

**CITY & COUNTY OF CARDIFF COUNCIL
DINAS A SIR CAERDYDD**

POLICY REVIEW & PERFORMANCE

SCRUTINY COMMITTEE

14 May 2015

**GLAMORGAN COUNTY CRICKET CLUB LOAN WRITE- OFF AND
RESTRUCTURING - CONSIDERATION OF CALLED-IN CABINET DECISION
CAB/14/105**

Please note that Appendix 1 and 2 of Appendix B attached to this report is not for publication as it contains exempt information of the description contained in paragraphs 14 and 21 of Schedule 12A of the Local Government Act 1972.

Background

1. The Council's Constitution makes provision for a Call-In Procedure which provides that any non-Cabinet Member may call-in a decision of which notice has been given, by giving notice in writing to the Operational Manager of Scrutiny Services within the Call-In Period (within 7 clear working days after publication of the decision). The Operational Manager shall then notify the Cabinet Business Office and call a meeting of the relevant Scrutiny Committee, where possible after consultation with the Chairperson of the Committee, and in any case within five clear working days of the decision to call-in.
2. Cabinet Decisions, for purposes of the Call-In Procedure, are those made by the Cabinet, a Committee of the Cabinet, the Leader, a Cabinet Member, the Chief Executive or a Corporate Director (or other post holder/s within the same tier of management or responsibility).
3. On 19 March 2015 the Cabinet received a report requesting a decision 'to consider a proposal from Glamorgan County Cricket Club for a write off and restructuring of sums due to the Council in respect of loans provided to improve

the Club's ground infrastructure and to meet standards required for the staging of test matches.'

4. Cabinet Decision CAB/14/105, made on 19 March 2015 and published on the same date with a proposed implementation date of 23 March 2015, resolved:

- *In line with the other main creditors, write-off circa 70% of the value of sums outstanding on loans made to Glamorgan County Cricket Club.*
- *Agree the heads of terms and revised terms for repayment of amounts outstanding, whilst acknowledging that there can be no absolute guarantee that income generated by the Club will enable it to repay the proposed restructured loan.*
- *Delegate authority to the Corporate Director Resources to complete revised contractual terms with the club in consultation with the County Solicitor and the Cabinet Member for Corporate Services and Performance.*

5. The reasons given for taking this decision were:

- The implications of not accepting the proposal are the likely insolvency of the Club or a change in legal status which could have significant cost implications for the Club, reputational impact, loss of test or other major match status including impact on existing match awards.
- Independent financial advice indicates the existing level of debt of the Club is un-serviceable, and even with a circa 70% write down significant financial and operating risks remain.
- The first creditor has agreed to the terms of the restructuring, subject to the Council also doing so, which gives assurance the Council is acting in accordance with the Market Investor Principle.
- The proposal in partnership with Allied Irish Bank is a generous one, as in similar situations lower ranking creditors would normally be required to write-off their outstanding amounts in full. The Council will retain opportunities to recoup some of the loan amount in future years in accordance with revised loan agreements or should there be a reversal in the Club's financial position. The Council also continues to discuss

opportunities to access other benefits from the Club, for example the use of rooms at the stadium where relevant

- Independent financial advice indicates the existing level of debt of the Club is un-serviceable even with a circa 70% write

5. A copy of the relevant section of the **Register of Cabinet Decisions**, setting out the decision and reasons for this decision, is attached at **Appendix A**.
6. Attached at **Appendix B** is the report to the Cabinet Business Meeting of 19 March 2015. This Appendix itself contains two appendices. Appendix 1 is a Draft Loan Restructuring Term Sheet, and Appendix 2 is an independent financial review report by Deloitte commissioned by the Council. Both appendices are exempt from publication for the reasons stated at the top of this report.
7. A Member of the Committee has requested that the above decision be called in for Scrutiny Committee consideration (**Appendix C**). The reasons given for the Call In are:
 - a. The apparent failure to consider other options to secure the council-taxpayers interest;
 - b. 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;
 - c. The apparent failure to secure changes in the organisation's management to secure improvements in the Club's financial performance;
 - d. The on-going financial performance of the Club and its apparent inability to pay its debts when they fall due;
 - e. The apparent failure to secure appropriate benefits in kind to mitigate the loss to the council taxpayer;
 - f. The risk to the council's reputation resulting from the decision to enter into the proposed agreement.
8. The Policy Review and Performance Scrutiny Committee's terms of reference, agreed by Full Council on 29 May 2014, include the scrutiny, monitoring and

review of the effectiveness of the general implementation of the Council's policies, aims and objectives, including systems of financial control and administration.

9. The role of Scrutiny Committees calling in a decision is:
 - (i) To test the merits of the decision;
 - (ii) To consider the process by which the decision has been formulated;
 - (iii) To make recommendations (to support the decision, change aspects of the decision, or to invite the decision making body to reconsider);
 - (iv) To suggest further steps before a decision is made.

10. Members may be aware that there are additional background papers relevant to the Council's decision to write down the Glamorgan Cricket Club loan, relating to two decisions of the previous Executive on this matter, taken in 2011 and 2006. These decisions are **not** the subject of scrutiny at this meeting, however should Members wish to access these papers in preparation for the meeting, this can be done by following the links at the end of this report.

Scope of Scrutiny

11. The Committee therefore needs to consider this call-In in accordance with the requirements of the Call-In Procedure. The scope of this scrutiny is limited to exploring the reasons for the call-in listed in paragraph 7 above.

12. It is important that Members focus their questions directly on the decision taken by Cabinet on 19 March 2015. Should questions be evaluated as probing decisions not within the remit of the call-in then the Chair will deem it necessary to disallow the line of inquiry.

13. 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 working

days of such a referral, unless otherwise agreed between the Leader and the Chairperson of the relevant Scrutiny Committee.

14. Having considered the decision, the Scrutiny Committee may refer it back to the decision maker for reconsideration, setting out in writing the nature of its concerns. The decision maker shall then reconsider the matter before adopting a final decision, arranging for the decision to be changed to reflect points made by the Scrutiny Committee, or formally deferring the matter for further consideration. The relevant Scrutiny Committee or Council as appropriate will be advised of the outcome at its next meeting.

15. If following a Call-In, the matter is not referred back to the decision maker, the decision shall take effect on the date of the relevant Scrutiny Committee or Council meeting which considers the issue, or the expiry of the Scrutiny Period or the Council Scrutiny Period as appropriate, whichever is the later.

16. In order to undertake its task the Committee will have the opportunity to question the following witnesses:

From The City of 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, Account Manager, Capital)

Geoff Shimell, Operational Manager (Property and Management)

Steve Morris (Parks and Sport Development Manager)

Paul Meadows (Director, Deloitte)

Ben Swarbrick (Assistant Director, Deloitte)

From Glamorgan County Cricket Club:

Representatives of the club will include the Chairman and Chief Executive, and a representative of .Allied Irish Bank.

Legal Implications

18. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

19. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to consider Cabinet Decision CAB/14/105 in accordance with the Call In Procedure.

Marie Rosenthal

County Clerk & Monitoring Officer

8 May 2015

Background Papers

Executive Business Meeting:17 February 2011 SWALEC STADIUM

<https://www.cardiff.gov.uk/ENG/Your-Council/Councillors-and-meetings/CouncilMeetings/Pages/default.aspx>

Executive Business Meeting:14 November 2006 GLAMORGAN COUNTY CRICKET CLUB

<https://www.cardiff.gov.uk/ENG/Your-Council/Councillors-and-meetings/CouncilMeetings/Pages/default.aspx>