

Minutes

Executive Scrutiny Committee

Thursday, 26 January 2012

Meeting held at Committee Room 7 - Civic Centre,
High Street, Uxbridge UB8 1UW



HILLINGDON
LONDON

	<p>Members Present: Councillors Eddie Lavery (Chairman), John Riley (Vice-Chairman), Brian Crowe, Paul Harmsworth, Mo Khursheed and Brian Stead.</p> <p>Apologies: Tony Little – Roman Catholic Diocesan Representative.</p> <p>Officer Present: Khalid Ahmed, Democratic Services Manager</p>	
30.	<p>DECLARATIONS OF INTEREST</p> <p>Councillor Brian Crowe declared a Personal Interest in Cabinet Agenda Items 5 (Disabilities Commissioning Plan 2011-2015 – Outcome of Consultation) and 7 (Transforming Adult Social Care - Personalisation and Commissioning Plan 2011-2015: Outcome of Consultation). He remained in the room and took part in the discussions.</p>	
31.	<p>MINUTES OF THE MEETING HELD ON 15 DECEMBER 2011</p> <p>Agreed as an accurate record.</p>	
32.	<p>EXCLUSION OF PRESS AND PUBLIC</p> <p>It was agreed that all items of business be considered in public.</p>	
33.	<p>CONSIDERATION OF ANY CALL-INS OF DECISIONS MADE AT THE CABINET MEETING ON 26 JANUARY 2012</p>	Action by:
	<p>Members gave consideration to the Cabinet reports of 26 January 2012 and after careful consideration Members decided not to call-in any decision. The Committee endorsed all decisions made by the Cabinet at their meeting.</p> <p>However the Committee requested information on the following Cabinet report:</p> <p>Cabinet Agenda Item No. 5 - Disabilities Commissioning Plan 2011-2015 - Outcome of consultation</p> <p>"The Committee noted and accepted paragraph 37 (page 28 of the Cabinet agenda) of the report under legal comments. However, the Committee asked, is the Borough Solicitor confident that the full</p>	

consultation process undertaken is robust given well known legal challenges elsewhere in the country on similar issues relating to the transformation of social care services."

[Subsequent to the meeting, the following response was provided by the Borough Solicitor :

"I am responding to the request by the Members of the Executive Scrutiny Committee in which they ask whether I am confident that the full consultation process undertaken is robust given well known legal challenges elsewhere in the country on similar issues relating to the transformation of social care services.

The reply to this is yes, I am confident that the consultation process undertaken by the Council is sufficiently robust. The process is fully documented in Appendix 1 of the report and it lasted between 26th September 2011 to 16th January 2012 and as far as I am aware, it is one of the most thorough consultation processes that has ever been set out in a Cabinet report.

The legal principles which have to be followed by any local authority, whenever it undertakes a consultation process, have been firmly established by the case of Rv London Borough of Brent ex parte Gunning. They are set out in paragraph 35 of the report under the heading 'Legal' but I will set them out again in this e-mail. Consultation exercises must be:

- 1. undertaken when proposals are still at a formative stage;*
- 2. include sufficient reasons for proposals to allow those consulted to give intelligent consideration and an intelligent response;*
- 3. adequate time must be given for this response;*
- 4. the product of consultation must be conscientiously taken into account when the ultimate decision is made.*

In paragraph 37 of the Cabinet report, I have stated that "The Borough Solicitor therefore advises that the consultation process has complied with legal requirements".

It is of course possible that a legal challenge may be brought in relation to Cabinet's decision but then again every decision which the Council makes is potentially challengeable in the Courts. I would reiterate that given the very thorough consultation process which the Council has undertaken, as set out in Appendix 1, it is my view that it has complied with the legal principles set out in the Gunning case."

In addition, discussion took place on **Cabinet Agenda Item No. 8 - Further Support to Voluntary Organisations 2012/13 Financial Year** and the Labour Group Members of the Committee expressed some concern regarding the decision to reduce the annual core

