

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE OVERVIEW & SCRUTINY COMMITTEE

HELD AT 7.15 P.M. ON TUESDAY, 2 SEPTEMBER 2014

**ROOM C1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Joshua Peck (Chair)
Councillor John Pierce (Vice-Chair)
Councillor Mahbub Alam
Councillor Asma Begum
Councillor Peter Golds
Councillor Denise Jones
Councillor Abjol Miah
Councillor Md. Maium Miah

Councillor Rachael Saunders

Co-opted Members Present:

Rev James Olanipekun – (Parent Governor Representative)
Dr Phillip Rice – (Church of England Representative)

Other Councillors Present:

Councillor Alibor Choudhury – (Cabinet Member for Resources)
Councillor Ohid Ahmed – (Cabinet Member for Community Safety)
Councillor Abdul Asad – (Cabinet Member for Adult Services)
Councillor Clare Harrisson –
Councillor Danny Hassell –

Guests Present:

Mike Smith – (Chief Executive, Real)

Officers Present:

Chris Holme – (Acting Corporate Director - Resources)

Andy Bamber	– (Service Head Safer Communities, Crime Reduction Services, Communities, Localities and Culture)
Keith Burns	– (Programme Director Special Projects, Commissioning & Health, Education Social Care & Wellbeing)
Deborah Cohen	– (Service Head, Commissioning and Health, Education, Social Care & Wellbeing)
David Galpin	– (Service Head, Legal Services, Law Probity & Governance)
Frances Jones	– (Service Manager One Tower Hamlets, Corporate Strategy and Equality Service, Law Probity & Governance)
Dorne Kanareck	– (Commissioning & Strategy, Education Social Care & Wellbeing)
Susan Mulligan	– (Communications Advisor, Communications, Law Probity & Governance)
Louise Russell	– (Service Head Corporate Strategy and Equality, Law Probity & Governance)
Rachael Sadegh	– (DAAT Manager, Community Safety Service, Communities Localities & Culture)
Angus Taylor	– (Principal Committee Officer, Democratic Services, Law Probity & Governance)

COUNCILLOR JOSHUA PECK (CHAIR) IN THE CHAIR

1. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of:

- Councillor Dave Chesterton for whom Councillor Rachael Saunders was deputising.
- Nozrul Mustafa (Co-opted Member – Parent Governor Representative)
- Stephen Halsey (Head of Paid Service & Corporate Director Communities Localities & Culture) for whom Andy Bamber (Service Head Safer Communities, CLC) was deputising.
- Robert McCulloch-Graham (Corporate Director Education Social Care & Wellbeing) for whom Deborah Cohen (Service Head Commissioning & Health, ESCW) was deputising.

Noted.

2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

No declarations of Disclosable Pecuniary Interest were made. However the following declarations of interest were made:

Councillors Denise Jones, John Pierce, Joshua Peck and Alibor Choudhury declared an interest in Agenda item 5.2 “Call-in of Mayoral Executive Decision 063: Contract Award - Direct Payment Support Service”. The declaration of interest was made on the basis that they knew Mr Mike Smith, Chief Executive Real, who the Chair advised would be presenting a petition in relation to this Agenda item.

Councillors Abdul Asad and Md. Maium Miah declared an interest in Agenda item 5.2 “Call-in of Mayoral Executive Decision 063: Contract Award - Direct Payment Support Service”. The declaration of interest was made on the basis that they had received letters from Mr Mike Smith, Chief Executive Real, who the Chair advised would be presenting a petition in relation to this Agenda item.

Noted.

3. UNRESTRICTED MINUTES

The Chair **Moved** and it was:-

Resolved

That it be noted that the unrestricted (Section 1) and exempt (Section 2) minutes of the meeting of the Overview and Scrutiny Committee held on 22 July 2014 were unavailable and would be submitted to the next meeting for approval as a correct record of the proceedings.

4. REQUESTS TO SUBMIT PETITIONS

At this juncture the Chair Informed OSC members that the Interim Monitoring Officer had received one valid request, from Real, the user-led organisation of disabled people in Tower Hamlets), to address them in respect of Agenda item 5.2 “Call-in of Mayoral Executive Decision 063: Contract Award - Direct Payment Support Service”.

VARIATION TO ORDER OF BUSINESS

The Chair also indicated that he thought it appropriate that the Order of Business be varied so that following receipt of the petition, consideration be given to the report, contained in the agenda before the OSC for consideration, which was the subject matter of the petition.

Accordingly the Chair **Moved** the following motion for the consideration of OSC members, and it was: -

Resolved

That the Order of Business be varied so that following the receipt of the petition, Agenda Item 5.2 “Call-in of Mayoral Executive Decision 063: Contract

Award - Direct Payment Support Service” be considered next, and subsequently the OSC return to the order of business detailed in the agenda.

At this juncture the Chair informed members of the Cabinet that petition statement and signatory details had been **Tabled** by Real, a copy of which would be interleaved with the minutes.

Following receipt of the petition, points of clarification sought and given, the Chair thanked the petitioners for coming to address the OSC and then **Moved** the following motion for the consideration of OSC members and it was: -

Resolved

1. That the following petition be formally received and noted: -
 - Mr M. Smith, Real, in respect of Agenda item 5.2 “Call-in of Mayoral Executive Decision 063: Contract Award - Direct Payment Support Service”
2. That the points raised by the petition be given consideration during the OSC deliberation of the item of business to which the petition related; and the Cabinet member both for Resources and Health and Adult Services, respond to the petition when responding to the Call In; and
3. That any outstanding issues raised by the deputation be referred to the Corporate Director Education Social Care and Wellbeing for attention and response in writing within 28 days, in accordance with the Authority’s Constitution (Part 4, Rules of Procedure, Section 4.1 Council Procedure Rules, Rule 19 Deputations).

5. UNRESTRICTED REPORTS CALLED-IN

5.1 Call-In of Cabinet Decision: Drug and Alcohol Action Team (DAAT) Commissioning Intentions

The OSC considered the report “Cabinet Decision ‘Call In’ “Drug and Alcohol Action Team (DAAT) Commissioning Intentions” comprising of the report considered, and subsequent decision taken, by the Mayor in Cabinet on 23 July 2014, (published 25 July 2014) together with the reasons for “Call In”/ alternative course of action set out in the Call In requisition, signed by Councillors Rachael Saunders, Shiria Khatun, Danny Hassell, Sirajul Islam and Clare Harriison, in accordance with the provisions of 4 of the Council’s Constitution (Call In requisition presented 31 July 2014 and later declared valid).

The Chair welcomed: Councillors Rachael Saunders, Clare Harrison and Danny Hassell, three of five Councillors who had Called In the decision of the Mayor in Cabinet and also Councillors Alibor Choudhury (Cabinet Member for Resources) and Ohid Ahmed (Cabinet Member for Community Safety), Andy Bamber (Service Head Safer Communities, CLC) and Ms Rachael Sadegh (Joint Commissioning Manager for Tower Hamlets DAAT, Safer Communities, CLC) who were in attendance to respond to the "Call-in".

Councillor Saunders presented the "Call-in": summarising the reasons for "calling in" the Decision, outlining the key concerns of the "Call-in" Members, and setting out the action sought from the OSC to address these; also subsequently responding to questions from the OSC. Concerns of "Call-in" Members and OSC Members summarised as follows: -

- Concern that the recommendations made by Officers had been modified in Cabinet to provide a role for the two Cabinet Members. Both the reason for the modification and the role of the two Cabinet Members were considered to be unclear.
- The next stages of the commissioning/ procurement process and service standards were currently not transparent. There was insufficient information for the OSC to identify service standards and determine if the best balance of quality and cost would result from the proposed approach.
- Consideration that the decision to revise the officer recommendations of Option 3 to agree a consortium approach would impact on service users, as instead of mitigating atomisation of provision with a small number of providers a plethora of local providers would result.
- Member involvement in the commissioning/ procurement process, and the timing of this was of concern as the two should be separate. Also what was the rationale for Member involvement in this process but not in the process for Direct Payment Support Service (DPSS).
- Clarification was sought and given as to the number of current service providers and those bidding and their local credentials. However the Chair **requested that a list of contract value parameters and those organisations currently holding the contracts be circulated to all OSC members.** Comment also that most of the organisations bidding were not local. Accordingly concern expressed, given the Cabinet Member for Resources' stated purpose to protect local organisations, that only one of the relevant organisations, NAFAS, was a local organisation.
- Concern that well known/ reputable organisations, some with a global reach, that were currently providing services were now proposed for decommissioning.

The above named Cabinet members and Officers responded to the concerns raised by the "Call-in" Members, and subsequently responded to questions from the OSC summarised as follows:

- The recommendations in the Cabinet report were the result of a full and wide ranging consultation of local providers and service users on the best way to deliver the drug/ alcohol treatment programme.

- Further reports to Cabinet would make the commissioning/ procurement process fully transparent and the timeline/ elements of the process was outlined.
- A standard commissioning process would be followed in accord with procurement law and the Authority's procurement policy and procedures, and the tender assessment process would be robust. However Members had a right to be involved in the design/ shaping of services they aspired to see delivered, in line with Administration values, hence the decision to give oversight of the service brief/ specification.
- The commissioning/ procurement process for DPSS had finished and the selected bidder met the criteria in the contract specification, whereas the DAAT commissioning process was just beginning. The service delivery model had been selected but the service specification would be drawn up before moving to the commissioning process.
- Adoption of the consortium model would reduce the number of contracts whilst maintain the diversity of existing experienced provider agencies. It was also consistent with the approach elsewhere in London. However non-consortia bids would be considered. Speculation as to providers that might be decommissioned was not appropriate.
- The proposal would result in the joined up service provision currently lacking, with blocks for treatment, recovery and outreach; and also allow for performance to be tracked. There was an ongoing dialogue with all relevant partners and providers to take forward this process.
- The proposed approach also incorporated the requirements of local economic, social and cultural dynamics; as the Administration aspired to ensure services delivered were appropriate to local people. It considered this was not possible with a large corporation, but required providers with a sound knowledge of Tower Hamlets and the needs of its diverse community. Consideration that in assessing local credentials the most important factor was the level to which organisations were embedded in the local community, rather than size or global reputation.

The Chair summarised that the OSC considered that the decision of the Mayor in Cabinet should be referred back to the Mayor in Cabinet for further consideration for the reasons detailed by OSC members in their deliberations, and summarised below:

- That the Mayor fully explains his strategic vision for the re-commissioning of DAAT services and the basis on which he made his decision.
- That the Mayor clearly sets out the role he has mandated the Cabinet Members for Resources and Community Safety to have in the re-commissioning of DAAT services.

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The Chair then **Moved** and it was:-

Resolved (on a vote)

To refer the decision of the Mayor in Cabinet back to the Mayor in Cabinet for further consideration for the reasons detailed above.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, LPG)

Andy Bamber (Service Head Safer Communities, CLC)

Rachael Sadegh (Joint Commissioning Manager for Tower Hamlets DAAT,
Safer Communities, CLC)

5.2 Call-in of Mayoral Executive Decision 063: Contract Award - Direct Payment Support Service (To Follow)

Councillors Alibor Choudhury, Abdul Asad, Denise Jones, Joshua Peck, John Pierce, and Md. Maium Miah declared an interest in this Agenda item, as set out in the minutes at item 3 above.

Please note that the order of business was varied by resolution of the OSC earlier in the proceedings in order to allow this item to be considered following Agenda Item 4 "Petitions", however for ease of reference the deliberations of the OSC, and subsequent decisions taken, are set out below in the order detailed in the agenda. Representations were made by Mike Smith, Chief Executive of Real, in respect of this agenda item, when presenting his petition.

The OSC considered the report "Mayoral Executive Decision 'Call In' Decision Log No 063 – "Contract Award – Direct Payment Support Service" comprising of the report considered, and subsequent decision taken, by the Mayor on 11 August 2014 (Mayoral Executive Decision published on 14 August 2014), together with the reasons for "Call In"/ alternative course of action set out in the Call In requisition, signed by Councillors Rachael Saunders, Amy Whitelock Gibbs, Danny Hassell, Helal Uddin and Clare Harrison, in accordance with the provisions of 4 of the Council's Constitution (Call In requisition presented 21 August 2014 and declared valid 22 August 2014).

The Chair welcomed: Councillors Rachael Saunders, Clare Harrison and Danny Hassell, three of five Councillors who had Called In the decision of the Mayor outside Cabinet and also Councillors Alibor Choudhury (Cabinet Member for Resources) and Abdul Asad (Cabinet Member for Health & Adult Services), Ms Deborah Cohen (Service Head Commissioning & Health, ESCW) and Keith Burns (Programme Director Special Projects – Commissioning & Strategy, ESCW) who were in attendance to respond to the "Call-in".

Councillors Saunders and Harrison presented the "Call-in": summarising the reasons for "calling in" the Mayoral Decision, outlining the key concerns of the "Call-in" Members, and setting out the action sought from the OSC to address these as follows: -

- Concern expressed that the Mayor proposed to award the contract for the Direct Payment Support Service (DPSS) to an organisation whose bid was approximately half of the expected annual contract value estimated by Officers; and therefore whether a service of an appropriate quality would be provided to users and the sustainability of this. With a big private

company bidding so low questions arose as to how such a saving could be made and how it would impact on the service. Often the result was online service delivery or devolving delivery to call centres, with staff on poor conditions.

- Referencing a number of points set out in the Call In requisition including:
 - That the current contract holder the local user-led organisation of disabled people, Real, employed disabled local residents whereas POhWer the proposed contract holder was not user led.
 - Real had scored more highly on quality than other bidders during the assessment of tenders, but was not to be awarded the contract.
- Noted that respected advocacy organisations for the disabled community such as Disability Rights UK and Inclusion London had expressed concern over the proposal, and advised that commissioning should be done in a way that took account of broader social value not just price. Real provided a voice for local disabled people, and was operated by them and the Council made great use of it. The case could be made that the Mayor had not fully considered social value and equalities in making his decision.
- Concern expressed at the lack of transparency in respect of the Mayor's decision making on this matter: Rather than adhering to proper process and proposing this Budget saving in public at a full Council meeting, where it was likely to face great opposition, the de facto decision to reduce funding for this service had been made outside Cabinet, under Executive Powers. The decision making process was only now being highlighted as a result of the protest and the Call In.
- The Mayor should therefore be requested to reconsider his decision.

Councillor Saunders subsequently responded to questions from the OSC summarised as follows:

- The current contract holder Real, was both user led and locally based and had a track record of delivering a quality service in Tower Hamlets. Whereas the proposed contract holder, POhWer, based in Hertfordshire and as a result staff working for them in Tower Hamlets may have to operate remotely, requiring them to work from cafes. Was there a danger that the extensive skill and knowledge base of Real, developed over time in this particularly diverse community, would be lost for ever? *It would be a shame to risk losing such a valuable user led organisation to make such a contract saving.*
- Although the Call In requisition proposed that the commissioning and procurement process be rerun; would a reassessment of current bids with revised weightings attached to assessment criteria, likely to result in a different outcome as to a preferred bidder, be an acceptable alternative? *Abnormally low bids, such as the preferred one, should have been ruled out.*
- Requested to comment on the value of face to face service provision in this area versus online or telephone provision. *She understood from Real protesters and constituency casework that it made a huge difference to service users that a person was physically available to help them. They could be assisted with filling in and scanning forms, that they couldn't do*

themselves, communication was in their own language, relationships had been built on trust and personal circumstances didn't need constantly explained.

- Had there been adequate consultation regarding the commissioning with service users? *Mike Smith CE Real responded that there had been no consultation with service users prior to commissioning. The last consultation had been a year ago on independent support planning which was not related to this issue.*

The above named Cabinet members and Officers responded to the concerns raised by the "Call-in" Members and the petition received earlier, and subsequently responded to questions from the OSC summarised as follows:

- Response to Call In requisition:-
 - Commented that the Mayor/ Administration held the same principles since first elected: valuing locally embedded organisations and projects, organisations from the community which listened to it and delivered services which met the needs of local people. He did not dispute what had been stated by Real regarding its ideal service provision and the Mayor/ Administration believed in user led initiatives.
 - Outlined elements of the procurement process timeline, emphasising:
 - The specification had been carefully designed to encompass the aspirations of the Mayor/ Administration but this also included many of the suggestions from Real.
 - Tenders had been the subject of a rigorous and robust assessment process to ensure quality and best value.
 - The Lead Member Councillor Asad had been regularly briefed on progress.
 - Full information had been presented to the Mayor to enable a fully informed decision.
 - The commissioning process had been undertaken in full accordance with the Authority's Procurement Policy Imperatives and Procurement Procedures/ timetable. The Authority was legally prevented from specifying that only local organisations could bid for the contract, however for a number of years it had encouraged tendering opportunities for local organisations within the legal constraints, and in this case the turnover requirements at pre-qualification questionnaire stage reflected this approach.
 - Emphasised that there were significant legal risks for the Authority in revisiting the commissioning process to revise criteria/ outcomes, when there were not good grounds to do so. Officers further clarified that it was not possible to revisit weightings attached to assessment criteria, as once advertised they must stand.
 - Commented that the process had been impartial being managed by Officers with little involvement from the Mayor/ Cabinet members, and he was certain this position could be appreciated given adverse media criticism of undue influence of other matters by the Mayor/ Administration.
 - Emphasised that there would be stringent contract management arrangements to ensure adherence to the specification and the service delivery of the preferred bidder should not be pre-empted.

- Commented that it was important to differentiate between the organisations bidding and the commissioning process.
- The opportunity to re-commission the service with a view to stretching resources to allow for inclusion of an online/ telephone dimension had been welcomed, however the service specification remained a mix of face to face and online delivery. The spec also included a requirement for an outreach element with delivery in locations convenient and accessible for service users, such as community halls, places of worship, Idea Stores. However the part of the service to support those choosing a personal cash budget had been decommissioned some months previously.
- Commented that the commissioning process had commenced in July 2013 and there had been few representations to clarify viewpoints on it. However it was regrettable to now hear of the destabilising impact on Real due to the outcome of this process.
- POhWER was a charity and membership based organisation, started and developed by service users, with the objective of supporting and providing opportunities for the disabled and vulnerable. It had started in Hertfordshire and grown to become a large but not yet national organisation.
- Response to OSC Questions:-
 - What were the outstanding qualities that POhWER would bring to this aspect of service provision in Tower Hamlets and what understanding had it demonstrated of cultural diversity and language needs of local residents? *The POhWER bid had been the most economically advantageous with the best balance of quality and price. It had scored highly on quality compared with the other bids and was a close second to REAL. It had demonstrated a good understanding of cultural diversity issues in Tower Hamlets and significant strengths in delivering locally to which references from other local authorities attested. The contract specification was clear that service provision in users first language of choice was a requirement and the methodology statement had been drawn up carefully to encompass these requirements. Contract management arrangements would ensure delivery of the required service.*
 - Whilst acknowledging the challenging savings requirements placed on the Authority in the coming two years, there was also a consensus that an organisation such as Real should be protected from their impact. What action was the Authority taking to ensure Real's continued existence and effective functioning? *It had never been the intention that the outcome of this procurement process should have a destabilising impact on Real, and the Authority/ Officers would work with Real on its finances to ensure that it continued to discharge services for other significant adult social care contracts it held with the Authority, and to continue to function as a viable organisation.*
 - How did the contract for DPSS meet the needs of local people? *A contract specification had been drawn up which clearly set out the requirements of service provision which included:*

- *Communicating with service users in the first language of their choice;*
- *Having a workforce that reflects the community;*
- *Promoting local employment;*
- *Having a detailed knowledge of local services that may be of benefit to service users;*
- *Delivering the service at times and in locations that are convenient and accessible for service users.*

The Administration was therefore hopeful that the selected bidder would deliver services holistically to meet the needs of local people.

- *If Real lost the contract for DPSS would local jobs be lost? It was a requirement that staff working on the existing contract should be transferred to the new organisation/ contract under TUPE regulations.*
- *It was proposed to commission a new contract for DPSS with a cost saving of approximately 50 per cent going forward. How was this possible and would it result in a good service becoming a no frills service? A combination of factors allowed this including:*
 - *Officers considered there was significant scope for efficiency in the existing service provision.*
 - *POhWER had a larger infrastructure that allowed it to spread its overheads and achieve greater economies of scale.*
 - *Much greater use of ICT and in particular automation of back office functions.*

Officers had spent considerable time during the commissioning process to verify that POhWER's bid was credible, and additional references were taken up with other authorities with whom it had existing contracts.

- *Had the requirements of the Social Value Act 2012 been incorporated into the commissioning process? Yes, the methodology statement and in particular questions focused on delivery at a local level had addressed it.*
- *The importance of recognising the value of local organisations delivering local services had been emphasised and petitioners had been clear in presenting the petition that the current service provider was fully aware of the needs of the local community. How had the preferred bidder convinced Officers it could do so? POhWER was a close second to Real when assessed on quality criteria and had demonstrated significant strengths in delivering in a Tower Hamlets context. It had been awarded contracts in Tower Hamlets which commenced recently and initial feedback from commissioners was good.*
- *Further to clarification of the number of bidding organisations and their local status (8 bidders 1 being defined as local) clarification sought and given as to how the preferred bid, which was 34 percent lower than the average price bid, could be sustainable when the bid was also significantly lower than 6 peer organisations delivering similar services countrywide. Also efficiencies from spreading overheads and greater use of ICT applied to all the other national organisations bidding so where was the efficiency to be delivered in one of the most competitive markets known? Officers had tested the sustainability of the submitted*

price through a clarification process, and from this it was clear that the bidder understood the contract specification including paying its employees London Living Wage and the implications of TUPE. There were no legal grounds to reject the bid as unsustainable. The achievement of efficiency depended on service delivery models, economies of scale and commercial decisions as to the contract value. However it was important to note that the the selection was based on a combination of price and quality.

- Did the preferred bidder POhWER have experience of service delivery in DPSS in other London boroughs? *No experience of such service delivery in other London boroughs, but it had experience of providing advice and advocacy services in London boroughs from which it was aware of staff costs in and out of London.*
- How would the Authority ensure that the funding spent on this contract was used for Tower Hamlets residents and not spent in other parts of the UK? *The contract terms and conditions allow the council to require the provision of contract monitoring information, including expenditure that will be used to ensure that the service is properly funded locally.*
- Further to clarification as to the level of briefing of the Mayor on issues pertinent to this commissioning process, the questions asked by the Mayor at the point of his decision making, and which Cabinet members and Chief Officers were present to advise him at this point, the Chair commented that it was disappointing and unacceptable that the Mayor had taken the decision outside Cabinet and sent other Cabinet members not present to account for it. This did not provide the OSC with an opportunity to fully scrutinise the decision making, an important element of consideration as to whether the matter should be referred back to the Mayor for further consideration. The Chair **proposed** and it was **agreed** that in future, if a decision was made by the Mayor outside Cabinet and Called In to OSC for further consideration, either the Mayor or those Cabinet Members and Chief Officers present when the decision was made should attend the OSC to respond to the Call In, and if necessary formally summoned to attend through the appropriate constitutional provisions.

At this juncture the Chair sought and was given advice by David Galpin, Service Head Legal Services, as to options available to the OSC when concluding its deliberations on this matter, summarised below. The OSC could:

- Endorse the Mayor's decision and enable implementation to go ahead.
- Refer the matter back to the Mayor outside Cabinet for further consideration, with reasons for its referral (setting out the nature of OSC concerns) and possibly recommending an alternative course of action.

Mr Galpin also advised that in referring the decision back to the Mayor for further consideration there would be significant legal risks with any recommendation to the Mayor that he should not award the contract including:

- If the Mayor decided not to award, that may be challengeable on grounds of administrative law, if there are not good reasons for taking a different view than was previously taken.

- A decision not to award would require a further procurement exercise and this would require a further unlawful direct contract award as an interim measure.
- It may lead to challenge from the previously successful bidder (whether or not well-founded).
- The OSC had already been advised that it was not possible to revisit weightings attached to assessment criteria, as once advertised they must stand. Under public contract regulations the Authority was obliged to operate a fair and transparent commissioning process.

The Chair summarised that the OSC considered that the decision of the Mayor outside Cabinet should be referred back to the Mayor for further consideration for the reasons detailed by OSC members in concluding their deliberations, and outlined below:

- Concern that the proposed contract award would result in the loss to the borough of a very significant amount of intellectual property held by the current contract holder, Real, a user led organisation based in the borough; this would be very damaging. It appeared that the preferred bidder POhWER were undercutting the current service provider, and a first rate assessment evaluation of the service given to date had not taken place.
- The Mayor was permitted by law to take the decision but the OSC was permitted to request that he give it further consideration, and the latter was unlikely to precipitate a legal challenge.
- Concern that there were serious risks associated with the bid to operate the DPSS with a cost saving of approximately 50 per cent going forward. How was it possible to achieve this whilst ensuring a good quality service for users? Also serious concerns for local disabled employees following the TUPE process.
- Concern that although the preferred bidder operated in other parts of the country, it had no experience of service delivery in DPSS in other London boroughs, only of advice and advocacy provision which was a different field.
- Concern that the case for value for money remained unproven.
- Concern that an opportunity to ensure employment for the local community and strength of the local economy was being lost.
- Consideration that the most important factor was not local employment and local centres for service delivery, but provision of a service appropriate for local service users. All were concerned whether the extremely low bid preferred was sustainable in a market where comparative organisations providing the same services could not come close to making such a bid. There was a risk of a poor service for users or a failure in provision.
- Concern also that the proposed award of contract would have a damaging impact on the ability of Real to function effectively within Tower Hamlets.

The Chair then **Moved** and it was:-

Resolved (on a unanimous vote)

1. To refer the decision of the Mayor outside Cabinet back to the Mayor for further consideration for the reasons detailed above.
2. That the commissioning/ procurement process is re-run with better consideration being given to the funding of service quality and the impact of the process outcome on service users.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, LPG)

Deborah Cohen (Service Head Commissioning & Health, ESCW)

Keith Burns (Programme Director Special Projects – Commissioning & Strategy, ESCW)

ADJOURNMENT

At this juncture following a request for a comfort break from an OSC member the Chair **Moved** the following motion for the consideration of OSC members, and it was: -

Resolved

That the OSC adjourn for a period of 5 minutes, at 8.30pm, and that the meeting reconvene at 8.35pm.

The meeting adjourned at 8.30pm

The meeting reconvened at 8.35pm

6. SCRUTINY SPOTLIGHT - SOCIAL HOUSING PROVIDER

The Chair Informed OSC members that Mick Sweeney, Chief Executive - One Housing Group (OHG), had been invited to this OSC meeting for the scrutiny spotlight to discuss serious concerns, held by Members across the borough, with housing management on estates in the borough managed by OHG. The Chief Executive had referred the invitation to John Gregory, Group Director of Housing Services - One Housing Group, who despite having been given the option to attend one of several OSC dates, and given clarification as to the concerns to be discussed, had declined the invitation to attend. Mr Gregory had responded that OHG would only meet with ward councillors and the Cabinet Member for Housing in line with normal protocols. The Chair commented that OHG was a large social housing provider in the borough there were very significant problems with its service delivery, and it was risible that OHG would not engage. The OSC would not be examining individual cases but addressing these widespread concerns.

A short discussion followed which focused on the following points:-

- OHG was responsible for several housing schemes on the Isle of Dogs but local residents now referred to it as “None Housing” because of its perceived failure to deliver. The OSC did not want to look at individual cases but overall policy and approach borough-wide. It was likely that all

LBTH councillors had questions to ask. It was outrageous that it had declined to attend the OSC.

- There were issues with OHG delivery not just on the IOD or one estate, but borough-wide. Members had personal experience of raising issues by Member Enquiry, which OHG said they had dealt with but which residents said still existed. The Member Enquiry system was not working.
- Clarification was sought and given by Mr Galpin, Service Head Legal Services, as to the legal and constitutional powers and provisions through which the OSC could require attendance.

The Chair **proposed** and it was **agreed** that the Chief Executive - One Housing Group, or one of his direct reports be formally requested to attend one of the next two OSC meetings, and that the Corporate Director Development & Renewal write to them expressing the dim view taken by the Authority that OHG was not willing to engage in this important partnership activity.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, CE's)

Mark Cairns (Senior Strategy Policy & Performance Officer, Corporate Strategy & Equality Service, CE's)

Aman Dalvi (Corporate Director Development & Renewal)

Jackie Odunoye (Service Head Strategy Regeneration and Sustainability, D&R)

7. UNRESTRICTED REPORTS FOR CONSIDERATION

7.1 Medium Term Financial Plan

Chris Holme (Acting Corporate Director Resources):

- Introduced the report, which provided information on:
 - 2014/15 Budget context.
 - A review of assumptions on 2015/16 LBTH Budget position.
 - Revision of the current Strategic Plan to reflect the Budget set in March and manifesto commitments of the Mayor elected in May.
 - Current Government funding context and associated work to update MTFP to 2018/19.
- Also gave a detailed presentation (PowerPoint slides **Tabled**, a copy of which would be interleaved with the minutes), which focused on the following points:
 - National context and Key challenges: Continuing Government austerity, macro-economic factors, ongoing welfare reform, demographic and Legislative driven demand for services, significant capital investment needs.
 - Implications for LBTH: £28million of savings 2015/16, Significant Budget gaps in 2016/17, 2017/18 & 2018/19 totalling £120-140million over the MTFP.
 - Testing LBTH MTFP assumptions particularly on RSG reductions
 - Progress to date on 2015/16 savings

- Future options: Work to be undertaken to identify future savings. Councillor Alibor Choudhury, Cabinet Member for Resources, was also in attendance for this item.

A discussion followed which focused on clarification being sought and given on the following points:-

- The solutions being identified by Officers and Cabinet Member for Resources to the significant Budget challenges facing the Authority? *Following a clear mandate to identify savings that met existing requirements of the Executive for leaner service delivery, smarter working, better asset usage, income optimisation and improved procurement, 100 saving options had been identified which could deliver savings of £32million for 2015/16. These would be the subject of consultation in the autumn and a report for Cabinet consideration in November setting out the core savings options, together with the outcome of consultation and equality impact assessment. A further report in January to set out the other savings options. Officers were confident the November report would enable delivery of £20million savings, a healthy reserve balance and a further £14million to be delivered in 2016/17. Beyond that transformational change was required and this was currently the subject of much Officer consideration with a strategic services review to follow examining all services in context of:*
 - Harnessing economic growth and alternative investment
 - Shifting focus more to preventative services
 - Redesign processes to optimise technical advances and continue to reduce transaction costs
 - Alternative delivery models where clear savings are achievable without impacting service provision
 - Maximising the use of assets and identifying opportunities for disposal
 - Optimising income generation
 - Workforce efficiency through both increased productivity and further consolidation

It was important to emphasise the Administration's priorities in considering the Budget: providing support to those impacted by welfare reform, young people the elderly and vulnerable who were struggling to cope with Government austerity. There were a range of savings options and it was important to consult with anyone impacted by these; and the November Cabinet report would set out the outcome together with a direction of travel to meeting savings requirements.

- Whether the 100 savings options to deliver £32million of savings would be the subject of consultation in the autumn. *The impact on service users would need to be comprehensively assessed, however some non-impacting proposals could be presented to Cabinet without consultation*
Eg:
 - *Significant additional income from a review of discounts including that for students accommodation, and an audit of properties was underway for this. Neighbouring authorities generated an additional £500k from this and LBTH could deliver this for 5000 students.*

- *The Authority was no longer just the collection agent for NNDR and could optimise income from this; a re-assessment of rateable properties was underway.*
- Consideration that the Authority was now in the year after investment in prevention to yield savings should have taken place. Invest to save should take place when more funding was available to yield savings when less funding was available. *The emphasis on prevention has always existed and this was just being stepped up in an effort to further reduce demand on services.*
- Consideration that consultation with service users on budget proposals did not preclude the necessity for a political dialogue with political groups not part of the Administration, to discuss the proposals and the scale of Budget challenges. *The Administration intended to have a Council-wide cross party seminar setting out the Administration's position and what action it was taking to address Budget challenges. The Cabinet Member for Resources would be pleased to engage with other political groups going forward; and in particular hold a broader discussion on larger issues with the Leader of the Labour Group and Shadow Lead Member for Resources with a view to minimising the impact on services for local residents.*
- How did Tower Hamlets compare with neighbouring boroughs in terms of Budgetary circumstances and related approach? *All other London boroughs were working to similar assumptions for Budget planning. Those with the highest levels of RSG would be those facing the largest savings requirements. LBTH was in similar circumstances to Newham and Hackney but had higher levels of economic growth and reserves to mitigate the impact.*
- With regard to NNDR it appeared Officers were looking for more people to charge, when a more positive approach would be to stimulate economic growth i.e. invest to grow the rateable base. *There was an Economic Growth Officer Group looking at ways to reassess the model for/ increase the economic base. However it was the Planning Function which determined the capacity for commercial and housing growth. The Administration intended that town centres should be developed to expand business capacity. It was hoped the Whitechapel Vision would deliver in this field too.*
- Whether the Employment Options Scheme and workforce efficiency/ delayering referred to would result in employee redundancies, and what budget saving might be achieved. *A similar initiative was underway to the Voluntary Redundancy process undertaken in 2010. All staff had been written to regarding consideration of options for flexible working, flexible retirement and voluntary redundancy. This was necessary to identify options to reduce the workforce and achieve cost effectiveness/ greater productivity, without an adverse impact on frontline services. The outcome would be a reduction in workforce headcount but it was hoped deletion of vacancies and the uptake of the above options could avoid compulsory redundancies. In approximate terms the loss of 100 people would save £3.5million gross.*

- Given the Administration's priorities in considering the Budget, to support those impacted by welfare reform, young people the elderly and vulnerable, were there any services/ teams of staff to be protected from redundancies or other funding reductions? *There was a legal obligation to write to all staff regarding voluntary redundancy and flexible retirement or working options. It was also important to gauge the feelings of impacted staff as a service might be able to maintain productivity with fewer staff. However the Administration would endeavour to protect services for these cohorts of people and also endeavour to ensure services impacted were not those delivering to the public.*
- Consideration that given the functions of the HR Committee, it should be informed of savings expectations to impact on staff, so it could ensure a fair and proper process. The process of gauging staff views was also a matter for it to oversee. This appeared to be a further example of decisions being made without proper accountability. Clarification sought as to the Budget outcomes the Executive expected from this process. *The process was not secret and the HOPS was managing it. The Cabinet Member for Resources had not set a budget parameter on savings to be delivered from the Employment Options scheme, but the Administration had been clear it would prefer savings which did not impact on services. Without staff consultation and consideration of required staffing levels for each service, it was inappropriate to set such targets.*
- What was the deadline for staff responses? *This had already passed and service heads and service managers were currently examining the responses and evaluating which reductions could be sustained without impacting service provision. Proposals would be drawn up for Staffside consultation by end of September and where services were impacted EQIAs undertaken. Difficult decisions would be needed before November to allow notification of staff redundancy, if any, by December and to achieve savings by end of March.*
- When would the Mayor's initial tranche of Budget proposals be published; also when and how was it intended that the OSC be consulted? *Initial tranche of Budget proposals were likely to be presented to OSC before November, or once the Cabinet decisions were made in accordance with the normal governance requirements. It was hoped all Members would be involved as part of the Budget consultation.*
- The Chair commented that it was preferable for the OSC to be consulted in advance of Cabinet decisions being made and proposed accordingly that the **Budget proposals be submitted to the OSC on 30 September**, as there was no meeting in October. *The Cabinet Member for Resources undertook to endeavour to work to this timescale, although he couldn't guarantee that it would be met; however the OSC would be consulted on the initial tranche of Budget proposals before Cabinet considered them in November.*

The Chair **Moved** and it was:-

Resolved

That the contents of the report and presentation be noted.

Action by:

Chris Holme (Acting Corporate Director Resources)

7.2 Appointment to INEL JHOSC (Oral Report)

Frances Jones, One Tower Hamlets Service Manager, gave a short oral report summarising key points for the OSC, as follows:

The OSC (22 July) had received a report informing it of the background to the establishment of Inner North East London Standing Joint Health Overview and Scrutiny Committee (INEL JHOSC), and had appointed two Members, to represent the Authority for the 2014/15 municipal year, as nominated by the Labour group in accordance with the political proportionality rules as set out in INEL JHOSC Terms of Reference. No nomination had been received from the Tower Hamlets First (THF) group, for the place allocated to it, at that point and therefore the appointment remained vacant.

The Health Scrutiny Panel (HSP) had been delegated to make the last remaining appointment, however it was now understood that the next meeting of the INEL JHOSC was due to be held prior to the next HSP meeting. To ensure full representation of the Authority at the INEL JHOSC, the OSC was therefore invited to appoint to the remaining INEL JHOSC vacancy for the 2014/15 municipal year, in accordance with the nomination received from the THF group: Councillor Mahbub Alam.

The Chair **Moved** and it was: -

Resolved:

1. That the update contained in the oral report be noted; and
2. That Councillor Mahbub Alam be appointed to represent the Authority on the Inner North East London Standing Joint Health Overview and Scrutiny Committee (INEL SJHOSC) for the 2014/15 municipal year.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, LPG)

Mark Cairns (Senior Strategy Policy & Performance Officer, Corporate Strategy & Equality Service, LPG)

Antonella Burgio (Senior Committee Officer Democratic Services, LPG)

7.3 Appointment of Scrutiny Leads - Update (Oral Report)

The Chair Informed OSC members that:

- At the full Council AGM (11 June), the proportionality, establishment of the Committees and Panels of the Authority (including the OSC) and appointment of Members thereto had been approved. However following the revised allocation of places agreed by the full Council (30 July) further

to the review of proportionality, required after the Blackwall and Cubitt Town election (3 July), a change to the membership of the OSC had been required comprising the deletion of one THF group nominated member with a Labour group nominated member. The Interim Monitoring Officer's delegate had been notified of the Labour group nomination (Councillor Dave Chesterton) on 29 August.

- In view of this change to the membership of the OSC, and following Legal advice, the OSC was able to re-allocate one of the Scrutiny Lead appointments made at a previous OSC meeting (8 July) to reflect this change in proportionality.

Councillor Denise Jones proposed for the consideration of OSC members that Councillor Dave Chesterton replaces Councillor Md Maium Miah as Scrutiny Lead for Development and Renewal for the remainder of the Municipal Year 2014/15. Councillor Asma Begum seconded the motion. There being no other nominations it was: -

Resolved (on a vote of 5 for none against)

3. That the information contained in the oral update be noted; and
4. That Councillor Dave Chesterton replaces Councillor Md Maium Miah as Scrutiny Lead for Development and Renewal for the remainder of the Municipal Year 2014/15.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, LPG)
Mark Cairns (Senior Strategy Policy & Performance Officer, Corporate Strategy & Equality Service, LPG).

7.4 Overview and Scrutiny Committee Outline Work Programme 2014/15 (To Follow)

Frances Jones, One Tower Hamlets Service Manager, introduced and summarised key points in relation to the draft OSC Work Programme **Tabled** for discussion, a copy of which would be interleaved with the minutes.

The Chair commented that the work programme reflected the developmental discussions with Members to date, and then **Moved**, and it was:-

Resolved

1. That the substantive content of the OSC Work Programme 2014/15 be approved;
2. That the OSC Work Programme be revised to:
 - Include timescales for completion of the scrutiny activities.

- Detail Councillor Dave Chesterton as the Scrutiny Lead Member for the scrutiny challenge session “Member involvement in Section 106 decisions and the quality of Section 106 and CIL funded social housing”.
and subsequently **presented to the OSC for noting on 30 September.**

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, LPG)
Mark Cairns (Senior Strategy Policy & Performance Officer, Corporate Strategy & Equality Service, LPG).

8. VERBAL UPDATES FROM SCRUTINY LEADS

Scrutiny Lead for Adult Health and Well-being - Councillor Asma Begum

- Context, objectives and elements of methodology for challenge session (CS) “Support for Carers” outlined in **Tabled** scoping paper, a copy of which would be interleaved with the minutes To be completed in 12 weeks.
Scrutiny Lead for Communities, Localities and Culture - Councillor John Pierce
- Scoping underway with Officers for scrutiny review (SR) “Drug enforcement” and CS “Improving cycling safety”, update to next meeting
Scrutiny Lead for Resources - Councillor Abjol Miah
- Context and objectives for SR of “Customer satisfaction and value for money of leisure centres” outlined: broadly to hold leisure industry to account and establish resident views of leisure provision to ensure the service currently provided reflect needs of community. Also to examine good practice, value for money and high standards elsewhere with a view to replication at LBTH.
- Clarified that the Veolia contract would be looked at as an element of examination of the value for money of council contracts.

Chair - Councillor Joshua Peck - Conservation areas and Town Centre Policy

- Context and objectives for CS “The implications of conservation areas for the extension of family homes” outlined: broadly to examine the scope for a negotiated solution between stakeholders in protection of heritage and families needing a bigger home. To be completed before Christmas.
- Context and objectives for SR “Town centre policy and delivery” outlined, broadly that town centres were centres for local economic growth and this provided local employment and generated business rates and examining whether these were being nurtured and if not how to do so. To be completed in the New Year.

Scrutiny Lead for Children's Services - Councillor Denise Jones

- Context, objectives and elements of methodology for SR “Effectiveness of literacy and numeracy on outcomes for children & families” outlined. Broadly achievement had fallen and there was a cohort of children falling below standard. Why was this? Could they be identified earlier? What was impact of interventions? What were correlations between illiteracy and parents with low income? Young people would be interviewed.

Scrutiny Lead for Development and Renewal - Councillor Dave Chesterton

- Update to next meeting

Scrutiny Lead for Law Probity and Governance - Councillor Peter Golds

- Outlined that there would be an examination of governance and election processes incorporating liaison with the Electoral Commission, a comparative review with other boroughs eg LB Southwark and examination of the template used by John Williams (SH Democratic Services), with an update to next meeting. The chair commented that this matter was to be the topic of a spotlight later in the Municipal Year. Frances Jones undertook to liaise with John Williams with regard to scheduling the spotlight on this matter in the OSC Work Programme 2014/15.

The Chair proposed and it was **agreed that Old Ford Housing Association and therefore the Chief Executive of Circle Anglia (the owning group) be invited to attend the November or December OSC** for a spotlight on housing providers. He also concurred with a Member proposal that if there was time in the work programme Tower Hamlets Community Housing be invited to attend with a focus on their good practice. A member commented that the advice sought on minimum standards and levers of influence would be helpful for these sessions.

Dr Phillip Rice (CofE Rep) sought an update on grant funding of refurbishment of historic places of worship. The Chair suggested this be included later in the year, if possible, as a spotlight or incorporated within a Lead Member spotlight.

Reverend Olanipekun (Parent Governor Rep) enquired if co-opted OSC members would be asked to serve on the proposed SRs and the Chair responded they would be asked to do so and other Councillors too.

The Chair **Moved** and it was:-

Resolved

That the verbal updates be noted.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, LPG)

Mark Cairns (Senior Strategy Policy & Performance Officer, Corporate Strategy & Equality Service, LPG).

9. PRE-DECISION SCRUTINY OF UNRESTRICTED CABINET PAPERS

No pre-decision questions submitted to the Mayor in Cabinet [03 September 2014].

10. ANY OTHER UNRESTRICTED BUSINESS WHICH THE CHAIR CONSIDERS TO BE URGENT

The Chair commented with reference to OSC consideration of the Reference from Full Council "Investigation into the sale of Old Poplar Town Hall" on 22 July:

That he had expressed the view that it was the OSC's constitutional right to receive independent advice on the disposal process, should it consider it necessary, and had requested this should be permitted in future. He informed OSC members that there had been circuitous dialogue between the Interim Monitoring Officer and himself regarding this without result. Accordingly he **proposed** for the consideration of OSC members and it was **agreed** that the OSC formally request an independent external advisor on the law and process relating to the disposal of assets by local authorities and this be actioned/ delivered in the next two weeks.

That given the differential between the sale value and the current value of Old Poplar Town Hall the OSC had considered that an independent valuation should be undertaken. This had been undertaken by the same company that had undertaken the valuation for disposal. He had written to the Interim Monitoring Officer expressing the view that this was a clear conflict of interest and also giving his rationale. He had requested, on behalf of the OSC, that the IMO commission a further piece of valuation work, ensuring that it is done by a company with no prior interest or involvement in the sale of Poplar Town Hall. Unfortunately the IMO had advised him that he was not authorised to make this request and accordingly **proposed** for the consideration of OSC members and it was **agreed** to request that an independent valuation, as described, be carried out within a month. In the intervening period the Chair also **proposed** that **a report be presented to the OSC to be held on 30 September** in respect of the significant amount of outstanding information requested from Officers (at least 8 outstanding requests) and including the various iterations of the Mazars report.

A short discussion followed which focused on consideration that a mechanism was required through which the Chair could, on behalf of the OSC, progress matters requiring Officer action between OSC meetings, in order to obviate the need to seek formal resolutions of the OSC at their next meeting which resulted in unnecessary procedural delay.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, LPG)

Meic Sullivan Gould (Interim Monitoring Officer)

Louise Russell (Service Head Corporate Strategy & Equality Service, LPG)

Mark Cairns (Senior Strategy Policy & Performance Officer, Corporate Strategy & Equality Service, LPG).

11. EXCLUSION OF THE PRESS AND PUBLIC

The agenda circulated contained no exempt/ confidential business and there was therefore no requirement to exclude the press and public to allow for its consideration.

SUMMARY OF EXEMPT PROCEEDINGS

12. EXEMPT/ CONFIDENTIAL MINUTES

Minutes of the OSC meeting held on 22 July 2014 were unavailable and would be submitted to the next meeting for approval as a correct record of the proceedings.

13. EXEMPT/ CONFIDENTIAL REPORTS 'CALLED IN'

Nil items

14. PRE-DECISION SCRUTINY OF EXEMPT/ CONFIDENTIAL) CABINET PAPERS

Nil items

15. ANY OTHER EXEMPT/ CONFIDENTIAL BUSINESS THAT THE CHAIR CONSIDERS URGENT

Nil items

The meeting ended at 10.00 p.m.

Chair, Councillor Joshua Peck
Overview & Scrutiny Committee