

**MINUTES OF THE MEETING OF THE
OVERVIEW & SCRUTINY PANEL
HELD AT FOLLATON HOUSE, TOTNES ON
THURSDAY, 6 SEPTEMBER 2018**

Panel Members in attendance:			
* Denotes attendance		∅ Denotes apology for absence	
*	Cllr K J Baldry	*	Cllr E D Huntley
∅	Cllr J P Birch	∅	Cllr D W May
*	Cllr J I G Blackler	*	Cllr J T Pennington
*	Cllr B F Cane	*	Cllr K Pringle
∅	Cllr J P Green	*	Cllr M F Saltern (Chairman)
*	Cllr J D Hawkins	*	Cllr P C Smerdon (Vice Chairman)
∅	Cllr M J Hicks		

Other Members also in attendance:
Cllrs H D Bastone, I Bramble, J Brazil, R F D Gilbert, T R Holway, N A Hopwood, J A Pearce, R J Tucker, R J Vint, K R H Wingate and S A E Wright

Item No	Minute Ref No below refers	Officers in attendance and participating
All		Group Manager – Commercial Services; and Senior Specialist – Democratic Services
7(a)	O&S.33/18(a)	Section 151 Officer
7(b)	O&S.33/18(b)	Community Of Practice Lead – Environment Services
8	O&S.34/18	Group Manager – Business Development and Section 151 Officer
9	O&S.35/18	Group Manager – Business Development and Senior Specialist – Place and Strategy
10	O&S.36/18	Community Of Practice Lead – Environment Services
11	O&S.37/18	Monitoring Officer
12(a)	O&S.38/18(a)	Senior Specialist – Environmental Health
12(b)	O&S.38/18(b)	Commissioning Manager
16	O&S.42/18	IT Community Of Practice Lead

O&S.29/18 MINUTES

The minutes of the meeting of the Overview and Scrutiny Panel held on 2 August 2018 were confirmed as a correct record and signed by the Chairman.

O&S.30/18 DECLARATIONS OF INTEREST

Members and officers were invited to declare any interests in the items of business to be considered during the course of the meeting. These were recorded as follows:-

Cllr P C Smerdon declared a personal interest in Item 12(b): 'Task and Finish Group Updates: Community Funding' (Minute O&S.38/18(b) below refers) and specifically part 1 of the recommendation by virtue of being a Council appointed representative and trustee of the South Hams Community and Voluntary Service (CVS). Having sought the advice of the Council's Monitoring Officer, Cllr Smerdon advised that he would make an introductory statement before leaving the meeting room during the debate and vote on this item; and

Cllr K Pringle also declared a personal interest in Item 12(b): 'Task and Finish Group Updates: Community Funding' (Minute O&S.38/18(b) below refers) and specifically part 1 of the recommendation by virtue of being a Council appointed representative of the South Hams CVS and remained in the meeting and took part in the debate and vote thereon.

O&S.31/18 **URGENT BUSINESS**

The Chairman informed that he had no items of urgent business to be raised at this meeting.

O&S.32/18 **PUBLIC FORUM**

In accordance with the Public Forum Procedure Rules, the Chairman informed that there were no questions that had been received for consideration during this agenda item.

O&S.33/18 **EXECUTIVE FORWARD PLAN**

The Panel was presented with the most recently published Executive Forward Plan and proceeded to note the likelihood that the agenda items relating to the: 'Governance Arrangements Post JLP Adoption' and 'Peer Review Report' would now be considered at a later meeting of the Executive.

(a) Medium Term Financial Strategy – Presentation

Having formally requested that the Panel consider the Medium Term Financial Strategy (MTFS) before its onward consideration by the Executive, the Section 151 Officer conducted a presentation to Members that also contained ten recommendations.

In the ensuing debate, reference was made to:-

- (a) some concerns that Development Management Committee Members were disengaged from the process of developing the MTFS. To offset these concerns, officers confirmed that the MTFS would be a standalone item on the Council agenda for its meeting on 27 September 2018;

- (b) the Business Rates Pilot Scheme. Members considered that the Council had little option other than to submit an application for Business Rates Pilot status for 2019/20. That being said, the Panel felt it to be very unfair that those local authorities that were located in London did not have to re-apply;
- (c) negative Revenue Support Grant. It was confirmed that the District Council Network was working very hard to obtain a realistic business rates baseline for all District Councils from 2020 onwards;
- (d) the use of New Homes Bonus funding. Such was the level of detail that was contained within the presentation slides in relation to New Homes Bonus funding, that a Member did not feel in a position to reach a view at this meeting;
- (e) Earmarked Reserves. The Panel felt that there was a need for ongoing review of the projects that were allocated within the Earmarked Reserves. Furthermore, a Member felt that it would be good practice to impose deadlines on such projects;
- (f) the recommendations to take specialist pension advice and review the terms and conditions of the Employment Green Book. In support of the recommendations on the options for the Council's Pension position and the conditions of the Employment Green Book, Members considered these to be particularly important matters;
- (g) the Treasury Management recommendations. The Panel was of the view that any recommendations it made on External Borrowing levels would be pre-empting the views of the Audit Committee. As a result, the Panel did not feel it appropriate to make a recommendation on this part of the MTFs at this time.

It was then:

RESOLVED

That the Executive **RECOMMEND** to Council that:

1. the strategic intention be set to raise Council Tax by the maximum allowed in any given year, without triggering a Council Tax Referendum, to enable continued delivery of services (NB. the actual Council Tax for any given year will be decided by the Council in the preceding February);
2. an application be submitted for Pilot status for 2019/20, with agreement being given to a 40% District / 34% Devon County Council / 1% Fire split for the 75% scheme. In the event of the Pilot bid not being successful, then agreement be given to remaining part of the Devon Business Rates Pool for 2019/20;
3. Central Government and Devon MPs be actively lobbied to support a 2019/20 Devon Pilot bid;

4. the Government, Devon MPs and other sector bodies such as the District Councils Network be actively lobbied and engaged with for a realistic business rates baseline to be set for the Council for 2020 onwards;
5. the Council responds to the technical consultation in support of the Government eliminating Negative Revenue Support Grant and continues to lobby for Rural Services Delivery Grant allocations which adequately reflect the cost of rural service provision;
6. for modelling purposes, the Council use £500,000 of New Homes Bonus funding for 2019-20 to fund the revenue base budget and then reduce this level to £400,000 by 2020-21 and £250,000 by 2021-22;
7. the annual level of contributions to Earmarked Reserves (£722,300) and the adequacy of the existing level of Unearmarked Reserves (£1.8 million) and Earmarked Reserves (£8.3 million) be reviewed by Members as part of the Budget Setting process. (NB. this will assess the adequacy of Reserves levels, in light of future plans and pressures);
8. it takes specialist pension advice on the options for the Council's Pension position, with the aim of reducing the current contributions, increasing affordability, whilst best managing the pension deficit;
9. it continue with the Local Government Terms and Conditions of Employment Green Book for at least 2019/20. That a review be undertaken into all options for reducing staff costs by varying terms from the Green Book from 2020/21, with an initial report being presented back before the end of 2018/19.

(b) Public Toilet Pay on Entry Contract Award

At the request of the Panel, the Community Of Practice Lead – Environment Services provided an update on the Public Toilet Pay on Entry Contract Award. In so doing, she advised that two tender submissions had been received and, following their evaluation, clarification answers to queries had been sought and received. It was confirmed that the next step would now be to award the contract.

During the subsequent debate, the following points were raised:-

- (i) The Panel was assured that the tender documentation had been compiled in such a way to ensure that the Council was not committed to specific Public Conveniences becoming Pay on Entry facilities. Furthermore, the process of determining exactly which facilities would become Pay on Entry would only be completed following a consultation exercise with the relevant local Ward Members;

- (ii) In reply to a question, officers advised that the tenderers had been asked to provide a view on what they considered to be the most appropriate means of delivering a Pay on Entry solution at each of the Public Conveniences;
- (iii) Whilst the Council continued to lobby, the Panel noted that Business Rates were still payable on Public Conveniences. As part of an upcoming review, officers advised that each of the Rates would be assessed to see if a formal appeal on the Rateable Value should be made to the Valuation Office.

O&S.34/18 **ACTIVITIES TO SUPPORT ECONOMIC GROWTH**

The Panel considered a report that sought to recommend that the Commercial Property Strategy be adopted. Furthermore, the report also sought to recommend that a total borrowing limit of £60 million be agreed for the Strategy.

During discussion, the following points were raised:-

- (a) As with the earlier comments during the debate on the Medium Term Financial Strategy (Minute O&S.33/18(b) refers), the Panel was reluctant to make any recommendations on the total borrowing limit and felt that it should be a matter for the Audit Committee to consider in detail at its next meeting;
- (b) With regard to the proposed Governance arrangements, some concerns were expressed. In particular, it became apparent that there were differing views over whether or not the Investment Member Group was to become a formal decision-making body. In the event of the Group becoming a constituted decision-making body, then serving non-Executive Members roles (that require independence) would be compromised. As a way forward, it was suggested that the non-Executive Members could attend meetings of the Group in a non-voting capacity.

Such was the extent of the concerns and differing views, that the Panel asked that further consideration be given to the Terms of Reference for the Member Group and the proposed delegated decision-making process. A recommendation to this effect was subsequently **PROPOSED** and **SECONDED** and when put to the vote declared **CARRIED**;

- (c) A debate ensued on the proposal for the Head of Paid Service to be given delegated authority, in consultation with the Section 151 Officer and the Leader of Council and the Chair of the Member Group. Some Members could not understand the suggestion whereby the Section 151 Officer (who was only a consultee in the decision) would then have a casting vote in the event of a 'split decision'. Furthermore, the point was raised on a number of occasions that the Council was a Member led authority and the governance arrangements should reflect this fact.

(d) To reflect his personal concerns, a Member formally **PROPOSED** that:-

'In light of the lack of information available at this time, the Commercial Property Strategy should not be approved.'

However, this proposal was not seconded and was therefore not debated.

It was then:

RESOLVED

That the Overview and Scrutiny Panel wish to express the following views to the Executive:-

1. that the Panel endorse the principle of a Commercial Property Strategy that includes the following multiple objectives:
 - to support regeneration and the economic activity of the District;
 - to enhance economic benefit;
 - to grow business rate income;
 - to assist with the financial sustainability of the Council as an ancillary benefit;
 - to help the Council continue to deliver and/or improve frontline services in line with the Council's adopted strategy and objectives; and
2. That the proposed Commercial Property Strategy be revised, with a detailed Terms of Reference for the Investment Member Group being drafted and further consideration being given to the proposed delegated decision-making process in time for consideration at the next Executive meeting on 13 September 2018.

(NOTE: in accordance with Council Procedure Rule 15.6, Cllr J T Pennington requested that his vote against this recommendation be formally recorded).

O&S.35/18 NEXT STEPS – ENABLING HOMES TO MEET THE NEEDS FOR ALL

The Panel considered a report that set out a business case for the formation of a Housing Wholly Owned Company (WOC). The report concluded that, on balance, there was no requirement for the formation of a Council Housing Wholly Owned Company at this time.

In discussion, the following points were raised:-

- (a) In support of the intention to 'enable homes to meet the needs for all', a number of Members acknowledged that this could be achieved irrespective of whether or not a Wholly Owned Company was formed;

- (b) In expressing disappointment, some Members felt it regrettable that the Council had not built (or facilitated the building of) any genuinely affordable housing for local working people in recent years. In addition, these Members stated the need for the Council to reconsider its definition of the term 'affordable' and review its Affordable Housing Policy;
- (c) Despite receiving assurances to the contrary, a Member remained of the view that there was a need to set up a Wholly Owned Company as a means to overcome the right to buy provision.

It was then:

RESOLVED

That the Panel **RECOMMEND** to the Executive agreement of the following principles:

1. That there is no requirement to form a South Hams District Council Housing Wholly Owned Company at this time;
2. That Council borrowing in order to acquire or develop affordable homes is acceptable in principle;
3. That affordable homes may be acquired or developed via the Community Housing Strategy OR through existing work with Registered Providers or Developers. (NB. these properties will be allocated in accordance with Local Lettings Plans and may be managed via the Council's Direct Lets Service; and
4. That the Council's affordable housing development / acquisition plans be guided as outlined in Section 5 of the presented agenda report.

(NOTE: in accordance with Council Procedure Rule 15.6, Cllr K J Baldry requested that his vote against this recommendation be formally recorded).

O&S.36/18 PAY & DISPLAY MACHINES

The Panel considered a report that updated Members of the steps that had been taken by officers to improve the effectiveness of car parking equipment.

In discussion, reference was made to:-

- (i) the latest compensatory offer to the Council. Officers informed that the latest compensatory offer from the Metric Group to reflect the lost income incurred by the Council was unsatisfactory. In the event of the offer remaining unsatisfactory, Members requested that senior representatives from the Metric Group should then be invited to attend a future Panel meeting;
- (ii) future pay and display equipment. In recognition of the changing face of car parks, it was agreed that measures such as 'pay on exit'; construction of barriers; and flexible forms of payment should be considered as part of the 2019/20 Budget Setting process.

It was then:

RESOLVED

- 1. That the actions taken be endorsed and the steps being taken by the Metric Group be noted; and
- 2. That, in the event of their compensation offer remaining unsatisfactory, then senior representatives of Metric Group be invited to attend a future Panel meeting.

O&S.37/18 DECISION NOTICES RELATING TO ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT HEARING PANEL

Members were presented with two formal decision notices arising from recent Hearing Panel meetings.

It was noted that these two Panel Hearings had been convened to consider allegations that Cllr Gina Coles (Dartmouth Town Council) and Cllr Rosie Adams (Totnes Town Council) had breached their respective Council's adopted Member Code Of Conduct.

It was then:

RESOLVED

That Decision Notices SH 09 170817 and SH 11 071117 be formally noted.

O&S.38/18 TASK AND FINISH GROUP UPDATES

(a) Drug and Alcohol Abuse – Interim Report

An interim report of the Task and Finish Group was presented to the Panel that sought to:

- consider the contents of a Briefing Note on designing out intravenous drug use in South Hams District Council Public Conveniences; and
- recommended that works be undertaken to design out the use of intravenous drugs in the male toilets at Coronation Road, Totnes.

In the ensuing discussion, the contents of the interim report were supported and the Panel wished to extend its gratitude to the Task and Finish Group Members and lead officers for their work on this Review.

It was then:

RESOLVED

1. That the Briefing Note on designing out intravenous drug use in South Hams District Council public conveniences (as outlined at Appendix A of the presented agenda report) be noted; and
2. That the Panel **RECOMMEND** that the Executive spend £2,500 from the Repairs and Maintenance Earmarked Reserve to pay for the works necessary to design out the use of intravenous drugs in the male toilets at Coronation Road, Totnes.

(b) Community Funding

The Panel considered the concluding report of the Community Funding Task and Finish Group.

In discussion, reference was made to:-

- (i) the South Hams Community and Voluntary Service (CVS). As indicated when declaring his interest (Minute O&S.30/18 above refers), the Vice-Chairman made a statement in support of the CVS that included:
 - The significant impact of previous funding reductions and his hope for a period of stability for the organisation;
 - The organisation having relocated from the Council offices in March 2018. In making the point, the Member highlighted that the office had remained vacant since and stated that, had it been re-let, then the income generated could have helped to meet the financial reduction being proposed in this agenda report; and
 - The amount of work undertaken by the CVS that was closely aligned to the Council's wellbeing priority theme.

(Upon the conclusion of his statement, the Vice-Chairman left the meeting room.)

In agreement with these views, another Member felt that a one-off reduction from £22,616 to £0 was rather harsh. In disagreement, some of the Task and Finish Group Members felt the links to the Council's corporate priorities were rather tenuous and questioned the added value that was being obtained by the Council. This view was expanded upon, with reference being made to the close linkages between the work of the CVS and the social care sector. Furthermore, these Members also highlighted that, despite being invited to do so each year, 53 of the 59 town and parish councils still chose not to make any financial contributions to the CVS.

- (ii) the proposed funding reductions to the South Devon AONB. In support of the recommendation, Group Members advised that assurances had been sought whereby, despite the proposed reduction, the AONB would still have sources of funding to deliver projects;
- (iii) the South West Rotary Youth Games. It was confirmed that clarity was still being sought over the role of the Rotary Club in the Youth Games. This clarity was being sought in response to some Members being of the view that the Council should not be seen to be supporting organisations such as the Rotary Club. In the event of an unsatisfactory response being received, these Members advised that they may have a differing view when the proposal to retain funding at the existing level was presented to the Council for a final decision.

It was then:

RESOLVED

That the Panel **RECOMMEND** that the Executive **RECOMMEND** to Council that:

1. the proposed funding reduction to the South Hams Community and Voluntary Service be endorsed in accordance with paragraph 5 of the presented agenda report; and
2. the proposed funding reduction to the South Devon Area of Outstanding Natural Beauty be endorsed in accordance with paragraph 5 of the presented agenda report.

(NOTE: in accordance with Council Procedure Rule 15.6, Cllr E D Huntley requested that her vote against recommendation 2 be formally recorded).

O&S.39/18 ACTIONS ARISING / DECISIONS LOG

The contents of the latest version of the Log was presented for consideration. In discussion, it was agreed that the difficulties that Members were still experiencing in accessing the latest performance dashboard information on their iPads would be followed up.

O&S.40/18 **DRAFT ANNUAL WORK PROGRAMME**

The Panel noted the contents of its latest Annual Work Programme without any further comments, additions or amendments.

O&S.41/18 **EXCLUSION OF PUBLIC AND PRESS**

It was then:

RESOLVED

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business as the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the Act is involved.

O&S.42/18 **IT PROCUREMENT**

The Panel considered an exempt report that provided an update on the IT Procurement exercise.

In discussion, the Panel expressed its support for the proposed way forward.

It was then:

RESOLVED

That the Panel endorse the IT Procurement exercise and **RECOMMEND** to the Executive that the proposed way forward (as outlined in the exempt agenda report presented to the Panel) be approved.

(Meeting started at 10.00 am and concluded at 1.00 pm)

Chairman