

## POLICY REVIEW AND PERFORMANCE SCRUTINY COMMITTEE

14 MAY 2015

Present: County Councillor Howells(Chairperson)  
County Councillors Cowan, Goodway, Hunt, Lloyd, McGarry,  
Murphy and Walker

### 1 : APOLOGIES FOR ABSENCE

Councillor Bale gave apologies as he was required to attend Economy & Culture Scrutiny Committee

### 2 : DECLARATIONS OF INTEREST

Members were advised that they had a responsibility under Article 16 of the Members' Code of Conduct to declare any interests at the start of the meeting, and complete Personal Interest Forms.

At the commencement of the agenda item Members should declare an interest specifying whether it is a personal or prejudicial interest – if the latter the member must leave the meeting, if the former they may stay and speak.

| COUNCILLOR | ITEM | REASON  |
|------------|------|---|
| Howells    | 4    | Member of the Executive when decision for loan was taken. |
| Walker     | 4    | Invited to test match in July as Lord Mayor elect.        |
| Goodway    | 4    | Called in Decision  |

### 3 : OUTLINE OF CALL-IN PROCESS BY COUNTY CLERK & MONITORING OFFICER

Geoff Shimell, Operational Manager, Property & Development outlined the Scrutiny Call-In process to Members.

Under the Call-In Procedure, the relevant Scrutiny Committee may consider the called-in decision itself, or decide to refer the issue to the Council for Scrutiny if the matter is of general significance and importance to the Council as a whole. A Council meeting to consider this issue must take place within 10 clear days of such a referral, unless otherwise agreed between the Leader and the Chairperson of the relevant Scrutiny Committee.

Committee's approval was sought to proceed with consideration of the Call-in at this meeting, rather than refer it for consideration by full Council.

The Committee was advised to take the following into consideration:

- The Committee was best placed to consider the call in decision themselves and take evidence. No mechanism exists at full Council to do this.
- Cost and inconvenience of calling a meeting of Full Council
- Impact on the Club of more delay

*RESOLVED: The Committee AGREED to consider the Call-In at this Scrutiny Committee.*

The Chairperson made clear to Members that the decision to be scrutinised today was that taken by Cabinet on 19 March 2015 and therefore any reference to previous decisions of the Executive, in 2006 and 2011 respectively, would be disallowed by the Chair.

The Chairperson clarified for all present that any presentation, discussion or questions related to the yellow pages within the Committee papers would be taken in closed session and at that point in the meeting both the public and press would be asked to leave the room.

4 : GLAMORGAN COUNTY CRICKET CLUB LOAN WRITE-OFF AND RESTRUCTURING. CONSIDERATION OF CALLED-IN CABINET DECISION - CAB/14/15

The Chairperson welcomed the following witnesses:

Cardiff Council

Councillor Graham Hinchey, Cabinet Member, Corporate Services and Performance.  
Christine Salter, Corporate Director, Resources  
Marcia Sinfield, Operational Manager, Projects and Technical Accountancy  
Anil Hirani, Operational Manager, Capital and Treasury Accountancy  
Steve Morris, Parks and Sport Development Manager

Council's financial advisors, Deloitte:

Dominic Wong, Director  
Ben Swarbrick, Assistant Director

Allied Irish Bank

Mike Barnes

Glamorgan Cricket Club:

Barry O'Brian, Chairman  
Hugh Morris, Chief Executive  
Hamish Buckland, Treasurer  
Simon White, Financial Consultant

The Chairperson explained that in accordance with the Council's approved Call In procedure the Committee had been requested to consider decision CAB/14/105 on the Decision Register at the request of a non-Cabinet Member.

The Chairperson invited the Member calling in the decision, Councillor Russell Goodway to the witness table to make a statement explaining his reasons for calling in this decision of the Cabinet.

Councillor Goodway explained that a proposal to write-off circa 70% of the value of sums outstanding on loans made to GCCC could not be justified by the Council with essential core services being continually cut and the cost to the Cardiff Tax Payer.

The principal reasons for the call were:

- The apparent failure to consider other options to secure the council-taxpayers interest;
- The apparent willingness to collaborate in the release of a bank guarantee and the repayment of loan capital to a lower ranking creditor to the apparent detriment of council-taxpayers;
- The apparent failure to secure changes in the organisation's management to secure improvements in the Club's financial performance;
- The on-going financial performance of the Club and its apparent inability to pay its debts when they fall due;
- The apparent failure to secure appropriate benefits in kind to mitigate the loss to the council taxpayer;
- The risk to the council's reputation resulting from the decision to enter into the proposed agreement.

Councillor Goodway referred to the current position of the two other main creditors: Allied Irish Bank and Mr Russell, who at the time of issuing a loan to the Club had been Chairman. Both the Bank and Mr Russell had agreed to the proposal to write off 70% of the loan. The Bank had advised that their approved write down was a maximum of £5 million and/ or 70% of the debt, including accrued interest. However, this was subject to the same decision also being reached by the Council.

The legal status of the report was addressed. In terms of potential State Aid issues and the a market investor principle, AIB had agreed to the same percentage write off in regard to its own debt. The Council would retain opportunities to recoup some of the loan agreements. This was an improvement on the position whereby AIB could have called for the Council's debt to be written off in full as a pre-condition to writing off part of its own debt.

Councillor Goodway asked if the Cabinet had considered at all options when making its decision to write off 70% of the debt. He enquired whether Cabinet considered taking control of the GCCC Board, or appointing a Council official on the Board for monitoring purposes. This decision under scrutiny did not protect the Cardiff council tax payer, but that of a lower ranking creditor than the Council, Mr Russell.

The Council subsequently engaged independent financial advice from Deloitte. Based on an analysis of the Club's financial forecasts, this had highlighted that the Club could only support 30% of existing debt and concluded there were more potential risks than potential upsides to the Club's financial forecasts. On this basis the Council would continue to recognise impairment at 100%. It was deemed by the first and second legal charge holders that the early release of Mr Russell for a reduced upfront payment would protect the ongoing viability of the club and the ability of the creditors to realise a return on sums due.

A significant amount of negative public interest was apparent towards this write off with no evidence of the proposed benefits in kind being achieved. Cardiff council tax payers were extremely frustrated and this seemed to have been overlooked by the Cabinet when the decision was made.

Councillor Goodway drew attention to the agreement made at the time between the Council and the Millennium Stadium, where every ticket sold at the stadium carried a 25p levy contribution to the Millennium Stadium Trust. No such contribution with GCCC had come to fruition.

The Council's reputation was at risk and the benefits of this decision had not been made clear by the Council's Cabinet.

The Chairperson thanked Councillor Goodway for his statement.

The Chairperson invited Councillor Graham Hinchey to make a statement.

Councillor Hinchey explained that when making the decision to write off the GCCC debt all feasible options were considered and exhausted. The total debt including interest owed to the Council stood at £6.4M. The Club owed around £16M to the creditors in total.

GCCC was however, deeply embedded in Cardiff's sporting tradition, providing community and social benefits for many of the city's residents. The Test games and One-Day Internationals have helped raise the city's profile across the globe, this would not have been possible without the redevelopment of the club's facilities. When the loans were made the economic environment was far better and the recession unforeseen.

Independent financial advice had confirmed significant risk of administration if consensual restructuring was not agreed and that a debt write down of at least 70% for all creditors was the minimum required in order to ensure that the balance of debt was at levels that have a reasonable prospect of being serviced. The Council would continue to work closely with the other creditors, the Club and Welsh Government to ensure that the benefits of cricket and the stadium to the local and national economy are maximised going forward.

The Committee received correspondence from Marcia Sinfield, Cardiff Council and Brian Havill, Director of Finance, The England and Wales Cricket Board. These letters related to the financial position of GCCC, with the England and Wales Cricket Board confirming in principle to lend GCCC £600,000 in order to repay current indebtedness. The EWCB had seen the GCCC business plan including the financial projection and while not without risks was considered them robust.

GCCC published annual report for 2013, following a management restructure, indicated further discussions on loans outstanding to take place with the Club's creditors.

The Committee noted the Heads of terms for revised loan:

- Outstanding debt and interest to be written down by circa 70% based upon cumulative balances at 31 March 2015 to form a revised consolidated loan. Repayment of remaining balance (combined balance - £1,923,584 – 31 March 2015) to be rescheduled as followed:
  - a. Equal 6 monthly instalments of 1/40 of revised loan balance to be paid starting on 1 July 2019.
  - b. Remaining principle balance to be repaid in its entirety on 1 January 2026, subject to securing funding to repay.
- Payments of capital and interest to rank pari-passu with AIB and ECB, with the exception of ECBs preference on excess ECB payments.
- The Council reserves the right to any future windfalls, will negotiate the use of rooms and consider opportunities for further economic benefit.

Future Funding for GCCC was being considered by Welsh Government, this was also conditional upon securing a financial restructuring. The exact level of this support was not yet confirmed.

Councillor Hinchey confirmed that following careful consideration and discussions to consider alternative options, taking into consideration the recent management restructure at GCCC, the Council felt, its choices were limited and this option was taken forward to support the wider economic benefits of the city.

*The meeting was adjourned due to a disruption from the public gallery the meeting reconvened at 5:00pm*

The Chairperson invited Members of the Committee to ask questions to all at the witness table.

Members of the Committee were concerned that late information, letters between the Council's Finance Directorate and Brian Havill, ECB, were provided to the Committee at the meeting. There was an adverse public reaction to this deal also reflected on social media sites airing concerns and outrage by this decision to write off 70% of the debt when it was clear the Council was not in a position to do so.

The Cabinet's reasons for writing off this debt were not justified, when Cardiff council tax payers were expected to accept this proposal. It was also apparent the Cabinet had failed to secure appropriate benefits in kind to mitigate the loss to the council tax payer.

Members of the Committee asked how many times the Leader of the Council had met with AIB, Mr Russell and the GCCC to discuss options before the proposal was put to Cabinet and were alternative options considered.

Councillor Hinchey confirmed the Leader of the Council had not met with the Club. Meetings held were between the Club and Councillor Hinchey.

The Committee was assured it was an oversight the additional letters from the Council's Finance Officers and the ECB were omitted from the Committee papers.

Members enquired why there had been no pre-decision scrutiny of this matter. Officers were unsure but the Committee was advised that concerns surrounding the financial position of GCCC had been on-going for a considerable amount of time and was discussed at Council. The Club had agreed to providing room hire to the Council and also supporting continues community involvement and activity at the Club including assistant to school's and community driven organisations. A Council representative on the board was not seen entirely essential as a result of the management restructure and the highly skilled personnel now controlling operations.

The Club's repayments were dependent on success in attracting international matches. With increasing competition amongst grounds to host exclusive matches, performance was totally reliant on the ECB granting significant future International Matches and the Club hosting them successfully. The Club had been reliant on short term loans from the ECB, the use of cash from future ticket sales as well as one off windfalls to balance the cash position in the short term.

It was explained to the Committee that the England and Wales cricket sector (18 First Class Counties) had incurred a consolidated loss averaging £10 million per annum for the last three years (2011 – 2013), against a consolidated debt level of £200 million. Therefore, no further monies would be made available to individual clubs to rule out precedents being set.

The Committee discussed the effect on revenue funding especially the consequence on provision for the loan amount. Provision was realised and there were no implications on the Council's accounts.

Members of the Committee discussed the implications of the club going into administration. The SWALEC Stadium was located in parkland and had specific conditions attached to it if the possibility of a sale came about.

The Committee continued to show concern with the Council not appointing a Council representative to the GCCC board. Further clarification was also sought on the fact that parties would not proceed with the restructuring until there was confirmation from the HMRC that there were no adverse tax implications.

Councillor Hinchey confirmed to the Committee that as a result of the management restructure Cabinet had taken the right decision not to appoint a representative to the Club's board. However, if the Club were minded to offer the Council a position on the board it would be considered.

Members of the Committee were informed of the financial position involving the HMRC. This needed resolving and was currently being dealt with by the Club. Welsh Government would also look at the financial position before releasing grant funding in the future.

The Committee was advised both the Council and AIB had requested that the Club update the proposed heads of terms of the revised loan to reflect the position if there should be any windfalls/outperformance in relation to the Club's projections and the Club had advised of their willingness to accept such an amendment.

Members of the Committee continued to discuss the position of both the AIB and Mr Russell in relation to the write down of 70% by the Council and how this decision had come about. The 2013/14 Statement of Accounts for the Council was addressed and the likelihood of the loan being recovered seemed unlikely as a result the loan was impaired to nil and a similar approach was taken by the bank.

The Committee were provided with information on the position of AIB and the level of understanding between all parties. The element of risk was discussed and the independent financial advice provided to the Council by Deloitte's. AIB's agreement to the proposal that all creditors write down their debt by a maximum of £5 million, circa 70% was a generous deal for the Council and Mr Russell. In such situations, lower ranked creditors would be asked to write down in full.

Members of the Committee remained of the view that the proposal by AIB was unreasonable and suggested that both AIB and Mr Russell get nothing and agree to let the Council negotiate with the Club for a payback return over a longer period of time. AIB as a government run bank should not be in a position to impose this decision on the Council.

The Committee was advised that AIB as the main creditor remained first charge on the loan.

#### EXCLUSION OF THE PUBLIC

RESOLVED – That the public be excluded for the following items of business on the grounds that if members of the public were present during the discussions, because of the nature of the business to be transacted, there would be a disclosure to them of exempt information as defined in Section 100(1) of the Local Government Act 1972 and Categories 1 and 3 of the Local Authorities (Access to Information) (Variation) (Wales) Order 2007 as described below:

“Information relating to the business affairs of any particular person (other than the Authority)”.

The Committee discussed the financial circumstances of the Club.

The meeting reconvened into open session and the public and press were invited back in.

The Chairperson invited Councillor Goodway to sum up.

Councillor Goodway was of the view that the Council should have considered alternative solutions before the decision was taken to write down 70% of the loan in order to protect Cardiff council tax payers money. Further a decision should have been made by the Cabinet to appoint a Council representative to the GCCC Board even with observer status to monitor activity at the Club.

Councillor Goodway asked the Committee to consider referring the decision back to the Cabinet to consider appointing a Council representative to the Board and to possibly consider alternative options to what was being discussed today to protect both the council tax payers of Cardiff and the Club. Members recognised the importance of the Club's status on the world stage and the economic benefits it brought to the city and this should not be lost. However, it was not an unreasonable request for the Council to appoint a representative to the Board and this was in the best interests of both parties.

Councillor Hinchey agreed with the points Councillor Goodway had made and referred to the economic benefits the Ashes had brought to the city in 2009. Glamorgan Cricket Club was the only first league club in Wales and should be protected. The Cabinet when making its decision had considered numerous options and had come to view that the Club could not be put into administration. After careful consideration, which was not an easy one, this decision was seen as best possible solution.

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RESOLVED: The Committee AGREED that the Cabinet Decision CAB/14/IT would not be referred back.

5 : DISCUSSION AND DETERMINATION TO REFER BACK OR NOT

The meeting terminated at Time Not Specified