

**CIVIC AFFAIRS COMMITTEE**30 March 2009  
(6.00pm -10.35pm)

**PRESENT:** Councillors Boyce (Chair), Hart, Herbert (Lab Spokes), Pitt, Rosenstiel  
Also Present: Councillor Blair

(Nb – see also information minutes of this Committee meeting)

**FOR ADOPTION BY THE COUNCIL****09/CIV/1 Members' Allowances 2009/10**

The Democratic Services Manager referred to the tabled officer covering report which had been erroneously left off the agenda. The Chair ruled under 100B(4)(b) of the Local Government Act 1972, that the report be considered despite not being available five clear days before the meeting.

The Committee noted that a member of the Independent Remuneration Panel had met with the Chair and Cllr Herbert on 3 December 2008 to consider the issues raised by the Committee (on 19 November 2008) on the Panel's report and original recommendations. Subsequent to that meeting in December, the Council agreed to freeze the total allowances budget at its meeting on 26 February. The Panel was asked to take that decision into account and come back with a further scheme for consideration in the knowledge that the Council must adopt an allowances scheme at its meeting on 23 April.

The Chair expressed concern that the new proposal from the Independent Remuneration Panel meant a reduction in the Executive Councillor total allowance. This had been raised at the Civic Affairs Committee on 19 November and subsequently at the meeting with a Panel representative on 3 December. He reiterated Cllr Blair's concern with the proposed reduction in special responsibility allowance for the lead member and ordinary members of the Joint Development Control Committee. Consultation with the lead member should have been undertaken. He accepted that the Panel's task had been complicated with the

freezing of the allowances budget by Council on 26 February. He therefore proposed to the Committee that it could either recommend continuation of the current allowances scheme in 2009/10 or a further meeting before Council on 23 April with the Panel to resolve the issues raised by its latest proposals. The Chair expressed a preference to retain the current scheme into 2009/10 and report back to the Panel with a revised framework for it to work to in considering the 2010/11 scheme.

Cllr Blair queried whether the current arrangement of recognising minority Group Leader Special Responsibility Allowances but not the Majority Group Leader was still appropriate.

Cllr Herbert was concerned that the Panel's work should not be totally disregarded and proposed that the Panel be advised that some of the Panel's principles were still supported. Cllr Herbert's proposal was lost by 2 votes to 3.

**Accordingly, Council is recommended** (by 3 votes to 0)

To retain the 2008/09 Members' Allowances Scheme for the 2009/10 Municipal Year (copy appended for information).

**CIVIC AFFAIRS COMMITTEE**30 March 2009  
(6.00pm -10.35pm)

**PRESENT:** Councillors Boyce (Chair), Hart, Herbert (Lab Spokes), Pitt, Rosenstiel and Ward

Also Present (for 09/Civ/6): Councillors Benstead, Bick, Blair, Cantrill, Dryden, Hipkin, Howell, Newbold, Nimmo-Smith and Smith

**FOR INFORMATION OF THE COUNCIL****09/Civ/2 Minutes**

The Committee confirmed the minutes of the meeting held on 19 November 2008.

**09/Civ/3 Apologies for Absence**

None

**09/Civ/4 Declarations of Interest**

None

**09/Civ/5 Public Question Time**

None

**09/Civ/6 Review of On-line Ticket Sales for the 2008 Folk Festival**

The Chair ruled that under 100B(4)(b) of the Local Government Act 1972, the report from the Director of Finance should be considered despite not being made publicly available for this meeting five clear days prior to the meeting. The reason for this was that the information was not available at the time notice of the meeting was given.

His view was that, despite only being available on Monday 23 March, the report must be considered in view of the Council and the public's interests affected.

The Chair introduced the item by setting out the scope and structure of the debate and the order of speaking by members of the Committee and other members.

The Head of Legal Services reminded members of advice given to them on the extent to which they could refer to the details of the information given to them and the purpose of the meeting in considering and coming to a conclusion on the

recommendations in the report. He said that the individual actions of officers leading to the current situation would be considered under the Council's Human Resources procedures.

The Director of Finance set out an overview of the report and the independent external assurance for the review work that had been conducted by two independent Heads of Service led by the Head of Internal Audit. He drew attention to the letter received from PricewaterhouseCoopers, contracted to carry out the external assurance; the Key Timetable prepared before the meeting to clarify the timeline of events, and the revised recommendation set out in paragraph 6.R1 all of which had been circulated to members before the start of the meeting.

Members said they had understood that responses were to be given before the meeting to questions that had been submitted, but these had not been received. The Chair commented that members had submitted a large number of questions on the issues surrounding the review to the Director of Finance and it had not been possible to respond to them all before the meeting. Some questions from the Labour Group members had received a response. However these contained confidential information and could not be made publicly available.

Committee Members and other members present asked the following general questions or made the comments shown:

1. What was the cost and validity of the external assurance in comparison with that of an independent external public inquiry?
  - Had other alternatives to the internal investigation with an external assurance process been considered and how had the decision to use the format had been arrived at?
  - The internal review had been carried out by staff who were not considered to be at an appropriately senior level and may not have been sufficiently independent
  - The review was not wide-ranging enough in the scope of what was examined. An independent external investigation might identify a different accountability.
2. The report did not bring out that point that mistakes made in 2007 had been repeated in 2008 and had not been picked up.
  - What was the value of receipts for the Folk Festival in 2007?
  - Had the late payments been flagged up in the department or by another department and had the risk had been recorded in the risk register?

3. It was clear that procedures had not been followed and serious failings by the department were indicated in the report, though in insufficient detail for members to be able to conclude whether the actions arose from incompetence or impropriety.
  - Were the contracting and procurement procedures sufficiently well known to the officers responsible for contracting in the departments?
  - Had the contract with the ticketing agency been initially sound and subsequently breached or had the contract been unsound from the outset?
  - There was a conflict between the events shown in the timeline at 19 October 2007 and paragraph 2F16 stating: 'The advice from the Finance Department stated that the contractor should not be appointed, however this advice was not followed.'
  - Were any of the actions and resulting consequences attributable to the change in departmental responsibility from Central Services to Community Services?
4. There was a lack of knowledge of the situation by senior management and it was unclear from the report whether, at any point, the situation could have been resolved.
  - Were officers aware of the need to escalate concerns to senior managers and Directors if they see a problem arise?
5. What was the role of the Leader and the Executive Councillor in this process and the extent of the responsibility taken for the situation?
  - They should have been aware of the problems within the department.
  - Questions on the issue had been raised at Council and at Community Services Scrutiny Committee at the end of last year and, in retrospect, the matter had not been dealt with in a way that would have allowed opposition members opportunity for scrutiny.
  - The revised text of 6F1 did not make matters any clearer, particularly in relation to the production of minutes of the Member and Officer Working Group in early 2008.
  - From paragraph 6F2 it was clear that the Executive Councillor or other members had not been involved in that stage of the decision-making. At what stage was the Executive Councillor made aware of the breach of the contract?
  - It was regrettable that the full range of material used to carry out the investigation had not been available to members. It appeared to some members that political considerations had been allowed to have an effect on the content of the report.

6. What would be the impact on the 2009 festival?

- Would the current situation lead to a lowering of quality of the event in future?  
Were the same staff organizing the event in 2009?

7. The extent of funding at risk in the contract was significant, what was being done to identify other areas under risk?

The officers responded to the questions and comments made by members as follows:

The Director of Finance said in relation to the current review, that officers had looked at achieving an appropriate balance between the costs of a probably lengthy external process and an effective result from an internal process with independent quality assurance. A quote had been sought on a member-agreed set of terms of reference. The costs looked at were established rates for audit commission work and were unlikely to be reduced. The Chief Executive said that it would have been difficult to identify a suitably qualified external person and set up an investigation as quickly as thought necessary. It was necessary to achieve a balance between a quick response and a thorough investigation.

The Director of Finance said that the receipts in 2007 had amounted to £401,603, that there was no record of late payment in the risk register and no wash up meeting had taken place to reflect the potential future risk. The originating department would have dealt with the operation of the contract and the financial elements so it would not have been apparent to other departments.

He said that it was difficult without further investigation to know how far other staff had been aware of the failings in the operation of the contract and to identify individual causes leading up to them.

He referred to the timeline which clarified the information available at each stage. The contract had been valid at the time of signing although the schedules and addendums had not been completed. The contract had been subsequently breached. The Director of Finance confirmed that although the minutes of the member/officer meeting showed that the assurance had been received about the contract, this had not been the case.

The Director of Community Services said that officers had been given guidance on the procedures and it was a matter for their judgment whether they needed to escalate concerns to senior managers.

The Director of Finance said that there would not be a direct impact on the Folk festival in 2009, although there would be an overall effect on the General Fund and this had been clarified in the budget process. A range of officers within the Council would be working on the Folk Festival and the existing staff would receive support from internal staff and advice from an external procurement consultant.

The Director of Finance said that the amendment of paragraphs 6F1 and 6F2 had been an attempt to add clarity to the recommendation; the contract had been an officer led operation without direct member involvement.

The Director of Finance said that the failure to identify risk was a serious problem and details of how this was to be remedied in future would follow in the Action Plan.

The Leader and the Executive Councillor for Arts and Recreation responded to comments as follows:

Councillor Nimmo-Smith said that he regretted and apologized for the wholly exceptional situation in which the Council found itself. He went on to comment on the circumstances that had led up to it and to suggest how the council should proceed to deal with its various aspects.

Councillor Nimmo-Smith said that he had decided on the extent of the review, taking into account the cost, time and the timeliness of any consequent actions. A large amount of work had been done and it was felt that any further cost or delay could not be justified. He reiterated that no members had had access to the material used in the review

The Executive Councillor for Arts and Receptions said that the findings in the report had not been based on discussion with members but on the investigations carried out by the officers. The first serious issue brought to members' attention had been the problem with queues for ticket sales in May 2006 which had led to the decision to go to an online ticketing process. This had not been a key decision but the report of the officers had been publicly available. Further meetings had been held with officers during 2007 and consultations had been held with Group Spokespersons. The first notice of a problem with payments in 2007 had been the report to members for this meeting.

The Chair said that the meeting would next consider the review section by section.

### **Section 1. The appropriateness of the Council's procurement and contract management processes and procedures**

Members made the following points or asked the questions shown:

8. The report did not address the issues of the management of contracts, the lack of an audit trail showing due diligence, the aspects surrounding the maintenance of the register of contracts and why there was a lengthy delay before the Executive Councillor could be shown the contract.
  - The delay on finding the contract was concerning, were there no provisions for keeping track of them more closely?
  - Was there any support given to occasional users of the contract or procurement procedures?
  - Who drew up the contracts signed in 2007 and 2008, the Council or the contractor? If they were not the Council's contracts, had they been amended by the Council?
  - Was it possible for anyone signing contracts to be unaware of advice from the Finance Department against entering the contract?
9. The question of escalation of problems to senior levels was concerning given that it was unlikely that all staff involved were compliant in the failures that had occurred. Was the whistle blowing policy in place fit for purpose, were staff trained and confident in its use and had it been used and had those staff been obstructed?
10. There were a large number of recommendations for officers in the Arts and Entertainments section, this included a requirement for contract completion in good time; the issues arising in 2007 had not taught the officers to be wary of the same problems in 2008.
11. If the risk register is in use and procurement and contract procedures in place, it is unclear how the council could ensure the same situation does not recur unless some means are identified of flagging up the need for escalating a situation.
  - How would the failures in risk and contract management be met, what would the role of the Finance department be and how would they feed back into the process if the advice indicated that a contract should not be entered into or provide a significant risk?
12. The wording of the report was enigmatic and insufficient in detail and the difference in responsibilities difficult to understand. There should be greater clarity in the written procedures and closer contact between sections involved in the contracting process.
  - Other examples of failures in the contracting process possibly exist already and work needed to be done to identify these

- Further work on the assurances required by signatories to council contracts should be included in the proposed Action Plan.

The Committee agreed the recommendations.

**Section 2. Whether officers involved in the process made appropriate use of the Council's procurement and contract management processes and procedures, and acted in accordance with them.**

Members asked the following questions and commented as shown:

13. Paragraph 2.F1 '*There should have been a project plan for the Folk Festival overall, however, there was no such plan*' was the essence of the report, without a viable project plan there was no assurance about the outcome and the possibility of many problems.
14. It was not easy to judge the amount of work involved in an event the size of the Folk Festival, could the Council be sure that the load it was putting on the department was not excessive. There were a number of other contracts involved and the review should take these into account.
15. Were any tests carried out on the feasibility of the website before entering the contract? Are the skills required for testing the website available to the Council. The report makes no mention of the intellectual property rights to the software despite the system being bespoke to the Council?
16. At whose discretion are the project management rules applied? Given that a number of departments and services are involved in contracting how evident is it that procedures are not being followed?
17. The recommendations were directed at the Arts and Entertainments Section, a relatively small section taking a significant responsibility, the responsibility should be taken on corporately.
  - The system needed to be changed to cope with the failures; the problem was not necessarily limited to the service identified.
  - The lack of evidence of the warning signals of failures in 2007 was a corporate issue.
  - Was a corporate project management team a viable idea?
  - The reference in the recommendation that '*Any procurement process for the on-line ticketing procurement in future years..*' should be extended to cover all procurement and contracting processes.

18. Anyone dealing with contracts needed to be aware of potential problems if a contract was passed to a company's subsidiaries. This had led to the problems in this case.
  - Allowing sufficient time for prior consultation on proposed contracts should be possible to accommodate within the procedures.
19. The outcome of the review was something of a blank canvas; the Council still had a lot to learn from the situation, in particular how to judge the probity of a contractor and how to deal with one who was dealing unethically. A number of areas during 2007 would bear further investigation.
20. The requirement that the decision not to comply with advice from the Finance Department or Legal Services should be made at Director level. In each case the Director of Finance or Head of Legal Services should be consulted.
21. If it is agreed to proceed with a contract despite the advice from the Finance and Legal sections, then the relevant Executive Councillor should be informed.

The Committee agreed the recommendations.

**Section 3. Areas for improvement in the processes and procedures and / or in further procurements (both Corporately and specific to the Service concerned)**

The Committee agreed the recommendations.

**Section 4. The internal checks made on the procurements at each stage and on the payments to the contractor;**

Members asked the following questions and commented as shown:

22. Why had the Finance Department not started to chase the funds due after 12 August?
23. What was the involvement of the Finance Department and its monitoring role and how did an additional £26k appear in the reconciliation figure?
24. Who had decided that three months was a suitable timeframe for payment and whether suitable efforts were made to chase the money owed?
25. Substantial income streams were being dealt with centrally and the recommendations in this section should apply, where appropriate, corporately.

The officers responded to the questions and comments made by members as follows:

The Director of Finance replied that the debt was not on the finance system, and therefore it remained with the individual holding that knowledge. Had the Council's financial systems been used, it would have been flagged up. It was a matter for the service department to chase the debt and whether the finance department's expertise is called upon. With regard to the additional £26k, that took into account the management fee.

In response to questions about 2007 ticket sales, the Director of Finance stated that the focus of the review work had been the 2008 ticket sales, but that there was a need to identify any trends.

26. The Head of Legal Services advised that, in pursuing the money owed by the contractor, officers had acted in accordance with external advice and that senior Members and officers had been involved throughout. On the timescale for payment, he understood that the money had been held by the contractor until after the event as the contractor would have dealt with refunds or changes to tickets ordered.

The Director of Finance would take on board the recommendations on the issue of monitoring and dealing with substantial income streams which were being dealt with centrally.

The Committee agreed the recommendations.

### **Section 5. Any lessons for the Council relating to its risk management processes**

Members noted that the Action Plan would address the issues raised.

The Committee agreed the recommendations.

### **Section 6. Reporting to Members of matters relating to the Folk Festival.**

The Committee referred to the revised version circulated by the Director of Finance and set out below. The Director of Finance had been asked for further information following a member briefing and that this was linked back to the original scope of the work, which included interviews with officers only.

6.F1 Officer and Member involvement relating to the arrangements for the Festival should be clear, documented and complied with.

It is not wholly clear what Officer and Member involvement in the arrangements for the provision of the on-line service for the 2007 and 2008 Festivals was, as appropriate documentation could not be evidenced. There are minutes of an initial Officer/Member meeting to discuss ticket allocation and price structure in December 2007, but minutes of subsequent meetings could not be produced

6.F2 Our findings regarding the reporting to Members are:

- It is clear from evidence provided by Officers that Members were not involved in the procurement or evaluation process for the on-line ticket contractor for the 2007 or 2008 Festivals.
- The failure of the Officers to escalate issues with the on-line ticketing process, resulted in Members not being given the opportunity to express a view regarding the risks of the actions being taken (such as proceeding for the 2008 Folk Festival arrangement without a fully complete contract being put in place).

### **Recommendations**

6.R1-R3 Member understanding and future involvement in the following Folk Festival related items should be established and processes put in place to ensure compliance with these. It is considered that the following checklist will be a good start to establishing this:

- The risks associated with running the Folk Festival (in terms of operational, reputation, organisational etc)
- Key decisions which need to be taken during the Festival planning and execution of these plans and Members involvement
- Recognition that operational and low risk matters will be dealt with by Officers
- Periodic reporting on progress with the Festival plans, including where escalation to Executive Councillor maybe appropriate.

Councillors should give consideration to the extent to which they wish to be involved in or informed of decisions about the Festival, monitoring of progress and event evaluation. Officers then need to put in place an appropriate mechanism to enable the requirement to be met.

Cllr Herbert referred to the need for proper member scrutiny with Strategy & Resources Scrutiny Committee tasked with financial scrutiny – a scrutiny committee would have insisted that an independent review should have taken place. He stated that it did not make sense to interview only 4 members of staff, as the issues raised were systemic in the Council.

The recommendations as amended and set out above were agreed.

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The Chair then referred the Committee to the recommendations in the Director of Finance's covering report. Cllr Bick asked whether procurement policies were fit for purpose and asked what the Council would do to address the issue of whether the failings were due to organisational culture. The Chief Executive stated that there were lessons to be learnt and addressing this through organisational development would be included. He stated that the Council's Audit Plan and Risk Register would need review.

Cllr Herbert proposed the following amendment:

That the Committee-

- a) regrets that the commitment to undertake an external independent inquiry into Folk Festival Online Ticketing has not been implemented.
- b) considers the report incomplete and requires the review to be extended, with extra terms of reference to be agreed by Chair and Spokespersons for the Civic Affairs Committee.
- c) agrees, as an interim measure, that the recommendations in the report to date be implemented.
- d) recommends to the Council the need to increase scrutiny of Executive Councillors by Councillors including a specific review of the powers of the Strategy and Resources Scrutiny Committee to enable it to undertake a programme of financial scrutiny investigations each year.

The amendment was lost by 2 votes to 4.

Cllr Pitt proposed two additional recommendations:

2.5 That the Community Services Scrutiny Committee is requested to consider setting up a member level Committee of Inquiry in due course.

2.6 That the Chief Executive review of the way in which the on-line ticket investigation was established and undertaken and a report be submitted to the Civic Affairs Committee in due course.

The amendment was carried by 4 votes to 0.

The Chair asked the Director of Finance for clarification of what further work would be required by PricewaterhouseCoopers (recommendation 2.4). The Leader advised the Committee that if additional work was required, the decision would be taken by him on the advice of the Director of Finance.

**Resolved** (by 4 votes to 0)

- 1) To endorse the recommendations in the report (and as amended in part 6 referred to above).
- 2) To request officers to draw up an appropriate action plan to address the recommendation to be submitted to the relevant committee.
- 3) Implementation of the Action Plan to be monitored by Civic Affairs Committee.
- 4) Review the requirement for further work as outlined in the PricewaterhouseCoopers letter of engagement.
- 5) That the Community Services Scrutiny Committee is requested to set up a member level Committee of Inquiry in due course.
- 6) That a review of the way in which the on-line ticket investigation was established, undertaken and reported be submitted to the Civic Affairs Committee in due course.

#### 09/Civ/7 **The Council's Municipal Year 2009/10**

The Democratic Services Manager introduced the report which proposed changes to the timing of Council and other meetings in the year. In discussion of options for the March/April scrutiny and Council cycle, the Committee was in favour of the status quo.

Members requested that officers review the business at the Annual Meeting as it had become too long and also to review the effect of the planned changes before the autumn of 2010.

**Resolved** (by 5 votes to 0)

- 1) to agree the calendar of meetings as set out in the table
- 2) to retain the March/April scrutiny cycle and Council meeting

#### 09/Civ/8 **Constitutional Changes - Terms of Reference for the Employment (Appeals) Sub-Committee**

It was noted that the Terms of Reference of this sub-committee of Civic Affairs Committee required amending.

**Resolved –**

To agree to the change as set out in bold text.

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>
Appeals under the Council's disciplinary, capability and grievance procedures <b>and other employment appeals to be heard at member level, as allowed for in employment policies and procedures from time to time.</b>	Section 112, Local Government Act, 1972