

MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 30 October 2023
at 5.30 pm

Present

Councillors

R Gilmour (Chairman)
D Broom, E Buczkowski, A Cuddy,
G Czapiewski, M Farrell, B Holdman,
R Roberts, S Robinson, N Woollatt and
C Harrower

Apologies

Councillor(s)

F J Colthorpe

Also Present

Councillor(s)

J Buczkowski, S J Clist, G Duchesne, J Lock, L Taylor and
D Wulff

Also Present

Officer(s):

Andrew Jarrett (Deputy Chief Executive (S151)), Maria De
Leiburne (District Solicitor and Monitoring Officer), Paul
Deal (Corporate Manager for Finance, Property and
Climate Change), Angie Howell (Democratic Services
Officer) and David Parker (Democratic Services & Policy
Research Officer)

**Councillors
Online**

C Adcock, C Connor, J Downes, M Fletcher, A Glover,
S Keable, G Westcott and J Wright.

Officers Online

Stephen Walford (Chief Executive), Richard Marsh
(Director of Place), Dean Emery (Corporate Manager for
Income, Revenues, Benefits and Planning), Lisa Lewis
(Corporate Manager for Digital Transformation and
Customer Engagement, Sarah Lees (Democratic Services
Officer)

40 APOLOGIES AND SUBSTITUTE MEMBERS (00:04:40)

As Cllr G Westcott was attending via Teams, a Vice-Chairman was needed for this meeting. The Chairman proposed and it was agreed that Cllr S Robinson fulfil that role.

Apologies were received from Cllr F J Colthorpe who was substituted by Cllr C Harrower.

41 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00:05:03)

No interests were declared under this item. Members were reminded of the need to make declarations of interest where appropriate.

42 PUBLIC QUESTION TIME (00:05:11)

Mr Paul Elstone asked questions relating to Agenda Item 7 – 3 Rivers – Lessons Learned.

His questions were all directed to the Chairman.

Question 1

This administration promised openness, transparency and public engagement in decision making. Could it be explained in detail why 5 documents associated with the 3 Rivers Lessons Learned agenda item were being kept secret from the public?

Question 2

The integrity of various audits and reports on 3 Rivers were being challenged by previous Council Leaders who had detailed knowledge. Would the full circumstances of those integrity issues be fully investigated by this committee?

Question 3

Information is becoming increasingly available regarding the Council lending to 3 Rivers which was strongly believed showed what could only be classed as repeat reckless lending being fully promoted by Council Officers and then agreed by this Council.

Would this Committee fully investigate and then seek independent legal advice on this position?

Question 4

A former senior Councillor has called the 3 Rivers Lessons Learned Enquiry an officer orchestrated sham.

How, therefore, could the Mid Devon public have any confidence at all with the outcome?

Question 5

It had become clear that 3 Rivers was in a desperate financial situation in October 2022, that events had become massively worse at the Cabinet Meeting of the 31st January 2023, that it took the then Council Leader despite being incapacitated to call a halt. The Fully Independent Cabinet then further intervened to prevent further 3 Rivers investment. Despite this the Scrutiny Committee failed to undertake their legally defined duties, also, the Audit Committee. Would this Committee fully investigate the full reasons as to why?

As the questions had not been provided in advance, Mr Elstone was told that written answers would be provided.

Mr Nick Quinn had sent in questions and asked for the Chairman to read them out:

His questions related to Agenda Item 7: 3 Rivers, Lessons Learned, Session 1
With this new Council's aims of inclusion, openness and transparency in mind:

Q1: Please would you tell me who prepared the, uncredited, "*Draft Terms of Reference*" document, shown on pages 23 and 24 of your papers?

A1: *This was prepared by the Chief Executive with the approval of the Chair of Scrutiny Committee.*

Q2: Please would you tell me who prepared the, similarly uncredited, "*3 Rivers - Corporate Risk Management*" document, shown on pages 25 to 27 of your papers?

A2: *This was prepared by the Council's Corporate Performance and Improvement Manager.*

Q3: The second paragraph of the "*Draft Terms of Reference*" document, stated that "*Numerous internal and external reports had been commissioned over the years, at considerable cost to the Council... exploring both aspects of governance and finance*". Had copies of each of these reports been provided to every Member of Scrutiny Committee, for them to read and digest as part of this review process?

A3: *Yes, external legal and financial advice received from Anthony Collins Solicitors and Bishop Fleming had been shared.*

Q4: After the Agenda and papers for this meeting had been published, a number of "*Restricted Documents*" had been added to the electronic copy of the agenda shown on the Council Website. These papers had been published late and the public had no idea what they were, or what they were about. Please would you give me the titles of each of these additional papers and the reasons why each was published late?

A4: *These part 2 documents were sent out as a complete set as soon as they were all received, so this was the earliest we could make them available. The responses were from four ex councillors who were asked to consider the seven areas identified in the Terms of Reference document.*

Mr Goff Welchman asked three questions:

Q1: He wished to enquire why this committee was only investigating the 3 Rivers Development Company back to 2018, and did not wish to apportion blame? Was the committee not aware, that under recent legislation changes, any directors found to be negligent could be prosecuted and pursued for company losses, even to the extent of losing their homes, and any other assets?

Response to question 1:

As is a matter of public record, all governance matters and financial transactions had been audited multiple times by internal and external companies. While it was therefore accepted that there may be lessons to be learnt from how the Council managed its relationship with the company on a number of issues, there was no suggestion of any Director negligence as had been referred to.

Q2: Were any Council Officers given legal advice at the outset of 3 Rivers Development Company Ltd that they should not be a Director of 3RDL whilst also having a controlling financial position on the Council and therefore responsible for signing off loans to 3 RDL?

Q3: With regard to apportioning blame, how would anyone like it if their house was burgled and the Police said that they could not investigate it due to cost?

As questions 2 and 3 had not been provided in advance, Mr Welchman was told that written answers would be provided. The Chairman commented that the Council had chosen to investigate this matter in order to be transparent. The Deputy Chief Executive (S151) commented that advice on set up was taken at the outset. Advice on Governance arrangements had been taken from Bevan Brittan Solicitors, and that advice been provided to Councillors before the company was set up. The Council had complied fully with that advice.

Mr Barry Warren asked the following questions of the Scrutiny Committee:

His questions related to Agenda item 7 on the papers and were addressed to the Chairman.

On 11th October 2023 he had received a letter in the post from the Chief Executive. In the letter it was repeatedly stated that it is written to him on behalf of the Chairman of the Scrutiny Committee. At the end of the letter it was signed as being on behalf of the Chair and the Deputy Chair.

1. Did both you and your Deputy Chair approve the wording of this letter?
2. Did you set the list of former councillors to receive this letter and who were they?
3. He was only aware of two other former Leaders receiving this letter in addition to himself. Certainly no others from the final Cabinet received copies and one of them had been a member of Cabinet from May 2019. Why were they not contacted?
4. In the penultimate paragraph, on your behalf, it stated: *The District Solicitor would be reviewing all information provided in order to ensure it met the standards of accuracy and integrity that befits the worthiness of the scrutiny committee's consideration.*
 - a) He was in a position to provide accurate information supported by evidence – even of officers giving misleading information to members. Why did you suggest that the information I could provide would need filtering by the District Solicitor?
 - b) Were you wishing to apply censorship to the work of the Scrutiny Committee?
5. Mention was made of members having the opportunity to review a ‘vast quantity of audit and financial information’.

- a) Who was going to select what members would review?
- b) Would members be directed to members' and public questions at the various times or those documents from the Leader and Cabinet that pointed out that some reports only contained information provided by Directors of 3 Rivers – one of whom was also the S151 officer?

As the questions had not been provided in advance, Mr Warren was told that written answers would be provided.

43 **MINUTES OF THE PREVIOUS MEETING (00:23:24)**

The minutes of the last meeting held on 2 October 2023 were approved as a correct record and **SIGNED** by the Chairman.

44 **DECISIONS OF THE CABINET (00:23:47)**

The Committee **NOTED** that none of the decisions made by the Cabinet on 17 October 2023 had been called in.

45 **CHAIRMAN'S ANNOUNCEMENTS (00:23:51)**

There were no Chairman's announcements.

46 **3 RIVERS LTD - LESSONS LEARNED - SESSION 1 (00:24:59)**

Consideration was given to;

- The Anthony Collins Solicitors reports had not been shared with all the members of the Scrutiny Committee but would be.
- The role of the Scrutiny Chairman.
- What was required of the Scrutiny Committee?
- Terms of Reference – The draft submitted to the Scrutiny Committee was a reflection of all the concerns that had been raised. It was meant as something to start the debate and to give it some structure.
- Whether a report from an Officer should have been provided.
- Setting up a Task and Finish Group with its own Terms of Reference.
- What work had been done outside of the Scrutiny Committee meeting?
- The Terms of Reference were a good starting point but any Working Group should be able to adapt them in order to accommodate a better understanding, perhaps adding an addendum page stating what the group wanted to reflect back to the committee.

Cllr N Woollatt proposed and Cllr R Roberts seconded that a Working Group be set up to look into 3 Rivers Development Ltd and report back to the Scrutiny Committee.

Consideration was given to:

- A Working Group could meet informally, often and regularly.
- Still the need for a swift process with a transparent outcome.
- The quantity of the material is vast.
- The working group should concentrate on quality and not quantity.
- The status of notes that would be taken at a Working Group.
- The Working Group should look back to the start of the company.

- The purpose of the working group should be to investigate and make proposals.

This proposal was **CARRIED**

A Working Group consisting of Cllrs: Cuddy, Czapiewski, Roberts and Westcott was **AGREED**. The Lead Officer to the group would be the Policy Research Officer for the Scrutiny Committee. The group would appoint their own Chairman, decide upon frequency of meetings, who they would interview if anyone and reporting and time-scales. The group needed to have an agile approach.

A vote was taken on a proposal to accept the Terms of Reference that had been circulated before the meeting and this was **CARRIED** and Cllr N Woollatt abstained. The group would report back particularly with regard to the Terms of Reference and any addendum at the next meeting and hoped to produce a final report by the Scrutiny meeting on 18th December 2023.

(The meeting ended at 6.52 pm)

CHAIRMAN