

**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 31<sup>st</sup> 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 11<sup>th</sup> 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 18<sup>th</sup> December 2023.

(The meeting ended at 6.52 pm)

**CHAIRMAN**

## MDDC SCRUTINY COMMITTEE MEETING 30<sup>TH</sup> OCTOBER 2023

Written responses to Public Questions not sent in advance of the meeting.

**QUESTIONS: PAUL ELSTONE - A Local Resident and Council Taxpayer.**

My questions relate to Agenda Item 7 – 3 Rivers – Lessons Learned.

My questions are all directed to the Chair.

Question 1

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

Yes, they were published in part2 at the request of those who willingly gave their time to make their observations to the committee.

Question 2

It is known that the integrity of various audits and reports on 3 Rivers were being seriously challenged by previous Council Leaders who had detailed knowledge.

Audits that Council Executive Officers have repeatedly used to justify decisions taken.

Additionally, there are emails written and received from the Devon Audit Partnership that show their investigation report to be fatally flawed.

Will the full circumstances of these integrity issues be fully investigated by this committee?

The Audit Committee of 27th June 2023 considered a report which specifically addressed this point. The report stated: 'Those connected to the allegations were requested to supply any / all evidence of criminality to DAP... to assist in the completion of this report in a timely manner. Despite directly approaching Estone/Davey/Deed and Officers of 3RDL no evidence of criminality or fraud has been obtained.'

As such, the repeating of such claims is both misleading and inaccurate.

Question 3

Information is becoming increasingly available regarding the council lending to 3 Rivers. Information it is strongly believed shows what can only be classed as repeat reckless lending being fully promoted by Council Officers and then agreed by this Council.

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

No. No evidence exists to support such a statement.

#### Question 4

It is known that a former senior councillor with probably most knowledge of the 3 Rivers debacle has called the 3 Rivers Lessons Learned Enquiry an officer orchestrated sham.

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

The committee agreed to a draft terms of reference and decided to appoint a working group. Whether this accords with the wishes or beliefs of any former councillor is completely irrelevant.

#### Question 5

It had become clear to everyone that 3 Rivers was in a desperate financial situation in October 2022. That events had become massively worse at the Cabinet Meeting of the 31<sup>st</sup> 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 reckless investment.

Despite this the Scrutiny Committee failed to undertake their legally defined duties. Also, the Audit Committee.

Both committees were asleep at the wheel.

Will this Committee fully investigate the full reasons as to why?

At that time, the former council leader had been unable to command the support of a quorate cabinet, leading to a cabinet meeting on 14<sup>th</sup> February 2023 where no appointed member of cabinet attended. Following this, a motion of no confidence in the Leader and to remove him was tabled for consideration by council on 22<sup>nd</sup> February.

The subsequent cabinet did not 'intervene to prevent investment', the decision had already been made by full council.

The actions of scrutiny and audit committees over the years will no doubt be considered by the working group in due course.



## **QUESTIONS: GOFF WELCHMAN - A LOCAL RESIDENT AND TAXPAYER**

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?

Governance was established having taken advice from external solicitors.

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?

The council has incurred, and continues to incur, cost in managing, checking and assuring the relationship with its company, via both internal and external audit, as well as via external specialists at numerous points. All such information will be made available to scrutiny members as required in order to ensure they can effectively scrutinise and report back as appropriate.

## **QUESTIONS: BARRY WARREN – RESIDENT AND COUNCIL TAX PAYER**

My questions relate to Agenda item 7 on your papers and are addressed to you Madam Chairman for answers please.

On 11<sup>th</sup> October 2023 I received a letter in the post from the Chief Executive. In the letter it is repeatedly stated that it is written to me on behalf of the Chairman of the Scrutiny Committee. At the end of the letter it is 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?

Yes.

2. Did you set the list of former councillors to receive this letter and who were they?

Yes. Former leaders and the substantive portfolio holders.

3. I am only aware of 2 other former Leaders receiving this letter in addition to myself. 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?

The views of those with the most knowledge were sought.

4. In the penultimate paragraph, on your behalf, it states: *The District Solicitor will be reviewing all information provided in order to ensure it meets the standards of accuracy and integrity that befits the worthiness of the scrutiny committee's consideration.*

a) I am in a position to provide accurate information supported by evidence – even of officers giving misleading information to members. Why do you suggest that the information I could provide would need filtering by the District Solicitor?

Regular inference is made regarding misleading information, no evidence has ever been provided to substantiate such claims. It is precisely this type of speculative claim that adds no value to the committee's lessons learned process, hence making it clear that that the District Solicitor would review any submissions for accuracy.

b) Are you wishing to apply censorship to the work of the Scrutiny Committee?

This question is an insult to the chairman, and shows a disconcerting lack of respect from a former leader of this council who ought to know better.

5. Mention is made of members having the opportunity to review a 'vast quantity of audit and financial information'.

a) Who is going to select what members will review?

No one. It will not be selected for them – the working group as established at the meeting will review such information as it sees fit.

b) Will 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?

See previous; members will not be 'directed'.