

## **Cheltenham Borough Council**

### **Overview and Scrutiny – 9<sup>th</sup> January 2008**

#### **Report of the Chair of Social and Community Overview and Scrutiny Committee on the Inquiry relating to the Single Advice Contract.**

#### **1. Executive Summary and recommendation**

- 1.1 The report which I have prepared as Chairman of this committee has identified that a Partnership approach based around grant aid was not adequately examined as an alternative to the Single Advice Contract. This was contrary to a recommendation agreed by Overview and Scrutiny (Social and Community) on 2<sup>nd</sup> April 2007, and incorporated into a Cabinet resolution agreed on 17<sup>th</sup> April 2007. A key factor in this was the failure to appreciate the difference between a contract regime on the one hand and a grant regime on the other.
- 1.2 Other findings and recommendations relate to the failure of any Cabinet member to be openly accountable for the initiative; the inability of members to successfully 'call-in' the Cabinet decision of 18<sup>th</sup> July; and the need to improve resources to ensure proper scrutiny.
- 1.3 **I therefore recommend:**
  - 1.3.1 **That the Cabinet be requested to reconsider its decision relating to the Single Advice Contract, and to look again at the Partnership option based on the status quo**
  - 1.3.2 **That the Inquiry report produced by me as Chairman of this committee be accepted and forwarded to full Council for consideration as part of the budget process.**
  - 1.3.3 **That O&S make representations on an amendment to the budget as part of the budget consultation process which will reinstate grant aid to the bodies which may have been compromised as a result of the Cabinet's decision to award the single advice contract to the CAB**
  - 1.3.4 **That consideration be given as part of the budget process to increasing the resources available for proper Scrutiny, possibly by working with other Councils to achieve this.**

**1.3.5 That advice relating to the authorship of Cabinet reports be reviewed by the Chief Executive and the Monitoring Officer, and consulted on with Overview and Scrutiny Committees before going to Cabinet for approval.**

#### **1.4 Summary of implications**

**1.4.1 Financial** The tendering process resulted in a budget saving of £102,500 in a full year. The interim budget proposals for 2008/09 included a net saving of £90,000, allowing for potential residual costs in the first year of the new contract. A proposal to re-instate the grants would impact on these interim budget proposals. In order to maintain the proposed level of council tax increase for 2008/09, alternative savings of £90,000 would need to be found from another source.

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**1.4.2 Legal** These legal implications are provided in relation to the Report of Cllr Webster, Chair of Soc & Com O&S committee, and the attached document, also prepared by Cllr Webster, entitled 'Report Into Events Surrounding The Decision by Cabinet to Adopt a Single Benefits and Advice contract with Reference to the Special O&S Inquiry Held on 21<sup>st</sup> November 2007'.

Dealing firstly with the content of documents. It is noted that both documents have been prepared by and submitted in the name of Cllr Webster. The comments and statements contained within the documents are the personal opinions of Cllr Webster and by publishing these documents the Council does not confirm or attest to their accuracy. Advice as to the content of the documents was provided by Officers of the authority and this was not fully accepted by Cllr Webster. As a consequence, the authority does not accept any liability to third parties arising from the comments contained within the documents nor is it obliged to indemnify Cllr Webster for any personal liability incurred by him arising from their publication.

It is a matter for the Committee to decide as to whether it supports the recommendations and adopts the content of the attached report in whole or in part.

Turning to the substance of the recommendations themselves I would point out that 1.3.2 is not a course of action available under the present constitutional rules governing references from O&S to Full Council which are set out at Part 4C - Page 3 of the constitution. The 'Inquiry Report' concerns a decision within the sphere of the Executive decision making powers and not that of Full Council. As a consequence any referral will be to Cabinet who are then required to consider such referral in due course. Should Cabinet fail to consider the referral it within 6 weeks or some other agreed timescale, the O&S Committee may require that it is referred to be considered by a meeting of Full Council.

It is, subject to some procedural requirements, open to any Elected Member to propose a motion on notice at a meeting of Full Council. As such it would be possible for Cllr Webster to table a motion endorsing the contents of his report.

Lastly, concerning the request that Cabinet re-consider its decision to award a contract to the CAB, there may be adverse consequences for the Council should it seek to reverse this decision at this late stage. If a contract has been signed the Council would be in breach of that contract if it sought to withdraw without the agreement of the other party. The damages in such a scenario would include the costs incurred by the party in tendering for the contract and any reasonable preparatory work undertaken since notification of award.

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### **1.4.3 Human Resources**

In the previous reports relating to the Single Advice Contract it was noted that the move to a single advice contract and a potential change of supplier could result in one compulsory redundancy and therefore redeployment policies would need to be followed and advice on the process sought from the HR division. If the request to reconsider the decision relating to the Single Advice contract and to look again at the partnership option based on the status quo is accepted, the one compulsory redundancy would also need to be reviewed.

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## **2. Introduction and background**

- 2.1** As a result of a resolution of Overview and Scrutiny on 10<sup>th</sup> September an Inquiry was convened on 21<sup>st</sup> November 2007 to look at issues relating to the development of a Single Advice Contract. My Inquiry report as Committee Chairman is attached. A copy of questions asked and answers given at the Inquiry is attached to the minutes of the Inquiry meeting.
- 2.2** My conclusion as Committee Chairman is that because the officers had misunderstood the legal advice they excluded outlining the Partnership option based on the status quo as recommended by Overview and Scrutiny in its report accepted on 2<sup>nd</sup> April, and therefore failed, to implement the Cabinet resolution passed on 17<sup>th</sup> April which requested that “officers work with the voluntary organisations to develop proposals as to how the benefits of closer partnership working can deliver improved advisory services for the town”. As the Partnership approach recommended by Overview and Scrutiny could only be constructed around grants rather than contracts, it was not pursued.
- 2.3** As Committee Chairman I also pursued the following points in the inquiry:

- The advice given to officers in 'Cabinet Report Procedure Guidelines' needs to be reviewed. Cabinet Members must take more active ownership of politically contentious reports.
- The conclusion that this was about saving money, despite assurances given to the contrary, cannot be escaped.
- That, in the light of the confusion about legal advice, the decision not to allow the call in of the Cabinet decision of 18<sup>th</sup> July was disappointing.

In addition, despite it not being considered as part of the enquiry, it appears that the process of Scrutiny is starved of resources and that liaison with other bodies and councils in Gloucestershire to 'pool' O&S resources to make sure that there is proper independent support for scrutiny should be explored.

### **3.0 Future courses of action.**

**3.1.** Given what has happened, there are a number of options that O&S can pursue, as follows:

- in view of the misunderstanding on the legal rules relating to grants rather than the formal procurement of a contract, Cabinet could now reconsider its decision to award the Single Advice Contract to the CAB and look again at a partnership option. Cabinet would need to take into account any liability which may thereby be incurred to CAB in taking such a step.
- that O&S make representations on the budget as part of the budget consultation process that reintroduces grant aid,
- the Voluntary Sector bodies compromised by the way this decision was taken receive grant aid to allow them time to decide on their future (rec. 1.3.3),
- that the issues of resource availability in relation to Scrutiny be considered further.
- that advice relating to the authorship of Cabinet reports be reviewed.

### **4.0. Conclusion.**

4.1. The process involved in agreeing the policy in relation to the single advisory contract has increased tension politically and between members and officers. Any further action in pursuance of this report should seek to resolve those tensions so as to improve the way in which the Council approaches controversial and potentially divisive issues and the positive role of O&S in the process.

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**Background Papers**

Report into Events Surrounding the Decision by the Cabinet to Adopt a Single Benefits and Advice Contract with reference to the special O&S Inquiry held on 21<sup>st</sup> November 2007 (attached).

Minutes of the Inquiry into the Single Benefits and Advice Contract held on 21<sup>st</sup> November.

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