

BOROUGH OF REIGATE AND BANSTEAD

EXECUTIVE

Minutes of a meeting of the Executive held at the New Council Chamber on 29 March 2018.

Present: Councillors V. W. Broad, K. Foreman, A. C. J. Horwood, G. J. Knight, R. Mill, R. Renton and T. Schofield

Also present: Councillors Mrs R. H. Absalom, D. Allcard, M. Blacker, J.M. Ellacott, J. C. S. Essex, N. D. Harrison, M.J. Selby, B. A. Stead and Mrs R. S. Turner.

74. MINUTES

RESOLVED that the minutes of the meeting held on 25 January 2018 be approved as a correct record and signed.

75. APOLOGIES FOR ABSENCE

Executive Members: Councillors Mrs N. Bramhall and E. Humphreys.

Non-Executive Members: Councillor J.M Stephenson.

76. DECLARATIONS OF INTEREST

Councillor Mrs R. Mill declared a personal interest in agenda items 6 and 13, Appointments to the Board of the Banstead Commons Conservators, because her husband was a Conservator (until 31 March 2018) and a nominee for a further term.

Councillor V.W. Broad declared a personal interest in agenda items 6 and 13, Appointments to the Board of the Banstead Commons Conservators, because he was a Conservator (until 31 March 2018) and a nominee for a further term.

Councillor V.W Broad declared a personal interest in agenda item 14, Pathway for Care: Next Steps, because he was friends with a potential investor.

John Jory, Chief Executive, indicated that, as he had been appointed, by Reigate and Banstead Borough Council, as a Director for Pathway for Care Ltd, he would not take part in item 14, Pathway for Care: Next Steps.

77. REVISED CONTRACT PROCEDURE RULES

The Executive Member for Finance, Councillor T. Schofield, explained Contract Procedure Rules formed an important part of the Council's governance framework. It was noted that they helped to ensure best value, efficiency, transparency, accountability and protected the Council from allegations of impropriety.

Councillor Schofield informed the Executive the Council's Contract Procedure Rules had last been updated in 2016. As a result, it had been necessary to consider revisions due to both an internal review and legislative changes. The following points were noted:

- An internal review of the practical implementation of the rules had highlighted the need to introduce amendments in order to simplify the process.
- In view of rising costs, lower thresholds had become impractical to maintain and had created a cumbersome procurement process.
- Recent legislative amendments to the financial limits in respect of UK and European Union regulations governing procurement.

During the discussion, a number of issues were considered in relation to the procedural rules for procurement, including:

- The process for both seeking a 'waiver', including roles and responsibilities for Heads of Service.
- The process for nominating subcontractors and suppliers.
- The procedural steps of a procurement.
- The use of performance bonds.

In response to questions, Councillor Schofield advised that the report recommended authorisation for any minor administrative and legislative amendments to be undertaken as required in future. The Executive was informed any minor changes would only be introduced in consultation with the Executive Member for Finance, the Chief Finance Officer and Monitoring Officer. It was noted that this authorisation was required in order to ensure compliance and effective operational business management of the Contract Procedure Rules.

RECOMMENDED that:

- (i) The revised Contract Procedure Rules be approved;**
- (ii) The Monitoring Officer be authorised to amend the Constitution to include the revised Contract Procedure Rules;**
- (iii) The Monitoring Officer be authorised, in consultation with the Executive Member for Finance and the Chief Finance Officer, to undertake any minor amendments to the Contract Procedure Rules as may be necessary to comply with any future legislative requirements;**
- (iv) The Monitoring Officer be authorised, in consultation with the Executive Member for Finance and the Chief Finance Officer, to undertake any minor and administrative amendments to the Contract Procedure Rules as may be necessary to achieve internal practical implementation and compliance.**

Reasons for decision: To ensure legal and administrative compliance.

Alternative options: To reject or request amendments to the Contract Procedure Rules.

78. TREASURY MANAGEMENT STRATEGY 2018/19

Councillor T. Schofield, Executive Member for Finance, reported on the current position in relation to the adoption of the proposed Treasury Management Strategy for 2018/19.

The report set out relevant statutory powers, issues (objectives, the current treasury position, matters for consideration and prudential indicators) legal, financial and equalities implications, risk management and other considerations, consultation undertaken and policy framework factors. The report had five Annexes:

- An Investment Strategy
- A Borrowing Strategy
- A Cash Management Strategy
- Risk Management Assessment
- Minutes from the Overview and Scrutiny Committee on 15 February 2018

It was noted that the draft Strategy had been considered by the Executive in January 2018 and reviewed as part of the consultation by the Treasury Management Portfolio Holder Panel and by the Overview and Scrutiny Committee.

It was emphasised that the 2018/19 Strategy had been prepared at a time of significant changes to the guidance frameworks for Local Authorities, arising in response to the increase in commercial approaches across the sector. The Executive noted that changes to the Prudential Code and the CIPFA Treasury Management Code of Practice had been published in December 2017.

Councillor Schofield went on to explain that the Ministry of Housing, Communities and Local Government had published guidance on Investment and Minimum Revenue Provision in January 2018 and there would be a significant accounting standard change to IFRS 9 Financial Instruments in April 2019.

The Executive noted that these changes reflected the increasingly complex business models that were being adopted by Local Authorities in response to reductions in other funding streams. Councillor Schofield informed the Executive that the effective date for implementation of the Prudential Code and the guidance from Government was April 2018. It was recognised that these late publication dates had created practical difficulties and as a result implementation by 2019/20 was considered acceptable. The following points were noted:

- The Treasury Management Strategy for 2018/19 was based on the 2011 guidance and only had a few changes from the 2017/18 document.

- The strategy would be comprehensively reassessed in 2018 in accordance with updates contained within the Prudential Code and the Treasury Management Code produced by CIPFA.

Councillor Schofield concluded by informing the Executive that the Treasury Management Strategy 2018/19 provided a framework for treasury operations in 2018/19 and that this would ensure the Council delivered value for money for residents whilst protecting reserves.

During the discussion, a number of issues were considered in relation to link asset services and the role of asset managers. In addition, the differences between returns on property investments and yields obtained in relation to managed funds were highlighted.

RECOMMENDED that the Treasury Management Strategy for 2018/19 be approved.

RESOLVED that the comments of the Overview and Scrutiny Committee be noted.

Reasons for decision: To adopt a Treasury Management Strategy for the 2018/19 financial period.

Alternative options: To not support the contents of the report or to defer it and ask Officers to provide more information and/or clarification on specific points.

79. APPOINTMENTS TO THE BOARD OF THE BANSTEAD COMMONS CONSERVATORS

The Deputy Leader and Executive Member for Environment and Infrastructure, Councillor Dr L.R. Hack, invited the Executive to review the nominations received for vacant appointments to the Banstead Commons Conservators.

The board consisted of eight conservators appointed on a rolling basis, each serving a three year term of office. Councillor Dr Hack advised that the posts were voluntary and unpaid and that three vacant appointments needed to be determined, including one that had been filled by a member of the local community and two that had been filled by councillors (one of which had been vacant).

It was noted that four nominations had been received for the three vacant positions, including applications made by Councillor V.W. Broad and Mr J. C. Mill, who were representatives coming to the end of their tenure.

The Executive reviewed all nominations and the following points were highlighted as important in reaching a decision:

- The proven knowledge and active involvement of the current incumbents over a number of years.
- Ensuring two councillors were represented on the Conservators beyond the local elections in May 2018.

Note: Councillor V.W. Broad, Leader, and Councillor Mrs R. Mill, Executive Member for Leisure and Wellbeing, both left the room for the consideration of this item.

RESOLVED that Councillor G. Curry be appointed and Councillor V.W. Broad and Mr J.C. Mill be reappointed to fill the three positions that had come to the end of their term for a three year period to 2021.

Reasons for decision: To ensure that positions on the Board of the Banstead Commons Conservators were suitably filled.

Alternative options: To appoint other applicants or to seek new nominations.

80. **OVERVIEW AND SCRUTINY COMMITTEE WORK PROGRAMME 2018/19**

A report was submitted with the proposed 2018/19 work programme for the Overview and Scrutiny Committee. The report set out relevant statutory powers, information on the work programme and how it had been prepared, resource, legal and equalities implications and consultation undertaken. The work programme was appended to the report.

The Leader of the Council, Councillor V.W. Broad informed the Executive that he and the Chief Executive had been consulted during the preparation of the work programme and that it delivered a good range of activities that were achievable and added value to the work of the Council.

It was noted that the Committee had continued to recognise the increased pressures on the Council and had maintained a streamlined approach to its activities to ensure its work programme reflected the Council's priorities.

Councillor Broad concluded by highlighting that Local Government continued to change and that as a result the Council would continue to monitor both its governance and scrutiny arrangements. Councillor Broad advised that any changes to these arrangements would involve input from the Overview and Scrutiny Committee.

RECOMMENDED that the Overview and Scrutiny Committee work programme for 2018/19 be adopted.

Reasons for decision: To agree a work programme for the Overview and Scrutiny Committee for the 2018/19 Municipal Year.

Alternative options: To add to or not adopt the Overview and Scrutiny Committee work programme for 2018/19.

81. **QUARTERLY PERFORMANCE REPORT (Q3 2017/18)**

The Executive Member for Finance, Councillor T. Schofield submitted a report that detailed major variances on performance for the third quarter of 2017/18 in relation to the Council's Key Performance Indicators, Revenue Budget Monitoring, Capital Budget Monitoring and Internal Audit. The report also provided an update on Key Performance Indicators and Strategic Risks for 2018/19.

The Executive Member confirmed that 10 of the Council's 11 key performance indicators were on target. The Executive was informed KPI 4 was a contextual

indicator and no target had been set. With regards to the financial aspects within the report, it was noted that there was a healthy underspend on the revenue budget. It was explained that this had been driven by higher than budgeted recycling prices. The Executive also noted good progress was being made on the capital programme.

The report was presented to the Overview and Scrutiny Committee on 15 March 2018 and Councillor Schofield advised that the Committee had raised a number of comments for the Executive to note which had been addressed at the meeting.

During the discussion, a number of issues were considered, including:

- Recycling prices, including market fluctuations
- The increase in Garden Waste membership numbers
- The process for recovering money that had been spent on urgent and unbudgeted health and safety work
- Acquisition fees for Forum House

It was noted that further information on the major revenue and capital variances had been set out in sections 2 and 3 of the report.

RESOLVED that the performance outlined in the quarterly performance report to December 2017 be noted and the revised Key Performance Indicators for 2018/19 and Strategic Risks for 2018/19 be approved.

Reasons for decision: To consider the performance for the third quarter of the financial year 2017/18 and to ensure appropriate arrangements for performance and risk were in place for 2018/19.

Alternative option: None.

82. PROPERTY ACQUISITIONS

There was no business to be considered under this agenda item.

83. STATEMENTS

John Jory, Chief Executive, informed the Executive that, at the end of the financial year, he was very pleased with the performance of services across the organisation and highlighted the healthy underspend on the revenue budget. Mr Jory placed on record his thanks to staff and paid tribute to Gavin Handford, Head of Corporate Policy, Performance and Legal, for work undertaken as the Council's Monitoring Officer, and to Jocelyn Convey, Head of Finance, for work delivered as the Council's Chief Finance Officer.

84. ANY OTHER URGENT BUSINESS

None.

85. EXEMPT BUSINESS

RESOLVED that members of the Press and public be excluded from the meeting for the following items of business under Section 100A(4) of the Local Government Act 1972 on the grounds that: (i) it involved the likely disclosure of exempt

information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act; and (ii) the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

86. APPOINTMENTS TO THE BOARD OF THE BANSTEAD COMMONS CONSERVATORS

The Deputy Leader, Councillor Dr. L. Hack, advised that the Part 2 section of the report set out background information provided by the candidates in support of their nominations.

RESOLVED that the exempt information in relation to the Banstead Commons Conservators set out in the report be noted.

87. PATHWAY FOR CARE: NEXT STEPS

Councillor Mrs R. Mill, Executive Member for Leisure and Wellbeing, explained that the report, and information set out in Addendum 1 and Addendum 2 (tabled at the meeting), set out proposals in relation to the future structure and ownership of Pathway for Care.

Councillor Mrs Mill advised that the Council had established Pathway for Care in August 2016 to offer a better care service to local residents, particularly those paying privately, by using new digital technology to help customers maintain happy, healthy and independent lives.

The Executive noted that as a new venture, the company had required investment. Councillor Mrs Mill explained the Council had provided funding in the form of the loan which had increased over time to £1.1m. Due to lower than anticipated income within the company during start-up it was noted that the company had fully drawn down the loan.

Councillor Mrs Mill advised that the company had diversified into supported living, providing high quality services in Horley and that this, together with interest from health and social care organisations for the digital care service, provided a positive outlook for future growth. However, it was noted that the company required further investment in order to maintain and grow the business. The Executive Member commented that there was no support for increasing the Council's loan to the company, and that as a result the Directors had sought external investment.

The Executive noted that the report, and information contained in Addendum 1 and Addendum 2, set out proposals for securing two significant investments and to separate the supported living and digital businesses. The report also set out relevant statutory powers, legal, financial and equalities implications, risk management and other considerations, consultation undertaken and policy framework factors.

Councillor Mrs Mill advised that on 15 March 2018 the Overview and Scrutiny Committee had considered the draft Executive report on the next steps in relation to Pathway for Care. The Executive Member attended this meeting and thanked the Committee for their time in reviewing the proposals.

In response to the Overview and Scrutiny Committee's comments, and in view of ongoing negotiations, it was noted Addendum 1 and Addendum 2 provided all Councillors with additional information. This included:

- A summary of the discussions, updates, and changes that had been made to the Executive report in relation to the proposals.
- An extract of the minutes from the Overview and Scrutiny Committee.
- Financial information relating to Pathway.
- A summary of the terms of the share transactions.
- Additional recommendations for the Executive's consideration in relation to the points addressed by the Overview and Scrutiny Committee.

Councillor Mrs Mill explained the recommendations before the Executive proposed for the Council to split the company and to sell its majority stake in each to external investors. It was noted that a complete set of recommendations had been set out in Addendum 2 (to take account of the additional recommendations arising from the Overview and Scrutiny Committee's consideration of the report).

The Executive Member concluded by stating that the proposals, whilst not how the Executive envisaged the company developing, presented a positive step for growing the business, expanding the quality of the service offered to local residents, and generating future revenue income and capital returns for the Council.

During the discussion a number of issues were considered, including:

- Shareholding arrangements for the new company.
- Accounting treatment and implications.
- The company's finances and balance sheet.
- The inclusion of a repayment of a debt financing arrangement, where the Council would provide short term lending against invoices.
- Assets in relation to digital monitoring.
- The importance of safeguarding the Council's interest in the companies
- The Council's liabilities.
- The fact a number of individuals were either benefiting from, or scheduled to benefit from, services provided by Pathway for Care.
- The importance of considering lessons learned from the experience with the company, ensuring input from both Members and Officers.

- The importance of keeping all Councillors informed as transactions for both the sale of Pathway for Care and the incorporation / other actions for the Pathway Digital Company progressed.

In view of the Companies Act 2006, issues were considered in relation to the Council's current and future representation on company boards to allow for the Council's Executive and Committee's to be fully advised. It was highlighted that the legal duties of a company and a Local Authority were very different.

The importance of pre-decision scrutiny was recognised. It was noted, in response to comments from the Overview and Scrutiny Committee and ongoing negotiations, that a number of issues had been highlighted for further consideration. These were set out in the report, Addendum 1 and Addendum 2.

During the discussion it was also identified, as highlighted in the minute from the Overview and Scrutiny Committee, that the restructured Pathway for Care company expected to have a more significant asset base. It was noted that this would improve the security of the Council's investment, although it was recognised any assets may also be subject to charges from lenders.

In response to questions about the proposed review, concerning the Council's experience with the company, it was noted that this would be led by the Council's Monitoring Officer. Clarity was provided on both the functions of the Monitoring Officer, set out in the Council's Constitution, and the role of the Monitoring Officer as the lead officer for the review. It was noted that the scope of this review, with the support of a Member Working Group, would be confirmed in due course.

The Executive was informed that in the event transactions to secure investment in the digital company were unable to proceed before or on the same date as Pathway for Care transactions, the Council would provide a loan of up to £15,000 to fund working capital of the digital monitoring company to continue operating whilst investment was finalised.

It was noted that the Mayor had authorised the disapplication of the Call-In procedure as this item was considered urgent under the Council's procedure rules.

Note: Councillor V.W. Broad, Leader, and John Jory, Chief Executive, both left the room for the consideration of this item.

RESOLVED that:

- (i) The Council purchase the remaining shareholding in Pathway for Care from T7 Group for a nominal value set out in the report;
- (ii) The Council receive 1,100,000 redeemable preference shares in Pathway for Care in exchange for the debt currently owed to the Council and the Finance Director be authorised to complete this transaction;
- (iii) The proposal to split all activities of Pathway for Care into 2 companies (the existing company Pathway for Care and a new digital monitoring company) and secure external investment for these companies be supported;

- (iv) The proposal for the Directors of Pathway for Care to transfer appropriate assets, contracts and liabilities to the digital monitoring company be noted;
- (v) The Council subscribe for 80% of the digital monitoring company 'B' shares representing 40% of the digital monitoring company's share capital;
- (vi) The Finance Director be authorised, in consultation with the Executive Member for Finance and the Head of Legal, to agree the terms of, finalise and sign all documents required to complete the purchase and sale of shares as set out in the report and summarised as follows:
 - i. Purchase of Pathway for Care shares from T7;
 - ii. Sale of 70% of Pathway for Care shares to private sector investor;
 - iii. Sale of 10% of Pathway for Care shares to Director A;
 - iv. Sale of 10% of Pathway for Care shares to Director B;
 - v. Subscription for 80% of the digital monitoring company 'B' shares representing 40% of digital monitoring company's share capital;
- (vii) Subject to advice from the Head of Legal and Finance Director, the Deputy Leader of the Council be mandated to make all shareholder decisions required to complete the transactions set out in the recommendations of this report, including:
 - i. Any new shareholder agreements
 - ii. Any new Articles of Association
 - iii. Any new Director appointments
 - iv. Any other matters reserved for shareholder consideration
- (viii) In the event that the transactions to secure investment in the digital monitoring company are not able to proceed before or on the same date as Pathway for Care transactions, the Finance Director, in consultation with the Deputy Leader of the Council and the Head of Legal, be authorised to:
 - i. Establish appropriate corporate governance structures for the digital monitoring company, including Articles of Association and Shareholder Agreement
 - ii. Determine any shareholder decisions as required
 - iii. Appoint Directors to the digital monitoring company for the purpose of finalising and agreeing investment
 - iv. Provide a loan of up to £15,000 to fund working capital of the digital monitoring company to continue operating whilst investment is finalised

In order to support the completion of Pathway for Care transactions. If these actions are required, the Head of Finance provide a report on

options for the digital monitoring company to the next meeting of the Executive.

- (ix) The comments of the Overview & Scrutiny Committee be noted and in particular the suggestion to consult with Members and Officers to consider the lessons learned from its experience with the company;
- (x) The Overview & Scrutiny Committee be thanked for their thorough consideration of the report; and
- (xi) The Monitoring Officer be requested to review the Council's experience with the company as part of a wider governance review, with the support of a Member Working Group.

Reasons for decision: The Council, as majority shareholder, must agree any investment proposals and changes to share ownership that result.

Alternative options: To reject the recommendations, and for the Council to retain majority ownership, and either increase the loan to Pathway for Care or reject the recommendations with no increase or delay making a decision to enable further negotiations.

88. **PROPERTY ACQUISITIONS**

There was no exempt business to be considered under this agenda item.

The Meeting closed at 8.28 pm