



Report Reference Number SC/11/23

Agenda Item No: 4

To: Scrutiny Committee
Date: 20 March 2012
Author: Karen Mann, Democratic Services Officer
Lead Officer: Karen Iveson, Executive Director

Title: Call In – Decision E/11/56 – Access Selby Service Level Agreement

Summary: The report asks the Committee to consider a Call In of the decision made in respect of report E/11/56 – Access Selby Service Level Agreement which was made by the Executive on 1 March 2012. The call in only refers to certain aspects of the report.

Recommendations:

- i. To consider whether to accept the Call In as valid based on the reasons provided.
- ii. Should the Committee consider the Call In as valid, to consider the options available.

Reasons for recommendations

To ensure the Scrutiny Committee undertakes its role in holding the Executive to account in accordance with the Constitution.

1. Introduction and background

- 1.1** A Call In request, Appendix A, has been received from Councillors Melanie Davis, Doreen Davies, Stephanie Duckett, John McCartney, Mary McCartney, Bob Packham, Rod Price and Steve Shaw-Wright asking Scrutiny Committee to consider decision E/11/56 made by the Executive on 1 March 2012. Minutes of the Executive meeting are attached at appendix B.

2. The Report

- 2.1** The Constitution states that Call In should only be used where councillors have evidence which suggests the decision makers did not

take the decision in accordance with the principles of decision making set out in Article 13 of the Constitution is attached at Appendix C.

2.2 Decision E/11/56 was called in on the following grounds:

- We do not consider that a two tier access to senior officers at the Council is in the public interest. In effect this means that Councillors in some wards have preferential access to Directors of Access Selby.
- We do not consider that it is the intention of the Procedure Rules of the Constitution to give exclusive access to Directors only for Councillors that are members of the Executive.
- We do not consider that taking this decision in private session serves the requirement for a decision that is clearly contrary to the public interest.
- We consider that the intention of the Executive should make clear that if this service level agreement is adopted non executive Councillors will not have advice, support and guidance by the Directors of Access Selby and the implications of this should be the subject of proper debate by Council.

2.3 Should Scrutiny Committee decide to consider the decision it has a number of options available;

- i) The matter can be referred back to the Executive for reconsideration setting out the reasons in writing and providing any other information which may be useful to the Executive.
- ii) The Committee can agree with the Executive's decision, in which case the decision becomes active.
- iii) The decision may be referred to Council for consideration.

3. Conclusion

That the Committee considers whether the Call In is justified on the grounds provided and, if it is, what action is appropriate.

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Appendices:

Appendix A - Call In Request
Appendix B - Executive Minutes 1 March 2012
Appendix C - Article 13 of the Constitution

**Item 87, Access Selby Service Level Agreement.
Report presented by Councillor Mark Crane, Report E/11/56.**

We are calling in the above Executive decision because we do not believe that the Executive made the decision in accordance with the principals set out in 'Article 13 – Decision making' of the SDC Constitution.

In particular we are questioning the following provisions of the Service Level Agreement:

Under schedule 4:

Councillor Liaison

Three routes have been defined as the most efficient to make contact with Access Selby, to ensure that Councillors enquiries are directed to the right Officer designated to deal with an issue.

1) Calling the Councillors Direct Line to the Access Centre means that the next available Customer Services Advisor will take the call – bringing the Councillor to the head of any queue. Depending on the nature of the query, the advisor will either be able to respond to the query themselves, or will send a message to the right back office specialist, who may be a Community Officer, who will respond to the Councillor directly.

2) Calling a Community Officer in the relevant area team (contact details have been issued to Councillors for the area they represent), who will be able to investigate, and respond to queries as the first point of contact out in communities.

3) Alternatively, an enquiry may be placed using e-mail to the address info@selby.gov.uk and return, or follow on, contact will be made by Access Centre staff, and be resolved using the same route as a telephone call.

Under Schedule 1 – the Services

- 1 The provision of advice, support and guidance by the Directors of Access Selby **to lead members of the Executive.**
- 2 The provision of administration and business support to the Council.
- 3 Assistance with any and all emergency planning occurrences and elections and referendums to be held in the District.
- 4 The provision in accordance with the Council's Constitution of statutory mandatory and discretionary functions and duties in connection with but not limited to the following core areas of the Council's services, as amended from time to time:

Article 13 states:

- *All decisions of the Council will be made in accordance with the following principles: In the general public interest*

We do not consider that a two tier access to senior officers at the Council is in the public interest. In effect this means that Councillors in some wards have preferential access to Directors of Access Selby.

- (c) That all relevant Rules and particularly the Council Procedure Rules, Financial Procedure Rules, Contract Procedure Rules and Access to Information Procedure Rules have been complied with;

We do not consider that it is the intention of the Procedure Rules of the Constitution to give exclusive access to Directors only for Councillors that are members of the Executive.

- (h) That the decision has been taken in an open and transparent manner;

We do not consider that taking this decision in private session serves the requirement for a decision that is clearly contrary to the public interest.

- (i) That the decision is clear in terms of its aims and desired outcomes;

We consider that the intention of the Executive should make clear that if this service level agreement is adopted non executive Councillors will not have advice, support and guidance by the Directors of Access Selby and the implications of this should be the subject of proper debate by Council.

**Melanie Davis
Doreen Davies
Stephanie Duckett
John McCartney
Mary McCartney
Bob Packham
Rod Price
Steve Shaw-Wright**

Selby District Council



Minutes

Executive

Venue:	Committee Room, Civic Centre, Selby
Date:	1 March 2012
Present:	Councillor M Crane (Chair), Mrs G Ivey, C Lunn and J Mackman
Apologies for Absence:	Councillor C Metcalfe
Officers present:	Chief Executive, Deputy Chief Executive, Executive Director (S151), Business Manager (Sarah Smith), Commissioning and Performance Officer and Democratic Services Manager.
Public:	0
Press:	0

NOTE: Please note, only minute numbers 85, 87, 88 and 90 are subject to call in. The deadline for Call In is 5pm on 13 March 2012. Decisions not called in may be implemented from 14 March 2012.

83. Disclosure of Interest

There were no disclosures of interest.

84. Minutes

The minutes of the meeting on 2 February 2012 were submitted and agreed as a correct record and signed by the Chair.

85. All Weather Pitch Abbey Leisure Centre

Councillor Ivey presented report E/11/55 which provided the Executive with the necessary information on which to base the choice of pitch for Abbey Leisure Centre.

Councillor Mrs Ivey began by outlining that the information contained within the report had been produced before the fire at Abbey Leisure Centre on Tuesday 28th February. The Executive discussed the latest position regarding the Leisure Centre.

The Executive outlined their support to continue with the Sports Pitch and, in doing, so reiterated the Council's commitment to providing excellent leisure and recreational facilities for the residents of Selby District.

In respect of the Sports Pitch, the Executive heard that Wigan Leisure Culture Trust had consulted the interested parties and that their views had contributed to the recommendation in the report.

Councillor Mrs Ivey presented revised recommendations which allowed a decision to be taken on the Sports Pitch despite the fire at the Leisure Centre. The Executive accepted the revised recommendations.

Resolved:

- i) To endorse the choice of a 40mm 3G Lano Sports Systems Playing Surface and provision for the full replacement of the Shock Pad if required;**
- ii) To release the £250,000 set aside in the Capital Programme for this purpose;**
- iii) To authorise the Deputy Chief Executive, after consultation with the Leader of the Council and WLCT to determine the most appropriate way forward.**

Reason for the decision:

To allow progress to be made on the Sports Pitch given the events at Abbey Leisure Centre.

86. Private Session

Resolved:

To exclude the Press and the Public from the meeting in accordance with Section 100(A)(4) of the Local Government Act 1972, in view of the nature of the business to be transacted as there is likely to be disclosure of exempt information as defined in Section 100(1) of the

Act as described in paragraph 3 of Part 1 of Schedule 12(A) of the Act.

87. Access Selby Service Level Agreement

Councillor Mark Crane presented report E/11/56. The report presented was the first Service Level Agreement between Selby District Council and Access Selby.

The Executive supported the agreement and clarified that the contents were to be reviewed on a regular basis.

Resolved:

To approve the Service Level Agreement.

Reason for the decision:

To ensure the Service Level Agreement is in place for the start of the financial year 2012.

88. Commercial Waste Fees and Charges 2012/13

Councillor Lunn presented report E/11/57 which explained the need to apply a variable increase across the range of services provided.

The Executive welcomed the report. It was felt that the application of variable increases was essential to ensure Access Selby was competitive in the commercial waste market place.

Resolved:

To approve the variable increase across the range of services provided as detailed in Appendix 1 of the report.

Reason for the decision:

Application of variable increase in prices will allow Access Selby to complete more effectively in the market place.

89. Public Session

90. Community Engagement Forums (CEFs): Policy Review Recommendations to the Executive

The Executive acknowledged the comments made by Policy Review Committee and recognised the importance of community engagement.

The Executive heard that Councillor Metcalfe, as lead Executive member for this issue, was currently working on a programme to address both the

concerns of Policy Review Committee and to secure the long term viability of the CEFs as the Council's primary method for community engagement and development.

Resolved:

- i) To acknowledge the comments from Policy Review Committee;**
- ii) To receive a report from Councillor Metcalfe on the future of the CEFs as the earliest opportunity.**

Reason for the decision:

To ensure the CEFs provide an efficient and effective method for community engagement.

The meeting closed at 4.40 pm.

7. Call-in

Call-in should only be used where councillors have evidence which suggests that the decision-maker(s) did not take the decision in accordance with the principles set out in Article 13 (Decision-making).

- (a) When a decision is made by the Executive, or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published, principally by electronic means, and shall also be available at the main offices of the Council normally within 5 clear working days of being made. Councillors will be sent copies of the records of all such decisions within the same timescale and by the same means, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 clear working days after the publication of the decision, unless the Scrutiny Committee objects to it and calls it in.
- (c) During the 5 clear working day period between a decision being published and its implementation, the Chief Executive shall call-in a decision for scrutiny by the Scrutiny Committee if so requested in writing by any 5 councillors who are not members of the Executive and shall then notify the Executive of the call-in. He/she shall call an extraordinary meeting of the Scrutiny Committee where possible after consultation with the Chair, if an ordinary meeting will not be held within 7 clear working days from the date of the call-in request. The Chief Executive will notify the Executive and any other relevant councillors and officers of the call-in and the date on which it will be considered. Written requests will be a single document or a number of documents saying the same thing which taken together are received from 5 councillors.

Such a document or documents may be submitted electronically to the Chief Executive and the Chief Executive shall accept the validity of the document unless anything is brought to his/her attention which challenges its validity.

- (d) Having considered the decision, the Scrutiny Committee may refer it back to the Executive for reconsideration, setting out the reasons in writing, providing any other information which might be useful to the Executive when it reconsiders the matter or it may refer the matter to Council.
- (e) If the Scrutiny Committee fails to meet within 14 clear working

days of receiving a valid call-in request, or does meet but does not refer the matter back to the Executive or on to Council, the decision shall take effect on the date of the Scrutiny Committee meeting, or the expiry of that 14 clear working day period, whichever is the earlier.

- (f) If the matter was referred to Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case the Council will refer any decision to which it objects back to the Executive, together with the Council's views on the decision. Within 20 clear working days of receiving the views of the Council the Executive shall decide whether to amend the decision or not before implementing it.
- (g) If the Council does not refer the decision back to the Executive, the decision will become effective on the date of the Council meeting.
- (h) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the Executive the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Chief Executive or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (i) The operation of the provisions relating to call-in and urgency shall be monitored annually by the Chief Executive, and a report submitted to the Council with proposals for review if necessary.