

Worthing Borough Council

Record of the Decisions taken by the Cabinet at its meeting held on 14 May 2013

Present: Councillors Paul Yallop (Chairman); Bryan Turner (Vice-Chairman), Daniel Humphreys, Mary Lermite, Clive Roberts and Tom Wye

Also present: Councillor Bickers, Bradley, James, Oakley, Rice and Rogers.

Officers: *Chief Executive, Strategic Directors (AG) and (JM), Executive Head of Financial Services, Executive Head of Technical Services, Solicitor to the Council and Democratic Services Manager*

CAB/005/2012-13 Declarations of interest

There were no declarations of interest made in the meeting.

CAB/006/2012-13 Questions by the public

There were no questions by the public.

CAB/007/12-13 Items raised under Urgency Provisions

None.

CAB/008/12-13 Exclusion of press and public

Resolved that under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting from the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the paragraphs 3 and 5 of Part 1 of Schedule 12 A to the Act indicated against the item

CAB/009/2012-13 Legal proceedings between NCP and Worthing Borough Council

Cabinet had before it an exempt information report from the Executive Head of Technical Services which had been circulated to the Cabinet members as item 5. A copy is attached to the signed copy of this Record of Decision.

The report outlined the background and on-going legal proceedings between NCP and the Council, recommending a course of action to be taken.

Cabinet was addressed by members of the Council from the public gallery on the following matters; why the report was on pink papers and when would the information become in the public domain, which officers had been involved in the Deed of Variance, the timing of the dispute in relation to a question asked in Council under SO 2.6, whether there were other matters in dispute, the disciplinary action taken against the senior officers involved, whether there was an indemnity that could be used.

The Cabinet received an outline of the background from the Executive Head of Technical Services; an update on the use of reserves and the limit of the power of Cabinet to agree

certain financial matters from the Executive Head of Financial Services; legal advice and clarifications from the Solicitor to the Council.

The Chief Executive commented on his internal investigation into the whole matter and the timescale for his report.

Members of the Cabinet were concerned that they had not been informed earlier of the dispute or the circumstances leading to the situation the Council now found itself in.

In discussing the contents of the report and the dispute the Cabinet took the advice of the Solicitor to the Council and the clarifications by the Executive Head of Financial Services.

Decision

The Cabinet considered the report and made the following decisions:

- i. it noted the potential use of the provision of the amount stated in the report to fund any settlement costs;
- ii. it agreed to the release of up to the revised amount verbally updated at the meeting from the Special and Other Emergency Expenditure Reserves to enable an attempt to settle the dispute with NCP Ltd to be made.
- iii. it authorised the Executive Head of Corporate and Cultural Services, in consultation with the Executive Heads of Technical Services and Financial Services, and the Cabinet Members for the Environment and Resources, to negotiate with NCP Ltd and attempt to reach a full and final settlement of this dispute, up to a maximum of the amount verbally updated to the meeting.
- iv. Officers investigate making a public statement on the dispute and involving support of the local MPs and the Local Government Association in the public awareness of the issues.

Note: there is an exempt decision with the actual figures attached to these minutes.

Reason for Decision

These were set out in the officer's report based on Counsel's advice.

Alternative Options considered

These were set out in the officer's report based on Counsel's advice.

Call-in

The call for this item Friday 24 May 2013 at 5pm.

The meeting ended at 5.50pm having commenced at 5pm.

Leader