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CORRESPONDENCE FOLLOWING THE COMMITTEE MEETING

Committee	JOINT SCRUTINY COMMITTEE
Date and Time of Meeting	THURSDAY, 9 JULY 2015, 2.00 PM

Please find below correspondence send by the Committee Chair following the meeting, together with any responses received.

For any further details, please contact scrutinyviewpoints@cardiff.gov.uk

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Ref: RDB/NH/BD/09.07.15

13th July 2015

Councillor Bob Derbyshire,
Cabinet Member for the Environment,
County Hall,
Atlantic Wharf,
Cardiff,
CF10 4UW.

Dear Councillor Derbyshire,

Joint meeting of the Policy Review & Performance and Environmental Scrutiny Committees – 9th July 2015

On behalf of the Policy Review & Performance and Environmental Scrutiny Committee I would like to thank you, the other Cabinet Members and officers for attending the joint meeting of the two Committees on Thursday 9th July 2015. As you are aware the meeting considered:

- Pre decision scrutiny of the Cabinet report titled Infrastructure Services – Alternative Delivery Model prior to it being considered at the Cabinet meeting on Thursday 16th July;
- Cabinet response to the Joint scrutiny task group report titled Infrastructure Business Model & Alternative Delivery Options.

The comments and observations made by Members following these items are set out in this letter.

Pre decision scrutiny of the Cabinet report titled Infrastructure Services – Alternative Delivery Model prior to it being considered at the Cabinet meeting on Thursday 16th July

Members noted that important pieces of information were missing from Appendix 11 – Infrastructure Services Alternative Delivery Models: Outline Business Case – July 2015 which was published on Friday 3rd July 2015. In particular Appendix 3 of this document titled 'Output from Corporate Evaluation Methodology' was not provided. The Committee felt that this was one of the most crucial parts of the whole Outline Business Case as it scored each of the fourteen services against the five alternative delivery models. Once provided it was very interesting to see that for the most part the outcome of the Corporate Evaluation Methodology was completely different to the recommendations in the Cabinet paper, i.e. to take the Wholly Owned Arms Length Company forward as the option for developing a Full Business Case. Members were somewhat confused that the outcome of the Corporate Evaluation Methodology and joint scrutiny report were very similar yet cast aside in favour of a Wholly Owned Arms Length Company. Members were advised that the Corporate Evaluation Methodology was one of three key elements of the Outline Business Case, therefore, I would be grateful if you could explain:

- How and why you were able to ignore the outcome of the Corporate Evaluation Methodology?
- Why it was omitted from the Appendix 11 – Infrastructure Services Alternative Delivery Models: Outline Business Case – July 2015 provided on the 3rd July 2015 and only made available following a request on Monday 6th July?
- At the meeting officers explained that changes were made late in the day to the scores of the Corporate Evaluation Methodology; this they were told was as a result of consultation with the trade unions. Please explain the changes and how they impacted on the eventual scores.

Members were concerned at some of the assumptions made originally in Appendix 4 – High Level Financial Analysis Assumptions and subsequently replaced as Appendix 3 – High Level Financial Analysis Assumptions when the Outline Business Case was reissued on Tuesday 7th July 2015. They note that after applying efficiency savings and net income generation assumptions the model illustrates that Public / Private Joint Venture was in first place, Public / Public Joint Venture in second and Teckal (Wholly Owned Arms Length Company) came in third. The assumptions in the overheads and support services sections conclude that many fixed corporate services costs cannot be removed from the Council, therefore, have to remain in addition to any third party overheads associated in working with a Public / Public Joint Venture, Public / Private Joint Venture and Outsourcing. This in effect handicaps the three models by £6.644 million; £6.257 million and £3.818 million respectively. I would be grateful if you could provide the Committees with:

- A detailed list of the fixed corporate support costs which cannot be removed from the Council budget with an explanation supporting why these cannot be removed.
- Fixed building costs were cited as examples of fixed corporate costs which could not be removed from the Council budget. Members were confused at this assumption because only a few days earlier at the Policy Review & Performance Scrutiny Committee the Director for Economic Development explained that a paper on the future of County Hall would be made available in the autumn. I would be grateful if you could justify this assumption given that there is so much uncertainty over the future of the Council's accommodation and that the Council is in the middle of 'The Office Rationalisation Project'.

During the meeting a Member asked if incentivisation had been considered for the wholly owned arms length company and was informed that this would be explored during the development of the Full Business Case. Members hope that at least some thought has been given to this idea, and would be grateful if you could provide the Committees with some ideas which might be considered during the development of the Full Business Case. In addition to this they are curious to find out more around how the 'John Lewis' effect might absorb itself into a Wholly Owned Arms Length Company when 100% of the dividends would be returned to the Council and not the employees or 'partners' as is the case with John Lewis.

The Committee were concerned by the assumption in the financial model which suggested that the Teckal (Wholly Owned Arms Length Company) would benefit from the initial savings achieved by the Modified In House option, when Public / Public, Public / Private and Outsourcing would not.

Instead the three options were assumed to start from the c£73 million savings figure at the point where they were able to begin the service delivery (periods ranging from 9 to 24 months according to page 85 of the Outline Business Case). Members believe that the Modified In House savings should be an assumed constant for each of the five models until they reach the point at which the new alternative delivery option would take over, i.e. they would all start from different points of the Modified In House savings profile instead of from the c£73 million figure. A constant message to the task group was that irrespective of the alternative delivery model chosen a Modified In House option would need to pursued right up to the point where the new model would take over. The financial model used by the Outline Business Case should follow this assumption and not work on the basis that no change would happen until the starting point of the new alternative delivery model. Maintaining the current assumption provides the Teckal option (Wholly Owned Arms Length Company) with an unfair advantage which impacts on the overall net present values for Public / Public, Public / Private and Outsourcing.

Members were concerned that the Service Improvement Plans were not available for consideration alongside the Outline Business Case despite them forming a large part of the basis of the £4.053 million in house savings for the period 2015/16 to 2017/18. The Committees were informed that the documents were not yet available as full consultation of the proposals had not been undertaken. As a consequence we are very concerned at the assumption that the savings will be achieved by both the In House model and the Wholly Owned Arms Length Company and do not believe that it should be included within the Outline Business Case as it lacks substance and detail. I would be grateful if you could confirm:

- When the Service Improvement Plans will be finalised and made available for the Members of the Environmental Scrutiny Committee and Policy Review & Performance Scrutiny Committee.
- The outstanding tasks required to complete the consultation on the Service Improvement Plans.

Page 11 of the Outline Business Case states that *'The financial projections in the OBC includes an allowance of £250,000 per annum for the costs of non-executive directors and other corporate governance costs such as the audit fee as well as the cost of the Managing and Business Development Directors'.* As this is a significant amount of annual expenditure I would be grateful if you could provide costed detail on how the assumption was calculated. For example, the amount allocated for non-executive directors, corporate governance costs and the Managing and Business Development Directors.

The email sent to you on Monday 6th July asked for a copy of Appendix 9 which was missing from the original Outline Business Case and titled as 'Project Risks'. If Members are to provide you with robust scrutiny feedback they will need to understand your judgements around risk and how these were reached, so could you please arrange for a copy of this to be provided as soon as possible.

Page 85 of the Outline Business Case states that the 'Implementation Time' for an Outsourcing option would be 12 to 18 months. This is contrary to the two year implementation period advised by Commissioning & Procurement to the joint scrutiny task group. Please provide a basis for the 12 to 18 month assumption and explain why it is different to the advice provided by Commissioning & Procurement in March 2015.

Members were confused as to how employee terms and conditions would be affected following the transfer to the new Wholly Owned Arms Length Company. At one point in the meeting it was explained that employee terms and conditions would not change, then at a later point this was contradicted with a suggestion that they could change. I would be grateful if you could provide Members with clarification regarding:

- The predicted changes to employee terms and conditions, i.e. would they change or stay the same?
- Clarification on how TUPE protection would be applied to employees transferring to the new Wholly Owned Arms Length Company.

- If the new structure would prevent multi tier employee terms and conditions being applied.

I would be grateful if you could provide the Committee with a detailed summary of all alternative delivery model consultation undertaken with the trade unions prior to the joint meeting on the 9th July. This should include what was discussed and any outcomes from meetings.

Cabinet response to the Joint scrutiny task group report titled Infrastructure Business Model & Alternative Delivery Options

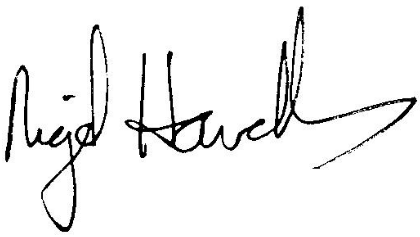
Members note that from the 27 recommendations two were rejected; 11 were accepted and 14 were partially accepted. The Committee acknowledge that you believe recommendations 12, 13, 14, 15, 16, 18, 20, 21 and 23 have been partially accepted, however, the Committee would like to respectfully disagree and suggest that these should have been rejected as in actual fact you are recommending the implementation of different models.

Conclusion

Members fully understand the importance of correctly identifying the best possible alternative delivery model for providing infrastructure services in Cardiff. The outcome of this decision will shape how the Council will spend £73 million per annum and have a direct impact on every citizen in the city along with the countless number of commuters and visitors who come to Cardiff each year.   As a consequence we believe that it is not possible to undertake proper scrutiny of the proposals until all of the requested information has been provided and Members are allowed time to properly digest the information. The Committee, therefore, asks that you delay taking a decision on the proposals due to be taken on the 16th July 2015 so that detailed scrutiny can be conducted on the complete proposals.

I would be grateful if you would consider the above comments and provide a response to the requests made in this letter.

Regards,



Councillor Nigel Howells
Chairperson Policy Review & Performance Scrutiny Committee

Cc to:

Councillor Phil Bale, Leader of the City & County of Cardiff Council
Councillor Ramesh Patel, Cabinet Member for Transport, Planning & Sustainability
Councillor Graham Hinchey, Cabinet Member for Corporate Service & Performance
Paul Orders, Chief Executive
Andrew Gregory, Director of City Operations
Tara King, Assistant Director for the Environment
David Lowe, Waste Operations Manager
Christine Salter, Corporate Director Resources
Jane Forshaw, Director for the Environment
Marc Falconer, Operational Manager, Projects & Accountancy
Paul Keeping, Operational Manager, Scrutiny Services
Marie Rosenthal, Director for Governance & Legal Services
Neil Hanratty, Director for Economic Development
Ken Daniels, GMB
Angie Shiels, GMB
Robert Collins, UCATT
Martin Roberts, UCATT
Jayne Jackson, UNISON

Ian Titherington, UNISON

Jim Pates, UNITE

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SWYDDFA CYMORTH Y CABINET
CABINET SUPPORT OFFICE

CARDIFF
CAERDYDD

Fy Nghyf / My Ref :	CM31506
Eich Cyf / Your Ref :	RDB/NH/BD/09.07.15
Dyddiad / Date:	16th July 2015

Councillor Nigel Howells
Chair Policy Review & Performance Scrutiny Committee
Cardiff County Council
Atlantic Wharf
Cardiff
CF10 4UW

Annwyl / Dear Nigel

Scrutiny Joint Policy Review And Performance And Environmental Scrutiny Committee 9 July 2015

I refer to your letter of 13 July 2015 which raised some queries in relation to the presentations made to the joint Policy Review & Performance and Environmental Scrutiny Committee meeting on 9 July and also the documents that had been shared with the Committees ahead of this meeting.

Firstly, please accept my apologies for the documents not being 100% complete at the time these were shared. At the time that the documents were first forwarded to the Scrutiny Office on 3 July, it was explained that some information still needed to be added to the Outline Business Case and both this and the Cabinet report were still being subjected to checking and QA processes. Hence, further amendments were likely before these were finalised. Updated versions of these documents were provided on 7 July and whilst the information previously absent was then included, some further amendments were made ahead of the documents being published on 10 July.

In terms of the specific queries raised in your letter, I would respond as follows:

Corporate Alternative Delivery Model (ADM) Evaluation Methodology

Please be assured that the output from the corporate evaluation methodology was not ignored. At a very early stage in the development of the new corporate ADM evaluation methodology, it was intended that the output from the model would be considered alongside a number of other criteria/factors when identifying the preferred future delivery model(s) for the services being considered. I understand that this was explained to the Policy Review & Performance Scrutiny Committee by officers from the Council's Commissioning and Procurement Service on 7 July.

Both the Outline Business Case and the Cabinet report explain that the ADM appraisal process on this project comprised the consideration of:

- the corporate evaluation methodology output;
- the high level financial analysis, and
- other key factors.

PLEASE REPLY TO / ATEBWCH I : Cabinet Support Office / Swyddfa Cymorth Y Cabinet,
Room / Ystafell 518, County Hall / Neuadd y Sir,
Atlantic Wharf / Glanfa'r Iwerydd, Cardiff / Caerdydd,
CF10 4UW

Consideration was also given to recommendations made by the Scrutiny Task and Finish, the work of which I have previously gratefully acknowledged.

As stated in the Outline Business Case and Cabinet report, and also explained at the meeting on 9 July, subject to the completion of the Full Business Case, I believe the most appropriate way forward for the Council is to establish a Wholly Owned Trading Company. There are a number of reasons for this. Firstly, the corporate evaluation model, which was piloted on this project, is largely based around the balance of risk and control. This methodology, in assessing appetite for risk and control, is therefore heavily influenced by how the current stakeholder views their current operating environment according to the resources, commercialisation, technology and governance in place at the time of the weighting assessments. However, I believe that the establishment of Wholly Owned Company with the injection of the commercial acumen and proper governance will enable the Council to achieve the required benefits and also maintain a high level of control whilst doing so. Secondly, the high level financial analysis indicates that the Wholly Owned Company will deliver most financial benefit to the Council which is clearly an important issue. Thirdly, other key factors from a Cabinet perspective include: the required speed of delivery of change, allowing more operating freedom for the company whilst retaining overall control, innovation, diversification and commercialisation, maintaining the support of key stakeholders and improved employee ownership and commitment.

As stated at this meeting, the model output was omitted from the documents shared with Scrutiny on 3 July as the weightings, following consultation with the Unions, had not at that time been finalised. The model output, however, was included in the Outline Business Case shared with Scrutiny on 7 July. A summary of the changes made as a result of the consultation process are attached to this letter.

Corporate Overheads

You will be aware that a Public/Public and Public/Private JV company and also contractor would incur and charge both local and central overhead costs against the company which would have an impact upon the net saving benefits realised. It has been assumed that the local overhead charges (e.g. premises, senior management team, etc) would be transferred to the JV company/contractor. However, in terms of the central overhead, an analysis of the existing overhead charges to the services in scope was necessary to determine which were considered to be variable (and hence capable of being mitigated) and fixed (i.e. those that the Council would continue to bear). In summary, c.54% (c£1.5m p.a.) of the charges were considered variable and c46% were considered fixed. Support services were considered to see which activities currently recharged to the areas in scope would remain within the Council. For example where a proportion of activity relates to tasks that will remain with the Council regardless of the model chosen. Examples of this include corporate advice and compliance, corporate performance mechanisms and other monitoring responsibilities.

Therefore, as stated in Appendix 3 of the Outline Business Case, a reduction in overhead charge of £1.5m was assumed.

During the meeting, in response to a Scrutiny query about establishment overheads, Officers responded by saying that the overhead charges covered many factors other than property. When checking the assumptions made, I confirm that the financial modelling has already assumed that accommodation charges would effectively be transferred to a JV company or contractor.

A summary of the overhead charges, as extracted from Appendix 3 of the Outline Business Case, is shown below:

	Modified In-house		Wholly Owned Company		Public Public JV		Public Private JV		Outsource	
	Yrs 1 - 7	Yrs 1 - 12	Yrs 1 - 7	Yrs 1 - 12	Yrs 1 - 7	Yrs 1 - 12	Yrs 1 - 7	Yrs 1 - 12	Yrs 1 - 7	Yrs 1 - 12
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Model Costs										
Overheads	0	0	0	0	12,912	22,775	11,768	21,620	10,201	19,181
Company related costs			1,577	2,827						
S-T : Model Costs	0	0	1,577	2,827	12,912	22,775	11,768	21,620	10,201	19,181
Council Savings										
Support Services					-8,450	-16,131	-7,681	-15,363	-7,681	-15,363

In respect of the above the table:

- 'Overheads' – this refers to the assumed cost of overhead for the different models. No additional overhead charge has been assumed for the Modified In-House and Wholly Owned Company models and, as stated in Appendix 3 of the Outline Business Case, a cost of 3.8% has been assumed for the JV models and 3.3% for the Outsource model

- 'Company related costs' - this corresponds to the £250,000 per year for the Wholly Owned Company model primarily for the employment of a Managing Director and Business Development Manager with the purpose of providing the required injection of commercial acumen. The remaining costs make an allowance for Non-Executive Director costs/expenses and other incidental governance aspects such as audit.

- 'Support Services Costs' – this refers to the reduction in existing Council overhead that would be possible if one of the joint venture models was established or the services were outsourced. As stated above, the reduction assumed per year based on the overhead analysis undertaken was £1.5m. It should not noted that no reduction has been made for Modified In-house and Wholly Owned company models although in practice, overhead reductions for both these models would be achieved.

Incentivisation

As explained at the meeting, possible alternatives for the incentivisation of staff need to be assessed and analysed. In particular, consideration will need to be given to how any incentivisation would impact on potential Equal Pay issues both within the Company and between the Company and the Council more generally. I am not in a position to share any thoughts with Scrutiny at this Outline Business Case stage but will be able to report more detail as the Full Business Case develops and would welcome further dialogue on these matters. In terms of reference to the 'John Lewis' effect, Officers recognise that staff would not be shareholders in a Wholly Owned Company. However, the reference was made in respect of the benefits of improving the motivation, engagement and commitment of staff that being part of a Wholly Owned Company would bring.

Model Saving Assumptions

It is important to note and understand that the high level financial model is assumptions driven. The assumptions made are set out in Appendix 3 of the Outline Business Case. These were informed through the Soft Market Testing undertaken at the end of 2014 and research, and subject to challenge by Local Partnerships. In respect of the modified in house model, the saving assumptions are derived from the savings plans prepared by the Operational Managers for the 3 year MTFP period commencing in 2015/16. These are set out in Table 4 of the Outline Business Case. It was also assumed that these would form a significant part of the savings for the Wholly Owned Company model. In terms of the other models, similarly detailed saving proposals were not available, and in order to avoid double counting, it could not be assumed that the identified Modified In-house savings would be additional to the percentage efficiency savings assumed for the other models. It is believed that this was a fair way to evaluate the efficiency savings of the alternative models being considered and did not place the Wholly Owned Company with an unfair advantage.

Service Improvement Plans

As explained at the meeting, it would have been in appropriate to release details of proposed savings ahead of the required consultations being undertaken. However, it was important to include the high level detail under the headings identified within the Outline Business Case so that a 'flavour' of the types of savings envisaged could be shared. The alternative would have been to simply include a corresponding overall percentage saving in a similar manner to that provided for the other models.

It is intended to commence these consultations on all directorate and personnel savings as part of delivering a Final Business Case in the new calendar year. The Final Business case (FBC) process with the process would be consistent with best practice, be required for any model; and the consultation would develop in the next stages and will be regularly reviewed as part of existing applied strong Project Governance

Page 11 of the Outline Business Case

The majority (c.£230,000) of the £250,000 Wholly Owned Trading Company Management Costs, also referenced in Appendix 3, relates to the employment of a Managing Director and Business Development Manager with the purpose of providing the required injection of commercial acumen. The remaining costs make an allowance for Non-Executive Director costs/expenses and other incidental governance aspects such as audit. As identified in both the Outline Business Case and Cabinet report, the Company governance proposals, and corresponding costs, will be fully developed as part of the Full Business Case. Such management costs are comparable to that for a Public/Public and Public/Private JV.

Appendix 9 of Outline Business Case

The risk register which would have been included in Appendix 9 of the Outline Business Case forwarded to Scrutiny on 3 July was provided in Section 4 of the Outline Business Case forwarded on 7 July. It was also included at this location in the version published on 10 July. The risk resister will continue to develop in the next stages and will be regularly reviewed as part of existing applied strong governance.

Page 85 of the Outline Business Case

The 12 – 18 months' timescale was a typo picked up prior to the publication of the OBC on Friday 10 July. This was corrected to 18 – 24 months prior to publication of the final version.

Employee Terms and Conditions

It is confirmed that employees transferring to a Wholly Owned Trading company would do so under TUPE on their contractual terms and conditions operational at the time of transfer. In order to comply with current legislative requirements and avoid the Council having challenges from an Equal Pay perspective, any changes to terms and conditions would need to be applied to all employees under its control. It is therefore not intended to make any changes to the terms and conditions of transferring employees which would be contrary to such legislative requirements. The Wholly Owned Company would also be subject to the Code of Practice on Workforce matters as it stands in Wales, and therefore any new recruits to the Wholly Owned Company would also have terms and conditions at the same level as those employees who have transferred, mitigating the risk of a two-tier workforce.

Union Consultations

Consultation with the Unions commenced at the end of May 2014, shortly after Cabinet approved the Chief Executive's Organisation Development report, through the Trade Union Budget Forum. Consultations have been ongoing since this time and details of meetings are hereby attached as requested.

Cabinet Response to Task and Finish Report

It is believed that recommendations 12, 13, 14, 15, 16, 18, 20, 21 and 23 were partly accepted on the basis that both the currently preferred models of the Cabinet and that of the Scrutiny Task and Finish Group involve transferring services to a different model from that currently operated. These recommendations were not completely accepted on the basis that Cabinets currently preferred model is different to that of the Scrutiny Task and Finish Group.

Conclusion

I appreciate that a relatively small amount of information was shared with the Scrutiny Committee's at a relatively late stage. However, taking into account the information that has previously been shared to and from Scrutiny's , I believe that adequate Scrutiny has taken place at this stage in the project. I am very keen to progress and continue with your inputs which have been very helpful to date. As such I have asked officers to set out clearly timeframe gateways within the next stage (FBC) stakeholder plans, such that you may consider within your work forward plans for the year.

As previously advised, the project is adopting a gateway process and following the completion of the next critical stage, of the Full Business Case and Transition plan there will be a certain key point for a full pre- decision Scrutiny to take place on a final decision on the proposed way forward.

I trust this response is helpful. However, if you have any queries, please contact me.

Yn gwyir
Yours sincerely

Councillor / Y Cynghorydd Bob Derbyshire
Cabinet Member for Environment
Aelod Cabinet Dros Yr Amgylchedd

Enc:

- Summary of Changes Made to Model Output
- Details of Trade Union meetings