

CORPORATE RESOURCES OVERVIEW & SCRUTINY COMMITTEE

28 JULY 2022

Minutes of the meeting of the Corporate Resources Overview & Scrutiny Committee of Flintshire County Council held remotely on Thursday 28 July, 2022

PRESENT: Councillor Richard Jones (Chair)

Councillors: Bill Crease, Chris Dolphin, Alasdair Ibbotson, Vicky Perfect, Kevin Rush, Jason Shallcross, Sam Swash and Linda Thomas

SUBSTITUTIONS: Councillor Bernie Attridge (for Councillor Mike Peers) and Councillor Ryan McKeown (for Councillor Ron Davies)

ALSO PRESENT:

Councillor Debbie Owen (as an initiator of the call in)

Councillors: Dave Hughes (Deputy Leader of the Council and Cabinet Member for Streetscene and the Regional Transport Strategy) and Christine Jones (Deputy Leader - Partnerships - and Cabinet Member for Social Services) were in attendance as observers

CONTRIBUTORS: Councillor Ian Roberts (Leader of the Council and Cabinet Member for Education, Welsh Language, Culture and Leisure), Chief Executive, Chief Officer (Governance), Corporate Finance Manager, Strategic Executive Officer and Strategic Finance Manager - Financial Strategy and Insurance

IN ATTENDANCE: Team Leader – Democratic Services

16. DECLARATIONS OF INTEREST

None.

17. CONSIDERATION OF A MATTER REFERRED TO THE COMMITTEE PURSUANT TO THE CALL IN ARRANGEMENTS

The Chief Officer (Governance) explained the procedure for the call in of a Cabinet decision as detailed in the supporting document. The Cabinet had considered a report on 'Annual Review of Fees and Charges 2022' at its meeting on 12 July 2022. The decision (Record of Decision 3991) had been called in by Councillors Bernie Attridge, Helen Brown, Bill Crease, Richard Jones and Debbie Owen. Copies of the Cabinet report, the Record of Decision and Endorsement of Call in, which identified three reasons for the call in, were included in the agenda pack.

18. ANNUAL REVIEW OF FEES AND CHARGES 2022

Representations from call in signatories

Councillor Bernie Attridge commented on the reasons given for the call-in, which he said was very broad, and outlined the questions he had as follows:-

1. Could officers confirm the differences between versions 2 and 3 of the Income Generation Policy (IGP).
2. Does the Cabinet Member think it is acceptable to increase fees and charges for cemetery services by 6% when there is no proposed increase to fees and charges for civil parking enforcement?
3. Why have the fees and charges relating to Marriage celebrations increased considerably?
4. The IGP requires consideration of the impact of fees and charges on communities. Does the Cabinet Member believe the impact of the increased fees and charges was acceptable?
5. Which Members sit on the Programme Board, that considers the proposed changes to fees and charges, as outlined in the IGP; and
6. Where are the comments made by the Programme Board, in relation to the proposed increases to fees and charges?

Councillor Attridge referred to reason 1 for the call in which related to a rent increase of 88% to a community group which was felt would have devastating consequences and if replicated across Flintshire would cause social implications for other community Groups. He raised concerns around the proposed increase, which he believed had been proposed due to the rent not being reviewed by the Council for a number of years and did not feel that the community group should be penalised for this. He said that this was simply not acceptable.

Councillor Bill Crease felt that the proposed 88% rent increase for a community group was an example of what could go wrong when trying to apply a standard measure across the board. He said that the group affected had spent a great deal of time improving, without measure, a resource for the community and had run many sessions which had benefited the immediate and wider community. He felt that due to a failure of the Council in managing its leasing policy properly and to apply rent reviews in a standard way, this community group were faced with an 88% increase for renting a resource which the Council, Ranger Service and Wepre Park did not have to provide any financial contribution towards.

The Chairman, as a signatory of the call-in, commented on room hire within the list of fees and charges which had not been increased and the youth and community services room hire which had increased by 6% and asked why there was this disparity. In relation to the IGP, he commented on the statement within the Policy that services should be prepared to provide supporting information to demonstrate full cost recovery or market rate comparison was being achieved, where permitted, and suggested that the Committee, at a future meeting, be provided with the full costs in order to compare to market rates. He also commented on the statement within the Policy that intelligence would be gathered to understand the ability of customers to pay. He asked the Cabinet Member whether when discussing fees and charges, was the Programme Board provided with evidence that customers had the ability to pay.

Responses from the decision makers

The Chief Executive explained that the proposed 88% increase in rent to a community group related to a lease and did not fall within the remit of the IGP and was not included in the list of fees and charges report presented to Cabinet.

He advised that leases were negotiated individually and that the lease raised by the signatories was currently being negotiated and correspondence had been sent to the community group, without a response received. This was a live matter with further conversations to take place. In relation to leases, there was a different delegation, bespoke to the relevant proper officer for property, as set out in the Constitution, which covers granting of leases or the renewal or restructuring of leases.

In response to the concerns around the community group not being given notice of the increase, the Chief Executive explained that when a lease was coming to an end or a lease was being reviewed there was discussion on-going with the community group affected. He said that he would expect that discussion to continue over a period of time, so there was scope for negotiation on a lease. In terms of lease review dates, this also fell within the delegated function of the proper officer. Lease reviews are undertaken regularly, and, for clarification, the lease of the community group raised by the signatories had expired, therefore it was necessary to review the lease and hold discussion on whether they would like to continue with a new lease or hand over to another organisation. He felt that this was a fair and equitable position for everyone who had a lease with the Council.

In response to the lack of discussion at Scrutiny, the Chief Executive explained that through delegation to Chief Officers, they have the delegation to determine, through discussions, the levels being set within fees and charges, as set out within the Constitution.

In response to the question around marriage celebrations, the Chief Officer (Governance) explained the differences between statutory and discretionary fees. Where a fee was described as statutory, they were set and no change could be made to these, whereas, where a fee was described as discretionary, there was discretion to the fees set, but this did not mean the Council could set any amount it wanted. The Registrars Service fell under discretionary fees, but the Council was required to break even on the cost of the service over a 3 year period and Members would see that some fees had increased with others being decreased, which related to the need to balance out across the market. The Customer Contact Service Manager, before proposing changes to the fees, carries out complex calculations and this information maybe something the Committee would wish to view at a future meeting.

In relation to how the Council set the inflation rate, the Strategic Executive Officer explained that there were 3 inflation rates that could be used, and when looking at the normative, that was the consumer prices index with housing costs, and it would normally be taken from the year in which the annual review was taking place, as outlined within the IGP. The first version of the IGP was dated October 2017 with the first annual review being undertaken in 2019. During the review, there was a need to make the Policy more robust in terms of process and those changes were reported to Scrutiny and Cabinet in 2019 which allowed for the IGP to be updated to highlight the inflation indexes used. There was recognition that there were some competing and contrasting principles set out within the Policy and they related to the achievement of full cost recovery and balancing that against the other principles contained in the IGP.

In relation to changes between versions 2 and 3 of the IGP, the Strategic Executive Officer explained that there had been minimal changes which related to clarifying some roles and responsibilities so that they were consistent and clear throughout the IGP. In response to the question on the role of the Programme Board, the Strategic Executive Officer advised that the role of each portfolio Programme Board was to monitor income generation including fees and charges, as outlined in the IGP. The annual review starts in April of each year, where the inflation rate is considered prior to liaising with each service area responsible for fees and charges.

The Corporate Finance Manager clarified the process undertaken by the finance team, explaining that the role of the team was to co-ordinate the application of the agreed IGP. Firstly, there was a need to agree what the annual uplift would be, and based on the IGP, at the end of March this was agreed at 6%. Following this, a 6% uplift was applied to all applicable fees and charges, as per the schedule, before being shared with all Chief Officer colleagues, who in turn, following our professional opinion and principles within the policy, decided whether to recommend the 6% uplift or an alternative to the relevant Cabinet Member. The changes to fees and charges would come into effect from 1st October 2022, so subject to approval, there would be time to advise customers of the intended increases.

In response to a question on the budget impact, the Corporate Finance Manager advised that all recommended uplifts to fees and charges equated to around a £50,000 contribution to the budget in-year. This would be rolled forward into next year as an efficiency net income target which would still have to be achieved in the budget.

In response to the question around civil parking enforcement, the Chief Officer (Governance) advised that this had a slightly different statutory regime. All monies collected from car parking charges should be accounted for, and whilst the Council could increase charges for the cost of civil parking enforcement, the money collected could only be spent on certain things, such as, traffic management, public realm improvements within car parks and public transport.

The Leader of the Council, Councillor Ian Roberts gave apologies for the Cabinet Member who had been unable to attend the meeting and commented that the impact of Council decisions on communities was at the forefront of all decision-making processes and that there was consideration for people's ability to pay for any increases to the cost of services. He also spoke of fairness, which he said was another consideration at the forefront of decision making. In relation to civil parking enforcement charges, Councillor Roberts said that if the Committee wanted to increase the charges, then this should be referred to Cabinet to consider. He said that when he became Leader he was surprised that leases were not reviewed more frequently and that together with fees and charges these were being reviewed and that the impact of community groups were taken into account, but as the Chief Executive had already advised, a response was being awaited from the community group referred to by the signatories of the call-in, and whilst the impact on communities was important, there had to be a level of charge for the level of service being provided.

In response to the comments made by Councillor Roberts, the Chairman asked if the ability of customers to pay increased fees and charges was also considered as he was concerned that there were some who would not have this ability. Councillor Roberts referred the Chairman to decisions taken by the Council during the pandemic and the support provided to people who were facing financial difficulties. The Chief Executive advised that there were concessions, as outlined within the IGP.

In response to comments made by the Chairman around the increase of civil parking enforcement charges to compensate for other increases, such as, cemeteries and room hire, Councillor Roberts clarified that if the Committee wished to increase fees and charges on civil parking enforcement by 6% this would need to be a recommendation from the Committee.

The Chief Executive in clarifying the comments made by Councillor Roberts around tenancies and reviews. He explained that it was not possible to apply a simple logic to tenancies that had rent reviews (and review dates) set out within the legal framework of the lease agreement. When reviews are undertaken the rent currently being charged would need to be considered in light of the current market rate as part of that review or catch up as part of the renewal of that lease.

The Chairman suggested that the Committee may wish to consider asking Cabinet to consider increasing fees and charges for civil parking enforcement in order to bring down fees and charges on cemeteries and youth and community room hire. The Strategic Executive Officer referred to previous comments made by the Chief Officer (Governance) and said that the Committee should be mindful that some fees and charges would be set by legislation and would have legislative requirements and it may not be possible to over cost recover in one area to support another. Where there were statutory requirements with fees and charges, this superseded the IGP in a way.

The Strategic Finance Manager (Financial Strategy and Insurance) clarified that it was not proposed to increase fees and charges for youth and community room hire and that the fee would remain the same in 2022 as it had been in 2021.

Questions from Committee Members

Councillor Sam Swash said that there was no item shown in the schedule of fees and charges that contained an increase of 88%. He raised concern that the call-in gave Members of the Committee no details in which to make an informed decision and that a number of new issues had been raised during the meeting, which had not been referenced in the call-in notice. He said that he could see no good reason why details of what was being challenged would be withheld from the Committee until the meeting itself and felt that this denied Members the opportunity to undertake their role on the Committee and scrutinise the decision fully.

Councillor Chris Dolphin, whilst praising the Chairman for his knowledge, questioned whether the vice-chair should have chaired the meeting given that he was a signatory of the call-in. The Chief Officer (Governance) explained that he

had provided the Chairman with advice prior to the meeting and had advised that if the Chair is present at a meeting, then they must proceed as Chair, as set out in the Constitution.

Councillor Alasdair Ibbotson raised concern that information on cemeteries and civil parking enforcement had not been shared with the Committee in advance to form a view. He commented on the rent increase of 88% to a community group, as outlined in the call-in notice and said that whilst this was a significant year on year increase, no evidence had been provided by the signatories of the call-in that the policy relating to evaluation had not been complied with at this time. He questioned whether the contract had operated under the proper rate previously and whether this could have been a breach of the policy, where there could be a credible argument of favouritism from other community groups. He said that whilst no increase in rent during the pandemic was understandable, he questioned who had authorised the rent level prior to the pandemic, and whether one group in one community had been favoured over others.

The Chairman said that the signatories accepted that reason 1 shown in the call-in notice should not have been included and as a result lease agreements would not be discussed at the meeting.

Councillor Dolphin sought further information on the role of the Programme Board, as he felt Councillor Attridge's question around this had not been addressed. Councillor Attridge asked whether decisions on fees and charges were made by the Programme Board or delegated to the relevant officer. The Chief Executive advised that Programme Boards do not make decisions. As part of the Programme Board meetings, there would be active discussions with the Cabinet Member on fees and charges, but the decision was ultimately delegated to the Chief Officer to put forward proposals to Cabinet for a final decision.

The Chairman thanked Members of the Committee for their contribution and said that all Members were minded to get the best deal for the people of Flintshire and felt that an increase in fees and charges for civil parking enforcement should be considered by officers in order to compensate for other fees and charges shown in the schedule.

The Chief Officer (Governance) reminded the Committee of options for decision-making as detailed in item 3 of the agenda.

Councillor Attridge moved Option 3, and this was seconded by Councillor Crease.

The Chairman sought clarification that the proposal put forward by Councillor Attridge included that Cabinet be asked to consider increasing fees and charges for civil parking enforcement in order to reduce fees and charges shown in the schedule, such as, cemeteries. Councillor Attridge confirmed that this was included within the recommendation.

Councillor Ibbotson proposed an amendment to the proposal put forward by Councillor Attridge, that the number 3 be amended to number 1 in the

proposal. The Chairman sought advice on whether this was an amendment, as he felt this was different recommendation.

The Chief Officer (Governance) advised that the Committee vote on the proposal put forward by Councillor Attridge and if the unsuccessful then Councillor Ibbotson could propose that the Committee support Option 1.

The Chair invited the initiators of the call in to sum up.

Councillor Attridge commented that he had nothing further to add and felt that the position of the signatories of the call-in had been laid out clearly for the Committee.

The Chief Executive commented that the call-in should not have been a call-in today as the issues were relating to a lease and they did not relate to the fees and charges and IGP. The issues around fees and charges have been debated with the points raised having been fully answered.

The Chairman said that the call-in had been accepted and therefore it was appropriate for it to be considered.

Following advice from the Chief Officer (Governance), it was conformed that Councillor Ibbotson could speak to the proposal, prior to a vote being taken by the Committee.

Councillor Ibbotson said that the Committee had not had the opportunity to consider the issues raised by the signatories of the call-in in advance and this did not allow Members to do their job in scrutinising the issues properly. He spoke on the proposal around fees and charges for civil parking enforcement and the advice given by officers that revenue for these charges should be ringfenced for highway issues. He was concerned that if the proposal to support Option 3 was supported, that the Committee would be asking Cabinet to put the Council in an un-lawful position.

The Chairman said that this was an opportunity for the Committee to ask Cabinet to address the discrepancies in the fees and charges. He challenged that the decision would be unlawful and said that it would only be unlawful if the money being collected was greater than the service provided.

The Chair asked Members of the Committee to vote on Option 3. When put to the vote the proposal was lost.

Councillor Ibbotson moved Option 1, and this was seconded by Councillor Swash.

The Chair asked Members of the Committee to vote on Option 1. When put to the vote the proposal was carried.

The Chairman thanked everyone for their attendance and contributions.

RESOLVED:

That having considered the decision, the Committee was satisfied with the explanations received and therefore the decision may now be implemented.

19. MEMBERS OF THE PRESS IN ATTENDANCE

There were no members of the press in attendance.

(The meeting started at 10.00am and ended at 11.30am)

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Chairman