



Minutes of the meeting of the **Overview & Scrutiny Committee** held in Committee Room 2, East Pallant House on Tuesday 19 January 2016 at 2.00 pm

Members Present: Mrs C Apel (Chairman), Mrs N Graves (Vice-Chairman), Mr M Cullen, Mrs P Dignum, Mr N Galloway, Mrs E Hamilton, Mr G Hicks, Mr S Lloyd-Williams, Mrs P Plant, Mr A Shaxson and Mrs J Tassell

Members not present: Mr P Budge, Caroline Neville, Mr H Potter and Mr J Ransley

In attendance by invitation: Mrs G Keegan

Officers present: Miss L Higenbottam (Member Services Assistant), Mrs J Hotchkiss (Head of Commercial Services), Mr D Hyland (Community and Partnerships Support Manager) and Mrs B Jones (Principal Scrutiny Officer)

51 **Chairman's announcements**

Mrs Apel welcomed members, officers and Mr S Quigley, former Chairman of this Committee.

Apologies for absence had been received from Caroline Neville, Mr H Potter and Mr J Ransley.

52 **Urgent Items**

There were no urgent items.

53 **Declarations of Interests**

There were no declarations of interest.

54 **Public Question Time**

There were no public questions.

55 **Leisure Services Procurement**

Mrs Apel introduced the item explaining that at its meeting on 17 November 2015 the Committee had requested to consider the process followed in undertaking the procurement exercise to test the market for future management of leisure services.

Mrs Keegan clarified her attendance in the capacity as Chair of the Leisure Task and Finish Group.

Mrs Keegan explained the process to date.

In April 2014 Cabinet agreed that an Options Appraisal be conducted to look at various management options for the Council's leisure service. In September 2014 Cabinet reached a decision to test the market for leisure services provision and set up a Task and Finish Group (TFG) having considered the options to do nothing, set up a council run trust or work with a private sector partner. In addition to Mrs Keegan the TFG members are Mrs Knightley, Mrs Lintill, Mr McAra and Mr Oakley. The first TFG meeting in November 2014 agreed the terms of reference and established a reporting structure. In April 2015 following competitive dialogue the leisure services went out to open tender with 11 parties registering interest. Following an evaluation process the number was reduced to five who were invited to submit tenders. In August 2015 two preferred bidders were decided. The TFG and senior officers received presentations from both management teams and the final tenders have been submitted. Following a re-evaluation process the tenders were discussed at the December 2015 TFG along with the risks and benefits of outsourcing. The recommendation has been made to Council to outsource. The final decision of whether to outsource leisure services will be made by Council at its meeting on 26 January 2016. If Council decides in favour of outsourcing then Cabinet will decide its preferred contractor at a special meeting the same day.

Mrs Apel read the following question submitted by Mr Ransley.

Whilst there appear to be obvious financial benefits to outsourcing the operational management of our Leisure centre properties, I am conscious that Council will still be required to provide for capital replacement costs of the properties involved. I feel therefore that it would not be prudent for this Committee to ignore the more basic question as to whether this Council should still be involved in providing such facilities at all and whether disposal of such property should not be considered.

I am fully aware that in a historical context it was appropriate for Councils to invest residents monies in such facilities, many will remember bus journeys to and from school to enjoy swimming lessons which could only happen because Councils invested in such facilities, however we do not live in the past and in 2016 we all benefit from access to an extensive range of leisure facilities run by a dynamic and competitive leisure industry. This in my view is not an area of activity we as a Council need to be investing in the long term, outsourcing locks us into a long term agreement, especially now as there are so many more beneficial services for us to focus on in evermore financially challenging times.

I feel this committee is well placed to recommend to Cabinet and Council that in addition to considering outsourcing its leisure services facilities it should also consider selling of such leisure facilities and allow members to consider both options at this time.

The following answer was given.

Mrs Keegan explained this was considered at Cabinet but not agreed at the time. Maintaining the council's asset is the lower risk approach. A decision to outsource

will provide the option to pull back from the decision at any point. This approach is more typical of other councils. Selling the asset could be a future consideration. Mrs Hotchkiss added that at the beginning of the process applicants were informed that the council would be retaining the asset.

The Committee asked the following questions:

- What is the legal status of the contractors and the tax implications? *The companies have charitable status to run the community leisure facilities and are registered with HMRC. They can make VAT and NNDR savings.*
- The minutes of the Committees meeting on 17 November 2015 proposed a written report from the Leisure TFG. More information about the process is explained in the Cabinet papers for 26 January 2016 and no background papers were listed in the report. *Scrutiny is asked to consider the process taken to make decisions not the final Cabinet decision which is why the papers for Overview and Scrutiny Committee (OSC) and Cabinet are different.*
- What is the percentage turnover of non-leisure services at the Grange and what impact could outsourcing have on non-leisure use? *As indicated in the report technical and a commercial evaluation is made against a list of nine method statements. Each tender was requested to submit bids according to these statements. Community involvement and implementation of outreach work was discussed at the presentations conducted with the TFG. Non-leisure community activities are included as part of the Grange operation and therefore the turnover for community events is not separated out.*
- Have site visits taken place? *In addition to the formal process there were also unannounced visits to centres run by the tenders. References have been received from new clients and existing clients including those who are coming to the end of their contracts. All recommended good or excellent.*
- Are the other leisure services startups? *All other sites visited had previously been run in house. Many employees are ex council staff who stayed with the company after the takeover.*
- Did the tenders answer all methods statements? *When asking for references questions were posed around the methods statements. All tenders have run successful GP referral services, active for health classes and would enhance dementia friendly sessions.*
- Were only charitable organisations approached? *Out of the 11 bidders the final five all had charitable status or in one case charitable objectives. The bidder with charitable objectives did not apply to be part of the final three.*
- Were bidders requested to include any improvement costs which would need to be met by CDC, specifically capital improvements and will this information be included in the Council papers? *Capital investment and borrowing abilities were considered as was any return CDC would see on an investment. The Cabinet papers layout the proposals.*
- In reference to paragraph 4.1 of the report would OSC be given an opportunity to scrutinise performance management? *Within the contract performance targets will be assessed by the TFG on a quarterly basis. Members of the Committee requested this should be brought back to scrutiny on an annual basis.*

- Has the impact on other CDC services and personnel been considered before the decision is made? *A report will be taken to February Cabinet regarding a review of support services.*
- Has feedback been received from councils who were not happy with the results of outsourcing? *This had been considered in great depth by the TFG. Tenders were asked how many times they had won and lost renewals. Results show that very few local authorities move from one supplier to another and no local authority took services back in house.*
- Is there is a break clause in the 10 year contract? *10 years is a standard contract length and some contracts with higher investment levels are longer. Within the contract default there are penalty clauses for not achieving targets and ultimately the contract can be terminated.*
- Can employees move across with their local government pension scheme? *All members of staff will be given the opportunity to TUPE across with a local government pension scheme. A contractor must offer a comparable pension if staff subsequently move roles. The contractor is responsible for paying the current pensions contribution. There is a cap and collar of plus or minus 5%. Over this amount the council will be responsible for the additional cost.*
- How will performance be monitored? *There will be weekly, monthly, quarterly, six monthly and annual meetings with specific agendas.*
- How did outsourcing work for other leisure services in Sussex? *All those who have outsourced have been with organisations with charitable status or in one case charitable objectives.*
- Have other local authorities maintained their assets? *This is the case. Outside of the area one local authority sold off its assets on a long lease only stating that two or the four assets had to remain open.*
- What is the timescale if things do not work? *This depends on the default it can be immediately or if a prescribed number of days. Multiple areas can be resolved quicker.*
- What will happen to membership fees? *A standard list of prices has been provided. Prices are allowed to be increased by the CPI interest year on year. New activities have no fixed price by CDC. Funds have been set aside to cover current membership subsidies.*

The Committee also made the following comments:

- Some of the Committee expected a broader report of the whole process to OSC earlier on.
- A bigger company will have greater buying power and can be better placed to keep up-to-date with technological advances.
- The thorough explanation provided by Mrs Hotchkiss clarified services will be maintained and in some cases enhanced.
- A great deal of work has been carried out to put forward the recommendation and the procurement is well laid out having taken into account all options, the council strategies and objectives. All consultees have been well briefed.

Mrs Apel concluded that lessons should be learnt from not involving scrutiny at an earlier stage. Mrs Keegan replied that a scrutiny member could be chosen to sit on the TFG.

RESOLVED

That due process was followed in undertaking a procurement exercise to test the market for future management of leisure services.

RECOMMENDED TO CABINET

1. That should it be agreed to outsource leisure services that a member of the Overview and Scrutiny Committee be appointed to sit on the corporate Leisure Task and Finish Group; and
2. That a report on performance against the leisure contract be considered by the Overview and Scrutiny Committee on an annual basis.

56 Late Items

There were no late items.

57 Exclusion of the Press and Public

There were no restricted items for consideration.

The meeting ended at 3.03 pm

CHAIRMAN

Date: