

Overview and Scrutiny Committee

28 May 2012

Present: Councillor C B Pickard (Chair)
Councillors J M Allan, A Austin, S Day, I Grayson,
C Gambling, R Glindon, J Harrison, M Huscroft,
D McGarr, D Sarin, N Redfearn and J Stirling.

OV1/05/12 Apologies

Apologies for absence were received from Councillor J McLaughlin

OV2/05/12 Substitute Members

There was no substitute Members.

OV3/05/12 Declarations of Interest

There were no declarations of interest.

OV4/05/12 Minutes

Resolved that the minutes of the meetings held on 2 April and 9 May 2012 be confirmed.

OV5/05/12 Change Efficiency and Improvement Programme: Progress Update (Previous Minute OV82/04/12)

The Committee received the monthly overview of progress of each of the three themes of the Change Efficiency and Improvement (CEI) programme.

The CEI saving target for the four year period 2011-15 was £47.730m and the report detailed the savings for each theme for the four years of the programme.

Key progress for the themes was detailed as follows:

Theme A:

- Children and Education Services: some of the income related aspects of this part of the theme were contingent on the finalisation of the council's budget. Work was progressing to establish new services that would improve the prevention and intervention activity. Discussions were underway with key partners on proposals for integrated disability services for people aged 0-25, with the expectation of being in place in the autumn.
- Adult Social Care: detailed planning for the delivery of most of the projects under this theme was underway. Significant work had been carried out to re-engineer business processes linked to assessments and care management. It was critical to allow the new structures for Adult Social care to bed in and has links with a number of other projects in this theme.

- Governance was being developed to link in plans for Public Health Transition joint commissioning arrangements with the NHS. This would streamline the number of boards/groups ensuring that interdependent projects are managed effectively. Cabinet received a report on the Public Health Transition Plan from the Director of Public Health in March 2012.

Theme B:

- Competitive dialogue was underway with the two bidders for both the technical and business packages. Staff, members and partners were invited to stakeholder days to meet with potential future service deliveries.
- The Community Based Trust had ceased, following the decision not to progress the project.
- Analysis for the future needs and the role of the Council's corporate core had been completed and the structure was being formulated to deliver retained core functions.

Theme C:

- An outline bid for the Government's Weekly Collection Support Scheme had been submitted for approximately £4m to support an integrated approach to the retention of weekly refuse collection over next 5 years.
- Electricity consumption in the top 30 buildings was down 5.17%.
- Gas consumption in the top 30 buildings was down by 12.87%.
- Water consumption in the top 30 buildings was down by 24.3%.
- Diesel consumption in the council's fleet was down 4.6%.
- 1,436 solar PV arrays had been installed on North Tyneside homes.

Information appended to the report detailed the progress per project area within each of the three themes. For the financial year 2012/13 the revised savings target was £16.739m.

Members enquired if the savings made within Theme C with regards to energy consumption in the top 30 buildings was due to seasonal changes. The Chief Executive informed that saving targets were made on consumption and not on energy costs and the top 30 buildings were given targets to reduce energy consumption and some of the savings would have been made due to milder weather.

In relation to PV solar panels a Member believed that little benefit would be seen as a third party was contracted to carry out the installations. The Chief Executive informed that the installing of the solar panels brought a modest income into the Council. He informed members that the third party company EON shouldered the responsibility of any changes and highlighted recent reduction in tariff payments.

A Member enquired about the areas of the borough that were under investigation for part-night street lighting switch off and if consultation was to be undertaken. The Chief Executive informed the Committee that potential areas were being investigated for a trial and that no consultation had yet been undertaken.

A Member indicated that a number of projects detailed under Theme B had no associated figures enquired the reason for the omissions. There was a discussion to what and how information should be presented. The Chief Executive informed the Committee that associated figures would be shown in future to some of the projects, however there were a number of projects detailed in the progress report that would be omitted.

Members questioned a number of the projects that would be taken off and possible gaps in the budget and possible use of the Council's reserves. A discussion around consultation with Overview and Scrutiny Committee took place.

The Chief Executive informed the Committee that there were no gaps in the budget and that a reconciliation report could be provided that would detail what had been included and omitted from the budget.

The Committee requested that for the next meeting analysis of the current position of the business cases with associated costs be provided for all projects in the progress report and that clarification be provided to the any legislation that would override the Councils constitution and its call-in process.

The Committee agreed that the financial implications of all the decisions relating to the implementation plan be delegated to its Finance Sub-committee and that the offered reconciliation report be considered. It also agreed to request that the Cabinet Member with responsibility for Finance attend the next meeting of the Overview and Scrutiny Committee on the 2 July 2012.

A Member asked to the process being used to review Equality Impact Assessment's undertaken for each business case to ensure they were comprehensive. The Chief Executive informed the Committee that to undertake reviews for those projects that had recently been implemented was regarded to early, however he did reassure the Committee that reviews would be undertaken.

A Member asked who had the responsibility for the retained core functions. The Chief Executive informed the Committee that the responsibility lay with the Councils Executive.

The Committee requested that a report detailing proposals and arrangements of the Corporate Core to be presented at Overview and Scrutiny Committee – 2 July 2012.

It was **agreed** that (1) the Change Efficiency and Improvement Programme: Progress Update be noted; (2) analysis of the current progress position of the business cases with associated costs be provided for all projects in the progress report; (3) provide clarification to the legislation that would take precedence to the Councils constitution and its call-in process; (3) the financial implications of all the decisions relating to the implementation plan be delegated to its Finance Sub-committee and that the offered reconciliation report be considered; (4) request that the Cabinet Member with responsibility for Finance attend the next meeting of the Overview and Scrutiny Committee on the 2 July 2012; (5) a report detailing proposals and arrangements of the Corporate Core to be presented at Overview and Scrutiny Committee on the 2 July 2012.

OV6/05/12 Council Strategic Plan and 2012/13 Budget – Implementation Plan – (Previous Minute OV92/05/12)

The Committee received a copy of the most recent copy of the Implementation Plan that had been revised following the cabinet meeting of 14 May 2012.

Also received was information that was requested by the Committee from its meeting on the 9 May 2012, which included;

- a briefing note providing information of recent legal advice in relation to the Budget and Council Plan,
- a chronology of when legal advice was received,

- advice in relation to the power of the Cabinet to contract services to appoint interim senior management posts.
- a outline of the current Budget process.

Members raised their issues in relation to matters 3 and 5 in the plan regarding the creation of the politically balanced groups to review the Council's management structure and to oversee the work on the Business and Technical packages. The raised concern was that the plan indicated that no action would take place until the Strategic Leadership Group (SLG) had met to discuss the potential creation of a task group and there was frustration at the delay.

The Chief Executive informed the Committee that the reason for the delay was that not all groups were represented at the meeting that took place on the 8 May. He also clarified that it was the Mayor's and Executives responsibility to agree the Council's management structure. He informed the Committee that officers were willing to meet with individual groups to ensure that they were kept up to date with proceeding on the business and technical packages.

A Member stated that it would be beneficial for the political groups to meet and stated the instance where concerns had been raised with regards to the viability of the Community Based Trust that had since been stopped.

A Member asked for legal clarification in relation to the Executive's decision to implement their original proposals with regards to matter 44 - remove Fees and Charges for the Rising Sun Country Park and 45 - remove inflation increase in allotments income in the plan.

The Head of Legal, Governance and Commercial Services (LGCS), reminded the Committee of the briefing provided to Members on the 16 April that detailed the "inclusion/exclusion" scenario. It was stated that matters 44 and 45 fell within this scenario.

Members raised concerns to the wording of the Budget and Policy Framework in the Council's constitution in relation to the in the Local Authorities (Function and Responsibilities) (England) Regulations 2000. The Chief Executive stated that some aspects of the Council's constitution were in need of review, however he understood that the Government intended to introduce new regulations in July 2012 to clarify the understanding of responsibility.

A Member questioned the Chief Executive's understanding and stated that having approached Government Ministers on the same issue, no indication had been given that a change was expected.

The Chief Executive indicated that he would write on behalf of the Council to the Department of Communities and Local Government to clarify their intention with corresponding timescales. Members agreed it would be helpful for the Chief Executive to do this and asked that the response be circulated to all Members of the Council.

A Member questioned where the resources would be found to the Executives decision to proceed with matter 59 – defer expenditure for 12 months on Youth Facilities in the plan. The Chief Executive informed the Committee that all Cabinet reports detail the finance and other resources.

With regards to matter 70 - defer expenditure for 12 months on Coastal Developments and 71 – Council work collectively to improve the viability of all our town and local shopping centres it was stated that it had been agreed that projects would not proceed until the

necessary funding was available. Members enquired if funding had been identified. The Chief Executive stated that reports would be presented to Cabinet in the near future for consideration for both matters 70 and 71.

A Member questioned if the schemes had been deferred as there was no funding stream or if the intention was to borrow funding to start the schemes.

The Chief Executive stated that the plan was to borrow to start the schemes but it was decided to defer until funding was available.

A Member stated that during a briefing in a recent Economic Prosperity and Housing Subcommittee Members had been informed that the Council had reached its borrowing cap. The Chief Executive reassured the committee that the Council had not reached its borrowing cap and would ask the Section 151 officer to clarify the Council's position on borrowing and its cap. He also clarified that all borrowing over £1m was required to go to Full Council for approval.

Councillor I Grayson left the meeting at this point and took no further part.

The Head of Governance and Commercial Services presented the briefing note that consisted of a chronology of when legal advice was received, advice in relation to the power of the Cabinet to contract services and appoint interim senior management posts and advice regarding ward community budgets.

Members stated that there were concerns to the advice that has been given and that it had been contrary to advice asked in previous years. The Chair reminded Members that at the 9 May meeting of Overview and Scrutiny Committee, it had requested the Head of LGCS to submit a report to Full Council that would detail the options available to the Council to seek clarity on the division of responsibility to make decisions.

A discussion took place in relation to advice that had been provided by officers during previous years and administrations with regards to the two thirds majority rule and how it appeared to conflict with the advice received from 1 March 2012 onwards.

The Head of LGCS stated that counsel was approached to clarify the position following a number of issues that had arisen. During this process the question of the responsibility for implementing decisions in respect of the budget emerged.

A Member stated that advice on particular points was sought in December 2011 but no response was provided until 1 March 2012. The Head of LGCS advised that the procedural guidance provided at the commencement of the budget setting process in January 2012 to members reflected the advice received.

The Chief Executive stated that each political group had asked for advice in confidence throughout the budget process, some of which did not arise until late in the process. Following discussion with some members on the 29 February when the joint Labour and Liberal Democrat proposals came forward, a briefing note giving guidance on the responsibility for decision making under Mayor and Cabinet Executive arrangements was circulated to all Members at the Full Council meeting on the 1 March.

With regards to the chronology requested at the 9 May meeting Members asked for details of who originally asked for advice.

The Chief Executive explained that the chronology should be extended to detail what was discussed at each occasion advice was requested of counsel. The Chair requested that this

should include the advice when the two thirds majority rule emerged.

With regards to the contracting of services and the appointment of interim senior management posts a Member stated that Full Council had not been informed of the intention for the Executive to appoint an interim Chief Executive.

The Chief Executive stated that it was the responsibility of the Executive to make arrangements for the senior management structure. The Head of LGCS added that consultation did take place with the political group leaders.

A Member stated that all Members needed to have confidence that unbiased advice was being provided to all sectors of the Council.

The Head of LGCS stated categorically that all advice sought was on behalf of the Council as a whole and not with a bias toward either the Executive/Non-Executive Members and there was no question of biased advice being provided.

The Chair stated that the advice that had been given on the decision making of responsibility had overturned the understanding for the majority of Members. He emphasised the necessity for all Members to work together and ensure that the Council's budget was a balanced one.

Members agreed that the Finance Sub-committee be delegated to responsibility to carry out a review of the Budget process.

It was **agreed** that (1) the Chief Executive write on behalf of the Council to the Department of Communities and Local Government to request clarification to if/when the Local Authorities (Function and Responsibilities) (England) Regulations 2000 would be reviewed and to what timescale – a copy of any response be circulated to all Members of the Council; (2) the Section 151 officer to clarify the North Tyneside Council position on borrowing and its capped level; (3) the chronology be extended to detail what advice was requested on each occasion. This to include when advice emerged with regards to two thirds majority rule and (4) the Finance Sub-committee be delegated to responsibility to carry out a review of the budget process

OV7/05/12 Forward Plan

The Committee were presented with the Forward Plan covering the period June – September 2012 to identify any issues for inclusion in the committee's work programme.

There were no issues raised.

It was **agreed** that the June – September 2012 Forward Plan be noted

OV8/05/12 Meeting Start Times

The Committee considered a report that requested the agreement of the start times for the future meetings of Overview and Scrutiny Committee.

It was **agreed** that Overview and Scrutiny Committee would start at 6pm for the municipal year 2012/13.