

SCRUTINY BOARD (CENTRAL AND CORPORATE)

THURSDAY, 9TH APRIL, 2009

PRESENT: Councillor M Dobson in the Chair

Councillors B Anderson, B Atha, J Bale,
S Bentley, B Chastney, P Ewens, C Fox,
P Grahame, M Hamilton, J Illingworth,
J Jarosz, and B Selby,

Also present Councillor G Driver, P Gruen, K Renshaw
and N Taggart

98 Late Items

Reference was made to two additional items of information circulated after agenda despatch:-

- (i) A summary provided by the Director of Resources and the Chief Officer – Human Resources, outlining the background to the publication of the Called-In delegated decision ref D35201;
- (ii) A letter from the Joint Trade Union Committee, Leeds City Council, outlining the background to the present dispute they found themselves in with the Council, and the issues from the trade union perspective.

99 Declarations of Interest

Councillor Renshaw declared a personal interest in Agenda Item 7 (Minute No 102 refers) in her capacity as a member of the trade union UNISON (see also later Minute No 102).

100 Apologies for Absence

Apologies for absence from the meeting were submitted on behalf of Councillors Davey (sub. Jarosz), Dowson (sub. Illingworth), Kendall (sub. Anderson), Lowe (sub. Grahame) and Wadsworth (sub. Fox).

101 Call-In Decision - Briefing Paper

The Head of Scrutiny and Member Development submitted a report regarding the procedural aspects of the Call-In process.

Members were advised that the options available to the Board in respect of this particular called-in decision were:-

Option 1 – Release the decision for implementation. Having reviewed the decision, the Board could simply decide to release it for implementation. If

this option was chosen, the decision would be released for immediate implementation, and the decision could not be called-in again.

Option 2 – Recommend that the decision be reconsidered. Having reviewed the called-in decision, the Board could recommend that the Director of Resources reconsider that decision. If this was the Board's decision, then this would be conveyed to the Director within three working days of the meeting. The Director would then reconsider the original decision which had led to the call-in meeting, and would publish the outcome of his deliberations and his decision again via the delegated decision system. This decision could not be called-in again, whether or not it varied from the original decision.

RESOLVED – That the position be noted.

102 Review of Called-In Decision - Budget Action Plan Staffing Issues

The Head of Scrutiny and Member Development submitted a report setting out the details of the following delegated decision (ref D35201) of the Director of Resources, which was the subject of the Call-In:-

Consultations and negotiations with the trade unions have been held regarding a range of measures to change terms and conditions. The Director of Resources has agreed that these will now be implemented with effect from 1st April 2009. The changes are:

- charging staff for the use of city centre car parking permits

- revising the Council's Managing Work-force Change Policy; which includes reducing the period before notice of to end employment will be given from 12 to 9 months

- changing the timing extra-statutory holidays to ensure services are open on the Tuesdays after bank holiday Mondays at Easter, and Spring and August bank holidays.

NB Since putting this decision in the Forward Plan, the number of permits taken is 207, generating less than £100k, making this a major rather than key decision.

The above decision had been called-in for review by Councillors Gruen, Taggart, Driver, Renshaw and Nash on the following grounds –

- Due consultation, and the taking of professional advice from officers;
- Clarity of aims and desired outcomes;
- An explanation of the options considered and details of the reasons for the decision.

In response to the Call-In notice, the following people were present at the meeting, and either presented evidence or responded to Members' queries and comments:-

Councillors Gruen, Taggart, Driver and Renshaw
Paul Rogerson, Chief Executive
Lorraine Hallam, Chief Officer – HR
Helen Grantham, Catherine Marchant and Val McLaughlin, HR
Dave Roberts, Secretary, LCC Joint Trade Union Committee
Dick Banks, UNITE
Brian Mulvey, UNISON
Lynn Brook, GMB

In brief summary, the main discussion points were:-

- Whether or not the decision had been correctly interpreted by the Director of Resources as a 'major' decision, as opposed to a 'key' decision, within the definitions of each category contained within the Council's Constitution.

In view of the fact that the called-in decision directly related to Council staff, and not the general public or service users, a view was expressed that to try to categorise it as a 'key' decision, on the grounds that it was likely to have 'a significant effect on communities living and working in an area comprising two or more Wards' was too liberal an interpretation of the definition of a 'key' decision;

- The timescale for the publication of the called-in decision, and why insufficient time had been allowed under the Council's formal constitutional arrangements for the decision to be published and subject to the normal call-in arrangements before the proposed implementation date of 1st April 2009 had passed.

An explanation was provided that, due to an administrative misunderstanding, the actual decision had been published on 25th March, as opposed to 23rd March, the day the decision had been signed-off, and this two day delay had directly led to the five day call-in period overlapping the proposed implementation date of 1st April.

Members expressed dismay at this set of circumstances, especially as the issues contained in the decision had been the subject of active discussion and consideration since December 2008. Members also expressed their dismay and frustration that this was the third time in the current municipal year that the Council's decision making process had been subverted, despite instructions being issued by the Monitoring Officer following earlier breaches of the procedures;

- The reasons for and the relative merits, or otherwise, of the proposed changes contained in the called-in decision, with contributions from the Council's officers, Members and the trade union representatives present.

Whilst differing views were expressed, the Board as a whole expressed concern at the conflict situation which the Council currently found itself in vis-à-vis the trade unions, and expressed a desire to see a restoration of proper and meaningful consultations and negotiations on the whole range of issues affecting Council Services;

- The level of involvement, if any, of Executive Members in the decision making process.

(N.B. During the course of the discussion of this item, Councillor Illingworth declared a personal interest, in his capacity as a member of ASTMS).

103 Outcome of Called-In Review

Following consideration of the evidence presented to them, and the questioning of witnesses, the Board unanimously passed the following resolution:-

RESOLVED –

- (a) That the decision be referred back to the decision maker for re-consideration;
- (b) That in addition, the Board express a deep dissatisfaction that the Council's Constitution has been by-passed, and that clearly these changes were effectively implemented prior to the delegated decision being taken, and without proper regard to the Council's Constitution;
- (c) That in addition to our concerns about the constitutional issues, the Board is also keen to state that proper and meaningful consultations and negotiations should be continued with trade unions on a range of issues concerned with maintaining a high level of Council services in an increasingly difficult economic climate;
- (d) That the Board is disappointed that this is the third occasion this municipal year in which the Council's decision making process has been subverted, despite instructions from the Monitoring Officer, and urges Executive Members to ensure that future decisions are made in a constitutional and timely manner.

A further proposed resolution – 'that Board Members were conscious that these decisions were a consequence of political decisions, and therefore acknowledged the responsibility Executive Members had in this process' – was defeated by 5 votes for to 7 votes against.

The Chief Executive undertook to relay the Board's decision to the Council Leadership Team. For the sake of clarity, the Chief Executive also stated that practically, it was too late to suspend the actions contained in the referred back decision which related to the imminent extra-statutory Tuesday being a normal working day, or the actions taken to deduct car park pass monies from staff salaries in April. Arrangements had already been made for Council offices to open next Tuesday, and staff and the public had been informed.

The meeting concluded at 3.03 pm.