

## **CORPORATE AND PUBLIC SERVICES OVERVIEW AND SCRUTINY COMMITTEE**

**Tuesday 5 April 2016 at 6.00pm at the Council Chamber, Council House, Walsall**

<b>Panel Members Present</b>	Councillor M. Nazir (Chair) Councillor I. Shires (Vice-Chair) Councillor C. Creaney Councillor S. Cooper Councillor K. Ferguson Councillor I. Jeavons Councillor A. Nawaz Councillor L. Rattigan Councillor G. Sohal
<b>Portfolio Holder</b>	Councillor A. Harris – Community, leisure and culture Councillor R. Martin – Public health and wellbeing
<b>Other Members Present</b>	Councillor S. Coughlan Councillor I. Robertson Councillor G. Clarke Councillor L. Hazell Councillor M. Longhi
<b>Invitees Present</b>	Simon Fogell – Healthwatch Walsall Peter Browne – Healthwatch Walsall Monzur Miah – Healthwatch Walsall Jan Sensier – Engaging Communities Staffordshire
<b>Officers Present</b>	Paul Gordon – Head of Business Change Craig Goodall – Committee Business & Governance Manager

### **77/15 Apologies**

Apologies for absence were received from Councillors P. Bott and S. Craddock.

### **78/15 Substitutions**

There were no substitutions for the duration of the meeting.

### **79/15 Declarations of Interest and Party Whip**

There were no declarations of interest or party whip.

## 80/15 **Local Government (Access to Information) Act 1985 (as amended)**

Resolved:

That the public be excluded from the meeting when the Committee discusses information relating to the financial business affairs of any particular person, as defined by Schedule 12A of the Local Government Act 1972 (as amended).

## 81/15 **Call-in of Cabinet decision: 'Authority to award a contract for the provision of a local Healthwatch Service for Walsall'**

The Chair opened the meeting by explaining that In line with the provisions contained within Part 4.5 of the Walsall Council Constitution the decision to award a contract for the provision of local Healthwatch Service in Walsall was "called in" on 21 March, 2016 by five members of the Council.

The reasons for the call-in were:

1. Concern over how assessments have been made on the merits of the bid by a local healthwatch;
2. Issues around transitional arrangements.

A copy of the call-in notice, Cabinet decision and Cabinet reports had been sent to Members (annexed).

The Chair explained the meeting would be held in two parts so the Committee could hear a wide range of evidence. Firstly, a public session with contributions from:

1. Call-in Members – Robertson, Burley, Sean Coughlan, Russell and Hussain
2. Healthwatch Walsall – Trevor Walden, Monzur Miah and Peter Browne
3. Members of the Social Care and Health Overview and Scrutiny Committee
4. Response from Portfolio Holder and Paul Gordon

Followed by a private session to enable Members to hear views on how bids for the healthwatch contract were assessed. This section of the meeting would receive contributions from:

1. Call-in Members – Robertson, Burley, Sean Coughlan, Russell and Hussain
2. Members of the Social Care and Health Overview and Scrutiny Committee.
3. Response from Portfolio Holder and Paul Gordon

The following is a summary of the evidence received by the Committee from each set of witnesses.

*Call-in Members – Councillors S. Coughlan, I. Robertson and E. Russell*

The Members who called the decision in outlined the following concerns regarding the Cabinet decision:

- That the timeframe for the bid submission included two bank holidays. This disadvantaged Healthwatch Walsall (HWW) as the number of working days in order to put the bid together were reduced.
- That the Kings Fund report on local Healthwatches encouraged the continuation of contracts for existing providers so they could be supported to improve rather than appoint alternative providers.
- A report that made negative comments about HWW were included in the pack of documents made available to tender bidders. There were concerns that this document could have influenced the officers who assessed the bids for the new contract against HWW.
- There were concerns about the drivers for changing the contract and that there could have been political influence exerted over the bid assessors to award the contract to a new provider. Did lobbying take place?
- It was a retrograde step to take the contract away from a local organisation if the Council wished to support the local voluntary and community sector.

*Healthwatch Walsall – Simon Fogell, Peter Browne and Monzur Miah*

Three representatives of HWW address the Committee with the following concerns:

- It was felt that there was a systemic negative view of HWW at Walsall Council. This was evidenced by the inclusion of a report that reflected badly on HWW in the tender pack and poor advice HWW had received from the Executive Director of Social Care and Inclusion regarding HWW ability to tender for advocacy contract. This was subject to a separate complaint. The same Director had now overseen the award of the new contract to a different organisation.
- The tender bid timeframe included two extended bank holidays.
- The Kings Fund report on local Healthwatches recommended supporting local Healthwatches that were perceived to be failing. Having said that HWWs performance was improving.
- It was important to give volunteers time to deliver. The Board of HWW had been working hard. It would have been better to extend HWW contract so the organisation could continue to improve rather than retender.
- The Board had not been told it was failing.
- If the contract was not awarded to HWW then the money for the contract would be leaving the borough. The company awarded the contract did not have offices in Walsall.

*Representatives of the Social Care and Health Overview and Scrutiny Committee (SC&HOSC) – Councillors M. Longhi (Chair) and E. Hazell*

As the call-in was a cross cutting issue the Chair had invited all Members of the Social Care and Health Overview and Scrutiny Committee to attend the meeting. The Members addressed the Committee on the following issues:

- There had been issues and concerns with HWW that dated back a number of years. There had been significant internal problems in the past. However, performance had recently improved.
- A report had been taken to the SCHOSC from Public Health England on HWW. Following legal advice the report had been received by the Committee in private session and no discussion took place on it.
- It was understood that the contract was due to expire so retendering was required.
- The concern about the Executive Director of Social Care and Inclusion overseeing the award of the Healthwatch contract was not shared. He was required to advise many different people including scrutiny.
- The most important issue was that a strong Healthwatch organisation was provided for Walsall. This could be delivered by many different organisations in addition to HWW.

*Response to the Call-in – Councillor A. Harris (Portfolio Holder – Community, Leisure and Culture) and Paul Gordon (Head of Business Change)*

The Chair invited the Portfolio Holder and the Head of Business Change to respond to the call in and additional concerns raised:

- The initial contract for HWW had been for two years with the option of a one year extension which was taken up. This meant the contract expired in March 2016. Procurement was governed by EU law. The Council could waive its own procurement rules but it could not act outside EU contract rules.
- The inclusion of the report that contained negative comments about HWW had been included to provide context only. It contained details of timeframes for HWW reforms that would have been of interest to bidders.
- The Portfolio Holder assured the Committee that no political lobbying of the procurement or bid assessment teams had taken place. The Head of Business Change confirmed that no members of the bid assessment team had been lobbied.
- Keith Skerman had signed over the award of the contract as a sponsoring Executive Director as the Executive Director (Change and Governance), who would have overseen it, had left the Council.
- The contract had been available to tender from 23 December 2015 – 29 January 2016. A total of 37 days. This was longer than the statutory minimum. No requests for additional time were received. There was no intention to disadvantage bidders with the timeframe. A new contract needed to be awarded before 31 March 2016.

- Only the returns provided were used to assess the bids. The procurement/tender packs were not shared with the assessment team. Many people were involved in the bid assessments. Each was given responsibility to evaluate a specific area.
- The Kings Fund report spoke of supporting failing Healthwatches but HWW was not considered to be a failing organisation due to its upturn in performance.
- With regard to the transition process to the new provider a 90 day contract extension had been invoked at the time of the call-in. The contract required the TUPE transfer of staff and a local office base.
- The bid assessment was weighted as 80% quality and 20% price.
- There was no vendetta against HWW.

#### **Resolved:**

**That the public be excluded from the meeting when the Committee discusses information relating to the financial business affairs of any particular person, as defined by Schedule 12A of the Local Government Act 1972 (as amended).**

*All members of the public and press left the room*

The Chair explained that this part of the meeting would take part in private session to enable Members to discuss the detail of the bid assessment processes which was taken to Cabinet in private session. He explained he would invite the same speakers from the public session, other than HWW, to address the Committee.

The Committee heard representations from:

- The call-in members – Councillors S. Coughlan, I. Robertson and E. Russell;
- Councillors Longhi and Hazell from the SC&HOSC;
- The Portfolio Holder (Community, Leisure and Culture) and Head of Business Change.

#### **Resolved:**

**That the meeting agree to the suspension of Council procedure rules to enable the business of the meeting to be completed after 9pm.**

The Committee debated the evidence put before them. They noted the reasons for the call-in and found that, upon examination, the process taken to award the new contract had been followed correctly. Members were also reassured that there had not been any undue political influence. The Committee was disappointed with the lack of contract management of HWW and expressed regret at the apparent relationship breakdown between the Council and HWW. This was something that should be investigated to ensure that such problems did not occur again in the future. The Committee were

disappointed that a call-in had been required to ensure the process had been followed correctly and urged the Cabinet to ensure processes were open and transparent for all in the future. Members also felt that the call-in could have been avoided through the use of pre-decision scrutiny and also urged Cabinet to consider using this process in the future to prevent the delay of urgent decisions due to call-in.

**Resolved:**

**That the private session part of the meeting be closed and members of the public and press be admitted back into the room.**

The Chair provided a summary of the discussion that had taken place to representatives of HWW and other members of the public present.

**Resolved:**

**1. That Cabinet consider commissioning a lessons learnt report on the issues that occurred with the management of the previous contract with Healthwatch Walsall;**

**and;**

**2. That Cabinet give consideration to future opportunities for pre-decision scrutiny to help assist with the prevention of call-ins in the future.**

**Termination of Meeting**

There being no further business, the meeting terminated at 9.25 pm.

Signed: .....

Date: .....