

OVERVIEW AND SCRUTINY COMMITTEE

22 APRIL 2013

Present: Councillor A Khan (Chair)
Councillor
Councillors J Aron, N Bell, K Collett, G Derbyshire,
S Greenslade, M Hofman, R Martins and S Rackett

Also present: Councillor Jagtar Singh Dhindsa, Councillor Peter Jeffree
and Councillor Mo Mills
Councillor Derek Scudder (Portfolio Holder for Environmental
Services and representing Cabinet)
Jon Dunn, Unison representative

Officers: Executive Director Services
Head of Legal and Property Services
Committee and Scrutiny Officer

66 **APOLOGIES FOR ABSENCE/COMMITTEE MEMBERSHIP**

There was a change of membership for this meeting: Councillor Derbyshire replaced Councillor Hastrick.

67 **DISCLOSURE OF INTERESTS (IF ANY)**

There were no disclosures of interest.

68 **FINAL DECISION ON SERVICE RE-DESIGN OPTIONS FOR PARKS AND OPEN SPACES, STREET CLEANSING AND WASTE AND RE-CYCLING (PART A REPORT)**

The Cabinet decision taken on 3 April 2013, minute reference 83, regarding the final decision on selecting a Preferred Bidder to provide Parks and Open Spaces, Street Cleansing and Waste and Recycling services had been called in by Councillors Bell, Dhindsa and Mills. The reason for call-in was included as part of the agenda for the meeting.

The Scrutiny Committee received a copy of the Cabinet report, the relevant minutes, the completed call-in proforma and details of the call-in procedure. It was noted that the call-in also referred to minute reference 85 which, due to commercial sensitivity, contained confidential information about the evaluation process.

For the benefit of the public present, the Chair explained how scrutiny was a vital component of local government decision-making. It enabled Councillors to challenge Executive decisions.

The Head of Legal and Property Services informed Members that some of the questions raised within the call-in proforma would need to be discussed under the closed part of the meeting due to the nature of information requested. Following a request by Councillor Dhindsa, one of the Councillors who had called in the decision, the Head of Legal and Property Services explained that question 3 referred to detailed figures and this information was commercially sensitive and could be detrimental to the Council and bidders if revealed. Question 4 related to job losses and would need to be discussed both in the public and closed parts of the meeting; the information regarding the in-house benchmarking was already in the public domain whereas the information from the external bidders was not. Finally question 7 referred to sanctions and any discussions on this matter would have to be discussed on the closed part of the meeting as the contract had not yet been signed.

Councillor Dhindsa commented that if the information about job losses was not yet available then it should be discussed in public. He also felt that the sanctions should be discussed in public.

The Head of Legal and Property Services advised that the reason the sanctions should be discussed in private was to protect the Council, as the contractual agreement had not yet been signed.

Following a further comment from Councillor Dhindsa, the Executive Director stated that the Council had yet to receive the final measures letter which would contain any details about job losses. In the public part of the meeting it would be possible to provide Members with details of the quantum as discussed at Cabinet.

Councillor Dhindsa asked for an explanation as to why the Portfolio Holder for Community Services was not present at the meeting.

The Portfolio Holder for Environmental Services, Councillor D Scudder, explained that it had been agreed that he would attend Overview and Scrutiny Committee to answer any questions on behalf of Cabinet.

Councillor Dhindsa responded that it was the Scrutiny Committee's right to be able to question other relevant Portfolio Holders.

The Chair invited Councillor Bell to present the call-in.

Councillor Bell read the details of the call-in which had been submitted by himself and Councillors Dhindsa and Mills. He advised that he had one witness, Jon Dunn, a representative from Unison.

The Head of Legal and Property Services reminded Members that Mr Dunn was present to make a statement on behalf of the Union and not to be cross-examined.

Mr Dunn informed the Scrutiny Committee that the Union had met with officers on two occasions in order to discuss the proposals. In addition the Union had sought its members' views on the reorganisation. Unison could not recommend the proposals contained in the in house benchmark to its members. The reasons were set out in the statement which was attached to the Cabinet report. He added that the Council was aware that the Union objected to privatisation. Unison was unable to compare the in-house benchmark with the external bidders as it was not party to the information contained in the confidential report to Cabinet. Staff were facing an uncertain future and the agreement should include long term protection, for up to seven years. He advised that there was confusion why the contract had been set for seven years and not a shorter period.

Mr Dunn stated that Health and Safety was a big concern. Further information was needed from Veolia regarding the statement about accidents and RIDDOR. Staff had commented that they had not been able to see where savings could be made. Mr Dunn finished by stating that Watford Borough Council should promote local jobs for local people.

Following questions from Councillor Martins, Mr Dunn replied that the in-house benchmark had proposed a four-day week, annualised hours and redundancies. There were Health and Safety concerns. The full reasons were included in the response to Cabinet. The Union's concerns needed further discussion.

The Executive Director informed the Scrutiny Committee that in-house benchmark had been put together by the three Section Heads of the affected services. They were supported by Human Resources, Legal and the Heads of Service. Staff had also provided suggestions on how savings might be made. The information had been put together and then shown to Unison. At this point it was not part of a formal consultation process, as the Council had not yet made a decision on the preferred way forward.

Councillor Martins asked for a clearer definition of the 'living wage' referred to in the call-in.

Councillor Bell explained that there was a London Living Wage which had support from the Mayor of London, Boris Johnson, and the Deputy Prime Minister, Nick Clegg MP. The call-in asked Cabinet to include in the contract that all Watford staff would receive this.

Councillor Martins said that generally he would support this but Members had not discussed what this would mean for the Council and its staff.

Councillor Rackett reminded Members that Councillor Brandon had raised this question at the last Council meeting in March. At the time the Mayor had responded that all Council staff were paid a London Living Wage.

Councillor Rackett commented that his question related to a two-tier workforce. He asked if the Union representative had any experience of staff motivation in two-tier structures.

Mr Dunn said that it could be very difficult as people could be on different salaries and different annual leave arrangements. People could become demoralised which impacted on their work.

Councillor Derbyshire said that he could elaborate further on the matter of hourly rates of pay. He commented that at Cabinet the Mayor had stated that nobody on the Watford staff was paid less than the Living Wage. The last time the Living Wage was reviewed by the Joseph Rowntree Foundation it had been set at £7.45 per hour. At Watford Borough Council the lowest pay scale was not used, therefore the lowest hourly rate was £7.53. It was also above the minimum wage of £6.19. He asked for confirmation that the staff would be transferred under TUPE arrangements.

The Executive Director confirmed that staff would be transferred under TUPE on their current pay scales.

Councillor Bell stated that as at Cabinet, he and his colleagues were concerned about the future and wanted this detail written into the contract.

Councillor Aron asked whether Veolia would make fewer people redundant than the number indicated in the in-house benchmarking.

The Executive Director repeated that the Council had not received the final measures. The discussions to date had indicated that there would be no more job losses than the number included in the in-house benchmark. If outsourced, the Council would employ an in-house Client team.

The Chair invited the Portfolio Holder for Environmental Services, Councillor D Scudder, to present Cabinet's reasons for its decision.

The Portfolio Holder informed the Scrutiny Committee that this matter had been discussed at two Cabinet meetings, the 3 April 2013 and 3 December 2012. He explained how the services had improved over the last 10 years. The services were now good and the last thing he would want to do was to put those services at risk. Cabinet had wanted to ensure that the Council would not lose the ability to maintain flexibility in the services. Cabinet did not want to jeopardise quality. The matter was largely being driven by the current financial situation. The Council still needed to realise very significant savings.

The Portfolio Holder explained the difference between the benchmark and a bid. A bid for a service was required to answer a long list of questions, including financial viability and Human Resources. It had been accepted that the in-house benchmark could achieve everything specified and the focus had been on the financial savings. The financial savings which could be realised could not be compared with the external companies.

The Portfolio Holder stated that the treatment of staff was important. A team of officers and Councillors went on site visits. It had been noted that staff were still on the same terms and conditions as when they had transferred. Westminster had outsourced its services 25 years ago and there were still staff with the external company on their same conditions. He said that this had shown him that the logical option was to proceed with the best bid from an external company. In addition he explained the reasons Veolia had been selected over the other competitor.

The Executive Director advised that she would go through each point raised in the call-in and provide a response.

Question 1 referred to an in-house bid. The Executive Director said that in addition to the explanation provided by the Portfolio Holder, this particular route meant that service standards would not be reduced. It allowed staff time to concentrate on the finances. If a proper in-house bid had been required, it was likely that additional help would have been required to assist those putting the bid together. These staff had been involved in the evaluation process. They would have been unable to participate in the process if they had submitted a formal in-house bid.

Question 2 referred to the evaluation process. The Executive Director advised that the evaluation process had been carried out by officers from the various services involved in the areas in the bids. The Moderation Team, which comprised the Head of Strategic Finance and Shared Services, Legal and Democratic Section Head and herself, considered the results from the evaluation team. The relevant Portfolio Holders had been present to listen to the debate and provide guidance. A specialist adviser had been appointed in connection with the financial matters.

Question 5 referred to the effect on support services. The Executive Director explained that this had been covered in the Cabinet report. A minimum level of £300,000 savings needed to be identified from posts and support services. These would be dealt with through the Future Council programme managed by the Managing Director.

Question 6 referred to the scrutiny of the service and Members' ability to hold the company to account. The Executive Director stated that the performance would be scrutinised by this committee and the new Outsourced Services Scrutiny Panel. A Strategic Partnership Board would be set up to oversee the contract. The Board would comprise the Mayor, the relevant Portfolio Holder, officers and senior representatives from Veolia. It would review, among other matters, the Business Plan, the Annual Report and consider any growth or savings proposals.

Question 7 referred to sanctions. The Executive Director advised that this allowed for a number of measures if the company did not meet the required standards. She advised that there were 138 separate items which were rated from A to D. They covered the three service areas the company was responsible

for delivering. If the standards were not met then penalty points would be accumulated and there was potential for financial penalties to be imposed. There was a 12-month rolling period in which incidents were taken into account. If the company were to meet a threshold then the Council could issue a notice or terminate part or all of the contract.

Question 8 asked for reasons why all three services were being awarded to one company. The Executive Director informed Members that this was the way the most savings could be achieved. At an early stage the Council ensured there were sufficient companies that could submit bids. There had also been an opportunity to submit joint bids if one company did not specialise in all areas.

The last statement referred to the Living Wage. The Executive Director reminded Members that the Cabinet report stated that all staff would be covered by TUPE arrangements. Staff would continue in the Local Government Pension Scheme. This was the same format the Council had taken with all previous services which had been outsourced. Any current staff transferring to the company and who were not current members of the pension scheme would be able to join at a later date. New staff appointed by Veolia would not be given the same opportunity. There was no legal obligation and it would increase the Council's liability. Watford staff at Veolia would be paid at least the Living Wage for the duration of the contract.

Following a question from the Chair, the Executive Director advised that Veolia had given a guarantee regarding payment of the Living Wage.

Councillor Rackett thanked the officer for her explanation about contract monitoring, as this had not been explained before this meeting. He asked whether this would be expensive and if it had different impacts on internal and external providers. He sought her response on two-tier working and Unison's statement about Enterprise.

The Executive Director replied that the Contract Management Team would comprise four people, equating to £200,000 a year. This had been added to the cost of the bid and enabled comparisons with the in-house benchmark. In response to two-tier working, she advised that this could occur if any of the current staff left Veolia and new people were employed. She explained the evidence they had seen when proceeding with the references and visits. There had been no evidence of problems within the workforce. The Council's Human Resources representative had been impressed with both bidders and how they dealt with staff. Veolia had a national agreement with Unison.

Following questions from Councillor Bell, the Executive Director explained that initially there had been a three-month period to develop the in-house benchmark. At the best and final offer stage, the staff were able to review it and consider if there were any further savings, which they did. She advised that more detailed information about costs could be provided when the Scrutiny Committee moved into the closed part of the meeting. Unison had a number of concerns about the in house benchmark proposals and this would have had an impact on the savings and therefore raised questions whether the benchmark savings would

be achievable. She did not consider it possible to remove that amount of savings without affecting jobs. With regard to support costs the Cabinet report in December explained how this was broken down. The service requests and complaints would be dealt with by Veolia staff at Wiggshall Depot, similar to the present, and not by the Customer Service Centre.

Councillor Bell asked the Portfolio Holder for an explanation as to how the services would get better or at least stay the same.

The Portfolio Holder responded that the Partnership Board would monitor the services. He was confident that standards would be maintained and in some cases improved.

Following a comment from Councillor Dhindsa about recycling rates, the Portfolio Holder advised that Watford had high recycling rates for an urban authority. It was not possible to compare with other authorities, for example Three Rivers District Council. There were various factors that had impacted on recycling rates, including small gardens or no gardens, the high transient population in Watford and the large number of flats. He reiterated that the statistics were very good for an urban area. He informed Members that the recycling regime would be changing as explained at Cabinet. He considered it more relevant to compare rates with London Boroughs.

Councillor Dhindsa said that he looked forward to seeing the evidence in the future. He questioned the reason the decision was made at the meeting on 3 April and whether or not it could be delayed. He added that the information about sanctions had not been available at Cabinet.

The Executive Director clarified that the Council was not waiting for 'lots of' information from Veolia. The Section 13 letter was only received once the Preferred Bidder stage had been reached.

The Executive Director explained that the information about sanctions had been brought to this meeting in response to the call-in statement. The information had been available to the evaluation team, which included the Portfolio Holders. If Members had asked for details at their briefing before Cabinet, it could have been arranged. The Cabinet report included the main details of how the decision had been reached. At the Cabinet meeting information had been provided about how sanctions would work, including penalty points, financial penalties and ratchets. Officers had had to judge how much information needed to be included for Cabinet to be able to make its decision.

Following questions from Councillor Dhindsa about access to the Local Government Pension Scheme, the Executive Director informed Members that any services transferred by the Council in the past had operated a 'closed' pension scheme.

With regard to questions about an in-house bid, the Executive Director advised that it would have been necessary for the Council to incur additional costs as people would have been required to either cover posts or prepare the bid.

The Executive Director explained that the evidence had been gathered from local authorities who had contracts with either of the two bidders. The team asked very specific questions to ensure that the information within the bids was supported by the other authorities. In addition to those recommended by the two companies, the team had chosen authorities which had not been put forward by either bidders.

The Chair asked about the guarantee the Council could give to the Living Wage.

The Executive Director advised that the question had been put to Veolia and they had responded. The next steps would need to be discussed with the Council's Legal team.

The Chair asked whether it would be possible to put a recommendation that the decision went back to Cabinet, requesting the 'Living Wage' was incorporated into the contract.

The Head of Legal and Property Services informed the Scrutiny Committee that it had two choices; it could either ratify Cabinet's decision or refer it back with an explanation and proposing a decision that was different from the one made on 3 April.

Following a question from Councillor Derbyshire about the number of redundancies proposed by Veolia, the Executive Director reiterated that the Section 13 letter, which was part of the formal process, had yet to be received. Until the final letter had been received it would be inadvisable to make any statement. She had seen a proposed structure as part of the bid. The number of staff was very close to the internal proposals. When details were received at the Preferred Bidder stage, if the numbers were significantly different then it would be necessary to consider if the company could deliver the service.

In response to a question from Councillor Hofman about Veolia's pension scheme, the Executive Director informed Members that staff who transferred from Watford would be part of the Local Government Pension Scheme. She believed, however, that the pension scheme organised by Veolia was good.

The Chair asked whether the Scrutiny Committee wished to move any recommendations in this public part of the meeting.

Members considered whether a recommendation should be included to seek a formal guarantee from Veolia regarding a Living Wage' and that it be included in the contract.

Councillor Collett said that she was concerned that further delays would affect the staff. She noted the answers which had been given at Cabinet.

The Head of Legal and Property Services referred Members to the decision agreed at Cabinet on 3 April. They needed to consider whether they agreed with

the decision and if a statement could be made without referring the decision back to Cabinet.

The Executive Director advised that the contract would not be finalised until later in the process. Veolia had said that they would guarantee the Living Wage until the end of the contract. This matter could form part of the final contract discussions. Any questions over this matter could be taken back to Cabinet at that time.

The Portfolio Holder stated that he would undertake to make sure this happened. He felt very strongly about the Living Wage. There had already been an undertaking from Veolia and this would be part of the negotiations.

Following a question from Councillor Dhindsa, the Head of Legal and Property Services advised that if the Scrutiny Committee did not ratify the decision it would have to go back to Cabinet. Members were informed that the earliest likely date for a Cabinet meeting was Tuesday 7 May. The Mayor was required to inform the Head of Legal and Property Services seven days prior to Cabinet taking the decision.

Councillor Dhindsa said that he was concerned for the staff. It had been raised as a question at Cabinet but he would prefer there was something in writing.

The Executive Director cautioned that a delay of two or three weeks could be detrimental. There would be no formal decision; the measures letter would not be submitted and the staff would remain uncertain of their future. The Portfolio Holder had given a guarantee that it would be in the contract. If any problems were to occur a report would have to be presented to Cabinet. She would advise that it was detrimental to delay the decision.

Councillor Derbyshire stated that it was important to be clear that the Council's primary responsibility was to those people working for Watford Borough Council rather than those employed by Veolia in the future. The minimum hourly rate paid to Watford Borough Council's staff was £7.53, which was above the Living Wage of £7.45. He did not consider there was any need to delay the decision. The issue had been raised and could be resolved through detailed discussions.

The Portfolio Holder agreed that further delay was not necessary. The delay would add to the uncertainty felt by the staff and add costs.

Councillor Greenslade commented that in the past she had been through the TUPE process. It was a worrying time. She felt it was important to make a decision quickly.

Councillor Bell said that he would prefer a written statement from Cabinet regarding this matter.

Following a comment by Councillor Dhindsa, the Executive Director explained that the staff would be transferred on their current terms and conditions. They needed to know, however, that they had a job and where they would fit in. The

new employer would be holding one to one meetings with them. They would be unsure whether they were one of the staff who were to be made redundant until this had happened. By allowing officers to translate Veolia's commitment to the Living Wage into the contract there would be no delay in the process for staff.

Councillor Bell stated that the commitment to the Living Wage was welcomed and the fact that the Portfolio Holder would ensure it was included.

The Chair asked if the Scrutiny Committee agreed with this statement.

Councillor Derbyshire said that the minutes would reflect his point of view. The Scrutiny Committee had not yet discussed the outstanding matters in the closed part of the meeting.

At this point it was considered that any further discussions would need to be continued in private due to the commercial sensitivity of the information.

For the decision see minute number 70.

69 **EXCLUSION OF PRESS AND PUBLIC**

RESOLVED

that, under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of the item there would have been disclosure to them of exempt information as defined in Section 100(1) of the Act for the reasons stated in the report.

70 **FINAL DECISION ON SERVICE REDESIGN: OPTIONS FOR PARKS AND OPEN SPACES, STREET CLEANSING AND WASTE AND RE-CYCLING (PART B REPORT)**

The Scrutiny Committee received the relevant paperwork which had been provided to Cabinet on 3 December 2012 and 3 April 2013 and additional information circulated by the Executive Director during its discussion.

Councillor Derbyshire proposed the following motion –

“having considered the response of officers to the questions raised by the three councillors who requested the call-in of the Cabinet decision of 3rd April to award Veolia Environmental Services preferred bidder status for the provision of Parks and Open Spaces, Street Cleansing, Waste and Recycling services, with a start date of 1 July 2013 (whilst holding Enterprise in reserve), the Committee gives it support to and ratifies the Cabinet decision, recognising the need for the Council to continue to achieve savings in its Revenue budget in line with the Medium Term Financial Strategy, whilst at the same time maintaining high standards of service delivery.”

On being put to the Scrutiny Committee the motion was CARRIED.

RESOLVED –

that, having considered the response of officers to the questions raised by the three councillors who requested the call-in of the Cabinet decision of 3rd April to award Veolia Environmental Services preferred bidder status for the provision of Parks and Open Spaces, Street Cleansing, Waste and Recycling services, with a start date of 1 July 2013 (whilst holding Enterprise in reserve), the Committee gives it support to and ratifies the Cabinet decision, recognising the need for the Council to continue to achieve savings in its Revenue budget in line with the Medium Term Financial Strategy, whilst at the same time maintaining high standards of service delivery.

Chair

The Meeting started at 7.00 pm
and finished at 9.20 pm