

**Conservative Group, Harlow Council, Civic Centre, Water Gardens, Harlow, CM20
1WG**

Malcolm Morley
Chief Executive
Harlow Council
Civic Centre
Water Gardens
Harlow CM20 1WG

25th September 2015

Dear Mr Morley,

**Re: Notice of Call-In
Cabinet Decision 17 September 2015: Options Appraisal of the Future Delivery of
Works and Services Currently Undertaken by Kier Harlow Ltd**

In accordance with Scrutiny procedure Rule 15 and Section 12 of Article 12 of the articles of the Constitution we wish to call in the above decision.

The principles of decision making says decisions must have a clarity of aims and desired outcomes. It is clear from the papers and debate at the meeting that the Council has no clear idea of how to establish a Local Authority Trading Company [LATC], nor how to mobilise towards transferring the business to a council owned company, nor the governance arrangements, including the nature and length of the contract with the LATC.

The direct transfer of the business from a Joint Venture Company [JVCo] to a LATC also fails to establish value for money by not testing alternative operational delivery models in the market. The Financial Appraisal by the consultants, Cameron Consulting, used the same estimated operational cost base for all seven options and only looked at the overheads. This did not give a full opportunity to investigate different ways of delivering the service.

There were no references to assessing value for money or requirement for continuous improvement. It is proposed to undertake a value for money review after three years, but in view of the strategic need for flexibility in the budget, the council would need to know how well the company is performing overall.

We mentioned the risks of going down this path, and although many are identified on the risk register, they are all risks for the council with unknowable costs and outcomes. And yet the council is asked to make a decision without further analysis of the some of the larger risks.

In an open letter it is not practical to enumerate all the risks but we have already referred to the lack of visibility over ensuring there is value for money in firstly identifying the best delivery model, and on ongoing basis for the LATC.

We referred to the absence of governance arrangements, but during the debate it was clear there was confusion over roles and responsibilities. Transparency must form a key part of the decision making process. There were no answers to our questions about personal accountability checks and a process for dealing with conflicts of interest on the LATC board. If you don't know the responsibilities how can you cost the resources required within the council?

A major issue became evident at the meeting about the nature and length of the contract. How can a separate legal entity budget its costs for the acquisition of vehicles, plant and equipment if it doesn't know for how long it needs them? And with the degree of flexibility the council is seeking to the terms of the contract, how can the LATC management make decisions over the nature of equipment required and the most efficient method of procuring it? The nature of the contract will have a major bearing on the certainty required by the LATC board. And it was also unclear as to the composition and costs of the board – another detail to be awaited and more lack of clarity over the outcome.

The financial appraisal looked at the impact of the changes to roles and responsibilities and made assumptions over the level of staffing required. But did it look at the costs and resources required for mobilisation, arranging the transfer of the business, identifying the quality of assets, vehicles and plant required and procuring them, and whether it would be the council's transition team or the shadow company undertaking this task? At present the council does not have the executive or managerial capacity to handle a very specialised and complex activity. Is the intention to try and use new additional staff on the client side or to buy in expertise for the project?

We asked questions about intellectual property rights, for which there were no answers at all. Are there any? What are they? Do we need them? What new systems will the council require? What are they? How much do they cost? Who can install them and when?

We asked what other local authorities had used this delivery model for similar such large and varied services. Very few it seems and we highlighted one which had gone bad. So the council is seeming to rely on an untested model, which bearing in mind is for all of the council's manual services seems a very high risk option, bearing in mind there are still many details to be worked out over the mobilisation and operation.

It is not evident that the council has a clear aim in pursuing this option, as to how it will be managed, the nature of the contract or for how long it will last. Anyone running a business needs certainty in order to make the best decisions. There is an absolute lack of certainty over any of the operational aspects of the proposed option. By taking this decision now, the council is putting the cart before the horse, agreeing to something without knowing how it will work and how much it will all cost.

Without identifying clear and transparent value for money, by refusing to go out to the market, it is not evident that the council is clear on the outcome either. How much will

the overall operation cost and what will the council get for it? Lack of clarity over the outcome.

We conclude that the decision is overturned, an extension to the existing contract sought and the services be put out to competitive tender, ensuring full transparency over value for money and some certainty for the provider.

Yours sincerely,

Cllr Joel Charles
Vice Chairman, Call-In Committee

Cllr Clive Souter
Member, Call-In Committee

Appendix

Risks

2.2 Cost of change

Future Control Measure: If higher than anticipated these could be amortised over the initial term of the contract.

Comment. If you don't know the initial term of the contract how can you amortise the costs?

2.4 Ability to demonstrate ongoing value for money.

Current Control Measures: None at present

Future Control Measure: Undertake review of performance after 3/5 years.

Comment: referred to in main letter.

4.1 IT system to support the LATC

Future Control Measure: Define brief for IT support required and procure required services.

Comment: Who will define the IT hardware and software requirements? Ongoing maintenance will be an additional cost to the LATC.

4.2 Operational premises unfit upon transfer

Current Control Measure: Building surveys already commenced.

Comment. Should these not be handed back in the same condition as they were transferred? Do they need maintenance – who will pay? Are the buildings still fit for purpose? Who will decide, the Transition Board or the LATC? Who will pay for modifications – the council or the LATC?

4.4 Quality of non-property assets transfer.

Current Control Measure: Identification and appraisal of vehicles, plant and equipment has commenced.

Comment: A potential major cost and resource requirement in evaluating the condition of all the equipment, some of which may be on long term hire or lease. How will hire and lease arrangements be dealt with post January 2017?

6.5 Lack of suitably qualified and experienced senior managers to run the LATC.

Future Control Measure: Effective recruitment mechanisms in place. Consideration of procuring short term contract management.

Comment. Risk applies to senior manager within council to run the relationship as well? And what if there are not enough recruits in a competitive market close to London with risks involved in untried delivery method with unclear terms of trade? Is cost of contractors built into financial appraisal – or just employees?

Other risks.

Conflict resolution. What if the LATC decide some changes are not acceptable or appropriate to their business plan? What if the LATC decide that some changes could jeopardise other parts of the business?

Confidentiality. Just how arm's length will the LATC be? How much sharing of the books and other management information be? How public will be that information?