

Executive – 14 March 2012

Present: Councillor Williams (Chairman)
Councillors Mrs Adkins, Cavill, Edwards, Hayward, Mrs Herbert and
Mrs Warmington

Officers: Penny James (Chief Executive), Cherry Russell (HR Officer), Tim Burton
(Growth and Development Manager), Maggie Hammond (Strategic Finance
Officer), Dan Webb (Client and Performance Lead), Paul Fitzgerald
(Financial Services Manager), Tonya Meers (Legal and Democratic
Services Manager) and Richard Bryant (Democratic Services Manager).

Also present: Councillors Coles, Horsley, Morrell and A Wedderkopp

(The meeting commenced at 6.15 pm.)

25. Apology

Councillor Mrs Stock-Williams.

26. Minutes

The minutes of the meeting of the Executive held on 9 February 2012, copies of which had been circulated, were taken as read and were signed.

27. Public Question Time

(1) Councillor A Wedderkopp asked why only one of the side gates at the main entrance to Vivary Park, Taunton were ever open on a Sunday – usually one of the park's busiest days?

In reply, Councillor Mrs Herbert said she was surprised that this was the case and promised to follow this up.

(2) Councillor Coles referred to the proposed borrowing arrangements in connection with the Housing Revenue Account self-financing. He asked whether everything was still on course for later in the month and whether the reported interest rate on the loan had changed?

The Strategic Finance Officer, Maggie Hammond, confirmed that the borrowing from the Public Works Loans Board was on target and that there had been no change to the interest rate up to now.

28. Proposal for a Taunton Deane Borough Council Appeal Policy and Procedure

Considered report previously circulated, concerning a proposal to implement a single Appeal Policy to cover all HR policies and procedures.

The Council did not currently have one overall appeal policy and procedure. Where appeals were required by employment law under the Employment Rights Act 2008, they were mentioned separately under the relevant policy.

An employee had the legal right to appeal in the following circumstances:-

- Disciplinary or capability warnings;
- Dismissal for misconduct or capability;
- If a request for flexible working or time off for training had been refused; and
- A grievance decision.

The following Taunton Deane policies included an appeal process - Absence Management Policy, Capability Procedure, Disciplinary Procedure, Grievance Procedure, Harassment and Bullying Policy, Job Evaluation and Term-time working.

Research had been undertaken to ascertain the status of Member appeals at other local authorities in Somerset which had shown that four out of five authorities had a Member Appeal for dismissals only.

The proposed policy would cover appeals relating to the following actions:-

- Disciplinary warnings;
- Capability warnings;
- Dismissal for misconduct;
- Dismissal for capability (performance or health);
- Decision to redeploy under the capability policy;
- Flexible working requests under the agreed Taunton Deane policy;
- Right to request time off for training;
- Request for a flexible retirement;
- Selection for redundancy or decision not to appoint resulting in redundancy;
- Outcome of a grievance; and
- Outcome of a Harassment and Bullying claim.

The policy made it clear what decisions could be appealed and whether they were heard by a standard Appeal Panel or a Member Appeal Panel. The policy set out a procedure to be followed and on what basis an employee could appeal, what happened at the appeal hearing and who could sit on the appeal panel.

The introduction of this policy would mean a change to the disciplinary procedure, with the removal of a two stage appeal procedure for any level of warning to a one stage appeal. This was in accordance with ACAS (Advisory, Conciliation and Arbitration Service) guidelines that stated a right of appeal must be given but only needed to be heard once.

The new policy would state that the panel would comprise a member of CMT for any actions short of dismissal and a panel of one member of CMT and two trained Councillors for dismissal under the disciplinary procedure or a final stage grievance.

Resolved that the proposed Appeal Policy and Procedure be approved.

29. **Planning Performance Agreements and Major Application Performance Targets**

Considered report previously circulated, which outlined the benefits of using Planning Performance Agreements as a tool to assist in the delivery of major development proposals.

Planning Performance Agreements (PPAs) had been introduced formally into the planning system in 2008.

They were a project management tool and provided a framework agreed between the Local Planning Authority and an applicant, about how development proposals should be managed in the planning process, including the determination of planning applications.

PPA's could help to improve the pre-application and application process, by creating greater certainty through agreement in what information was needed to enable an application to be determined and the timescale.

Noted that as PPA's focused on the process and not the decision, they did not therefore commit the Council to granting permission upon receipt of an application. However, it was recognised that the use of a project management framework could help deliver clarity, speed and certainty in the planning process.

A PPA committed both parties to an agreed timetable and made clear what level of resources and community engagement were required. The agreed timetable became the target for determination and took the proposal outside of the usual 13/16 week indicators.

The planning process for large major development proposals could be resource hungry for both the applicant and the Local Planning Authority. Through a PPA the true costs could be identified and, where appropriate, capacity that would otherwise have been funded by the Council could be paid for by the applicant.

A national evaluation of the use of PPAs in 2010 had established that many authorities were already using PPAs as a project management tool for projects of varying scale and complexity and used at different stages in the process.

It was therefore suggested that in future this Council should seek to agree a Planning Performance Agreement for all proposals which fell within the following Significant Major Developments category:-

- 200 or more dwellings or 4ha; or
- 10,000sq m of floor space or 2ha for other uses.

Reported that the Task and Finish Group that had been set up to review the delivery of large housing schemes, whilst not specifically referring to PPAs, had recommended that a charter for major applications should be developed.

Currently all major applications were categorised together as:-

- 10 or more dwellings or 0.5ha or 1000sqm floor space or more than 1ha for other uses are measured against a 13 week target date (or 16 weeks in the case of EIA development). The national target was currently 60% (the Taunton Deane target was 65%).

However, it was widely accepted that to determine the most complex applications in 13 weeks was unrealistic and the target was therefore meaningless.

As far as Taunton Deane was concerned, it was proposed that the Performance Indicator be retained, but no longer applied to Significant Major Developments.

Performance targets for Significant Major Developments should be based firstly upon the proportion of developments where a PPA had been negotiated and secondly whether the milestones set out in the PPA had been met.

The Executive noted that when this issue had been discussed at the Corporate Scrutiny Committee meeting on 23 February 2012, the Committee had supported an additional recommendation as follows:-

“That the impacts or benefits of inviting commercial developers to submit draft PPAs and, when not required by the Authority, to encourage implementation of elements of public engagement in them, in advance of submission of formal applications, be considered”.

Whilst it was good practice to encourage all applicants to carry out meaningful public engagement prior to submission, there were concerns about inviting developers to submit draft documents. A PPA should be a negotiated document and be bespoke to that particular development.

In the circumstances, Members decided that they did not want to encourage developers to adopt a standard approach and enter negotiations with a preconceived idea of the outcome.

The Executive also took the view that a Charter for major applications should be drafted and that this should be completed within a period of six months.

Resolved that:-

- The use of Planning Performance Agreements for all Significant Major proposals be endorsed;
- A Charter be drawn up, within the next six months, in consultation with developers and other key stakeholders to set out the Council’s preferred approach to project managing the planning and delivery of large and complex development proposals; and
- The Performance Indicators be amended to reflect these changes.

30. **Treasury Management Strategy Statement and Investment Strategy**

Considered report previously circulated, which detailed the Treasury Management and Investment Strategies for the 2012/2013 financial year.

It was noted that Council debt was currently £9,000,000 which would rise on 28 March 2012 by £85,200,000 due to the Housing Revenue Account self-financing. Short-term interest rates were currently at 0.5% and this rate was expected to be at this level for the next financial year.

The Strategy had the preservation of capital as the most important factor in investing taxpayer's money. Also noted that borrowing rates were currently low but the cost of carry had to be considered before taking on any debt.

Reported that the purpose of the Treasury Management Strategy Statement and investment Strategy (TMSS) was to approve:-

- The Treasury Management Strategy for 2011/2012 (Borrowing and Debt Rescheduling); and
- The use of Specified and Non-Specified Investments.

A full copy of the TMSS, which had been prepared by the Council's Investment Consultants Arlingclose, was submitted for the information of Members.

The Treasury Management service was an important part of the overall financial management of the Council's affairs.

The bank base rate had fallen to 0.5% in March 2009 and had remained at that level ever since. The United Kingdom's economy was continuing its weak recovery from the 2008/2009 recession, with Gross Domestic Product growth forecast to be sluggish throughout much of 2012.

Government spending cuts, rising unemployment and uncertain export markets were conspiring to keep demand low, and a "double dip" recession could not be ruled out. Consumer price inflation, which peaked at 5.2% in September 2011 had fallen as one-off factors had fallen out of the annual comparison.

During 2011/2012, the ratings agencies had downgraded several sovereign ratings and individual institutions. The Council had responded by listening to and following advice from Arlingclose.

The TMSS had been written in challenging and uncertain economic times. The current economic outlook had several key treasury management implications:-

- The Eurozone sovereign debt difficulties, most evident in Greece, provided a clear indication of much higher counterparty risk. This continued to suggest the use of higher quality counterparties for shorter time periods;
- Investment returns were likely to remain relatively low during 2012/2013;
- Borrowing interest rates were currently attractive, but might remain low for some time; and
- The timing of any borrowing would need to be monitored carefully. There would remain a cost of carry – any borrowing undertaken that resulted in an

increase in investments would incur a revenue loss between borrowing costs and investment returns.

As a result, the strategy looked to reduce exposure to risk and volatility by:-

- (1) Considering security, liquidity and yield, in that order;
- (2) Considering alternative assessments of credit strength;
- (3) Spreading investments over a range of approved counterparties; and
- (4) Only investing for longer periods to gain higher rates of return where there were acceptable levels of counterparty risk.

Further reported that the historically low interest rate situation had led to significant reductions in investment income in the past years which impacted directly on the Council's budget.

The Council's General Fund Capital Financing Requirement (CFR) for 2012/2013 was £9,100,000 which was currently funded through internal borrowing. The Council was able to borrow funds in excess of the current CFR up to the projected level in 2014/2015 of £11,700,000.

Resolved that the Treasury Management Strategy Statement and Investment Strategy, outlined in the report, be approved.

31. **Corporate Debt Management Policy**

Considered report previously circulated, concerning a revised Corporate Debt Management Policy for the Council to replace the version which had been approved by the Executive in March 2004.

The Corporate Debt Management Policy covered all debts due to the Council. These included housing debts, local taxation debts, housing benefit overpayments and other miscellaneous debts.

These debts varied widely in terms of their nature and the legislation that covered them. This variety impacted greatly upon the way in which the Council administered, collected and enforced payment of these debts.

The purpose of the policy was to ensure that Taunton Deane's general approach to managing the collection and enforcement of these debts was consistent, fair and transparent across the Authority and conducted in accordance with nationally agreed standards.

The Policy also reflected the diversity of the debts with which had to be dealt with and tailored specific policies to fit each individual debt type. It included common principals for the billing, collection, enforcement and write-off of all types of debt.

Submitted for the information of Members a copy of the Corporate Debt Management Policy and Procedure Document. A table was also submitted which showed the changes from the current policy adopted in 2004 and the new version.

Equalities Impact Assessments had been undertaken on both the debts administered by the Revenues and Benefits Service and in respect of the other debts covered by the Policy. Members were recommended to take account of these assessments during the consideration of the report.

Resolved that the Corporate Debt Management Policy be adopted.

32. **Financial and Performance Monitoring – Quarter 3 2011/2012**

Considered report previously circulated, concerning the financial performance data to the end of Quarter 3 of 2011/2012 (as at 31 December 2011).

The monitoring of the Corporate Strategy, service delivery, performance indicators and budgets was an important part of the overall performance management framework.

Reported that an analysis of the overall performance of the Council had revealed a slightly worse position to the previous quarter, with 64% of all performance measures being on target compared to 68% previously.

There were a number of areas off course, or where their objectives had not been met and these included:-

- Health and Safety Inspections – where 39% of inspections had been carried out against a target of 90%;
- Complaints – where not only was the number of complaints being received rising but the number of responses being made within the 10 day target time had decreased; and
- Sundry Debts – The overall level of debt was rising, as was the level of debt over 90 days old.

The reasons for these particular issues emerging were provided together with details of the management actions that would be taken to improve the situation.

Also reported that the current forecast outturn for the Council's General Fund services was an overspend of £313,000 for the 2011/2012 financial year. The Corporate Management Team was currently considering measures to address this for the remainder of financial year.

When this item had initially been considered by the Corporate Scrutiny Committee on 23 February 2012, a wide variety of points were raised by Members. Between meetings, detailed responses to these queries had been circulated to both Members of the Scrutiny Committee and the Executive.

Resolved that the report be noted.

33. **Executive Forward Plan**

Submitted for information the Forward Plan of the Executive over the next few months.

Resolved that the Forward Plan be noted.

(The meeting ended at 7.21 pm.)