

**MINUTES OF THE MEETING OF SCRUTINY  
HELD AT FOLLATON HOUSE, TOTNES ON WEDNESDAY 17 DECEMBER 2008**

**MEMBERS**

\* Cllr C M Pannell - Chairman

\* Cllr K J Baldry - Vice-Chairman

\* Cllr J H Baverstock

\* Cllr P H Cook

\* Cllr G J Fielden

\* Cllr R D Gilbert

\* Cllr J W Squire

\* Cllr J A Westacott MBE

\* Denotes attendance

**Also in attendance at the invitation of the Chairman:**

Cllrs B F Cane, B E Carson, M J Hicks, M J Howarth, D M O'Callaghan,  
P W Hitchins, J T Pennington, M F Saltern and R J Tucker

**Officers in attendance:**

For all items: Strategic Director (Resources) and Communications Manager;

Item 7 (Minute SC.33/08 refers) Strategic Director (Community);

Item 8: (Minute SC.34/08 refers): Head of Landscape and Leisure and the Leisure  
and Recreation Officer; and

Item 10: (Minute SC.36/08 refers) Head of Corporate Services

**Others in attendance:**

Item 7 (Minute SC.33/08 refers) Devon County Council Assistant Director of Children  
and Young People's Services, and the Children's Trust;

Item 8 (Minute SC.34/08) Managing Director, Operations Director and Community  
Outreach Representative from Tone Leisure Ltd; and

Item 10 (Minute SC.36/08 refers) Chairman of Standards Committee

**SC.31/08 MINUTES**

The minutes of the meeting of Scrutiny held on 20 November 2008 were confirmed as a correct record and signed by the Chairman.

**SC.32/08 DECLARATIONS OF INTEREST**

Members 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 H Cook declared a personal interest in item 8: 'Monitoring Report – Leisure Centres, Sport and Healthy Lifestyle Contract' (minute SC.34/08 below refers), by virtue of her being a member of Quayside Leisure Centre and remained in the meeting and took part in the discussion and vote thereon.

Cllr R D Gilbert declared a prejudicial interest in item 8: 'Monitoring Report – Leisure Centres, Sport and Healthy Lifestyle Contract' (minute SC.34/08 below refers), in any matters relating to finance, healthy walks and GP Health referrals by virtue of his wife's employment with Tone Leisure but remained in the meeting and took part in the discussion and vote thereon. However, Cllr Gilbert advised that he would leave the meeting should any matters relating directly to his wife's employment arise.

Cllr J H Baverstock declared a personal interest in item 10 'Review of New Procedures for Standards Investigations' (minute Sc.36/08 refers) by virtue of him being the subject of a complaint assessed by the Standards Committee, but remained in the meeting and took part in the debate and vote thereon.

### SC.33/08 **CHILDRENS TRUST**

The meeting commenced with a visit by a representative of the Devon Children's Trust who informed Members about the work of the organisation. The Trust was a strategic partnership that existed to improve the outcomes of children and young people and arose as a result of the Children's Act 2004, where it was felt agencies were not working together effectively. The Devon wide partnership comprised of agencies such as councils, probation service, Devon & Cornwall Constabulary, Fire & Rescue services, Primary Care Trusts, voluntary sector, faith communities, parent and governor groups and others.

The representative advised those present that to make the co-ordinated work possible and effective, the Devon Children's Trust had devised a five year plan – the Children and Young People's plan (CYPP) which focused on the highest priorities area by area and where joint agency working was required and covered all children from ages 0-19 years throughout Devon (but excluding Torbay and Plymouth). Copies of the CYPP were distributed to Members.

### SC.34/08 **MONITORING REPORT – LEISURE CENTRES, SPORT AND HEALTHY LIFESTYLE CONTRACT**

Prior to the Monitoring Report being considered, a representative from Tone Leisure (South Hams) Ltd gave a presentation to Members regarding the results of a recent community outreach survey of village halls and community centres across the South Hams district. The aim of the survey was to focus on outlying areas where there were no local leisure centre facilities. The survey had received a 68% response rate and sought to ascertain:-

- what activities were currently being offered;
- what activities would like to be offered; and
- the condition of community buildings, repairs and equipment required.

In terms of the buildings, the typical areas requiring attention were changing rooms, storage facilities and flooring.

The representative advised that the action plan for improving overall activities offered by community centres would be devised in three phases: phase I - consultation & survey, phase II – a series of planned taster sessions of new activities that centres would like to offer in the future, and phase III – improvements to current facilities. Good progress had been made to date with visits to centres, meetings with key providers of new activities e.g. tutors and various sports associations, and meetings with organisations who could provide financial assistance such as 'Awards for All' and '5 x 30'. By the end of phase III, it was hoped that a greater range of activities would be available on a long term basis and that there would be an increase in take up of those activities.

During the discussion, the following points were raised:-

- 1) A Member enquired if there would be any further follow up with the 32% of centres that had not responded to the survey. The representative assured that they would be re-contacted and encouraged to get involved;
- 2) A Member sought reassurance that the needs of disabled people would be accommodated throughout the phased plan. The representative replied that all sports governing bodies stipulated that activities must be inclusive and that most sports coaches could adapt to the needs of disabled individuals.

A second presentation was conducted by another representative of Tone Leisure (South Hams) Ltd, regarding the latest results on Customer Feedback gained from the four leisure centres of Ivybridge, Dartmouth, Quayside (Kingsbridge) and Totnes Pavilion. It was noted that feedback was drawn from comment cards, verbal logs, online and from stakeholders. Positive feedback largely centred on instructors and staff, and negative feedback was largely focused around programming issues and standards of equipment. Monitoring customer comments was an ongoing process and would be reviewed on a quarterly basis.

Upon the conclusion of this presentation, Members considered a report regarding an update on the performance of the leisure contract with the Council's strategic partner, Tone Leisure (South Hams Ltd) and the current key issues of the leisure centre management arrangements. Two appendices were discussed, one which summarised the performance of the contract for the first six months of its second year 2008/09, and one which outlined the performance of the Sports and Healthy Lifestyle plan in its second year.

The report identified some key issues that had affected overall performance:-

- the sale of memberships had gone well and were above target, which was attributed to the changes in membership pricing;
- Provision of children's activities had been successful; and
- Efficient cost control had been maintained due to changes in the operational arrangements such as catering and crèche provision.

The report noted that Dartmouth and South Dartmoor Leisure Centres were soon to be visited and assessed for Quest Accreditation (national benchmarks) and that both centres were working on action plans to improve on their existing scores.

In terms of carbon emission reduction, the Carbon Trust had visited Totnes and Quayside Leisure Centres with a view to producing carbon output assessments, enabling targets and action plans to be implemented.

An on-line booking system had been piloted and the planning of a future roll out was in process.

Regarding staffing, a new Fitness Manager had been appointed at Ivybridge and an Operations Manager was in the process of being recruited.

Four key measures of note were highlighted in relation to the Sports and Health Development plan:

- Leisure Youth nights – which required ongoing funding;
- Health Walks – new venues including Totnes being developed;
- Extending Activities/Sport Unlimited – new junior activity sessions set up as part of Government funded programme; and
- Rural Outreach programme – development plans being drawn up for each site and progress on the village hall audit.

He further advised that a new national scheme would be launched in 2009 which allowed free access to leisure centres for national standard local sports people.

As per the plan, junior activities were being developed across the district including holiday camps and play ranger schemes.

During discussion, the following points were raised:-

- (a) A Member asked for an update regarding the recruitment of further Board members for Tone Leisure (South Hams) Ltd. In reply, the representative advised that two vacancies had been advertised and one Board Member from Totnes had been selected as a result. Details of the current Board members were available on the website ([www.toneleisure.org.uk](http://www.toneleisure.org.uk)) as part of the drive to improve the public accessibility and awareness of the Board;
- (b) A Member enquired if the Tone Board was prepared for the implications of Single Status which could, in a worst case scenario, deliver a two tier workforce. The representative confirmed that Single Status could present a challenge and that it was difficult to forward plan when the outcome was still unknown but that they were in regular discussions with the Council on this subject. In addition, the issue was high on Tone's risk register;
- (c) A Member asked if any costs were incurred in accommodating the targets set by the Carbon Trust. The representative replied that industry 'interest free' loans were available to invest in new technology which were repayable over five years. Nonetheless costs were incurred in meeting emission targets;
- (d) A Member expressed concern at the reduction in the operational hours of the crèche facility at Ivybridge and the lack of crèche facilities at Dartmouth. The representatives regretted the reduction in the provision at Ivybridge which to date had been the most costly to operate due to the number of operational hours. It was noted that one third of the bookings for the crèche at Ivybridge were no-shows, so a thorough review of the service had been undertaken with a compromise of reduced hours being reached. The representatives emphasised that the cost of £1 per one & half hour session per child still represented excellent value for money. With regard to Dartmouth, the provision had been cancelled due to the unsuitability of the location and the lack of interest in the facility, but it was emphasised that crèche provision at all the sites would be under regular review;
- (e) A Member expressed disappointment that the catering facility at Totnes had closed and noted that such facilities added value to a visit to any leisure centre. In reply, the representative said it was with regret that they had not been able to make this facility viable but it had not captured sufficient custom to break even;
- (f) On the matter of refreshments, a Member requested reassurance that any vending machines on the leisure sites only dispensed healthy snacks and did not contradict the Council's healthy lifestyles agenda. This assurance was subsequently given.

It was then:-

**RESOLVED**

That the Group note the content of the Leisure Contract Monitoring Report and welcome the contents and findings of the two presentations given on Customer Feedback and Outreach Services.

**SC.35/08 TREASURY MANAGEMENT**

Members considered a paper which provided general background information on the data sources (namely Sector – Treasury Management Consultancy) used by finance officers when making investment decisions. It further outlined in detail the sound credit rating that was ascribed to the Heritable Bank by Sector on the 25 September, the day a deposit of £1.25million of Council's funds was made. Information revising the rating of Heritable Bank, removing it from an approved investment list, was circulated by Sector on 1 October. When the severe problems in the global banking system became known, an in-house review was immediately conducted which re-examined the Council's procedures for making investments. As a result, three actions had since been taken:-

- a minimum level of credit rating of AA- and F1+ required for eligibility on the lending list had been set (though this had reduced the potential number of UK institutions to approximately eighteen;
- wider access to low interest, low risk investments had been sought (A UK Debt Management Office (DMO) account had been set up, which presented low risk but an average 2% lower return in interest than bank/building societies).
- a maximum deposit level of £1.5 million per account had been set until further review.

The paper emphasised that the Council used legitimate mainstream data sources to make investment decisions and had robust internal procedures, but that the credibility of the methodologies used by the global credit rating organisations would now be the subject of an EU (European Union) investigation.

During discussion, the following points were raised:-

- (a) As an update regarding the Council funds deposited in the Heritable Bank, Cllr Hicks advised that the investment had been in a 3 month account which was due to expire in a few days and that it was hoped that it would imminently be known what monies would be returned. However, it was reputed that the bank had enough assets to assign to creditors, so officers were hopeful that they would get most, if not all, of the funds returned;

- (b) A Member commented that he had absolute confidence that Council procedures were robustly adhered to by officers, but that the prescriptive methods for investment decisions were somewhat 'mechanistic'. As a consequence, the Member questioned whether there was potential for officers to use their own judgement in addition to credit ratings. The Strategic Director (Resources) advised that officers largely based their decisions on the official credit ratings issued by the Credit Rating Agencies (Fitch and Moody's) and the information supplied by Sector, the Treasury Management Advisors. The Credit Rating Agencies have access to confidential information held by the Financial Institutions that they rate. However he confirmed that there was room for an enhanced role for internal judgement;
- (c) A Member asked what impact the recent cuts in interest rates had had on the current budget. Cllr Hicks advised that the impact on the budget of the current financial year had been partially off set by the fact that a significant proportion of the Council's total deposits, (approximately £15 million of reserves) was invested in higher earning interest accounts which would mature in 2 or 3 years. However, money invested now was attracting low interest rates and this would increasingly impact on the monies at the Council's disposal in due course and on future council tax in particular. The Strategic Director (Resources) emphasised that there would be a balance that would have to be drawn between the need for absolute security, against the need for income generation;
- (d) A Member asked if alternatives to the money markets could be considered such as investing in hospitals and receiving monies from ground rent, but it was emphasised that investments have to have liquidity for contingency plans and day to day business, hence the use of the money markets.
- (e) A Member questioned whether National Savings could be utilised, but the Strategic Director (Resources) advised that these accounts were for retail deposits.

It was then:-

**RESOLVED:-**

1. That the report on Treasury Management be distributed to all Council Members via the Bulletin;
2. That Cllr Hicks and the Strategic Director (Resources) be thanked for their report and contributions to the meeting.

SC.36/08

## **REVIEW OF NEW PROCEDURES FOR STANDARDS INVESTIGATIONS**

Members discussed a report concerning the Council's new procedures for Standards Investigations as requested at a previous meeting (Minute SC.11/08 refers). The new procedures were compiled to respond to new regulations that require local authority Standards Committees to conduct investigations into complaints about alleged breaches of the Members Code of Conduct locally (hitherto undertaken by the Standards Board for England (SBE)).

Teignbridge District Council participated in the original pilot scheme to establish robust procedures and because the legal departments of Teignbridge, South Hams and West Devon had moved towards shared services, it was proposed that the three Authorities establish parity in their standards complaints procedures.

It has been agreed that one additional procedure (to those recommended by the SBE), would be that the County Solicitor be informed when a County Councillor was the subject of a complaint.

The SBE had supplied local standards committees with a template complaint form which the Council had published on the website and all respondents had been requested to submit their complaints using this form to ensure that all the necessary information required to process complaints, was submitted. This procedure had filtered out some complaints where the complainant had not progressed to formalising their complaint.

However, the Monitoring Officer drew attention to some weak design areas on the new form which had not encouraged complainants to set out their complaint with sufficient clarity. This had resulted in the Assessment Sub Committee being puzzled by some submissions as to precisely what aspect of misconduct the complaint referred. As a consequence, the Monitoring Officer had requested that the Drawing Office re-design the form to eliminate these problems.

### **New Complaint Procedures**

The Monitoring Officer explained that when a complaint was received it was referred to the next available Assessment Sub Committee meeting. Four courses of action were open to the committee members:-

- To defer the matter to the Monitoring Officer for investigation;
- To defer the matter to the Monitoring Officer for some other action;
- To defer the matter to the SBE for investigation if more serious; and
- Take no further action if appropriate.

If the 'no further action' option was selected, the complainant could ask for the decision to be reviewed. Under the shared service arrangement, any of the three authorities could undertake the review to ensure impartiality.

In the case of investigated complaints, someone was tasked to conduct the investigation on behalf of the Monitoring Officer. The report may be referred to the Standards Committee who may opt to conduct a hearing with the Member present. Possible outcomes could be censure, referral, training or suspension from office for up to six months. To date, eight complaints had been through the assessment process, compared with West Devon that had undertaken one and Teignbridge that had not received any complaints suitable for investigation. Due to officer time constraints, two of the local investigations had been referred to an external investigator which had incurred costs. It was highlighted that should a large number of complaints necessitate an investigation, this would impact on the Monitoring Officer's budget.

The Monitoring Officer also advised the meeting that the new standards procedures had been compiled on a trial basis with the understanding that adjustments could be made where appropriate.

Members were also informed that there was an insufficient number of members currently on the Standards Committee, the recommended complement being three independent members, two Councillors and two to three Parish Council representatives. Currently, the Standards Committee had two Independent members, two District Councillors, one Parish Councillor and one unfilled vacancy for a Parish Councillor. This would present difficulties if, for example, a complaint was submitted concerning Ivybridge Town Council, as there would be no impartial Parish Councillor available to sit on the Committee or Assessment Sub Committee which was essential. The SBE had already written to the Council and asked them to address the current situation.

To further redress the balance with the proposed increase in Parish Councillors, and to protect the Council from adverse comment, a third Independent seat should be created on the Committee. This person should be appointed for a four year period to overlap with current Members period of tenure to afford continuity.

During discussion, the following points were raised:-

- (a) A Member commented on the number of complaints that had gone through the assessment procedure. The Monitoring Officer advised that further scrutiny would be applied to complaints before submitting them to the Committee and that the new complaint form would hopefully also help to filter out weak complaints;
- (b) A request was made that it be noted that 'Cornish' was listed as a choice on the ethnic monitoring section on the complaint form, but that no option for 'English' was available;
- (c) A Member voiced concern regarding complainants who withheld their names from the complaints process and affirmed that the process should be transparent. It was agreed that names should only be withheld in exceptional circumstances;

- (d) Concern was widely expressed by Members regarding the lack of a right to appeal for Members who were found to warrant an investigation in the assessment stage, whereas conversely the complainants had the right to challenge the Sub Committee's decision. This was considered to be a serious flaw in the procedures that required review.

It was then:-

### **RESOLVED**

1. That the Monitoring Officer, Chairman and members of the Standards Committee be thanked for their hard work;
2. That the Standards Committee note and pass on the concerns of Scrutiny Group regarding the disparity in the right of appeal process.

### **RECOMMENDED**

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

- i) the membership of the Standards Committee be increased by:
  - one more Parish or Town Councillor (3 in total)
  - one more Independent Member (3 in total) whose term of office should be staggered to provide continuity
- ii) the Monitoring Officer be authorised to take all necessary steps to advertise for suitably qualified persons of good standing for appointment to these positions by Council.

SC.37/08

### **PERFORMANCE INDICATORS – PROGRESS REPORT**

A report was considered which informed Members of the Council's achievement against selected Performance Indicators (PIs) for quarter 2 (July – September) within 2008/09.

During discussion, the following points were raised:-

- (a) It was widely expressed by Members that an Officer from the Improvement Unit should be in attendance at the meetings to discuss the findings of the submitted progress reports;

- (b) Whilst acknowledging that they were reported to the Executive via a quarterly Budget Monitoring report, a Member expressed the view that they would welcome the inclusion of values in respect of PI's FS20 ('Gershon on target with milestones: cash') and FS21 ('Gershon on target with milestones: non cash');
- (c) A Member queried the definition and number of 'completions' in PI CR 9 (number of new affordable homes completed). In response, it was noted that the definition of completion was hard to define. However, the indicator evaluated completion when a house became occupied;
- (d) A Member requested clarity on how long housing benefit and council tax claims took to be processed (Indicator N1 181 refers). Officer's replied that the figures represented the number of days taken.

It was then

### **RESOLVED**

That Part A and Part B on the performance against the national and local indicators which currently form the Council's Balanced Scorecard, as set out in Appendix A of the presented report, for the 2008/09 performance indicator year (Quarter 2 = July 08-September 08) be noted.

#### **SC.38/08 SCRUTINY SHADOWING ROLES**

Members confirmed that they were kept fully briefed by their Executive counterparts, and continued to meet frequently.

#### **SC.39/08 AGENDA ITEMS FOR FUTURE MEETINGS OF SCRUTINY**

##### **Stagecoach**

It was noted that officers had now been successful in contacting Stagecoach representatives who had agreed to attend the Scrutiny Group Meeting on 19 March 2009. Members requested that Stagecoach representatives be considered a separate agenda item to the First Bus Company representatives' item.

##### **Tor Homes**

The Group requested that the Chairman of the Tor Homes Board and the Chief Executive of the organisation be invited to attend the meeting scheduled for 23 April 2008 to provide an update on how the relationship within the Council was working from their perspective.

(Meeting commenced at 9.30 am and concluded at 12.40 pm).

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Chairman