

## Cabinet

**Tuesday, 16th April, 2013  
6.00 - 7.15 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Steve Jordan (Leader of the Council), John Rawson (Cabinet Member Finance), Rowena Hay (Cabinet Member Sport and Culture), Peter Jeffries (Cabinet Member Housing and Safety), Andrew McKinlay (Cabinet Member Built Environment), Jon Walklett (Cabinet Member Corporate Services) and Roger Whyborn (Cabinet Member Sustainability)
<b>Also in attendance:</b>	Councillor Duncan Smith, Councillor Andrew Chard, Councillor Barbara Driver and Councillor Robert Garnham

## Minutes

**1. APOLOGIES**

There were none.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. MINUTES OF THE LAST MEETING**

**RESOLVED THAT**

**The minutes of the meeting held on 12 March 2013 be approved and signed as a correct record.**

**4. PUBLIC AND MEMBER QUESTIONS AND PETITIONS**

There were no public questions or petitions.

The following responses were given to the 4 member questions submitted by Councillor Rob Garnham :

1. What was the cost of removing the previous system and acquiring and installing the new system?

**Response from Cabinet Member Built Environment :**

**The cost of acquiring and installing the new parking system in Regent Arcade to replace the existing aged and unreliable machines, including upgrading works to replace computer software and changes to the barrier operation (to reduce previous problems with the entry of oversize vehicles) was budgeted at £120 000. Spend and commitments against this budget in 2012-13**

**amounted to £87 250 and it is anticipated that total costs will be well within budget.**

2. What has been the cost to date of providing assistance at each level of the car park to assist customers to operate the payment machines?

**Response from Cabinet Member Built Environment :**

**Regent Arcade has never been operated without a staffing presence and to my knowledge, no-one has been employed with the sole purpose of providing assistance with using the new machines installed.**

3. For how many hours each day and for how many days per week has it been necessary to provide this assistance?

**Response from Cabinet Member Built Environment :**

**A CBC Staffing presence is maintained within Regent Arcade during the full opening hours of the car park from 7.30 am to 12.30 am.**

4. How much revenue was lost on days when parking has been free due to the failure of the new system?

**Response from Cabinet Member Built Environment :**

**There have not been any failures of the new system simply due to it being a new system. I understand that the only down time has related to failures of the credit card element of the system (Barclaycard), linking to power outages (most recently affecting a large part of the town centre). This would have been a problem with the old system, which was subject to more frequent reliability problems.**

There were no supplementary questions.

## **5. LICENSING OF RICKSHAWS IN CHELTENHAM-REFERRAL OF THE OVERVIEW & SCRUTINY COMMITTEE**

The Leader indicated that Mr Meyer, of Rickshaw Revolution, had approached him before the meeting requesting that he ask a question at the meeting. The Leader said he had been minded to agree to this but as Mr Meyer was not present at the meeting for this agenda item that would not be possible.

The Leader invited Councillor Smith, as Chair of Overview and Scrutiny to address Cabinet. He outlined the contents of the report and highlighted that the call-in of the decision had focused on the decision-making process as opposed to taking a view on whether rickshaws should be licensed in Cheltenham. He made the following points :

- The failure of Cabinet to make their intent clear by taking a clear decision undermined their intent and created uncertainty as to the council's position. Cabinet should agree a clear recommendation in

favour or against changing the current policy and refer the matter to full Council.

- From the evidence gathered at the call-in if Cabinet were minded to defer the decision on the grounds of safety issues they need to support this with a clear and specific statement about exactly what these concerns relate to so that they can be addressed by potential applicants in any subsequent applications
- The Chief Executive should look at the process and consider where practice can be improved to ensure that members of the public are kept well informed and do not suffer unnecessary delays.
- There should be clarity of aims and desired outcomes for the applicant and this should be remedied by a clear decision being taken by Cabinet with referral to Council for approval.
- O&S were concerned that this report had not been brought to an earlier meeting of Cabinet given that the report had been finalised in early February

In response the Cabinet Member Housing and Safety observed that in his view the report did not reflect the O&S call in meeting. He explained that despite the criticism regarding the length of time taken and the manner in which the issue of licensing rickshaws had been dealt with, he was confident that it had been an open, honest and professional process. Officers had been diligent in their research in drawing up a draft policy. In terms of the safety issues there had been a number of cabinet reports and a public consultation but there were a variety of differing schemes, licensed and un-licensed. A major issue had been the complex nature of the statutory legislation which was effectively inadequate for the licensing of Hackney Carriage Rickshaws. He emphasised that rickshaws could operate in the town without a licence on a contract basis. He reaffirmed Cabinet's commitment to supporting businesses and entrepreneurs within the boundaries of the legislation.

The Cabinet Member Housing and Safety reminded those present of the resolution made at the December 2012 Cabinet meeting which was to "defer a decision on the licensing of rickshaws in Cheltenham until the outcome of the taxi and private hire licensing law reform review by the Law Commission is published in 2013/14" He then referred to an interim statement published on 9 April "During consultation many stakeholders complained about vehicles operating at the fringes of licensing, or outside licensing altogether. Pedicabs and stretch limousines are two examples that we recommend bringing clearly within the scope of taxi and private hire regulation, such that they may be controlled as necessary" It continues to state that "the Law Commission plan to publish a final report with our recommendations and a draft bill by late 2013".

On a procedural note the Chief Executive intervened and explained that should Cabinet wish to have a policy this would have to be submitted to Council for approval. If Cabinet did not wish to have a policy this decision would not need to be submitted to Council. However, he stated that any member of the Council was able to submit a motion to Council.

Cabinet Members agreed that it was important for the council to provide a coherent policy and this should be supported by government legislation. The proposed resolution was therefore explicit in that it would not licence rickshaws

within the limitations of the current legislation. This did not however prevent the operation of rickshaws on a private basis.

The Chair of Overview & Scrutiny stated that he was now happy that Cabinet was discharging its duty correctly but regretted that this had not been done at the December 2012 meeting. He emphasised that the O & S report was cross-party and the purposes of the call in was to examine how the decision was taken without taking a view on whether rickshaws should be licensed.

The Leader of the Council stated that this was a positive way forward. He recalled that the applicant, Mr Meyer, had said on a previous occasion that the draft policy devised by officers would be unworkable and in this respect it was agreed important to wait for the legislation.

## **RESOLVED**

- 1. The proposed draft policy presented to Cabinet for consideration at 11 December should not be adopted.**
- 2. The issue should be reconsidered when the outcome of the taxi and private hire licensing law reform review by the Law Commission is published.**

## **6. REPORT OF THE SEX TRADE SCRUTINY TASK GROUP**

The Chair of the Sex trade in Cheltenham Scrutiny Task Group, Councillor Driver, was invited to address Cabinet. She gave a brief overview of the report which had been endorsed by Council on 22 February 2013 and was now being forwarded to Cabinet for approval.

The Cabinet Member Housing and Safety thanked Councillor Driver and the task group for its report. The task group had recognised that combating sexual exploitation was not a primary role for the council and that there were multi-agency issues that require partners to work together to achieve the best outcomes for the people of Cheltenham. Whilst CBC had a Designated Safeguarding Officer particular reference was made to the Cheltenham Safeguarding Forum, the Positive Lives Partnership and the voluntary and community sector. The Cabinet Member therefore found it difficult that the Cabinet was being asked to agree specific actions for the council outside of the multi-agency approach. He suggested that the Safeguarding Forum consider the report at its meeting on 26 April, the Positive Lives Partnership at its meeting on 23 May and that the Safeguarding Officer collate the responses and bring a report back to Cabinet. He also suggested that the Chief Executive forward the task group report to Gloucestershire's Police and Crime Commissioner and the Police and Crime Panel inviting any comments.

The Leader of the Council thanked the working group. He said that whilst Cheltenham did not have a specific problem, a problem did exist and it was therefore appropriate to ask the relevant bodies to examine the report and this would then be fed back to Cabinet.

The Chair of the scrutiny task group then requested that these multi-agency bodies also be asked to look into the grooming of young people as the scrutiny task group had not been able to cover this issue.

The Cabinet Member agreed to take this forward. In addition the Chief Executive explained that one of the strands of work of the Police and Crime Commissioner was a "safe days and nights" group which could cover the issue of grooming of young people. There was also an area of activity on countywide domestic abuse and the Chair of this group was the Executive Director, Pat Pratley. Councillor Driver was therefore invited to feed into this group via this means.

#### **RESOLVED THAT**

- 1. The Cheltenham Safeguarding Forum consider the task group report at its meeting on 26 April 2013 to discuss how it might support the recommendations.**
- 2. Similarly the task group report be considered by the Positive Lives Partnership at their meeting on 23 May 2013.**
- 3. The Designated Safeguarding Officer collate the responses and bring a report back to Cabinet.**
- 4. The Chief Executive forward the scrutiny task group report to the Gloucestershire's Police and Crime Commissioner and the Police and Crime Panel inviting any comments.**

#### **7. REPORT OF THE UBICO SCRUTINY TASK GROUP**

The Chair of the UBICO scrutiny task group, Councillor Chard, introduced the report. The group had looked into 2 issues-the relationship between the Council and Ubico and the interruptions caused by the snow. Two issues were of particular concern to the group, namely the decision not to nominate any borough councillors to the Board and communication with the general public, an issue which came to the fore during the snow interruption.

The Cabinet Member Sustainability thanked the scrutiny task group for its in-depth work. He outlined his response to the recommendations which were laid down in his response in the reports pack. He explained that the decision regarding the nomination of councillors to the Board of Ubico was not within the Cabinet remit. However, he recognised this issue and would discuss this with shareholders of Ubico. With regard to the communication issue and the interface between the call centre team and Ubico team he explained that a systems thinking review was being undertaken and this should be completed before any consideration of the arrangements. He also explained that the review of bring site facilities should be completed by September. The Cabinet

member working group was also examining the issue of extending the group of products which could be accepted.

Whilst broadly accepting the remaining recommendations he proposed that the working group recommendations be approved subject to his explanations laid down in his response.

In terms of the service disruption the Cabinet Member explained that the issues had been well documented and it had been acknowledged by the director of commissioning and the managing director of Ubico and himself that lessons should be learnt. He outlined the issues raised in his briefing note attached to the agenda reports pack. What was most important for the future was that the council had robust continuity plans in place and communications to the public are clear. It was hoped that more resilience would be built into the system with the Joint Waste Committee which was formed on 1 April.

The Leader of the Council reaffirmed that the issue of board membership would be raised with shareholders and it was hoped that Tewkesbury Borough Council would join Ubico in the not too distant future. He explained that Cotswold DC was of the view that being a full member of the Board would restrict what the member could do but the issue should be explored further.

#### **RESOLVED THAT**

the recommendations of the scrutiny task group report (as set out at item 8 of Appendix 1 of this report) be approved subject to the Cabinet member's response as laid down in the accompanying documentation.

#### **8. REVIEW OF GLOUCESTERSHIRE HOMESEEKERS ALLOCATIONS POLICY**

The Cabinet Member Housing and Safety introduced the report and outlined the changes to the scheme in light of Welfare Reform and the increased flexibilities arising from the Localism Act. These concerned aligning the Allocations Scheme's bedroom entitlement criteria with the new Housing Benefit bedroom entitlement criteria for social housing tenants and to award additional preference and local connection to ex-members of the Armed Forces and their family members. Section 2.3 of the report and the Banding Matrix in Appendix 2 detailed additional changes which the council now wished to implement.

He highlighted that the impact of the scheme would be monitored by the Housing and Support Forum and the Access and Inclusion Group with operational issues being fed into the Gloucestershire Homeseeker's Operational Group; and strategic issues considered by the Gloucestershire Homeseeker's Management Board. It was important that this should be kept under review and this was proposed as an amendment to the resolution laid down in the report.

#### **RESOLVED THAT**

**the proposed changes to Gloucestershire Homeseeker's Allocations Policy be approved and to keep the situation under review.**

#### **9. 3RD SECTOR REQUEST FOR RETAIL PREMISES AT 39 GROSVENOR STREET**

The Cabinet Member Finance introduced the report and explained that the Council had received a request from Cheltenham Open Door that consideration be given to agreeing a rent subsidy for its project at 39 Grosvenor Street. The project satisfied 3 of the Council's key objectives and the 3<sup>rd</sup> sector panel recommended that a rent reduction of 80% be granted. Open Door was, in the Cabinet Member's view, an excellent charity which focussed on housing needs and other associated problems and relied greatly on volunteers and voluntary funding. The Cabinet Member suggested that due the contribution of Open Door to those in housing need Cheltenham Borough Homes should be approached to cover the discretionary element recommended by the Assessment Panel.

Members agreed that Open Door undertook excellent and valuable work which was vital in the light of welfare reform changes. They welcomed the suggestion to approach CBH for the discretionary element. The Leader of the Council added that CBH had adopted Open Door as charity of the year.

In the light of the discussion above the recommendations were amended to include the request to CBH to provide the discretionary element.

#### **RESOLVED THAT**

- 1. The recommendation of the 3<sup>rd</sup> Sector Panel be accepted and that the Director of Resources be authorised to administer a rent reduction of 80% against the new rent of £7,500pa associated with a new lease to be granted to Cheltenham Open Door by Cheltenham Borough Council.**
- 2. Cheltenham Borough Homes be requested to fund a further discretionary allowance of 20% upon the rent as recommended by the Assessment Panel.**

#### **10. REQUEST FOR LEASEHOLD DISPOSAL OF OPEN SPACE AT COX'S MEADOW, OLD BATH ROAD.**

The Cabinet Member Finance introduced the report and explained that the property had been declared surplus after the 2011 budget. As the property was on the edge of a public space the Asset Management Working Group agreed that the premises should be marketed for leasehold disposal for a variety of uses but excluding any form of residential or take-away use. This would give the council a degree of control of the use of the building in the future. The applicant intended to convert the building into a retail premises with a proposed use as a Florist or other retail opportunity. Due to the continuing maintenance liability of the building the only other option for the Council would be to have the building demolished.

The Leader added that the premise was not available as part of the park and advertising the leasehold disposal of Open Space was a statutory obligation and a technicality.

#### **RESOLVED THAT**

- 1. The parcel of open space land outlined in red on the attached plan (attached as Appendix A) being the former public convenience building at Cox's Meadow, Old Bath Road,**

**Cheltenham be declared surplus and to authorise the placing of a Public Notice pursuant of Section 123(2A) of the Local Government Act 1972 in respect of the leasehold disposal of the said parcel of open space land**

- 2. That any objections and representations which might be received in response to the advertisement be considered by Cabinet before making a final decision concerning disposal of the land.**
- 3. That should no objections or representations be received in response to the advertisement, that Cabinet declare the land surplus and the matter is delegated to the Head of Property and Asset Management to finalise and complete an appropriate lease.**

**11. COMPULSORY PURCHASE RESOLUTION - 8 GOLDEN MILLER ROAD**

The Cabinet Member Housing and Safety introduced the report and explained that since 8 Golden Miller Road, a privately owned property, had become vacant in 2003 the property had deteriorated and complaints had been received by the council. All negotiations to improve the property and bring it back into residential use had failed and negotiations to purchase the property had also failed. Whilst compulsory purchase was seen as a last resort it must now be considered as a means to bring the property back into residential use and allow renovation to improve its appearance and prevent further loss of amenity to the area.

Members agreed that compulsory purchase was an important signal that the council would not tolerate properties which were in a state of disrepair and that due to the chronic shortage of housing in the town the council would not accept long term empty properties.

**RESOLVED THAT:**

- 1. the making of a Compulsory Purchase Order ('the Order') under section 226 (1)(a) of the Town and Country Planning Act 1990 to acquire 8 Golden Miller Road, Cheltenham, as shown edged red on the attached plan (Appendix 2) (the Order Land) be authorised.**
- 2. the Enforcement Manager be authorised to make any necessary minor or technical amendments to the boundaries of the Order Land.**
- 3. the Borough Solicitor be authorised to seal the Order and to take all necessary steps, including the publication of all statutory notices and defend the Council at Public Inquiry if necessary, to secure confirmation of the Order and the vesting of the Order land in the Council.**
- 4. the Enforcement Manager be authorised to continue to negotiate with the owners of interests in the Order Land to secure a purchase of the Order Land prior to confirmation of the Order**

5. **In the event that the Secretary of State notifies the Council that it has been given power to confirm the Order, authorise the Borough Solicitor to confirm the Order.**

## **12. QUARTERLY BUDGET MONITORING REPORT (AS AT END OF FEBRUARY 2013)**

The Cabinet Member Finance introduced the report and explained that the projected total budget saving amounted to £212 100. This had been achieved through the hard work of officers and success in terms of above target income for the Town Hall, income from investments and the provision of project management services to other councils.

He explained that Cabinet was being asked to approve the write off of irrecoverable business rates debts totalling £68 587.90. These debts related to companies which have ceased trading and there are no available enforcement procedures available.

The Cabinet Member Finance explained that Cabinet and Council would have to decide in June 2013, when outturn was finalised, how to apply the budget saving bearing in mind the need to keep the level of reserves robust and the uncertainty surrounding possible future budget funding gaps. Cabinet would be seeking Council approval to set aside part of the underspend to create a provision to fund the safety net threshold for any additional expenditure relating to the new business rate retention scheme.

Tribute was paid to the sound financial management of the council and the hard work of officers.

The Leader of the Council said that this was a positive report. He referred to the discretionary rate relief scheme whereby £100k had been provided by central Government to facilitate high street revitalisation. Take up of the scheme had been low so officers were looking at ways to attract more claims in the future.

### **RESOLVED THAT**

1. **the contents of this report including the key projected variances to the revised 2012/13 budget and the projected total budget saving of £212,100 be noted.**
2. **in principle, recommend to Council, as part of the 2012/13 outturn report to Council on 24<sup>th</sup> June 2013, that this projected budget saving be used to create a provision to fund any additional expenditure relating to the new business rates retention scheme and any possible future fluctuations on business rates (paragraph 4.2).**
3. **the write off of irrecoverable business rate debts totalling £68,587.90 (paragraph 4.3) be approved, noting that doing so does not impact adversely on the Council (paragraph 4.4).**

## **13. REGULATION OF INVESTIGATORY POWERS (RIPA) -REVISED POLICY GUIDELINES**

The Cabinet Member Corporate Services introduced the report which updated Cabinet on the new Regulation Investigatory Powers Act (RIPA) and codes of practice; summarised the new duties and responsibilities this legislation placed

on local authorities, officers and members and recommended amendments to the procedural guide to meet these.

He highlighted that the Council's power to undertake direct surveillance was limited to offences that have a custodial sentence of 6 months. These concerned criminal offences punishable by a term of at least six months imprisonment or criminal offences relating to the under-age sale of alcohol or tobacco. He stated that local authorities were now required to obtain judicial approval from the Magistrates Court before they can use their existing RIPA powers. The central record of authorisations would be held and maintained by the Corporate Governance Risk and Compliance Officer.

In response to a question on the number of cases of suspected fraud the Cabinet reported that in the last 12 months there had been 56 cautions, 23 prosecutions and 18 administrative penalties.

Members welcomed the changes and said that the requirement to obtain judicial approval from the Magistrates Court would provide the public with reassurance.

#### **RESOLVED THAT**

- 1. the changes to the RIPA process made by the Protection of Freedoms Act 2012 be welcomed;**
- 2. the revised RIPA Policy Guidelines be approved; and**
- 3. the designation of the nominated Executive Director as the Council's Senior Responsible Officer for the purposes of RIPA be approved.**

#### **14. BRIEFING FROM CABINET MEMBERS**

The Cabinet Member Sustainability referred to the briefing note included in the agenda reports pack on Council activity on adapting to climate change. All divisions were required to undertake risk assessments to identify the vulnerability of their particular services to climate change and identify actions to mitigate climate risk.

#### **15. CABINET MEMBER DECISIONS TAKEN SINCE THE LAST MEETING OF CABINET**

The Leader informed Cabinet that he had taken a decision giving shareholder approval to Ubico to enter into a contract with Gloucestershire County Council for Ubico Limited to supply Grounds Maintenance Services for a contract term of 7 years and a contract with Zurich Municipal Insurance for the provision of insurance to Ubico Limited for a contract term of 3 years at an annual premium of £198,783.

The Cabinet Member Housing and Safety reported his decision to pay £30 000 to the Cheltenham, Cirencester and Tewkesbury District Citizens' Advice Bureau.

The Cabinet Member Finance informed members that he had made a number of decisions relating to the disposal of Housing Revenue Account properties,

the capital receipt of which would be reinvested in the provision of affordable housing. He also referred to a decision taken relating to the disposal of the freehold interest in the land at Bennington street, accepting the tender for the provision of garage renovations for council owned residential properties and the decision in the framework of the St Paul's Phase 2 redevelopment concerning the construction of a new dwelling and the disposal of 2 properties.

**Chairman**