

Wiltshire Council

Cabinet

14 June 2011

Subject: Wiltshire Involvement Network Complaint Review

Cabinet member: Cllr Jane Scott - Leader of the Council

Key Decision: No

Executive Summary

1. Following considerable public interest in the Council's handling of a complaint arising from a meeting of the Core Group of Wiltshire Involvement Network (WIN) on 10 August 2010, the Leader of Wiltshire Council asked the Chief Executive to instigate a review of the process followed by the Council in dealing with the complaint and to report the outcome to a subsequent meeting of the Cabinet.
2. The review was undertaken by the Head of Legal Services. His report concludes that it was appropriate in the circumstances for the Council to investigate the complaint but identifies a number of shortcomings in the process that was followed. The report makes the following recommendations:
 - a. The Investigation Report dated 31 August 2010 is withdrawn.
 - b. A full review is undertaken of the structure/governance/decision making process of the LINK arrangement to establish whether there is clear and appropriate governance processes in place including the following: -
 - i. dealing with Equality and Diversity issues and, in particular, complaints concerning the same.
 - ii. dealing with governance/decision making if for any reason an appointed host organisation or third party is no longer in place.
 - c. A review of Wiltshire Council's policies and procedures when dealing with complaints made to the Council about third party bodies with which the Council is involved to ensure that there are clear guidelines for officers when dealing with these issues.
 - d. The reviews set out in b. and c. above to provide the basis for a staged review of other third party arrangements within the Council.
 - e. A reminder/training to all staff to obtain legal advice at an early stage when dealing with situations which involve complexity, political sensitivity and/or governance arrangements with third parties.

Proposal(s)

Cabinet is asked to note the report and endorse the recommendations within it as set out above.

Reason for Proposal

To improve the arrangements for dealing with complaints of this nature involving third parties and to enable the Council to fulfil its responsibilities under the relevant legislation more effectively..

Andrew Kerr
Chief Executive

Wiltshire Council

Cabinet

14 June 2011

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Cabinet member: Cllr Jane Scott OBE - Leader of the Council

Key Decision: No

Purpose of Report

1. The purpose of this report is:-
 - (a) To advise Cabinet of the outcome of a review commissioned by the Chief Executive into the process followed in connection with the investigation of a complaint arising from a meeting of Wiltshire Involvement Network (WIN) on 10 August 2010.
 - (b) To ask Cabinet to consider the recommendations made in the review report.

Background

2. On 10 August 2010 a meeting of the Core Group of Wiltshire Involvement Network took place at the Potterne Wick Scout Centre. During the meeting a Core Group member took exception to a phrase used by the chair and a discussion occurred between some members of the Group. The member made a complaint to Wiltshire Council and an investigation was commenced. The investigation was concluded on 31 August 2010.
3. In the light of considerable public interest in the handling of the complaint during February 2011 the Leader asked the Chief Executive to instigate a review of the process followed by the Council in dealing with the complaint and to report the outcome to a subsequent meeting of the Cabinet.

Main Considerations for the Council

4. The review was undertaken by the Head of Legal Services. A copy of his report and recommendations are attached at Appendix 1.
5. The review has identified the following: -

- a. There was no host organisation in place for oversight of WIN at the material time, as required by the Local Government and Public Involvement in Health Act 2007;
- b. The making of the complaint to Wiltshire Council was appropriate.
- c. Whilst the decision by Wiltshire Council to accept and carry out an investigation into the complaint regarding equality and diversity was appropriate, best practice was not followed as WIN was not consulted before the commencement of the investigation.
- d. There was a failure to follow the rules of natural justice, as those who were the subject of the complaint investigation were not given an opportunity to make representations on the allegations.
- e. The investigation report does not set out the tests applied by the investigator and, therefore, it is difficult for the parties to be satisfied that all relevant considerations were taken into account.
- f. The decision to suspend contact was inappropriate and potentially in breach of a statutory duty imposed on Wiltshire Council.
- g. It would be difficult for any re-investigation to achieve finality that would enable the parties to go forward.

6. The review makes the following recommendations: -

- a) The Investigation Report dated 31 August 2010 is withdrawn.
- b) A full review is undertaken of the structure, governance, decision making process of the LINK arrangement to establish whether there is clear and appropriate governance processes in place including the following: -
 - i. dealing with Equality and Diversity issues and, in particular, complaints concerning the same.
 - ii. dealing with governance/decision making if for any reason an appointed host organisation or third party is no longer in place.
- c) A review of Wiltshire Council's policies and procedures when dealing with complaints made to the Council about third party

bodies with which the Council is involved to ensure that there are clear guidelines for officers when dealing with these issues.

- d) The reviews set out in b. and c. above to provide the basis for a staged review of other third party arrangements within the Council.
- e) A reminder/training to all staff to obtain legal advice at an early stage when dealing with situations which involve complexity, political sensitivity and/or governance arrangements with third parties.

Environmental and climate change considerations

- 7. There are no environmental and climate change considerations.

Equalities Impact of the Proposal

- 8. The proposal will have a positive impact on equality and inclusion and will contribute towards the Council's commitment to tackling inequalities and promoting cohesive communities in Wiltshire in accordance with its responsibilities under the Equality Act 2010.

Risk Assessment

- 9. Adoption of the proposal will reduce the risk of a challenge in respect of the Council's obligations under the Equality Act 2010 and any associated reputational risk.

Financial Implications

- 10. None arising from this report. The review work recommended in paragraph 6 above will be carried out within existing resources.

Legal Implications

- .11. These are covered in the review report.

Conclusion

- 12. Whilst it is recognised that this has been a difficult matter for all concerned, this review has provided a valuable opportunity to learn lessons from what happened. Implementation of the review recommendations will ensure that improved arrangements are in place to deal with such issues if they arise in the future.

Andrew Kerr
Chief Executive

Report Author:

Mr Frank Cain
Head of Legal Services and Deputy Monitoring Officer

Background Papers

The following unpublished documents have been relied on in the preparation of this report:

None

Appendices

WIN Review prepared By Frank Cain, Head of Legal Services
