

**Appendix A****Extract of Minutes of Cabinet – 14 September 2005****1. WINCHESTER ALLIANCE FOR MENTAL HEALTH**

(Report CAB1118 refers)

Members noted that the Report had been considered by Principal Scrutiny Committee at its meeting on 12 September 2005 which had resolved that PricewaterhouseCoopers (PwC) be asked to produce a further report covering issues raised at the Committee.

The Chairman welcomed to the meeting Matthew Hepenstal from PwC.

At the invitation of the Chairman, Councillors Beckett and Higgins addressed the meeting.

With reference to paragraph 3.13 of Report CAB1118, Councillor Beckett stressed that 'ownership' of such issues lay with Cabinet and the appropriate Portfolio Holder. He also queried why one Member's suggestion at previous Central Services Performance Improvement Committees that the Council withhold payment of the National Insurance and tax elements of the payroll to Winchester Alliance for Mental Health (WAMH) had not been progressed further. He noted that PwC recommended that all third party organisations, including existing, pay in advance for payroll services and questioned why Report CAB1118 only recommended this approach for new organisations. Finally, Councillor Beckett stated that he did not believe PwC had adequately investigated the history of the debt and, in particular, their interviews should have included Cabinet Members.

Councillor Higgins highlighted that Members and Officers were attempting to support an organisation providing an important service, but regrettably this had ultimately resulted in accrual of a large debt. He welcomed the proposals for closer monitoring of debts in the future. However, he also noted that a stricter approach to organisations defaulting on payment could cause major difficulties to some charities, because of the erratic nature of their funding.

The Chief Executive advised that one representation had been received from a member of the public, Mr John Hayter, who was unable to attend the meeting. In summary, Mr Hayter stated, with regards to the reference to risk assessment in Report CAB1118, that this was not a new process regarding financial risk. In addition, he believed that if an organisation did not have sufficient funds to pay salaries then this was a financial indicator of great difficulties that should supersede any others.

The Chief Executive clarified that the area of risk assessment referred to the covering report related to the risks associated with service failure and not just financial risk. He requested that Members consider exactly what the different

roles and responsibilities of Council Officers, Member and Cabinet/Committees were in such issues.

Mr Hepenstal (PwC) answered a number of detailed questions regarding the PwC report. He advised that paragraph 39 of the PwC report dealt with the issues raised by Councillor Beckett concerning Inland Revenue contributions. He confirmed that their advice was that for the Council to withhold contributions from the Inland Revenue was a form of deception (i.e. the WAMH employees would have a reasonable expectation that the money deducted from their salaries would be paid to the Inland Revenue). Similarly, it would have been inappropriate to withhold the employer's (i.e. WAMH) element as this would not be supporting the charity (with a consequent risk of initiating its failure) and at the time there was prospect of WAMH repaying the debt at some stage. The Portfolio Holder for Finance and Resources confirmed that this was her understanding of the position at the time.

Mr Hepenstal stated that PwC believed that if a similar situation arose, the Council should request further access to the organisation's accounts to be able to consider income/expenditure projections as well as cash flow. If the Council was providing the payroll for an organisation, he did not consider that the organisation would refuse such access. If the Council had had greater access to WAMH accounts at an earlier stage, it would have realised that the cash flow difficulties were a symptom of a more serious problem. However, he confirmed that the trustees would have been aware of the situation once their annual accounts were audited, but also should have been monitoring figures themselves on a regular basis.

Mr Hepenstal confirmed that the liquidators had examined very closely the role of the trustees of WAMH and had considered that they had stopped trading at the appropriate time. WAMH was a limited company and the liquidators could only look at the company assets for funds and not the directors (who were also the trustees) personally unless they had acted in a wholly inappropriate manner.

The Portfolio Holder for Finance and Resources outlined the revised policy for the provision of external payroll services which stipulated that the Council would only provide a payroll service to charities it provided grants to. If the grant aid ceased, the payroll provision would be reviewed by the Director of Finance to decide if payroll provision should continue. If an organisation defaulted on payment for its payroll for two consecutive months, the Director of Finance would authorise provision to cease immediately. Any new external organisations to which the Council offered payroll services would be required to pay in advance. However, this requirement would not be extended to existing clients because the financial difficulties this would cause to the organisations were not considered to be justified.

Members queried what approach would be taken after an organisation had defaulted on one months payment. For example, it might be apparent at this early stage that the organisation were in serious difficulties and there was little prospect of future payments. Mechanisms should therefore be introduced to prevent debt increasing unnecessarily. Cabinet agreed that Internal Audit be requested to consider the internal procedures around this issue further and report

back to Cabinet, with the proviso that PwC could be asked to investigate further if Members considered it appropriate.

Members discussed the request by Principal Scrutiny Committee at its meeting on 12 September 2005 that PwC be asked to undertake further work including an analysis of what issues should have been considered between 28 October 2003 and 27 January 2004 when the debt rose by a considerable amount. Cabinet suggested that the period of investigation begin in July 2003 as this was the time the debt trend position reversed.

The Chairman commented that the financial position of WAMH had been considered on numerous occasions by a wide variety of Council bodies, including the Performance Improvement Committee, Cabinet, Principal Scrutiny Committee and Council. The conclusions reached had been that the work of WAMH was valuable and should continue to be supported and the Director of Finance be requested to work with the organisation. This had resulted in the organisation restructuring itself and the debt to the Council reducing in the period immediately before the organisation went into liquidation, which was due in part to the withdrawal of funding from one of its principal customers. Cabinet also commented that the stricter procedures adopted to deal with payment defaults could have an adverse effect on some charities who often had erratic funding streams.

Although the issues relating to WAMH had been discussed by various Council bodies, Members emphasised that the final decisions were executive decisions made by Cabinet. It was suggested that the role of Scrutiny Panels and Principal Scrutiny Committee in only making recommendations on such issues be stressed to all Members. The City Secretary and Solicitor confirmed that their different roles was clearly outlined in the Council's Constitution but could be reinforced at the forthcoming Members' Scrutiny Training and also at the regular Liaison meetings held between the Scrutiny Panel Chairs and the Chairman of Principal Scrutiny Committee.

There was some discussion about the involvement of Councillors Hollingbery and ex-Councillor Ann Craig in the work of WAMH. In response to questions, the City Secretary and Solicitor clarified that if a Member was appointed to an outside body, including appointments made by the Council, their duty was to that body whilst undertaking their role. This included a duty of confidentiality. Detailed advice on this matter was contained in a Guidance Note for Members' Serving on Outside Bodies in Part 8 of the Constitution. Cabinet requested that this be drawn to the attention of Members.

On behalf of Cabinet, the Chairman thanked PwC for their work in producing the report.

Cabinet agreed to the following for the reasons set out above and outlined in the report.

**RECOMMENDED:**

1. THAT THE COUNCIL REGRETS THAT THIS DEBT OF £350,000 CANNOT NOW BE RECOVERED, THE DECISIONS THAT WERE TAKEN AND THE PROCESSES WHICH ALLOWED THIS DEBT TO ARISE. HOWEVER, THE INTENTION THROUGHOUT WAS TO ENABLE THE CHARITY TO CONTINUE TO PROVIDE SUPPORT FOR SOME OF THE MOST VULNERABLE PEOPLE IN OUR COMMUNITY.

2. THAT IT BE NOTED THAT CABINET HAS LEARNED LESSONS FROM THE INVESTIGATION OF EXISTING PROCESSES AND HAS ALREADY TAKEN ACTIONS TO PREVENT SUCH DEBTS ARISING AGAIN, EVEN IF THIS MEANS WITHDRAWING SUPPORT FROM CHARITABLE GROUPS.

3. THAT THE DEBT OUTSTANDING FOR WINCHESTER ALLIANCE FOR MENTAL HEALTH OF £353,483.29 BE WRITTEN OFF.

**RESOLVED:**

1. That the recommendations of Principal Scrutiny Committee at its meeting on 12 September 2005 be endorsed, subject to Cabinet asking that PwC also report upon the impact of events between July 2003 and October 2003.

2. That having regard to the broad financial management issues raised in the PwC Report and other detailed matters raised in Report CAB1118 and above, the following action be taken:

a) the Council's Internal Audit Service be requested to investigate the procedures to be adopted when an external organisation defaults on the first occasion on a payroll payment, and report back to a future Cabinet accordingly.

b) a further report be submitted to Cabinet on the wider risk assessment regarding service delivery and service purchasers. In addition, the report should consider the general issue of whether the Council should continue to offer payroll services to external organisations.

c) That the different roles of Scrutiny bodies and Cabinet be reinforced to Members through training and the Scrutiny Liaison Meetings.

d) That Members be reminded of the Guidance contained in Part 8 of the Constitution upon the role of Members on Outside Bodies.