

EXECUTIVE AND RESOURCES POLICY DEVELOPMENT AND SCRUTINY COMMITTEE

Minutes of the meeting held at 7.00 pm on 7 September 2017

Present:

Councillor Simon Fawthrop (Chairman)
Councillors Julian Benington, Nicholas Bennett J.P.,
Mary Cooke, Ian Dunn, Robert Evans, William Huntington-
Thresher, David Livett, Russell Mellor, Alexa Michael,
Keith Onslow (Vice-Chairman), Tony Owen, Ian F. Payne,
Stephen Wells and Angela Wilkins

Also Present:

Councillor Graham Arthur, Portfolio Holder for Resources
Councillor Stephen Carr, Leader of the Council

48 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillor Rutherford. Councillor Benington attended the meeting as his substitute.

49 DECLARATIONS OF INTEREST

Councillor Fawthrop declared interests by virtue of his employment with BT Group plc and his wife's employment as an IT trainer with the London Borough of Bromley.

Councillor Benington declared that he was a Trustee of Biggin Hill Memorial Museum.

50 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions had been received.

51 MINUTES OF THE EXECUTIVE AND RESOURCES PDS COMMITTEE MEETING HELD ON 13 JULY 2017 (EXCLUDING EXEMPT ITEMS)

In relation to Minute 36c (Document Management – Amended Request for Release of Funding), in response to a query surrounding the action that had been taken to address the concerns that had been raised by the Committee

the Portfolio Holder for Resources confirmed that the decision had been modified to take account of the views of the Committee.

In relation to Minute 39 (Revenues Service Monitoring Report), a Member noted that the Committee had requested that further information surrounding the policy for council tax recovery be provided to the Committee. The Chairman requested that this information in addition to a report setting out the reasons for delays in processing new claims and changes in circumstances be provided to the Committee at its next meeting on 11th October.

Action Point 1: That further information surrounding the policy for council tax recovery be provided to the Committee at its next meeting on 11th October in addition to a report setting out the reasons for delays in processing new claims and changes in circumstances. (Action by Head of Benefits)

In relation to minute 36a and the reference to £50,000 for Legal counsel costs related to an inquest, the Committee noted that the insurers had been fully appraised and informed of the outcome of the inquest. Members were advised that the insurers had been put on notice but there was still no claim against the Council.

RESOLVED that the minutes of the meeting held on 13 July 2017, excluding exempt information, be confirmed.

52 MATTERS ARISING FROM PREVIOUS MEETINGS Report CSD17127

The Committee received an update on matters arising from previous meetings.

In relation to Minute 435 (from the meeting on 15th March 2017), the Chairman noted that a report setting out the findings from the review of a possible merger of the Adult Passenger and SEN transport vehicle fleets was due to be considered by the Education, Children and Families Budget and Performance Monitoring Sub-Committee in the Autumn cycle of meetings.

Turning to the Total Facilities Management Contract Update, the Chairman requested that representatives from Amey attend the Committee's meeting on 11th October 2017, to answer questions from Members.

Action Point 2: that representatives from Amey be invited to attend the Committee's meeting on 11th October 2017, to answer questions from Members (Action by Director of Regeneration)

The Committee noted that the issue of utility debt had been referred to the Environment PDS Committee for further consideration. The Leader reported that he had arranged a meeting between himself, the Portfolio Holder for Resources and representatives from BT which would be held on Tuesday 12th September 2017. The issue of outstanding utility debt would be discussed at this meeting.

A Member reported that in 2015, the Council had disposed of a piece of land at 29 Chesterfield Close for £130,000. The Member had noted in a recent planning report that, on appeal, permission had been granted for 3 houses on the site. The Member suggested that this indicated that the sale price of £130,000 received by the Council had not represented the true value of the land as developers now appeared to be making a profit of over 100%. The Member questioned the quality of the advice that the Council had received at the time. The Portfolio Holder for Resources stressed that the Local Authority had a legal obligation to maximise any return on assets. In the past there had been pressure to move more swiftly with property disposals and it was therefore imperative that the circumstances surrounding this sale be adequately investigated to identify whether a mistake had indeed been made prior to drawing any conclusions. The Committee requested that following the meeting an update be provided on this particular site and the circumstances around the sale of the land.

Action Point 3: that an update be provided on 29 Chesterfield Close and the circumstances around the sale of the land. (Action by Head of Legal Services)

It was agreed that Cushman and Wakefield should be invited to give a presentation to the Committee in the New Year.

Action Point 4: that Cushman and Wakefield be invited to give a presentation to the Committee in the New Year (Action by Senior Property Manager)

RESOLVED that

- 1. Representatives from Amey be invited to attend the Committee's meeting on 11th October 2017 for the Total Facilities Management Contract Update;**
- 2. An update on the circumstances surrounding the sale of the land at 29 Chesterfield Close be provided to Members following the meeting; and**
- 3. Cushman and Wakefield be invited to give a presentation to the Committee in the New Year.**

53 FORWARD PLAN OF KEY DECISIONS

The Committee noted the Forward Plan of Key and Private Decisions published on 15th August 2017.

The Chairman of the Education, Children and Families Select Committee requested that scrutiny of the decision relating to In-house Nursery Provision scheduled for October 2017 be undertaken at the Executive and Resources PDS Committee on 11th October 2017.

The Committee noted that there were a number of items listed as requiring decision by the Executive on 13th September 2017, which did not appear on the agenda for the Executive meeting. Members requested that these decisions be progressed in a timely manner and added to the Executive agenda in October 2017 to avoid further delay.

54 QUESTIONS TO THE PORTFOLIO HOLDER FROM MEMBERS OF THE PUBLIC AND COUNCILLORS ATTENDING THE MEETING

No questions had been received.

55 RESOURCES PORTFOLIO - PRE-DECISION SCRUTINY

The Committee considered the following reports where the Resources Portfolio Holder was recommended to take a decision.

**a CAPITAL PROGRAMME MONITORING - 1ST QUARTER 2017/18
Report FSD17070**

The report set out changes agreed by the Executive in respect of the Capital Programme for the Resources Portfolio. The revised programme for the Portfolio was set out in Appendix A to the report, detailed comments on scheme progress as at the end of the first quarter of 2017/18 were shown in the revised Appendix B which had been tabled at the meeting, and details of the 2016/17 outturn were included in Appendix C to the report.

RESOLVED: That the Portfolio Holder be recommended to note and confirm the changes agreed by the Executive on 19th July 2017.

**b TREASURY MANAGEMENT - QUARTER 1 PERFORMANCE 2017/18
Report FSD17075**

The report summarised treasury management activity during the first quarter of 2017/18, and ensured that the Council was implementing best practice in accordance with the CIPFA Code of Practice for Treasury Management. Investments as at 30th June 2017 totalled £292.3m and there was no external borrowing. The balance of investments stood at £269.9m as at 31st March 2017, £285.2m as at 30th June 2016, and at £329.6m on 22nd August 2017.

The Committee noted that the Markets in Financial Instruments Directive II (MiFID II), which was due to come into force on 3rd January 2018 required investment firms to assess the categorisation of their clients for investment purposes, except for 'simple' investments such as term deposits with banks and building societies, directly owned properties and a few other types of investments that were outside the scope of MiFID II. Following the release of a new Policy Statement by the Financial Conduct Authority (FCA) on 3rd July

2017, Local Authorities would be classed as 'Retail' investors by default. This would result in the authority being limited to investments in instruments defined by the FCA as 'non-complex'. Retail investors may also have to pay higher fees for an equivalent investment than professional investors. It was therefore likely that being classed as a Retail investor would result in an overall reduction to the investment return achieved by the Council. However, under the Directive, retail clients were provided more protection than professional clients, such as a suitability report, assessment of appropriateness, level of information provided, services of the Financial Ombudsman Service, and the Financial Services Compensation Scheme (although this would not apply to the Council). Members noted that the Council was currently classed as a per-se professional client, and therefore did not currently have these protections. To be classed as a professional client for the purposes of treasury management activities, the Council was required to satisfy both a quantitative test and a qualitative test, the criteria for which were set out in detail within the report. In order to opt-up to elective professional status, an assessment questionnaire/application had to be submitted to all counterparties it currently invested with or may wish to invest with, including investment advisers. The Resources Portfolio Holder was requested to delegate authority to the Director of Finance to submit the relevant requests to opt-up to elective professional status.

Members were advised that the MiFID II arose from EU legislation and under the Directive local authorities were automatically categorised as 'Retail' investors and this limited the scope of investment. The report proposed that the Council elect to opt-up to 'Professional' client status. It was felt that being classed as a Retail investor would result in an overall reduction to the investment return achieved by the Council. The only potential advantage of remaining as a Retail investor was the benefit of additional protections such as level of information provided and the services of the Financial Ombudsman Service, although as the Council was currently classed as a per-se professional client it did not currently have these protections. The changes did not affect the current Regulatory Framework which limits the level of risk associated with the Council's treasury management activities.

The Committee were advised that the requirement for a suitable level of experience to satisfy the qualitative criteria for categorisation as a 'Professional' investor would be reflected in relevant job descriptions (i.e. the posts of Principal Accountant, Chief Accountant and Director of Finance),.

In relation to presentation of information within the report, the Committee requested that in future, where possible, simple line graphs were used as these were visually clearer than bar charts.

The Committee noted that where the report referred to a potential risk arising from a rise in interest rates, this risk only related to borrowing authorities. As Bromley Council was not a borrowing authority any rise in interest rates would be an opportunity.

In relation to Appendix 3 of the report, the Committee were advised that the total investments held by the Council had increased to £330m as at 22nd August 2017.

RESOLVED: That the Portfolio Holder be recommended to:

- 1. note the Treasury Management performance for the first quarter of 2017/18; and**
- 2. delegate authority to the Director of Finance to apply to opt-up to elective professional status under MiFID II as detailed in the report.**

56 PRE-DECISION SCRUTINY OF EXECUTIVE REPORTS

The Committee considered the following reports on the part 1 agenda for the meeting of the Executive on 13 September 2017.

(6) London Business Rates Pilot Report FSD17067

Members considered a report setting out a proposal for the Council to join the London Business Rates pool pilot which provided financial incentives. For the pilot to proceed, the unanimous agreement of all London Boroughs and confirmation from Government that a London wide scheme could go ahead was required. The Government had offered an opportunity for Business Rates pilots and included financial incentives by pooling with other local authorities. London Councils were formally seeking consideration of a pan London proposal with details of the options for consideration included within the report. The Committee noted that the key principle underpinning the proposals was that no local authority would be worse off compared to its current position.

Members were advised that whilst it appeared that Bromley would benefit from the proposals there was always a risk that the benefits would not be as advantageous as predicted. The potential additional income used forecast information provided by individual local authorities on their expected business rates income. The Chairman suggested that the bottom line was that it was likely that Bromley would benefit however the Council had to be alert to any potential pitfalls.

Reviewing recommendation 2.1.3, the Chairman suggested that the recommendation be amended to read:

2.1.3a: The Leader seeks to minimise the collective investment contribution;
and

2.1.3b The Leader obtains assurances from Government that any additional funding received will not be offset by future corresponding reductions in Government funding.

Subject to the amendment to recommendation 2.1.3 outlined above the Committee supported the recommendations.

(7) Gateway Report – Short Breaks for Disabled Children and Young People
Report ED18016

Members considered a report which sought approval to enter into a contract with Riverside School for the purpose of providing short breaks for disabled children and young people for a period of three years from 1 April 2018, with a further allowance for a two year contract extension after that date on the basis of an exemption from tendering. The Council had a statutory duty to provide short breaks to those assessed as being eligible for such provision and the duty extended to the Council providing an appropriate and relevant range and choice of short break services.

The Committee were advised that the estimated contract value of £191,492 was the annual value of the contract not the total value of the contract.

The Committee were further advised that benchmarking on value had been undertaken and it was proposed to include a benchmarking clause in the contract in addition to a value for money break clause.

RESOLVED that the recommendations to the Executive in respect of Item 5 and Item 7 on the agenda for the Executive meeting due to be held on 13 September 2017, be support subject to the amendment to recommendation 2.1.3 to Item 5 (London Business Rate Pilot) outlined above.

57 EXPENDITURE ON CONSULTANTS 2016/17 AND 2017/18
Report FSD17077

The Committee had requested that a full report reviewing expenditure on consultants be submitted each year. The report before the Committee looked at total expenditure in 2016/17 and expenditure to date for 2017/18 for both Revenue and Capital Budgets.

The Committee felt that the Council's Contract Procedure Rules should be amended so that the estimated value for Consultancy Services requiring one oral quotation (confirmed in writing where the Estimated Cost of Value exceeded £1,000) be reduced to £5,000 in line with other services. Members felt that there needed to be consistency across the Council. As this amendment would require approval of Council, it was agreed that this be included in a future report by the Head of Procurement incorporating other changes to existing Contract Procedure Rules.

A Member noted that legal services had been left out of the report and concerns were raised that Counsel's opinion was often sought when there

was in fact an adequate provision of in-house legal advice. In response the Head of Legal Services advised Members that generally Counsel advice was sought in complex cases where advocacy was required. Use of Counsel opinion was strictly controlled with specific criteria and every use of legal Counsel had to be approved and signed off by the Head of Legal Services.

The Committee were advised that consultants were used across the Council to deliver value for money where there was either a specific short-term skills gap within the organisation or for one-off pieces of highly specialist work.

A Member noted that in some cases where consultants were employed the costs were billed to a third party and suggested that it may be helpful in future reports to highlight where any costs were billed to third parties.

The Committee noted the recommendation that the report be referred to other PDS Committees for scrutiny and suggested that detailed questions around the requirements for consultants and whether value for money was achieved could be raised at these committee meetings.

RESOLVED that

- 1. Overall expenditure on Consultants as set out in the report be noted;**
- 2. The report referred to the other PDS Committees for further consideration; and**
- 3. Full Council be recommended to agree that the Council's Contract Procedure Rules be amended so that the estimated value for Consultancy Services requiring one oral quotation (confirmed in writing where the Estimated Cost or Value exceeds £1,000) be reduced to £5,000 in line with other services.**

**58 WORK PROGRAMME
Report CDS17126**

Members agreed the Committee's latest 2017/18 work programme.

**59 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE
LOCAL GOVERNMENT (ACCESS TO INFORMATION)
(VARIATION) ORDER 2006, AND THE FREEDOM OF
INFORMATION ACT 2000**

RESOLVED: That the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summaries
refer to matters involving exempt information**

60 EXEMPT MINUTES OF THE MEETING HELD ON 13 JULY 2017

The exempt minutes of the meeting held on 13 July 2017 were confirmed.

**61 PRE-DECISION SCRUTINY OF EXEMPT RESOURCES
PORTFOLIO HOLDER REPORTS**

The Committee considered the following reports on the Part 2 agenda where the Resources Portfolio Holder was recommended to take a decision.

**a Extension Of A Short Term Lease To Langley Park
Academies For Use Of Part Of The Hawes Down Centre
West Wickham For Langley Park Primary Free School**

The Committee recommended that the Portfolio Holder approve the recommendations within the report.

**62 PRE-DECISION SCRUTINY OF EXEMPT EXECUTIVE
REPORTS**

There were no Part 2 reports on the agenda for the meeting of the Executive on 13th September 2017.

The Meeting ended at 8.20 pm

Chairman