

Extract of the Overview and Scrutiny Committee Minutes

14 February 2019

COMMERCIAL GOVERNANCE REVIEW

The Committee considered the report on the Commercial Governance review, as conducted by the Commercial Governance Review Member Task Group, to be considered by the Executive on 18 March 2019.

Councillor Ellacott, chair of the task group, introduced the report and outlined the approach and key aspects of the review. It was noted that the review had sought to be forward facing and to identify lessons learned for the future. It was identified that the task group had undertaken a thorough review of previous commercial activities, including consultation with relevant Members and officers, and with advice from an independent consultant. It was identified that all Members had been updated during the course of the review, and thanks were offered to all those who had contributed to the process.

Attention was drawn to the proposed commercial governance framework, which the task group had recommended form the basis for future consideration of potential commercial activities, and questions and comments from the Committee were invited.

There were a number of questions and comments relating to the following topics:

- **Internal Audit review of the draft Framework.** It was confirmed that the internal audit review of the draft Framework was in progress and was expected to be completed in time for any information arising to be considered by the Executive on 18 March.
- **Live risks.** It was confirmed that the panel was satisfied that appropriate actions were in place in response to any ongoing risks for existing commercial ventures identified as part of the review process.
- **Pathway for Care business case.** It was identified that the finding that the business case for the Pathway for Care company initially established was considered to have been insufficient to persuade a commercial bank to lend funds was made on the basis that the business case would have been expected to provide additional detail in order to do so. It was identified that the requirement for sufficient detail in this area formed part of the proposed future rules for establishment of commercial ventures.
- **Due diligence.** It was confirmed that the previous commercial activities of all key parties involved with the Path had been considered as part of the due diligence process, and that the panel had considered this information as part of their review.
- **Non-Executive Directors.** It was confirmed that the panel supported the use of non-executive directors to Council commercial ventures, and that the framework identified that this should be considered in future on a comply-or- explain basis. It was recommended that the wording in the framework on this topic, particularly point 6.(viii) should be clarified to make clear that appointment of non-executive directors should be considered as part of the establishment of commercial ventures, as part of the associated Executive report, rather than at a later date.

- **Governance and the role of the Overview & Scrutiny Committee.** A number of comments were made regarding the role of the Committee in future governance, and associated matters. Attention was drawn to the importance of ensuring that meetings providing important information to Members supporting decision making be minuted appropriately, to ensure that a record of the information being provided was maintained. It was identified that where Members wished to register a dissenting opinion to a decision, this should be clearly identified, and that any objections or requested amendments to minutes should be identified prior to the approval of said minutes. Attention was drawn to ensuring that consideration was given to ensuring any future commercial partners were aware of the requirements of working with a local government organisation and associated requirements for availability of information. It was identified that the Committee's work programme should make allowance for work emerging from the review.
- **Task group findings.** It was confirmed that where no initial task group findings were listed in the annexes, this indicated that the task group was content with the information provided in the evidence.
- **Consistency of reporting.** It was identified that reporting around property investment performance should, where possible, be consistent across assets owned directly by the Council and those owned by Greensand Holdings.
- **Executive Sub-Committee.** It was confirmed that reports to the proposed Executive Sub-Committee would be required to be published and made available to Members in the same way as reports to the full Executive, and that they would be eligible for the scrutiny in the same way. It was identified that consideration of all commercial ventures by a single sub-committee was intended to ensure regular reporting and availability of information.
- **Risk consideration.** It was confirmed that the proposed framework required consideration of the risks associated with any commercial ventures, and that this formed part of the requirements laid out in the proposed framework.
- **The constitution.** It was recommended the proposed framework, if agreed by the Executive, then be incorporated into the Council's constitution to ensure its consideration in future governance.
- **Member buy-in.** It was identified that the framework set out the requirement for sufficient Member buy-in to future commercial ventures. It was identified that this assessment would require a degree of judgement, but that where the proposed framework formed part of the Council's governance requirements, the requirements would be supported by the Council's statutory officers in addition to decision-making Members. It was identified that it was hoped that the requirements for availability of information and supporting details would support all Members in considering such matters in future.
- **Further review.** It was identified that the task group had not sought to conduct a forensic review of all previous decision making, but had focussed on lessons learned and how to benefit the Council in future. It was identified that an expanded review of details would be expected to incur significant additional costs of funding and resources, but that any Members supporting such activity could contact the chairman of the task group to discuss their suggestions.

The Committee thanked the members of the task group and supporting

Members and officers for their work in conducting the review. It was:

RESOLVED that the report to be considered by the Executive on 18 March 2019 be noted and;

RECOMMENDED that:

- i). The wording of the framework in relation to the appointment of non-executive directors, particularly section 6.(viii), be clarified to make clear that appointment of non-executive directors should be considered as part of the establishment of commercial ventures, as part of the associated Executive report, rather than at a later date and;
- ii). The proposed framework, if agreed by the Executive, then be incorporated into the Council's constitution.