

Confirmed



Minutes of an Extraordinary Meeting of the **Scrutiny Committee** held in the Conference Room, Riverside, on **Thursday, 26 January 2023 at 6.30pm**

Members of the Committee present:

Councillor Edward Back, Councillor David Beavan, Councillor Stuart Bird, Councillor Linda Coulam, Councillor Tony Goldson, Councillor Louise Gooch, Councillor Tracey Green, Councillor Colin Hedgley, Councillor Geoff Lynch, Councillor Caroline Topping

Other Members present:

Councillor Peter Byatt, Councillor Maurice Cook, Councillor Steve Gallant, Councillor Mick Richardson

Officers present: Chris Bing (Head of Legal and Democratic Services), Ben Bix (Democratic Services Officer), Cassandra Clements (East Suffolk Services Managing Director), Andy Jarvis (Strategic Director), Siobhan Martin (Head of Internal Audit Services), Alli Stone (Democratic Services Officer)

1 Apologies for Absence and Substitutions

Apologies for absence were received from Councillor Deacon, with Councillor Byatt attending as substitute; and Councillor Robinson, with Councillor Richardson attending as substitute, and Councillor Cloke who did not have a substitute.

2 Declarations of Interest

There were no Declarations of Interest from Members. The Strategic Director declared a non-financial interest in accordance with the Officer Code of Conduct, having been appointed as a Director on the Board of the companies.

3 Review of Governance Arrangements for the Council's Local Authority Trading Company (LATCO) Group Structure

The Leader of the Council introduced report **ES/1431** and in so doing explained that there was a scheduled break clause in the current Joint Venture arrangements with Norse to deliver its Waste Management, Street Scene, Grounds Maintenance and Facilities Management services which would be reached in June 2023. The Leader explained that the Joint Venture with Norse had been successful, Norse had grown significantly since its inception and now had a large and diverse portfolio with its own priorities. Options had been examined for the future of service delivery and as part of

the options appraisal, Cabinet had considered the continuance of the extant arrangements but considered it prudent to bring the services delivered by Norse Commercial Services Ltd under closer control by the Council as a client, whilst not undertaking the services directly itself. In line with best practice and having taken external advice, Cabinet had chosen to establish a Local Authority Trading Company (LATCo) as it was a vehicle which enabled robust governance arrangements and opportunities for the Council to scrutinise and challenge service delivery on behalf of residents.

The Chairman thanked the Leader for his introduction and sought clarification from the Monitoring Officer of the Group structure. The Monitoring Officer summarised that the council had established a number of companies under a group structure, and the reporting lines were illustrated in the report. East Suffolk Services Ltd was 'Teckal' company which could be awarded contracts for works, services or supply from its controlling public sector owner (East Suffolk Council) without having to go through a competitive tender process. The Teckal company must be 'inwardly and not outwardly focused'. The Teckal 'rule' required that at least 80% of the activity of the Teckal company – at least 80% of its turnover – must be for its public sector owner. The Chairman then invited questions from Members.

Councillor Lynch asked how the Council would monitor whether 80% of the activity had been undertaken for the Council as owner. The Leader explained that reporting on activity was a role for the East Suffolk Services Managing Director and that the Shareholder Reference Group, and the Governance and Audit Committee would receive assurance reports. Councillor Hedgley was conscious of the financial failure of companies owned by Croydon and Warrington councils and sought assurance that East Suffolk Council had sufficient debt mitigation in place. The Leader explained that the governance arrangements were designed to mitigate failure, the Shareholder Reference Group (SRG) would oversee the direction of the companies and manage any underperformance. The frequency of SRG meetings ensured that the risk of failure would be adequately mitigated. The Leader emphasised that the foundations of the companies were being formed at that the Council had taken the best possible external advice. The Strategic Director concurred and illustratively explained how the Council had seed funded the companies and provided loans which would be repaid. Capital assets such as vehicles had been purchased by the Council to reduce the initial liabilities on the companies.

Councillor Goldson enquired about the nature of the Council's shareholding and what would happen in the event of any future opportunity for the company to expand. The Leader and Monitoring Officer responded that the Council was the sole shareholder, and that any expansion of the company would be a Reserved Matter as set out in the Shareholder Agreement. The Strategic Director cautioned that the company couldn't act on such matters unilaterally and would have to report to the Shareholder Reference Group with a business case. Councillor Goldson countered that the SRG was comprised of Cabinet Members, not of the whole council, and the Monitoring Officer clarified that the decision-making bodies were constituted robustly and would be enabled to act in accordance with the Shareholder Agreement and Local Government legislation. Furthermore, Executive arrangements empowered the Scrutiny Committee to undertake its strategic review role.

Councillor Gooch was similarly concerned about accountability and review mechanisms and referenced a recent Municipal Journal article which had opined the need for joint training for Members appointed to the Scrutiny and Audit and Governance Committees. The Leader cautioned that Members appointed to those committees were trained and skilled in their roles according to the terms of reference of each committee. The distinction was that the Scrutiny Committee should have a more strategic emphasis, whilst the Audit and Governance Committee would receive detailed reports from auditors. Good governance was not about joint training nor duplication of distinct roles.

Councillor Beavan referred to the CIPFA report recommendations and asked how contract management would be strengthened. The Strategic Director described how the Council had recognised the challenge from the extant joint venture arrangement and had put into place new specifications for ESSL and 3 FTE contract management roles had been created. The East Suffolk Services Managing Director concurred and emphasised the importance of improving communication and the development of key performance indicators in contract management.

In response to Councillors Hedgley and Beavan, the Leader and the Monitoring Officer explained that the Council's existing Access to Information Procedure Rules, set out in the Constitution, were applicable to meetings of the Shareholder Reference Group and to any commercially sensitive information held by the Council. However, the activities within the commercial 20% of the company would be confidential, and whilst the SRG was open to visiting Members, the ESSL Board meetings were not.

Councillor Gooch was concerned that Norse staff may have been unsettled in the recent past and sought clarification of whether a whistleblowing mechanism would be in place for staff in ESSL. The East Suffolk Services Managing Director assured Members that a Workforce Policy would be in place to re-engage staff with a focus on wellbeing and organisational values; and that there were escalation mitigations to address workforce matters including the Board, external audit, and the sourcing of external legal advice where necessary. The Chairman was concerned about the press coverage of recent pay negotiations and sought assurance about forthcoming TUPE negotiations. The East Suffolk Services Managing Director explained that pay negotiations had gone well and that harmonisation of roles would be achieved through negotiation by 1 July 2023.

In response to further questions from the Chairman, Councillors Byatt, Coulam, Green, Lynch and Topping the Leader and Officers clarified that:

- Payroll and support services for the companies would be sourced from within East Suffolk Council through Service Level Agreements
- The existing taxi mechanical testing and MOT facilities would be part of the LATCO and there would be investment in its infrastructure and improvement to the service
- There were synergies between ESSL and the Council on Net Zero decarbonisation aspirations
- The 3-year time period for Business Plan was based on best practice advice and risk appetite, rather than alignment with any existing leases or the district election cycle; and would be reviewed annually

- The current Business Plan did not foresee engagement with other Councils. However, the annual review would enable flexibility and responsiveness to socio-economic improvement for service users
- The composition of the Shareholder Reference Group reflected the 'as is' role titles, a future Cabinet could however adjust the terms of reference as necessary. The SRG was a decision-making sub-committee of Cabinet and therefore did not include Assistant Cabinet Members. Directors of the Companies would be trained as necessary.
- The LATCO could not expand by absorbing another company without reference first to the Holding Company and subsequent decision of the Shareholder Reference Group
- Councillor Lynch was assured that internal auditors would have unfettered access to any information they requested and that there would be training for Audit and Governance Committee Members sourced from the Member Development budget
- The Head of Operations had written to all Town and Parish Councils to explain the forthcoming transition, and any quotes for services agreed with Norse would subsequently be honoured by East Suffolk Services Limited.

The Chairman asked whether there was an indicative schedule for the proposed annual review by the Scrutiny Committee, and whether Members could be trained accordingly. The Leader emphasised that the Scrutiny Committee would continue set its own work programme, could source its own training and would be mindful to avoid duplication with the work of the Audit and Governance Committee when planning its work programme for 2023/24. The Chairman further noted that CIPFA had cautioned that the LATCO approach was a 'reasonably risky' option and sought assurance from the Leader that risks were being mitigated. The Leader explained that staying with the extant Joint Venture arrangement with Norse was arguably of greater risk, and the Cabinet had fully appraised each option prior to making its decision. Robust governance arrangements would mitigate risk and enable the Council to have greater influence over the direction of the company.

The Chairman was cognisant that a Teckal company was a company which could be awarded contracts for works, services or supply from its controlling public sector owner without having to go through a competitive tender process and sought clarification of Teckal rule that required that at least 80% of the activity of the Teckal company must be for its public sector owner. The Leader stressed that the Vision for the Company was not one of making profit for the Council, it was about improving services for local people. The Strategic Director explained that the arrangement was not an impediment to future growth. If growth opportunities presented themselves, then the Company could, with the agreement of the SRG, create a non-Teckal subsidiary which would not be limited to the 80-20% rule.

Councillor Green described how her telephone service interactions with Norse had not been satisfactory and asked how cultural change would manifest itself. The Leader contextualised how the Council had a good culture amongst its staff and illustrated how the learning from that would be manifested in East Suffolk Services Limited. Akin to the Council, there would be a shared vision for ESSL and the Managing Director would recruit a management team that valued and had experience of excellent customer service and improvement. The East Suffolk Services Managing Director

concurred and described how she had been shadowing call centre staff to understand the issues and was concerned with the unsuitable systems that staff had to use. Training and upskilling would be provided utilising the Council's existing training offer, there would be appraisals and performance management for staff and an individual underperformance would be addressed.

Councillors Richardson and Beavan were concerned about the transition of existing staff and management from Norse to East Suffolk Services Limited. The Leader cautioned that there should be little or no impact in the first instance as the LATCO approach was about growth and investment in the future. The trajectory for staff would be the same as those that worked for the Council, they would be empowered and upskilled to grow into their roles and have opportunities for progression, including through apprenticeships. The East Suffolk Services Managing Director expressed her gratitude to local Norse management for accommodating early engagement with staff to prepare and re-energise them for the transition. Staff had expressed a desire for significant cultural change. The Leader stressed that the learning the Council had from the successful merger of the two former Councils had given staff and Members significant experience and highlighted the early recruitment of the Managing Director as fundamental in delivering the transition from the Norse to East Suffolk Services Limited.

In response to final questions from Councillors Byatt, Goldson and Topping, the Leader confirmed that Norse had accepted that the Council had utilised the contractual break clause and were content to support a smooth transition to ESSL. The Council had contacted third parties with which Norse had contracts to advise them of the transition to ESSL; and similarly, Norse would be thanked for their support during the transition.

At the invitation of the Chairman, the Leader summed up by thanking the Committee for its challenging questions and urged the Committee to note that the foundations of ESSL were being formed with robust governance arrangements.

The Chairman invited the Committee to debate the report. There being no debate, the Committee by assent

RESOLVED

That the report and the responses to the questions raised by Members, be noted.

4 Scrutiny Committee's Forward Work Programme

The Chairman acknowledged that the Committee had been busy with 2 meetings in consecutive weeks and thanked Members for their attendance and participation. The next Committee meeting on 16 February would be to review of the impact of the new integrated care system on Council services.

The meeting concluded at 8.20pm

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Chairman