



Lewes District Council

Cabinet

Minutes of a Meeting of the **Cabinet** held in the **Ditchling Room, Southover House, Southover Road, Lewes** on **Wednesday, 4 January 2017** at 2.30pm

Present:

Councillor A Smith (Chair)

Councillors P Franklin, B Giles, T Jones, E Merry and T Nicholson

In Attendance:

Councillor M Chartier (Chair of the Audit and Standards Committee)

Councillor P Gardiner (Chair of the Scrutiny Committee)

Apologies received:

Councillor R Maskell

Councillor S Osborne (Leader of the Liberal Democrat Group)

Ms D Twitchen (Tenants' Representative)

Minutes

47 Minutes

The Minutes of the meeting held on 16 November 2016 were approved as a correct record and signed by the Chair.

48 Declarations of Interest

Councillor Chartier declared his personal, non-prejudicial interest in Agenda Item 9.1 (2017/18 Budget Overview and Tax Base Setting).

Action

49 Reporting Back on Meetings of Outside Bodies

Councillor Nicholson reported that in mid-December 2016, he had attended a meeting of the Community Safety Partnership, to which he had been appointed as the Council's representative.

At that meeting there had been some discussion relating to the Police and Crime Commissioner's four-year Plan in respect of which there was to be some on-going work until mid-January 2017. Councillor Nicholson anticipated that he would be able to provide further details relating to the Plan at the Council Meeting that was scheduled to be held on 23 February 2017.

Resolved:

- 49.1** That the verbal report by Councillor Nicholson relating to a meeting of the Community Safety Partnership that he had attended as the Council's representative, be received and noted.

Reason for the Decision:

To note the oral reports of Councillors who had attended meetings of outside bodies to which they had been appointed to serve as the Council's representatives.

50 2017/18 Budget Overview and Tax Base Setting

The Cabinet considered Report No 1/17 which provided an update on financial matters that affected the General Fund Revenue Account and the Housing Revenue Account; and recommended the setting of the council tax base for 2017/18.

Paragraph 8 of the Report set out details relating to the national and local context to the 2017/18 budget whilst paragraph 9 set out specific details relating to the Housing Revenue Account (HRA) 2017/18.

Paragraph 6 of the Report related to the Council Tax Base 2017/18 in respect of which the Council was required, by law, to set the Council Tax Base before 31 January each year. That would enable East Sussex County Council, Sussex Police and Crime Commissioner and East Sussex Fire and Rescue Service to apportion their precepts between the billing authorities in the county on the basis of their tax bases.

The Tax Base would be used in the 2017/18 calculation of:

- The Council's own council tax demand;
- The amount of Special Expenses which would be charged to taxpayers in each area of the District; and
- The council tax of each Town and Parish Council.

The Council had delegated to Cabinet the authority to approve the Council Tax Base in respect of which the Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012 set out the basis of its calculation.

The Council Tax Base needed to be expressed in terms of equivalent "Band D" properties. The Government's Valuation Office Agency assessed the relative value of every property within the district and placed it in one of eight bands A to H for which a conversion factor was applied in order to obtain the equivalent number of "Band D" properties as set out in the table in paragraph 6.4 of the Report.

Appendix 1 to the Report set out details of the Tax Base for the whole District. The total number of dwellings in the District on 30 November 2016, which was the prescribed date of the calculation, was 44,580, which represented an increase of 312 on the previous year.

Cabinet was recommended to approve the constituent parts of the total tax base relating to Towns and Parishes as set out at Appendix 2 to the Report. The constituent parts would be used to calculate the Special Expenses council tax amounts for 2017/18, as well as the council tax requirement of each Town and Parish Council to meet their own budget (precept) requirements. The Towns and Parishes had been provisionally advised of the individual tax bases in order that each could assess the impact of the precept in their area.

In 2013/14 the Council had introduced a system of grant payments to local Town and Parish Councils to offset increases in their council tax amounts which would otherwise arise as a result of reductions in their tax bases following the introduction of the Council Tax Reduction Scheme. The Government had made funding available to district councils for such grant schemes through the Revenue Support Grant and Business Rates Retention mechanism. In response to reductions in Government funding, the Council had reduced the grants that it paid to Town and Parish Councils by 15% each year which would continue in 2017/18. It was reported that the unbudgeted cost of Lewes District Council continuing to manage and maintain open spaces which were not devolved to Lewes Town Council, as had been intended, would be recovered from that Town Council.

Following a national revaluation exercise, a new 'Rating List' would come into effect from 1 April 2017 which would result in the amounts paid by individual business ratepayers varying compared with 2016/17, subject to a transitional relief scheme that would mitigate significant increases or decreases. The Government had noted that the impact on local authorities of the new Rating List should be broadly neutral.

Furthermore, on 1 April 2017, an Enterprise Zone (EZ) would be established for a defined area of Newhaven. Non-domestic properties within the EZ would be eligible for business rates discounts, the cost of which would be reimbursed to the Council by government grant. The Council would also be able to retain the benefit of growth in the business rates base which arose from businesses expanding within or relocating to the EZ.

The final estimate of business rate income for 2017/18 was currently being prepared which would take account of both the significant changes referred to above. The income estimates would be notified to the Government in January

2017 that would set the basis for transactions to and from the East Sussex Business Rates pool. Report No 1/17 sought delegation to the Deputy Chief Executive, as the Council's statutory Chief Finance Officer, to determine the final demand on the business rates collection fund for 2017/18.

Paragraph 5 of the Report set out details relating to the Council's treasury activity which, in the period to 30 November 2016, was in accordance with the approved Treasury Strategy and limits set.

In accordance with the Council's approved Treasury Strategy Statement, the Audit and Standards Committee reviewed all treasury activity that took place in order to confirm that it had been undertaken in accordance with the approved Strategy in respect of which that Committee had not made any observations.

Resolved:

- 50.1** That the emerging 2017/18 budget context and proposals, as detailed in Report No 1/17, be noted;
- 50.2** That the calculation of the Council Tax Base for 2017/18 be approved; DCE
- 50.3** That, in accordance with The Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012, the 2017/18 Council Tax Base for the whole of the area be 36,345.6 and that the Council Tax Base for each of the Town and Parish areas of the District be as set out in Appendix 2 to Report No 1/17; DCE
- 50.4** That the setting of the final demand on the business rates collection fund for 2017/18 be delegated to the Deputy Chief Executive; and DCE
- 50.5** That it be noted that the Council has operated within its limits set for treasury management activity for the period up to 30 November 2016.

Reasons for the Decisions:

A Report on funding issues in relation to the Council's General Fund Revenue Account, Housing Revenue Account and Capital Programme is made to each meeting of the Cabinet to ensure that the Council's financial health is kept under continual review.

The Council's budget setting process is well underway for 2017/18 and the Report set out some of the national and local context as well as some of the main assumptions that are being made. It will act as part of the consultation process with stakeholders including the Scrutiny Committee.

The Council's Treasury Management function deals with high value transactions on a daily basis as well as monitoring the limits set by the Council under the prudential code.

Cabinet is required to approve the Tax Base which will be used for the purposes of calculating the 2017/18 Council Tax in respect of Town and Parish Councils and Special Expenses.

(Note: Councillor Chartier declared his personal, non-prejudicial interest in this item as he was an elected Member of Lewes Town Council. Therefore he was able to take part in the discussion thereon but, as he was not a Member of the Cabinet, did not vote thereon).

51 Regulatory Services Enforcement Policy and Services Standards

The Cabinet considered Report No 2/17 which related to the draft Regulatory Services Enforcement Policy and Service Standards for all Environmental Health and Licensing functions at the Council. Copies of the draft documents were appended to the Report.

The Regulators' Code required Local authorities to publish an enforcement policy ("the Policy") together with service standards which explained how they responded to non-compliance. The Policy was an important document for regulators in meeting their responsibility under statutory principles of good regulation. It needed to provide a clear, flexible and principles-based framework for how the local authority engaged with those they regulated.

The Code had come into statutory effect on 6 April 2014 under the Legislative and Regulatory Reform Act 2006. All local authorities needed to have regard to it when developing policies and procedures that guided their regulatory activities.

Regulatory Services covered Environmental Health and Licensing Functions and specifically the areas of work that were set out in paragraph 1.3 of the Report. The primary aim of the Regulatory Services function was to protect public health.

Environmental Health Officers and specialists at the Council and at Eastbourne Borough Council had been authorised to carry out statutory functions in both councils in the areas of Food Safety, Health and Safety, and Public Health.

Eastbourne Borough Council had adopted its Regulatory Services Enforcement Policy in September 2015. In order to enable both councils to provide a consistent service within the regulatory statutory functions, a joint policy was required.

An Environmental Health Enforcement Policy for Lewes District Council that was written in 2011, still existed, was broadly compliant with the Regulators' Code and would be reviewed against the new Regulatory Services Enforcement Policy to incorporate, where appropriate, specific enforcement details of the individual service at the Council. Such work had already been undertaken for Food Safety and Private Sector Housing which were attached to the end of the Policy.

Paragraph 3 of the Report set out details of the consultation process that would be undertaken prior to the Policy and Service Standards being adopted by the Council.

Recommended:

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| 51.1 | That the Council's draft Regulatory Services Enforcement Policy, as set out in Appendix 1 to Report No 2/17; and its Service Standards for Environmental Health and Licensing functions set out in Appendix 2 thereto, be approved; | DSD
(to
note) |
| 51.2 | That authority be delegated to the Director Service Delivery to agree and implement the final Regulatory Services Enforcement Policy and Service Standards for Environmental Health and Licensing functions, after consultation and after consolidation of the Council's existing Environmental Health Enforcement Policy; and | DSD
(to
note) |
| 51.3 | That, with regard to the Regulatory Services Enforcement Policy, authority be delegated to the Director Service Delivery to determine the level of penalty charge of up to £5,000 where the Council is satisfied that there is an offence against the legislation. | DSD
(to
note) |

Reasons for the Decisions:

Local authorities are required by the Regulators' Code to publish an enforcement policy ("the Policy") together with service standards explaining how they respond to non-compliance. The Policy is an important document for regulators in meeting their responsibility under statutory principles of good regulation. It should provide a clear, flexible and principles-based framework for how the local authority engage with those they regulate.

52 Joint Venture on Energy & Sustainability

The Cabinet considered Report No 3/17 which proposed the establishment of a structure that would deliver potential financial returns to the Council while also ensuring resilience against future energy, food and sustainability and climate change challenges.

The Council had a good track record of investing and delivering in sustainability including the recent investment in solar panels on its housing stock. Eastbourne Borough Council had also made a number of positive gains. However, in the context of future needs, a more ambitious approach to achieve large scale change was required, with a step change in investment, and with working alongside commercial organisations for their specialist skills and experience.

Within the energy sector there were a number of issues around increasing prices, future shortage of supply, and the need to reduce carbon emissions. The food chain faced similar future uncertainty with population growth and major global food regions under threat from extreme weather patterns. Additionally, there would be future sustainability issues with transport, waste and water.

The Report set out how the Councils could take a leading role to develop projects that tackled those issues and looked to provide them with an income. Appendix A to the Report set out the types of projects that could be considered

whilst Appendix C contained the draft Investment Strategy for both Councils.

Eastbourne Borough Council was leading on the procurement of the joint venture which had already commenced. A similar Report to Report No 3/17 had been considered and approved by its Cabinet on 25 May 2016. Given that the Council and Eastbourne Borough Council would shortly be sharing services, Report No 3/17 suggested that the Council could join the procurement and be a partner in the joint venture.

An early market engagement exercise had been undertaken via a European wide advertisement in OJEU in order to ascertain whether there were commercial organisations that were willing to partner with Eastbourne Borough Council to deliver large scale change. The results of that exercise had been positive following which Interviews had been held with three major companies, further details of which were set out in paragraph 2.2 of the Report.

Officers from the Department for Business, Energy and Industrial Strategy (DBEIS) had participated in the market testing exercise and had approved of Eastbourne Borough Council's approach and long-term thinking. The DBEIS had also been regularly briefed on the various stages of the procurement process.

As part of the market engagement follow-up, discussions had been undertaken with Councils that were nearing the completion of procurement processes to appoint joint venture partners in relation to energy projects namely, Cheshire East Council and Newcastle City Council, which had shared their procurement and legal documentation. Each had taken a different approach to the procurement process and the structure of the commercial arrangements to reflect local objectives. The time taken and costs of setting up the arrangements reflected the approaches taken.

At Lewes and Eastbourne, the optimum route for joint working appeared to be a mixture of the two approaches building on well-established commercial and procurement methodologies. The Report recommended that the Councils set up a joint venture which, at its top level, was through a 'Strategic Partnership Agreement' (SPA) which provided the greatest flexibility for the long term aims, and the different needs for each Council. The SPA would act as an enabling body for the individual projects that would sit beneath it, further details of which were set out in the Report. Details relating to the key elements of the SPA that the Councils were looking to secure were set out in paragraph 4.5 of the Report.

Details relating to possible future governance arrangements were set out in paragraph 5.1 of the Report.

Resolved:

- 52.1** That the Council join Eastbourne Borough Council in a public procurement process for a joint venture with a private sector partner, as detailed in Report No 3/17;
- 52.2** That authority be delegated to the Director of Regeneration & Planning, in consultation with the Cabinet Member for Finance, to take all decisions during the joint venture procurement process, up

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to and including the selection and appointment of the private sector partner where appropriate, in consultation with the Chief Finance Officer and Assistant Director – Legal & Democratic Services;

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52.3 That a budget of up to £60,000 in total be approved to cover technical, financial and internal and external legal fees across 2017/18 and 2018/19, to be funded from the Strategic Change Reserve;

DRP

52.4 That capital for projects be allocated subject to the approval of individual business cases by Cabinet; and

DRP

52.5 That the Investment Strategy at Appendix C to the Report be approved.

DRP

Reasons for the Decisions:

Setting up a Strategic Partnership Agreement (SPA) joint venture, as detailed in the Report, is a low cost, low risk option for the Council and Eastbourne Borough Council, puts both Councils in a strong position to deliver their sustainability ambitions, and invest in future significant projects with potential for good returns - over a period of at least 10 years and up to 30 years.

As the SPA forms and grows, this will be a platform for advice, capacity building and consultancy to other local authorities, something the Department for Business, Energy and Industrial Strategy (BEIS), formerly the Department of Energy and Climate Change, is keen to encourage and see develop. Other public bodies will also be able to join the Joint Venture, subject to the necessary agreements being in place.

53 Consideration of Private Housing Policies

The Cabinet considered Report No 4/17 which related to the proposed adoption of three new private housing policies namely:

1. Redress Schemes Enforcement Policy, as detailed in paragraph 3 and at Appendix B to the Report;
2. Smoke and Carbon Monoxide Alarm Enforcement Policy, as detailed in paragraph 4 and at Appendix A to the Report; and
3. Statement of Principles for Determining the Amount of a Penalty Charge, as detailed in paragraph 5 and at Appendix C to the Report.

When exercising specified regulatory functions, local authorities were required by the Regulators' Code to publish a clear set of service standards, including their enforcement policy, which explained how they responded to non-compliance. That was an important document for regulators in meeting their responsibility under the statutory principles of good regulation, and to enable them to be accountable and transparent about their activities.

The purpose of the Redress Schemes Enforcement Policy was to implement the requirements of the Redress Schemes for Lettings Agency Work and

Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014. The purpose of the Smoke and Carbon Monoxide Alarm Enforcement Policy was to implement the requirements of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

Both the Redress Schemes for Lettings Agency Work and Property Management Work Order 2014 and the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 enabled the Council to issue penalty charge notices. In extenuating circumstances the sum of such notice could be varied, the principles for how they would be considered were set out in the Statement of Principles at Appendix C to the Report.

Resolved:

53.1 That:

- a) the Redress Schemes Enforcement Policy set out at Appendix B to Report No 4/17;
- b) the Smoke and Carbon Monoxide Alarm Enforcement Policy set out at Appendix A to the Report; and
- c) the Statement of Principles for Determining the Amount of a Penalty Charge set out at Appendix C to the Report, be adopted; and

53.2 That the implementation, administration and enforcement of all the above policies and Statement of Principles, be delegated to the Director of Service Delivery in exercise of relevant legislation.

Reasons for the Decisions:

To enable officers to use powers contained within the Smoke and Carbon Monoxide Alarm Regulations and the Redress Schemes for Lettings Agency Work and Property Management Work Order.

54 Updated Policy on Use of Powers Under the Regulation of Investigatory Powers Act 2000

The Cabinet considered Report No 5/17 which related to the proposed updated policy on the use of powers under Part 2 of the Regulation of Investigatory Powers Act 2000 (RIPA).

Part 2 of the Act regulated the Council's use of 'directed surveillance' and the conduct and use of covert human intelligence sources (CHIS). In common with all district councils in England and Wales, the Council could only carry out certain types of surveillance, and could only deploy a CHIS, if it had complied with the relevant provisions of RIPA. Such action was necessary so as to ensure that investigations that involved covert surveillance were exercised in a manner that was compatible with the European Convention on Human Rights.

Legally and practically, it was important to distinguish between 'surveillance' and 'directed surveillance', as it was only 'directed surveillance' which required

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authorisation under RIPA. Further details relating to 'surveillance' and 'directed surveillance' were set out in paragraphs 2.4 and 2.5 of the Report.

Authorisation of directed surveillance could only be granted where the investigation related to an offence which attracted a maximum custodial sentence of six months or more, or offences that related to the under-age sale of tobacco or alcohol.

Under RIPA, a covert human intelligence source was a person who, at the request of a designated public authority such as the Council, established or maintained a personal relationship with a person for the covert purpose of facilitating either of the activities that were set out in paragraph 2.7 of the Report.

The Council's existing policy on the use of directed surveillance and CHIS dated from 2010, since when both RIPA and related codes of practice had been amended. The two key changes were the need for prior approval by a magistrate and guidance on surveillance that involved social media, both of which were covered in the proposed updated policy at Appendix 1 to the Report.

The updated policy made reference to the Senior Responsible Officer (SRO) who was responsible for the matters that were set out as bullet points in paragraph 2.11 of the Report. Catherine Knight, the Council's Assistant Director of Legal & Democratic Services, was its designated SRO for the purposes of RIPA, and the Report recommended that she continued in that role.

The updated policy also made reference to Authorising Officers. By law, only council officers of a specified rank could authorise an application to carry out directed surveillance or to use a CHIS. Such officers were prescribed as: a director, head of service, service manager, or equivalent. The training of Authorising Officers was a requirement of the policy, further details of which were set out in paragraph 2.13 of the Report.

In order to enable the Council to comply with the technical and exacting requirements of RIPA when applying for and granting authorisation for directed surveillance or the use of CHIS, the Report recommended that the Council invest in an authoritative policy and procedures toolkit, the approximate cost of which was £300 to £400.

Resolved:

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| <p>54.1 That the updated policy on the Council's use of powers under Part 2 of the Regulation of Investigatory Powers Act 2000 (RIPA), set out in full at Appendix 1 to Report No 5/17, be approved;</p> | <p>ADLDS</p> |
| <p>54.2 That the operation of the policy be overseen by the Audit and Standards Committee by receiving reports every 12 months on the policy and its implementation, and on any RIPA activity conducted during the preceding 12-month period;</p> | <p>ADLDS</p> |
| <p>54.3 That the procurement of refresher training for RIPA authorising officers be noted; and that the purchase of a policy and procedures</p> | <p>ADLDS</p> |

toolkit to assist the Council in complying with its statutory duties under RIPA be approved; and

- 54.4** That the Assistant Director of Legal & Democratic Services continues in the role of Senior Responsible Officer for matters concerning RIPA.

ADLDS

Reasons for the Decisions:

The Council's existing covert surveillance policy is six years old and needs updating to reflect current legislation and codes of practice. Also, to support the Joint Transformation Programme, the Council and Eastbourne Borough Council are looking to align policies wherever possible. The proposed updated policy at Appendix 1 closely matches the policy recently adopted by Eastbourne Borough Council.

55 Fees and Charges

The Cabinet considered Report No 6/17 which proposed a revised schedule of fees and charges to apply from 1 April 2017.

The Council's Constitution required that all fees and charges, including nil charges, be reviewed at least annually and agreed by Cabinet.

Following a systematic review in light of an Audit Commission report entitled "Positively Charged", Cabinet had approved Guiding Principles for setting fees and charges for inclusion within the Council's Constitution under Part 4 entitled "Financial Procedure Rules" and a series of recommended actions as agreed by previous Lead Councillors for their respective Portfolio at that time. The Guiding Principles and the recommended actions which arose from the systematic review of services had been applied in reviewing and proposing a revised scale of fees and charges.

Fees and Charges were reviewed principally during the winter prior to the next financial year which enabled Cabinet's decision to be incorporated in the forthcoming estimate cycle. As in previous years, all of the fees and charges were covered, as far as was practicable, within a single Report which enabled Cabinet to consider all of the fees and charges which applied to the Council's services as an overall package. However, there were two exceptions namely; licensing fees which were set by the Licensing Committee; and Building Control fees in light of the Cabinet's decision of 16 November 2016 to support the principle of a partnership agreement with Wealden District and Eastbourne Borough Councils, and potentially Hastings and Rother Councils. If such agreement was not in place by 1 April 2017 then the current schedule of fees would continue to apply.

The Appendix to Report No 6/17 set out details of some significant services, with significant income estimates, where the Council had discretion to set the level of fees and charges. Such details were summarised in paragraphs 3.4 and 3.5 of the Report. Paragraph 3.6 of the Report set out those services where the fees were statutory and changes were made by Government.

The Appendix set out some specific charges for services that were offered by planning officers for the pre-application service, and by the shared legal service for professional services. They represented the majority of professional services for which a charge was made. However, requests were also received from customers for professional advice on other matters in respect of which the charges were, in principle, set to at least recover the full cost of officer time and any related disbursements.

The current fees for the collection and disposal of commercial trade waste were approved by Cabinet on 6 January 2014. This year's review showed that the current charges remained competitive which was necessary if the Council was to retain its market share. Consequently, the Report proposed no change to the current charges. However, in light of the very competitive nature of that business, and the officers' desire to grow the business, it was recommended that the Director of Service Delivery be given delegated authority, in consultation with the Lead Cabinet Member for Waste and Recycling, to vary charges upwards or downwards by up to 10% in order to respond to developing market conditions.

Resolved:

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| <p>55.1 That the revised scale of fees and charges proposed within the Appendix to Report No 6/17, be approved and be applied from 1 April 2017;</p> | <p>DCE</p> |
| <p>55.2 That authority be delegated to the Director of Service Delivery in consultation with the Lead Cabinet Member to vary commercial trade waste charges upwards or downwards by up to 10% in order to respond to developing market conditions; and</p> | <p>DSD</p> |
| <p>55.3 That changes be implemented in the statutory fees and charges for services shown within the Appendix as and when notified by Government.</p> | <p>DCE</p> |

Reason for the Decisions:

The Council's Constitution requires that all fees and charges, including nil charges, be reviewed at least annually and agreed by Cabinet.

56 Meetings Timetable 2017/2018

The Cabinet considered Report No 7/17 which set out the proposed meetings timetable for the 2017/2018 municipal year.

Paragraphs 4 to 11 of the Report set out details of the key constraints that had been taken into account when compiling the timetable the draft of which had been circulated to all councillors and Chief Officers for comment.

It was reported that, whilst details of the dates of the Conservative Party and Liberal Democrats Party Conferences had been included in the draft timetable, such details in respect of the Green Party and the UK Independence Party had not been included as they had not yet been confirmed. However, it was

understood that their Conferences would be held during September 2017.

Recommended:

- 56.1** That the meetings timetable for the 2017/2018 municipal year, as set out in Appendices A and B to Report No 7/17, be approved and adopted.

ADLDS
(to
note)

Reason for the Decision:

To facilitate the smooth running of the Council's business in the municipal year 2017/2018.

57 Appointment to Serve on an Outside Body

Resolved:

- 57.1** That the appointment of Councillor N Enever to serve as the member representative on the East Sussex Health Overview and Scrutiny Committee outside body in place of Councillor S Adeniji, be confirmed.

ADLDS
(HDS)

Reason for the Decision:

To confirm the appointment of a councillor to serve as the Council's representative on an outside body.

The meeting ended at 3.29pm.

A Smith
Chair