated that the relationship between Members and officers was governed by the Authority's code of conduct. He stated that, as Leader, he was responsible for the assessment of Executive Directors in terms of their performance in ensuring that the Authority's principles, priorities and visions were achieved. As Leader, he would set the Executive Directors' objectives to meet these requirements and he would meet with them regularly to discuss progress.

The Leader commented that, as with any senior management board, there were differences of opinion between the officers on a number of matters. Clearly, the senior management board was a challenging environment. He commented further that the Authority was going through a cultural change focused on performance management. All staff were being asked to do "a bit more". Work was being undertaken to identify staff competencies and to identify staff strengths and weaknesses.

Councillor Newton commented that, in a period of cultural change, the role of the Human Resources Service was paramount in terms of implementing strategies. She asked the Leader if any action was taken to use the Human

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Resources services to resolve this matter.

The Leader advised that the question assumed that Members of the Executive knew something of the differences between the officers involved. He confirmed that the Executive knew nothing of this matter. Similarly, he was not aware whether one or both of the officers had approached the Human Resources Service directly to secure any mediation. He commented that, as senior officers, he would have expected them to be able to solve any differences themselves.

In response to questions from Councillor Dodd, the Leader detailed the level of involvement of the Director of Organisational Development in this case. He confirmed that the only officers that were party to either all or partial elements of this case were the Directors of Corporate Governance, Resources and Organisational Development.

Councillor Ruffles invited the Leader to comment on the earliest origin of the problems between the two senior officers. Further, he invited the Leader to indicate whether or not he was surprised that, in hindsight, he was not able to address any problems at an earlier stage.

The Leader advised that he had reflected upon this particular point. He commented on what he saw to be his role as Leader. He also commented that, as they were senior officers, they were responsible for running the organisation based on their own personalities and management experiences. The Leader stated that he recalled one occasion where he and the Deputy Leader arbitrated on a matter where there was a clear difference of approach between the Executive Directors. He stated that this incident took place shortly before the commencement of the formal process now detailed.

The Leader reminded the Committee of the achievements of the Executive Directors. These achievements had been secured with differing management styles.

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The Leader stated that, on one occasion, one of the officers raised problems that she felt she was having with her colleague. The Leader advised that he spoke to the other party concerned and invited them both to talk to find a solution. Any further action he could have taken would have meant him departing from his traditional Leader's role to become that of a direct line manager. The Leader further commented that, in relation to the review of the senior management structure, the officers concerned had different positions on the way forward. The Leader elaborated on the positions of the officers concerned and confirmed that a decision was made to retain, at that stage, the existing management structure. Reports were presented to Council on this matter commencing in October last year and culminating with reports to the May and July meetings advising of progress of determining each individual's responsibilities and the level of remuneration each had received.

The Deputy Leader endorsed the Leader's responses, as now detailed. He advised that at one Leadership Team meeting it had become very evident that the Executive Directors had not discussed the issue of the senior management restructuring between themselves. The knock on effect was that the quality of the information coming through to the Leadership Team on this matter was poor. This point was highlighted to the officers concerned. He advised that one of them was magnanimous and recognised the fault.

The Deputy Leader also confirmed that he was not aware of any difficulties between the two senior officers in advance of the formal process commencing.

Councillor Copping commented that the Council had a procedure for dealing with grievance matters. He presumed that this procedure was followed and that once it commenced it had to be seen through to its end point. Accordingly, the Authority had no option but to incur the necessary costs associated with this process.

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Councillor Mrs Goldspink commented that, from the responses now received from the Leader, there were clues that there were differences between the two senior officers. She invited the Leader to expand on what he meant when he stated that he had had regular meetings with the two senior offices and what protocol, if any, existed for communicating matters identified at those meetings between him and the rest of the Executive team.

The Leader advised that the Executive met (informally) every two weeks with the Executive Directors through the medium of pre-Executive meetings and the Executive Board. These meetings principally focused on issues affecting the direction of the Council. The Leader also advised of further senior management meetings, highlighting in particular monthly meetings between Leader and Deputy Leader and Executive Directors. He explained that these meetings basically undertook "Blue Sky thinking".

The Leader stated that he also had a one to one meeting with each of the Executive Directors on a monthly basis. The purpose of this meeting was to run through issues in relation to their own service areas. Individual Executive Team Leaders would also meet with the Executive Directors to discuss matters within their portfolio areas. The Leader stated that, given the close working proximity, there was a fair amount of informal "in" and "out" meetings in each other's offices between the Executive Directors and the Leader and Deputy Leader.

The Leader stated that, as far as he was concerned, both senior officers were delivering on the objectives they had been set.

The Deputy Leader stated that given the nature of the problems, he felt it would be unlikely for an Executive Director to make any complaint about their colleague. The formal process that subsequently took place came as a complete surprise.

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Councillor Graham stated that, given the responses received from the Leader and Deputy Leader to date, it was clear that, potentially, the overall expenses associated with this matter could have been considerably more. He asked the Leader whether he could recall any incidents that gave a clue to the working relationship between these senior officers that ultimately led to the situation now detailed. Councillor Graham commented that the Leader had indicated his role was to ensure the Executive Directors delivered on the priorities set. The Leader had mentioned differences of opinion between the officers and the fact that the Authority was undertaking a cultural change and a key element of this change was performance management. Was it true, therefore, that in such circumstances, a number of officers had left the Authority as a consequence of a change in the style of management and that this management style, at times, was more assertive and occasionally aggressive.

The Leader stated that the role of management was to take the process of change forward. The simple response to the further questions raised by Councillor Graham was “no”. The Authority had applied the principle of change in an open way. There was no evidence of bullying or aggressiveness. If there were such evidence then this would be a matter for another body to consider. In any period of change, staff undoubtedly left an organisation under their own volition.

The Deputy Leader reaffirmed that, based on his experience, staff left an organisation undertaking change management on the basis that such changes did not necessarily suit them as individual staff. Equally, staff also embraced change.

Councillor Graham clarified that he was inviting the Leader to comment on the style of the management of the two senior officers concerned.

The Leader once again confirmed that he did not believe the style of management impacted upon decisions by

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individual officers to leave the Authority.

Councillor R Conway asked the Leader to clarify the process that was involved in engaging external consultants in respect of this matter and to confirm whether or not a lack of availability contributed towards the costs. Further, was there any way in which the Authority could have been saved from incurring this expenditure.

The Leader advised that, if a new process was in a place the cost could have been possibly avoided.

The Director of Corporate Governance explained the process that was undertaken to engage the legal consultants. He confirmed that the rate charged by the consultant was standard and the availability of external consultants with the necessary experience did not affect this rate.

Councillor Newton commented that, put simply, officers ran the Authority and Councillors made policies. Policies helped to ensure that the Authority's success continued and that any failings were addressed. She commented that the Authority needed to protect and support its staff. Appropriate staff policies were an essential element in achieving this objective.

The Leader confirmed that staff were entitled to have proper processes in place to deal with a range of issues. It was important that such processes were accepted by all parties and that staff confidentiality should be maintained.

Councillor Parker expressed concern that a potential finding of the Committee could be that the Leader and/or Deputy Leader should have been aware of the management issue involving the Executive Directors. He stated that this should be discounted for the reasons he detailed.

Councillor Mrs H Goldspink stated that she would welcome any action by the Authority to implement a grievance

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procedure that guaranteed staff anonymity.

Councillor D Clark, in response to a question from Councillor Mrs Goldspink, confirmed that she was looking at this specific issue of the Authority's financial regulations and the various financial thresholds for incurring expenditure. It was intended that an interim regulation on this matter be presented to the next Council meeting for consideration. This interim regulation would be in advance of the full review of the Authority's financial regulations that would also be reported to Council.

Councillor S Rutland-Barsby expressed hope that any new policies introduced by the Authority would be subjected to external consultancy review to ensure their robustness.

Councillor M Alexander confirmed that he was not aware of any issue between the two senior officers until 7 June 2005. He subsequently reflected on why he was not aware and had concluded that he had never seen any evidence of any differences between these two individuals. The two parties were delivering the Authority's programme of strategies.

Councillor Alexander commented that he believed the Leader acted competently and professionally in respect of this matter. The difficult circumstances surrounding this issue had not been helped from press comment and speculation. He commented that, in relation to private industry, there was no press involvement in matters involving internal staff disputes. He concluded by stating that he hoped that this matter was now resolved as the Authority was potentially taking its "eye" off its real business of service delivery.

Councillor A Graham commented that he welcomed the current staff consultation exercises that were being scheduled by the interim Executive Director.

The Leader stated that he believed staff consultation had been extensive in the past. The Executive was keen that

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staff consultation should continue in the future.

Councillor R Conway asked the Leader whether or not the Council was still exposed if such a situation as the one now detailed took place in the future.

The Leader stated that this was a unique situation that he hoped would not occur again. Because of its uniqueness, he felt that the Authority was not exposed but highlighted that new staff policies would attempt to address such issues more robustly.

The Committee noted the responses of the Leader and Deputy Leader on this matter. The Committee welcomed the action being taken, as now detailed, to develop robust staff policies and to review financial regulations.

RESOLVED - that following scrutiny of the actions that led to expenditure in respect of the management issue identified:

(A) the responses of the Leader and Deputy Leader on this matter be noted; and

(B) the action being taken to develop robust staff policies and to review financial regulations be welcomed.

The meeting closed at 10.05 pm.

Chairman
Date