

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Staffing Committee**
held on Monday, 25th June, 2012 at Committee Suite 1 & 2, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor D Topping (Chairman)
Councillor H Murray (Vice-Chairman)

Councillors J P Findlow, J Jackson, B Murphy, D Newton and S Wilkinson (for
Cllr M Jones)

Councillors in Attendance

Councillor B Burkhill, M Jones and A Moran

Officers

Paul Bradshaw, Head of HR and Organisational Development
Melanie Henniker, HR Delivery Manager
Julie Openshaw, Places Legal Team Manager
Suzanne Antrobus, Corporate Solicitor
Paul Jones, Democratic Services Team Manager
Rachel Graves, Democratic Services Officer

1 DECLARATIONS OF INTEREST

Councillor M Jones, in attendance as Leader of the Council, declared a potential personal and prejudicial interest in Item 5 – Review of Staff Conduct in relation to Lyme Green, as he had been the Portfolio Holder for Resources at the time of the events.

2 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

The Chairman announced that the Councillors in attendance would be allowed to stay in the meeting during consideration of the item in Part 2 but would take no part in the consideration of the matter.

3 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED:

That the press and public be excluded from the meeting during the consideration of the following item pursuant to Section 100(A) 4 of the Local Government Act 1972 as amended on the grounds that they involved the disclosure of exempt information as defined in Paragraph 4 of Part 1 of Schedule 12A of the Local Government Act 1972 and public interest would not be served in publishing this information.

4 REVIEW OF STAFF CONDUCT IN RELATION TO LYME GREEN

Councillor M Jones stated that he had been asked by the Audit and Governance Committee to start the process for the review into the conduct of staff and asked the Staffing Committee to agree that an independent review should take place and the Committee to agree the Terms of Reference for this review. Having previously declared a potential personal and prejudicial declaration of interest he left the meeting prior to consideration of the report.

The Committee considered a report on the steps to be taken to review the conduct of staff involved in the Council's proposals to build a waste transfer station at Lyme Green Depot, following the report to the Audit and Governance Committee on 14 June 2012.

The report considered by the Audit and Governance Committee highlighted a number of failings relating to Finance and Contract Procedure Rules, the Planning Process, Project Management, Budgetary Control and Governance arrangements.

The Audit and Governance Committee had resolved that:

“The Council, in accordance with its staffing policies, instigate an immediate independent review of the conduct of staff mentioned in the report and consider whether there is a case for appropriate disciplinary or other action to be pursued, the review to include consideration on whether the public or any Members were misled.”

It was proposed that an independent review be undertaken into the conduct of staff involved in the proposal to build the waste transfer station. In order to commence this process, the Staffing Committee was required to agree the Terms of Reference. Advice on drafting the Terms of Reference had been sought from the North West Employers Organisation.

The process for the appointment and dismissal of council officers, including senior officers, was provided for in the Local Authorities (Standing Orders) (England) Regulations 2001. It was noted that a 'designated independent person' would need to be appointed to investigate allegations of misconduct by statutory officers and that this person must be agreed on by those being investigated otherwise the designated independent person would be nominated by the Secretary of State. The Regulations required that the designated independent person recommend any disciplinary action that appeared to be appropriate.

It was agreed that a Staffing Sub Committee would be appointed to proceed with the commissioning of the review. The Sub Committee would also take the decision on any disciplinary or other action to be taken based on the designated independent person's report. The Sub Committee could impose a lesser sanction than that recommended but it could not impose a greater sanction.

Members who were nominated to the Sub Committee confirmed that they had not been involved in the issues under consideration and were not prejudiced in any way. The nominated Members are Councillors H Murray and D Newton.

RESOLVED: That

- (1) an Independently Appointed Investigation be commissioned into the conduct of any individual who contributed, or should have contributed, to the Lyme Green Waste Transfer Station project.
- (2) a Sub Committee of the Staffing Committee be appointed to proceed with the commissioning of the investigation and to consider the findings of the investigation report including any disciplinary or other action and that the Sub Committee be made up of two Staffing Committee members (Councillors H Murray and D Newton) and a Cabinet Member.
- (3) the scope of the investigation to include the conduct of the Director of Places and Organisational Capacity – Nominated Deputy Chief Executive (Nominated Deputy Head of Paid Service), the Director of Finance and Business Services (Section 151 Officer), the Borough Solicitor (the Monitoring Officer), and any other officers to be identified by the Sub Committee or Investigating Officer.
- (4) in the light of (3) above, the Terms of Reference for the investigation be as follows:

“The Designated Independent Person is authorised to call for interview any person including staff, Members, Cabinet Members and Support Members and any other witnesses they deem. Any individual within a team can be called for interview if that person can supply statements to clarify actions taken by self or by others.

The Designated Independent Person will have access to any documents including email messages which they believe may have a bearing on the necessary evidence required to reach a conclusion within the final report.

The Designated Independent Person produce, at the earliest possible opportunity, a report which will include evidence of any action or decision taken by any individual without due regard to council policy, permission or with intent to mislead. This to include clarification regarding who was responsible, to what extent was staff and/or Members culpable and/or was the action/decision caused by cultural or procedural errors.

The Regulations require the Designated Independent Person to recommend any disciplinary action that appears to be appropriate.

The Staffing Sub Committee is required to take a decision based on the Designated Independent Person's report. It is open to the Committee to impose a lesser sanction than that recommended but it cannot impose a greater sanction.

The specific allegations are as follows:

1. Development of the Lyme Green Waste Transfer Facility commenced without planning permission
 2. The Council did not comply with EU regulations when awarding a contract to the Council's waste bulking contractor
 3. The decision to appoint the main contractor for construction of the waste transfer facility, and incur expenditure, was taken without the necessary authority and broke Finance and Contract Procedure Rules
 4. The engagement of a number of consultants who supported the Waste Transfer Project was not in accordance with the requirements of the Councils "Consultants Framework"
 5. Expenditure beyond the approved budget on the scheme was incurred, Finance and Contract Procedure Rules were broken and Officers Delegations were exceeded
 6. The requirements of the Council's Capital Strategy and Finance and Contract Finance Procedure Rules were not fully complied with as a partially completed Capital Appraisal Form (excluding revenue running costs) was submitted as justification for the investment in the Waste Transfer Station at Lyme Green and allowed to progress through the challenge process prescribed by the Capital Strategy
 7. Appropriate project management and governance was not applied to the development of Lyme Green
 8. These failures resulted in significant adverse publicity for the Council and undermined local confidence in the Council's Governance arrangements
 9. As part of this explore whether any Elected Members or members of the Public were misled with regard to the development of Lyme Green Waste Transfer Facility."
- (5) The Head of HR and Organisational Development be authorised, In consultation with the Chairman of the Staffing Committee, to make the necessary arrangements to enable the Sub Committee to begin the investigation.

The meeting commenced at 10.00 am and concluded at 12.38 pm

Councillor D Topping (Chairman)