

Public Document Pack

COUNCIL

Monday, 15 July 2013

Present: The Mayor (Councillor Dave Mitchell) in the Chair
Deputy Mayor (Councillor Steve Foulkes)

Councillors	RL Abbey	S Hodrien	D Realey
	C Blakeley	A Hodson	L Rennie
	E Boulton	K Hodson	D Roberts
	A Brighthouse	M Hornby	L Rowlands
	P Brightmore	M Johnston	J Salter
	W Clements	AER Jones	H Smith
	A Cox	C Jones	T Smith
	J Crabtree	P Kearney	W Smith
	G Davies	S Kelly	J Stapleton
	P Davies	B Kenny	M Sullivan
	WJ Davies	A Leech	A Sykes
	P Doughty	I Lewis	J Walsh
	D Elderton	AR McLachlan	G Watt
	G Ellis	M McLaughlin	S Whittingham
	L Fraser	C Meaden	J Williamson
	P Gilchrist	B Mooney	I Williams
	P Glasman	S Mountney	KJ Williams
	JE Green	C Muspratt	P Williams
	R Gregson	S Niblock	S Williams
	T Harney	T Norbury	

<u>Apologies</u>	Councillors	D Dodd	P Hayes
		P Hackett	C Povall
		J Hale	

Prior to the first item of business, the Mayor's chaplain, Revd Beth Glover, led the Council in prayers.

11 DECLARATIONS OF INTEREST

The Members of the Council were invited to consider whether they had any disclosable pecuniary and/or any other relevant interest in connection with any matters to be determined at this meeting and, if so, to declare it and state the nature of such interest.

Councillors R Abbey, A Leech and J Salter declared a non - pecuniary interest in Item 6 – Leaders', Executive Members' and Chairs' Reports, (see minute 16 post) Item 7A – Matters Requiring Approval by the Council (see minute 17 post) and Motion 3 (Comprehensive Spending Review Announcement – 27 June 2013) (see minute 23 post) by virtue of their appointment to the Leasowe Community Homes Management Board.

Councillors S Foulkes, J Green, K Hodson, D Roberts and S Whittingham declared a non - pecuniary interest in Item 6 – Leaders’, Executive Members’ and Chairs’ Reports, (see minute 16 post) Item 7A – Matters Requiring Approval by the Council (see minute 17 post) and Motion 3 (Comprehensive Spending Review Announcement – 27 June 2013) (see minute 23 post) by virtue of their appointment to the Magenta Living Management Board.

Councillors S Niblock, L Rennie, D Roberts and J Stapleton declared a non - pecuniary interest in Motion 4 (Cuts to Merseyside Fire and Rescue Service) (see minute 21 post) by virtue of their appointment to the Merseyside Fire and Rescue Authority.

12 **MAYOR'S ANNOUNCEMENTS**

Apologies for absence were received from Councillors Darren Dodd, Pat Hackett, John Hale, Paul Hayes and Cherry Povall.

The Mayor thanked all members of staff who had assisted on the Armed Forces Day on 29 June, 2013.

He referred to his visit to Greasby Infants School which had won a Confucius Classroom award for its teaching of Mandarin Chinese and the culture of China.

The Mayor also thanked Councillor John Salter for all his work with the Pakistani delegation which had placed orders with McTay Marine, Bromborough, to supply high speed patrol boats to the Pakistan coastguard.

13 **PETITIONS**

In accordance with Standing Order 21, the Mayor received petitions submitted by –

- (i) Councillor Walter Smith on behalf of 28 signatories objecting to proposed improvement measures to assist pedestrians, cyclists and equestrians at Levers Causeway, Bebington.
- (ii) Councillor Denise Realey on behalf of 20 signatories over the decision to place a restriction on a road off Woodchurch Road, making it, 'Except for Access'
- (iii) Councillor Anita Leech on behalf of 34 signatories opposed to the bedroom tax
- (iv) Councillor Eddie Boulton on behalf of 105 signatories in Hoylake requesting residents only parking
- (v) Councillor Steve Williams on behalf of 82 signatories objecting to the Wirral brown bin garden waste tax
- (vi) Councillor Leah Fraser on behalf of 78 signatories objecting to the Wirral brown bin garden waste tax
- (vii) Councillor Ian Lewis on behalf of 51 signatories objecting to the Wirral brown bin garden waste tax
- (viii) Councillor Wendy Clements on behalf of 100 signatories objecting to the Wirral brown bin garden waste tax
- (ix) Councillor Simon Mountney on behalf of 82 signatories objecting to the Wirral brown bin garden waste tax
- (x) Councillor Chris Blakeley on behalf of 102 signatories objecting to the Wirral brown bin garden waste tax

- (xi) Councillor Lesley Rennie on behalf of 60 signatories objecting to the Wirral brown bin garden waste tax

Resolved – That the petitions be noted and referred to the appropriate Chief Officer in accordance with Standing Order 34.

14 PUBLIC QUESTIONS

1. Mr N Hobro, having given the appropriate notice in accordance with Standing Order 10, asked a question to the Leader of the Council on the publication of the Business Investment Grant (BIG) report of Grant Thornton.

The Leader of the Council responded accordingly.

In accordance with Standing Order 10, Mr Hobro asked a supplementary question and the Leader of the Council responded accordingly.

The Chief Executive informed the Council that there would be no objection to the summary report of Grant Thornton being circulated but it would not be appropriate at this time to publish the full report as it had been referred to the Police. Once the full report had been cleared then it could be published. (The summary report is appended to these minutes).

2. Mr M Morton, having given the appropriate notice in accordance with Standing Order 10, asked a question to the Leader of the Council regarding the payment of severance payments in excess of £100,000.

In accordance with Standing Order 10, Mr Morton asked a supplementary question and the Leader of the Council responded accordingly.

15 MINUTES

The minutes of the meeting of the Annual Council held on 13 May and reconvened on 20 May, 2013 had been circulated to Members and, it was –

Resolved – That the minutes be approved and adopted as a correct record.

16 LEADER'S, EXECUTIVE MEMBERS' AND CHAIRS' REPORTS

The Leader of the Council introduced the Cabinet Portfolio summary reports of all the Cabinet Members.

Councillor Blakeley requested an adjournment for 15 minutes to enable members to digest the additional document which had been circulated from the Cabinet Member for Health and Wellbeing and also the statement of the Chief Executive in relation to item 11 on the agenda, 'Notices of Motion'.

With the agreement of the Council the Mayor then adjourned the meeting at 6.45pm.

The meeting resumed at 7.00pm.

The Mayor then requested questions to the Leader on his summary report. The Leader responded to questions from Councillors Stapleton, Roberts, Gilchrist and Harney and made a number of comments, including:

- He agreed that it was very reassuring to hear the comments of the Corporate Peer Challenge Team, which was made up of Members of the three main political parties and vindicated the focus of putting the Council on a sustainable financial footing and addressing issues of corporate governance.
- Acknowledgement had also been made at the LGA Conference with Wirral seen as leading the way on the whole sector led improvement model and he paid tribute to the tremendous effort officers led by the Chief Executive.
- He was pleased with the announcement made at the LGA Annual Conference that Wirral was one of only nine councils in the country to pilot the, 'Whole Place Community Budget' scheme.
- The proposed Combined Authority would focus on economic development, regeneration and transport; it was not a proposal to recreate the former Merseyside County Council under another name. The aim was for it to be in place by April 2014 and an extraordinary Council meeting would need to be held in September to progress the proposal.
- He had, together with the Mayor of Liverpool, attended a meeting in Brussels with Commissioner Johannes Hahn on changes in structural funding which would mean a cut of 60% in the funding allocation for Merseyside. This cut was indefensible given the importance of European across the Merseyside area.
- He acknowledged the lateness of the advice from the Chief Executive in respect of the Notice of Motion on whistle-blowing but Mr Burgess had been taking legal advice up to the last minute and it was only right that the Council had had an adjournment to digest the written advice received.

Resolved – That the report of Councillor Phil Davies be noted.

Questions were then invited for Councillor Chris Jones on her report and her response to a question from Councillor McLaughlin included the following comments:

- There were approximately 40,000 carers on Wirral, 12.5% of the population, of which 1,500 had been identified as young carers, some of whom were as young as 4 years of age. The 'Caring for our Carers' strategy, currently out for consultation, would improve ways in identifying carers and improving links with education and training and forging better working relationships with GPs and professionals.

Resolved – That the report of Councillor Chris Jones be noted.

Questions were then invited for Councillor Adrian Jones on his report and his responses to questions from Councillors Green, Walsh, Gregson and Norbury included the following comments:

- The cost of IT expertise was a bargain at the price and the money to be spent on IT infrastructure had been agreed in January 2010 but not been followed up. Most of the equipment was now three years older and had worsened because of the delay. One of Cheshire West and Chester Council's IT Manager's with expertise in Social Care systems was working with Wirral Council's Children and

Young People's Department and Adult Social Services Department two days a week.

- It was absolutely necessary to update the Council's IT, especially with Microsoft discontinuing support for XP in 2014.
- He was pleased that eight apprentices had been taken on by the Parks and Countryside Service.
- He agreed that the Government changes in welfare reform were devastating for many on Wirral.

Resolved – That the report of Councillor Adrian Jones be noted.

Questions were then invited for Councillor Tony Smith on his report and his responses to questions from Councillors Clements, Abbey and Norbury included the following comments:

- He would respond to Councillor Clements in writing and ensure this was circulated to all Councillors.
- Improvements still needed to be made on the figure of 80% of safeguarding assessments being completed within timescale.
- Savings of £6.3m were on target to be delivered.

Resolved – That the report of Councillor Tony Smith be noted.

Questions were then invited for Councillor Phil Davies who, in the absence of Councillor Hackett, responded to questions from Councillors Rennie, Williamson and Whittingham. His response included the following comments:

- A draft Local Development Framework was being produced for consultation to be agreed in the early part of 2014.
- Central Government was requiring all Councils to provide sites for gypsies and travellers and no potential sites could yet be ruled in or out as all views would be taken into account before any final decision.
- He welcomed the £5m Regional Growth Fund monies supporting the offshore wind engineering supply chain. Although the manufacture of turbines took place in Germany and they were then transported to Cammel Laird, there was no reason why the turbines could not be manufactured at Cammel Laird.
- He paid tribute to Kevin Adderley and his team for all their work on the Wirral Waters Enterprise Zone which had been provisionally awarded £5.5m of Local Infrastructure funding.
- Significant interest had also been expressed from automotive suppliers in the Mobil site in Birkenhead.

Resolved – That the report of Councillor Pat Hackett be noted.

Questions were then invited for Councillor Brian Kenny on his report and his responses to questions from Councillors Lewis, Cox, Brightmore and Crabtree included the following comments:

- He hoped that by year two, 35,000 households would have subscribed to the garden waste service, the target for the first year had already been exceeded with 30,000 households signed up.

- Households could still put a small amount of garden waste in their green bins and currently there was no question of any Wirral resident being penalised for doing so.
- Nobody had been forced to pay for their garden waste to be collected and of those that had subscribed, over 80% had done so online at a charge of £30.
- Any effect on flytipping following the introduction of the charge was being evaluated and he hoped that people would not resort to flytipping. He would encourage residents to home compost.

Resolved – That the report of Councillor Brian Kenny be noted.

Questions were then invited for Councillor Ann McLachlan on her report and her responses to questions from Councillors Lewis, Kelly, Whittingham and Bill Davies included the following comments:

- The Labour Group had appointed assistant Cabinet Portfolio holders, they were not within the Constitution but the appointments had been made by the Labour Group to assist their members in getting more involved.
- Once Constituency Committees were up and running commissioning could be devolved and then more resources.
- Officer support to Policy and Performance Committees included the Scrutiny Support Team based within the Policy Unit and briefing packs had been provided to all Committee members.
- The Performance Management Framework would apply consistent methodology on a monthly cycle to address under performance, targeting key priorities identified by Strategic Directors.

Resolved – That the report of Councillor Ann McLachlan be noted.

Questions were then invited for Councillor Chris Meaden on her report and her responses to questions from Councillors Fraser, Mooney, Blakeley and Green included the following comments:

- She paid tribute to all parks' Friends groups for their invaluable contribution in helping to maintain and run Wirral's parks.
- The reduction in Government funding had unfortunately meant a reduction in the number of such items as tennis court nets being purchased.
- The figures for not going forward with PACSPE would be supplied in writing and circulated to all Councillors.
- The team of leisure consultants, V4, had come up with a number of suggestions in respect of the review of leisure centres, sports development and golf courses and it was hoped to present their findings to Cabinet in September.

Resolved – That the report of Councillor Chris Meaden be noted.

Questions were then invited for Councillor Harry Smith. No questions were posed, and it was then –

Resolved – That the report of Councillor Harry Smith be noted.

Questions were then invited for Councillor George Davies on his report and his responses to questions from Councillors Leech, Kelly, Gilchrist and Blakeley included the following comments:

- He couldn't give an exact figure as to exactly how many three bedroom Wirral Partnership Homes properties were empty but it was at least 240. There were 13 housing associations across Wirral and there were probably about 400 empty properties on Wirral.
- The New Homes Bonus was expected to generate an income of around £3.1m.
- He welcomed the extension of the Affordable Housing Programme to 2017/18 and new provision, including those units at Town Meadow Lane, Moreton.

Resolved – That the report of Councillor George Davies be noted.

17 **MATTERS REQUIRING APPROVAL BY THE COUNCIL**

In accordance with Standing Order 5(2), a number of matters were submitted for approval by the Council.

One matter from the meeting of the Cabinet held on 11 July 2013 (minute 26 – Corporate Plan Performance Management Report) was submitted for approval but was the subject of an amendment.

On a motion by Councillor Phil Davies and seconded by Councillor Ann McLachlan, it was –

Resolved –

(1) That the following matters be approved:

- (i) Minute 7 (Cabinet – 13 June 2013)
Policy on Discharge of Statutory Homelessness Duty into the Private Rented Sector**
- (ii) Cabinet Member – Economy (Decision published on 18 June, 2013)
Local Development Framework – Joint Waste Local Plan for Merseyside and Halton**
- (iii) Recommendation from the Leader of the Council (Decision published on 5 July, 2013)
Appointment of the Council's Section 151 Officer**

In respect of Cabinet minute 26 (11 July 2013) - Corporate Plan Performance Management Report, it was moved by Councillor Phil Davies and seconded by Councillor Ann McLachlan that the minute be approved.

It was moved as an amendment by Councillor Andrew Hodson and seconded by Councillor Fraser, that –

“Council notes that at the meeting of the Policy and Performance Co-ordinating Committee on 3 July 2013 Members criticised the layout, readability and design of the Corporate Plan Performance Report. At this meeting it was agreed that Officers

would revisit the report, make the necessary improvements and present a revised report to the next meeting of the Policy and Performance Co-ordinating Committee. Council will therefore wait for the production of this improved report before considering it for approval.”

After Councillor Andrew Hodson had spoken to his amendment and one other speaker had addressed the Council, the motion and amendment were formally seconded and the Leader of the Council waived his right of reply, the matter was put to the vote.

The amendment was put and lost (18:41) (One abstention)

The minute was put and carried (41:18) (One abstention)

Resolved (41:18) (One abstention) –

That, minute 26 (Cabinet 11 July 2013) - Corporate Plan Performance Management Report, be approved.

18 **MATTERS FOR NOTING**

On a motion by Councillor Phil Davies, seconded by Councillor McLachlan, it was –

Resolved – That minute 7 (Cabinet – 13 June 2013) - Financial Monitoring 2013/14, be noted.

19 **MEMBERS' QUESTIONS**

In accordance with Standing Orders 10(2)(b) and 11, notice had been given of three questions from the following:

1. Councillor Phil Gilchrist to the Cabinet Member for Highways and Transportation, in respect of the condition of the Council's road network.

Councillor Harry Smith responded accordingly and stated that he would circulate his response to all councillors.

2. Councillor Geoffrey Watt to the Cabinet Member for Highways and Transportation, in respect of the usage and revenue derived from, the two Council-owned car parks in West Kirby (Concourse and Dee Lane).

Councillor Harry Smith responded accordingly.

3. Councillor Stuart Kelly to the Leader of the Council, in respect of the time taken to pay invoices to small and medium enterprise businesses.

Councillor Phil Davies responded accordingly and stated that he would circulate a response to all councillors.

20 **MATTERS REFERRED FROM POLICY AND PERFORMANCE COMMITTEES**

No referrals had been made from those Policy and Performance Committees which had so far met.

21 **NOTICES OF MOTION**

Notices of motion submitted in accordance with Standing Order 7(1), were reported to the Council. The Mayor, having considered each motion, in accordance with Standing Order 7(4) had decided that the Motions would be dealt with as follows:

- (i) Whistle-blowing - to be debated
- (ii) Local Investment in Rail - High Speed2 & Borderlands Railway – referred to the Leader of the Council
- (iii) Comprehensive Spending Review Announcement – 27th June 2013 - to be debated
- (iv) Cuts to Merseyside Fire and Rescue Service - referred to the Regeneration and Environment Policy and Performance Committee

Resolved – That the following Notices of Motions be referred as follows:

- (1) Local Investment in Rail - High Speed2 & Borderlands Railway – referred to the Leader of the Council.**
- (2) Cuts to Merseyside Fire and Rescue Service - referred to the Regeneration and Environment Policy and Performance Committee.**

22 **MOTION - WHISTLE-BLOWING**

Prior to the motion on Whistle-blowing being debated, the Chief Executive made a statement to the Council and referred to his advice which had been circulated to all Councillors advising caution when it came to discussing individual cases. The advice was as follows:

“I would like to firstly advise a note of caution to all Elected Members when it comes to discussing individual cases. The Council in this instance has been requested to deal directly with Mr Morton’s solicitor to seek a resolution to the outstanding issues. We are keen to reach a resolution at the earliest opportunity and have corresponded with Mr Morton’s Solicitor to that effect.

I must also draw Council’s attention to the recent judgement by Mr Justice Hughes in the first-tier tribunal between the Appellant and the Information Commissioner. Judge Hughes upheld the Information Commissioner’s decision to uphold this Council’s refusal of personal information relating to the Officers alluded to in this question. This followed his appraisal of the AKA report and all relevant information provided.

In particular it is important that Members note the following conclusions:

The information which the complainant has asked for is detailed information on personnel matters relating to the individuals concerned. This goes much further than a request to detail of any severance payments made to the individuals. It is also about the terms under which they left the authority. The

public interest in knowing whether appropriate policies and procedures were followed or whether the council acted inappropriately in terms of the events outlined in the report has been served by the disclosure of the report.

The individuals identified within the report had not been convicted of any crime. Public accountability for failing is within the Council's practices and rests with the Council as a whole rather than with individual officers.

He concluded by finding that while there was a legitimate public interest in understanding how the Council had reacted to the report; this information would not help with that process and a balance had to be struck with respect to the rights of the individuals concerned. He found that:

Any pressing social need for greater transparency on the Council's reaction to the report would not be met by a disclosure of this information. He therefore considers that it would be unfair (and given the implied confidentiality of the employer/employee information, unlawful) for the purposes of the first data protection principle for that information to be disclosed.

In the light of the above judgement we do not consider that it would be lawful or practical to allow a further investigation into the circumstances surrounding the departure of the two Officers in question.”

The Chief Executive also reported to the Council that that afternoon a first claim had been received at 2.50pm from Mr Morton’s solicitors which would now allow the Council to proceed to reach a settlement with Mr Morton.

It was then –

Proposed by Councillor Green

Seconded by Councillor Rennie

- (1) Council notes that on the 19 June 2013 the CQC published an independent report into its registration and oversight of University Hospitals Morecambe Bay NHS Foundation Trust where up to 16 baby deaths and 2 maternal deaths could be attributed to poor quality of care. A significant part of this report focussed on the ‘11 questions’ raised by Care Quality Commission (CQC) whistle-blower Kay Sheldon.
- (2) Mrs. Sheldon, a non-executive Board Member of the CQC, had previously given evidence to the Francis Inquiry concerning high mortality rates at Mid Staffordshire NHS Foundation Trust. Within her evidence Kay Sheldon states that the final straw for her to contact the inquiry was that she had been trying to raise concerns for quite sometime and the Chair of the CQC had been trying to undermine Mrs. Sheldon by suggesting she was mentally unstable.
- (3) Council further notes the recent publication from the National Audit Office “Confidentiality clause and special severance payments” where the Head of the Audit Office stated “it is important that compromise agreements do not leave staff feeling gagged or reward failure either of an employee or an organisation.”

- (4) Council believes that Martin Morton would be able to draw parallels between Mrs. Sheldon's experiences at the CQC and his own experiences at Wirral Borough Council where he blew the whistle on Wirral Borough Council that led to the ordering of the AKA investigation and subsequent report which found that the abnormal had become the norm.
- (5) Martin has received no justice – his life has been ruined and both the AKA report and Martin Smith reports vindicated him. Let us not forget that Martin stood up for those vulnerable adults who couldn't stand up for themselves and was hounded out of his job for doing so. Council is therefore extremely dissatisfied that, over two years on from the publication of the Martin Smith and AKA reports, the Administration have been unable to find an acceptable resolution with Martin Morton.
- (6) Council is further disappointed to note that, along with the public, it has never received an adequate explanation into the sequence of events that allowed two senior members of staff implicated in the Martin Morton whistle-blow to leave, under compromise agreements, less than 1 working day prior to the publication of the AKA report and exactly what role the then leadership of the Council had in that decision.
- (7) Council therefore requests the Chief Executive to:
 - (a) brief the three party leaders about the current state of discussions with Martin Morton and produce a timeline for resolution;
 - (b) conduct a review of all the circumstances surrounding the decision to allow two senior members of staff implicated in the Martin Morton whistle-blow to leave, under compromise agreements and present that review to the three party leaders at the September Leaders' Board prior to full publication.

An amendment was then submitted in accordance with Standing Order 12(1) and (9) which had been circulated around the Chamber.

Proposed by Councillor Phil Davies

Seconded by Councillor George Davies

"In paragraph 7 delete (b) and replace with the following –

- (b) provide a report to both the Improvement Board and Audit and Risk Management Committee detailing the actions taken in response to all findings detailed in the external reports the Council has received in recent years."

A further amendment was then submitted in accordance with Standing Order 12(1) and (9).

Proposed by Councillor T Harney

Seconded by Councillor Pat Williams

"In paragraph 7(b) delete the last four words, 'prior to full publication' and insert, a final sentence, 'Any investigation to be conducted into issues which are legally

allowed and those parts of the report which are allowed to be legally published are published.”

To enable consideration of this further amendment and for the political Groups to receive legal advice:

The Mayor adjourned the meeting at 8.50pm for 10 minutes.

The meeting resumed at 9.05pm

Councillor Bill Davies suggested that Standing Order 9 be suspended to allow debates on the two motions referred for debate. It was agreed that Standing Order 9 be suspended and the Mayor informed the Council that he would limit the debates to movers and seconders and a right of reply.

The Chief Executive informed the Council that the amendment proposed by Councillor Harney was legal but impractical as it would be difficult to compel or request former officers of the Council to provide information to an investigation.

The Head of Legal and Member Services also reminded members that the Council had entered into legally binding agreements with certain individuals and would run the risk of legal action if the Council failed to honour its contractual obligations. The Council also needed to be mindful of the judgement it had been provided with.

Councillor Gilchrist referred to a number of clauses in the Information Commissioner's letter and the Chief Executive stated that he would respond in writing.

The Mayor then requested the movers of the motion and amendments to speak to their proposals followed by the seconders.

During his right of reply, Councillor Green referred to the former Cabinet Member for Social Care and Inclusion, Councillor Moira McLaughlin and to the former Leader of the Council, Councillor Steve Foulkes, and that in his opinion the claims being made at the time by Martin Morton, 'were too quickly dismissed'. Both Councillors Moira McLaughlin and Steve Foulkes strongly objected to the statement made by Councillor Green on the grounds that it was inaccurate and unjustified.

The Head of Legal and Member Services stated that no findings of wrongdoing had been found against any Councillor regarding these matters.

Councillor Green stated that he was not suggesting that there was any wrongdoing but there were issues which needed to be resolved.

Referring to the videoing or recording of the proceedings by members of the public, the Head of Legal and Member Services stated that it was not possible for the Council to monitor or manage recordings in the public domain.

The amendment proposed by Councillor Harney was put and lost (24:35) (One abstention).

In respect of the Labour amendment, Councillor Green along with five Conservative Members, asked that a 'card vote' be recorded. Responding to an intervention from Councillor Bill Davies, the Head of Legal and Member Services clarified that a 'card vote' could be taken as Standing Order 9 had been suspended. The Council then divided as follows –

For the amendment (35) Councillors RL Abbey, P Brightmore, J Crabtree, G Davies, P Davies, WJ Davies, P Doughty, S Foulkes, P Glasman, RJ Gregson, S Hodrien, AER Jones, C Jones, B Kenny, A Leech, ARC McLachlan, M McLaughlin, Mrs C Meaden, B Mooney, C Muspratt, S Niblock, T Norbury, D Realey, DE Roberts, J Salter, H Smith, PA Smith, W Smith, J Stapleton, M Sullivan, J Walsh, S Whittingham, I Williams, KJ Williams and J Williamson.

Against the amendment (24) Councillors C Blakeley, E Boulton, A Brighthouse, Mrs W Clements, T Cox, DM Elderton, L Fraser, PN Gilchrist, J Green, T Harney, AC Hodson, K Hodson, M Hornby, M Johnston, P Kearney, SE Kelly, I Lewis, SR Mountney, Mrs L Rennie, SL Rowlands, A Sykes, GCJ Watt, Mrs P Williams and S Williams.

One abstention – Councillor D Mitchell.

The Labour amendment was therefore put and carried (35:24) (One abstention).

The substantive motion, as amended, was then put to the vote and it was –

Resolved (35:24) (One abstention) -

- (1) Council notes that on the 19 June 2013 the CQC published an independent report into its registration and oversight of University Hospitals Morecambe Bay NHS Foundation Trust where up to 16 baby deaths and 2 maternal deaths could be attributed to poor quality of care. A significant part of this report focussed on the '11 questions' raised by Care Quality Commission (CQC) whistle-blower Kay Sheldon.**
- (2) Mrs. Sheldon, a non-executive Board Member of the CQC, had previously given evidence to the Francis Inquiry concerning high mortality rates at Mid Staffordshire NHS Foundation Trust. Within her evidence Kay Sheldon states that the final straw for her to contact the inquiry was that she had been trying to raise concerns for quite sometime and the Chair of the CQC had been trying to undermine Mrs. Sheldon by suggesting she was mentally unstable.**
- (3) Council further notes the recent publication from the National Audit Office "Confidentiality clause and special severance payments" where the Head of the Audit Office stated "it is important that compromise agreements do not leave staff feeling gagged or reward failure either of an employee or an organisation."**
- (4) Council believes that Martin Morton would be able to draw parallels between Mrs. Sheldon's experiences at the CQC and his own experiences at Wirral Borough Council where he blew the whistle on Wirral Borough**

Council that led to the ordering of the AKA investigation and subsequent report which found that the abnormal had become the norm.

- (5) Martin has received no justice – his life has been ruined and both the AKA report and Martin Smith reports vindicated him. Let us not forget that Martin stood up for those vulnerable adults who couldn't stand up for themselves and was hounded out of his job for doing so. Council is therefore extremely dissatisfied that, over two years on from the publication of the Martin Smith and AKA reports, the Administration have been unable to find an acceptable resolution with Martin Morton.**
- (6) Council is further disappointed to note that, along with the public, it has never received an adequate explanation into the sequence of events that allowed two senior members of staff implicated in the Martin Morton whistle-blow to leave, under compromise agreements, less than 1 working day prior to the publication of the AKA report and exactly what role the then leadership of the Council had in that decision.**
- (7) Council therefore requests the Chief Executive to:**
 - (a) brief the three party leaders about the current state of discussions with Martin Morton and produce a timeline for resolution;**
 - (b) provide a report to both the Improvement Board and Audit and Risk Management Committee detailing the actions taken in response to all findings detailed in the external reports the Council has received in recent years.**

23 MOTION - COMPREHENSIVE SPENDING REVIEW ANNOUNCEMENT - 27TH JUNE 2013

Proposed by Councillor Phil Davies

Seconded by Councillor Ann McLachlan

- (1) Council notes that the Government's efforts to deal with the deficit so far have focussed on cutting public spending. Since 2010, 1,500 fire fighters have lost their jobs; over 300 libraries and 400 Sure Start centres have closed; police numbers have been reduced by over 6,000 and there are 5,000 fewer nurses. The rise in people relying on food banks is a clear sign that many are facing high levels of economic and social distress.**
- (2) There is a strong case that local authorities should be encouraged to invest in growth. Local government is demonstrating its ability to drive growth by providing infrastructure investment and supporting local businesses. Allowing local government to borrow in line with prudential rules will enable us to invest in building houses and create desperately needed jobs.**
- (3) Councils have been handed some of the deepest cuts in the public sector. Local authorities have seen their budgets cut by 33% in comparison to 8% across Whitehall departments.**

- (4) The additional 10 per cent reduction announced by the Chancellor in the Comprehensive Spending Review on the 27th June confirms local government as the hardest hit part of the public sector and, according to Cllr Sir Merrick Cockell, Chairman of the Local Government Association, will 'stretch essential services such as culture and leisure facilities, school support, road maintenance and growth to breaking point in many areas'.
- (5) This additional cut will equate to Wirral Council having to make savings of between £13.5m and £24m during the period 2015 to 2018. This is on top of the £109m savings the Council has to make between 2012 and 2015.
- (6) At a time of increased unemployment, Council believes that the nation's safety net has been seriously compromised. The bedroom tax, council tax benefit reductions and other cuts will mean that many people will struggle to keep their heads above water.
- (7) Council believes that the government should be supporting those who are being hit hardest by the economic downturn. Scrapping the bedroom tax and looking again at the costs to families of all the benefit changes should be a priority before giving tax cuts to the richest people in the country.

An amendment which had been circulated in advance of the meeting was submitted in accordance with Standing Order 12(1) and (9), as follows:

Proposed by Councillor Phil Gilchrist
Seconded by Councillor Pat Williams

"Add at end of existing paragraph (1):

It should be noted that, in Wirral, no libraries or Children's Centres have been closed and that in setting priorities, school budgets and the Health Service have been given a degree of protection.

Add at end of existing paragraph (5):

Council understands that the scale of the deficit, the level of public spending and the limited scope for major changes before 2016 have been accepted by not only the coalition Government but also the Shadow Chancellor. It is now accepted that 'iron discipline' and the scope for keeping current spending within the available funding has become common ground.

The opportunity to secure further investment in infrastructure, as new money is identified, must be taken. Whilst Wirral has secured £5.5 million for the Wirral Waters Enterprise Zone and needs to secure a share of the first £2 billion being made available for the Single Local Growth Fund, the case for investment in capital projects must be pressed to help tackle unemployment.

Given these conditions, any case to provide additional funding for Wirral's services must be backed with clear evidence. As Wirral is bringing its costs, the way services are organised and commissioned into line with other local councils, we will be better placed to argue for funding to maintain services, but must have a clear case that will stand comparison with other councils tackling deprivation and long standing social

problems. The Local Government Association has described, in general terms, the need for an agreement 'across English local Government'; Wirral must commission work that can inform that process.

Add at end of existing paragraph (6):

Given the financial pressures facing families, the Council must ensure that:

- (a) the existence of Discretionary Housing Payments is publicised
- (b) work to seek changes to the regulations on entitlement is brought together, used to argue for more understanding and flexibility and that this case is put to the DWP.

Work must continue on collecting evidence on the impact of benefit changes. This must include gathering information from the main social landlords in Wirral on the impact that the under occupancy rules are having on their finances. This information should then be used to compile a clear picture of housing need and the impact of the changes. This should create a more detailed understanding of how tenants in both the social and private sectors have been affected since the introduction of changes by the last Labour and current coalition Government, how the availability of property has changed and whether there is sufficient property of the right size available in Wirral.”

The Mayor then requested the movers of the motion and amendments to speak to their proposals followed by the seconders. The Leader of the Council waived his right of reply and the amendment was put to the vote and lost (23:36) (One abstention).

The motion was put to the vote and carried (36:23) (One abstention).

Resolved (36:23) (One abstention) –

- (1) Council notes that the Government's efforts to deal with the deficit so far have focussed on cutting public spending. Since 2010, 1,500 fire fighters have lost their jobs; over 300 libraries and 400 Sure Start centres have closed; police numbers have been reduced by over 6,000 and there are 5,000 fewer nurses. The rise in people relying on food banks is a clear sign that many are facing high levels of economic and social distress.**
- (2) There is a strong case that local authorities should be encouraged to invest in growth. Local government is demonstrating its ability to drive growth by providing infrastructure investment and supporting local businesses. Allowing local government to borrow in line with prudential rules will enable us to invest in building houses and create desperately needed jobs.**
- (3) Councils have been handed some of the deepest cuts in the public sector. Local authorities have seen their budgets cut by 33% in comparison to 8% across Whitehall departments.**
- (4) The additional 10 per cent reduction announced by the Chancellor in the Comprehensive Spending Review on the 27th June confirms local government as the hardest hit part of the public sector and, according to Cllr Sir Merrick Cockell, Chairman of the Local Government Association, will ‘stretch essential services such as culture and leisure facilities,**

school support, road maintenance and growth to breaking point in many areas’.

- (5) This additional cut will equate to Wirral Council having to make savings of between £13.5m and £24m during the period 2015 to 2018. This is on top of the £109m savings the Council has to make between 2012 and 2015.**
- (6) At a time of increased unemployment, Council believes that the nation's safety net has been seriously compromised. The bedroom tax, council tax benefit reductions and other cuts will mean that many people will struggle to keep their heads above water.**
- (7) Council believes that the government should be supporting those who are being hit hardest by the economic downturn. Scrapping the bedroom tax and looking again at the costs to families of all the benefit changes should be a priority before giving tax cuts to the richest people in the country.**

24 VACANCIES

The Mayor informed the Council that the Head of Legal and Member Services had not been notified of any changes to committee memberships or outside bodies.

Appendix - Grant Thornton Summary Report - BIG

This page is intentionally left blank

BUSINESS INVESTMENT GRANTS

**SUBJECT TO AN EXEMPTION UNDER SECTION 30 OF THE
FREEDOM OF INFORMATION ACT**

dated 24 June 2013

Draft

CONTENTS

1	INTRODUCTION	1
2	EXECUTIVE SUMMARY	5

Draft

1 INTRODUCTION

- 1.1 We have been instructed by Wirral Borough Council (WBC) to produce a summary of our draft report dated 5 June 2013. In order to understand the detail behind this summary, it would be necessary to read the whole of our draft report dated 5 June 2013.

INSTRUCTIONS

- 1.2 Grant Thornton UK LLP have been instructed by WBC to undertake the work set out in WBC's request for a quotation, dated 5 October 2012 (the RFQ). The RFQ refers to a contract issued by WBC for the:

"provision of assessment and advice services in relation to the award of Business Investment Grants (BIG) and the Council's Intensive Start Up Service (ISUS)".

- 1.3 In reviewing BIG and ISUS we have established that while these were both associated with a sub-contractor called Enterprise Solutions (NW) Ltd (Enterprise Solutions), WBC had separate contracts with Enterprise Solutions in relation to the BIG and ISUS programmes. This draft summary does not address the ISUS programme as that is the subject of a separate draft report, and draft summary submitted to WBC.

- 1.4 The RFQ explained that:

"A number of allegations were made in respect of both schemes and continuing allegations and additional supporting information continue to be provided up to the present."

- 1.5 The RFQ explained that investigations had been commenced by two former WBC employees and that WBC had been seeking to appoint a firm of accountants to complete the investigation. In our response to the RFQ, we recommended that the successful applicant should meet with the people who had made the allegations before reviewing documents collated as part of WBC's investigation.

- 1.6 Having met with the people who had made the allegations, we produced an enquiry log which we sent to those people we had met for their review. That part of the enquiry log which is associated with BIG is attached as Appendix 1 to our draft report dated 5 June 2013. The remaining parts of the log are attached to a separate draft report which addresses ISUS and are not referred to in this draft summary.

- 1.7 If further information is produced and brought to our attention after service of this draft summary, we reserve the right to revise our opinions as appropriate.
- 1.8 This work does not constitute an audit performed in accordance with Auditing Standards.
- 1.9 Except to the extent set out in this draft summary, we have relied upon the documents and information provided to us as being accurate and genuine. To the extent that any statements we have relied upon are not established as accurate, it may be necessary to review our conclusions.
- 1.10 No responsibility or liability for this summary, or the draft report dated 5 June 2013 is accepted by Grant Thornton UK LLP or its staff to anyone other than WBC. This draft summary should be read in conjunction with a more detailed draft report, dated 5 June 2013.

RESTRICTION ON CIRCULATION

- 1.11 This draft summary is confidential and should not be used, reproduced or circulated for any other purpose, in whole or in part, without our prior written consent. Such consent will only be given after full consideration of all the circumstances at the time.
- 1.12 It should also be noted that this draft summary addresses concerns we have regarding one of the BIG applications we have reviewed and whether the information associated with it had been given in good faith. We have not identified concerns regarding the integrity or honesty of any WBC employees. We also note that we have been given the access we have required to WBC and Invest Wirral employees.
- 1.13 However, this draft summary is likely to be exempt in whole or in part from disclosure under the Freedom of Information Act, attracting an exemption under section 30. Careful consideration should, therefore, be given before responding to a request for access to this draft summary under the Freedom of Information Act. This is particularly relevant to the comments included from paragraph 2.36.

DISCLOSURES OF INTEREST

- 1.14 Since accepting this instruction, Grant Thornton UK LLP has become the external auditor to WBC. This draft summary and the underlying review has been undertaken by members of our Forensic and Investigation Services team who are not involved in that audit work.

FORMS OF REPORT

- 1.15 For your convenience, this draft summary may have been made available to recipients in electronic as well as hard copy format. Multiple copies and versions of this draft summary may therefore exist in different media and in the case of any discrepancy the final signed hard copy should be regarded as definitive.

LIMITING FACTOR - ACCESS TO ENTERPRISE SOLUTIONS

- 1.16 We attached a copy of an unsigned "service level agreement for the provision of specialist business support between Invest Wirral and Wirral Biz" (the SLA), as Document 1 to our draft report dated 5 June 2013. We understand that Enterprise Solutions were commonly known as "Wirral Biz" and also understand that the SLA was never signed. We understand that Enterprise Solutions does not recognise the SLA.

- 1.17 In the absence of better information, we have relied on it as a final and contractually binding document.

- 1.18 Document 1 describes the services which Enterprise Solutions/Wirral Biz were due to provide under the BIG programme. They include advice and assistance concerning the preparation of business plans and "Wirral Council Grant Applications". The SLA explained that:

"Wirral Biz will work alongside referred businesses offering support under one of the headings listed above [such as support with business plans and WBC grant applications] for a maximum three days per company (£300 per day)."

- 1.19 The SLA does not specifically refer to audit rights and access to records, but WBC wrote to Enterprise Solutions on 26 November 2012 asking that we be given access to the accounts and records associated with the SLA.

- 1.20 Enterprise Solutions wrote to us on 13 December 2012 and stated:

"this company has nothing to hide in relation to its involvement in any of the above programmes [one of which was the BIG programme] on which it provided services. We are therefore prepared to grant access on the basis requested, on the understanding that your costs of the exercise are to be borne by the Council."

- 1.21 Contrary to the commitments made by Enterprise Solutions, we have not been given access to documentation retained by the company concerning the services it provided under the BIG programme and have, therefore, been unable to discuss these with Enterprise Solutions. This has limited the depth of our findings, and is one of the reasons our summary remains in draft form, as we cannot comment on the way in which Enterprise Solutions' own records might help to explain the programme and the way in which the documentation submitted by applicants evolved. This is of particular relevance to an application from an applicant we have referred to as BIG6.
- 1.22 This is also important as ordinarily (subject to possible police involvement), we would have discussed our findings in draft form with Enterprise Solutions before preparing this draft summary. Enterprise Solutions' unwillingness to cooperate with us has meant that we have been unable to do so.

HINDSIGHT

- 1.23 It might be said that the best way to assess the applications described in this draft summary would be with reference to hindsight, for example, is the applicant still trading etc. However, hindsight would not have been available to the BIG Applicants, or WBC staff and we have not, therefore, applied hindsight or reviewed the trading history of applicants after their BIG had been provided.

2 EXECUTIVE SUMMARY

- 2.1 Document 2 (a report titled "Invest Wirral – Big Support") to our draft report dated 5 June 2013 explained that funds applied to the Business Investment Grant (BIG) programme had been intended to:

"support SME's [sic] with potential for growth in Wirral, but importantly, will also support the sustaining of companies who may be having difficulty during this downturn."

- 2.2 The same document also explained that grants were anticipated to range from £4,000 to £20,000.
- 2.3 We have reviewed six BIG Applications in response to the allegations set out in the enquiry log attached as Appendix 1 to our draft report dated 5 June 2013. These applications were brought to our attention and we do not know a) whether they are representative of the wider population of BIG Applications or b) whether the anomalies we have identified might also apply to the wider population. The six BIG Applications we have reviewed are referred to in this summary as BIG1 to BIG6.
- 2.4 There are anomalies within each of the BIG Applications we have reviewed as summarised from paragraphs 2.22, 2.32 and 2.36.
- 2.5 In large part, the anomalies may have arisen because of ambiguities and inconsistencies in the documentation given both to WBC's cabinet and a panel of people who were asked to review BIG Applications (the BIG Panel). It is also likely to be because the majority of the BIG Applications we have reviewed relied on a cashflow forecasting model which had been supplied by Enterprise Solutions¹ which also has its limitations.
- 2.6 As we understand it, BIG Applications were subject to review which sometimes resulted in amended applications being submitted. It is important to note, therefore, that had the anomalies been identified before the corresponding BIG had been approved, they might have been resolved and the revised application might have succeeded.

¹ or, more particularly, a sub-contractor working on behalf of Enterprise Solutions

- 2.7 The anomalies discussed in our draft report dated 5 June 2013 would not, in isolation², have been sufficient to conclude that an applicant would necessarily have been precluded from a BIG. However, they might have resulted in the submission of improved financial information which might have enabled WBC to make a better informed decision or they might have resulted in the application being rejected.
- 2.8 It is also important to note that, with one possible exception (BIG6), the BIG Applicants themselves are not subject to criticism in this draft summary. This is because, with one possible exception, the BIG Applicants appear to have made transparent applications which were subject to review and approval by WBC. It is also important to note that Enterprise Solutions was not directly responsible for the BIG applications and had not, for example, been instructed to audit or otherwise corroborate the contents of BIG applications.

AMBIGUITIES AND INCONSISTENCIES

SOLVENCY

- 2.9 Document 2 to our draft report dated 5 June 2013 sets out a range of criteria which BIG applicants needed to fulfil in order for their application to succeed. This included the requirement that applicants needed to be "solvent". This term does not appear to have been defined elsewhere and is a very broad term which is capable of interpretation in more than one way.
- 2.10 For the purpose of this draft summary, we have considered solvency within the context of the Insolvency Act. This refers to two tests:
- balance sheet insolvency; and
 - cashflow insolvency, associated with the inability to pay debts as they fall due.
- 2.11 Both of these tests, in particular whether a company is able to pay its debts as they fall due, involve an element of judgement.
- 2.12 We have spoken to the WBC employee who was responsible for drafting the BIG criteria and he has advised that he fails to see how Grant Thornton can decide if any of the applicants were insolvent, particularly given (in his view) that all were trading at least two years further on. Further, he has advised that should a question regarding solvency arise by looking at accounts or forecasts, then the BIG Panel would need to be assured that there was no other funding

² with one possible exception (BIG4)

available to stop insolvency, and that 'it is not as straightforward as making a paper based determination'.

- 2.13 As noted at paragraph 1.23, hindsight would not have been available to the BIG Applicants, or WBC and we have not, therefore, applied hindsight or reviewed the trading history of applicants after their BIG had been provided, or corroborated the following comments provided by WBC who have advised us that:

"The purpose of the BIG fund was to be a source of financial investment to local companies to secure monies for additional and future investment. Of those companies considered in this report, it is important to note that only one of those companies is no longer actively trading and that all were trading at the time of application and award of the grants from the BIG fund.

It cannot be ignored that the support provided to these companies under the BIG fund scheme has helped to achieve the objectives of the scheme and contributed positively to the local economy.

The support provided to the companies referred to below through the BIG fund scheme resulted in all the projects securing and/or creating jobs – and all the companies continuing to be important employers within the Borough.

(Company 1)

Company 1 were incorporated in June 1993 and presented an application for funding from the BIG fund which was approved in August 2010. The company continued to trade until earlier this year when in March 2013 it went into administration. Despite its current status of the company, it traded for two and a half years after the award thereby securing jobs and employment in the area.

(Company 2)

Company 2 is a well established business operating as a sole trader having established itself in the early eighties and had been trading some twenty five years at the time of its application for BIG funding. The company's proposal was agreed in January 2010 and was awarded later in March 2010. The business still operates today providing revenue and employment to the local economy.

(Company 3)

Company 3 was incorporated in 2003 and continues to successfully trade today following three staged awards during 2010 having successfully had their project agreed in December 2009 and since met their objectives over the last three years.

(Company 4)

Company 4 was incorporated in December 2008 and was a former recipient of funding from this scheme. Funding for a new project was approved in October 2010. The project was successful and the company continues to trade.

(Company 5)

Company 5 was incorporated in June 2009 but has since ceased to trade (due to non-financial reasons). However, a new company was formed with the project obligations, assets and workforce transferring to the new company. It was not until September 2012, some twenty six months after the BIG award, that Company 5 was dissolved. Despite the trading position of the Company 5, the BIG fund award helped achieve a positive and successful outcome for the new company.

(Company 6)

Company 6 was incorporated in December 2009 and having applied for assistance through BIG, which was agreed in May 2010, continues to trade today following five staged payments during 2010 and 2011. "

- 2.14 We have reviewed the accounts and forecasts of a selection of BIG applicants, as identified to us during the meeting described at paragraph 1.6, and our findings are discussed in more detail in our draft report dated 5 June 2013. Our review has identified a number of matters which might have been reported to the BIG Panel regarding the solvency of five of the six applicants we have reviewed, and we have been unable to find any documentary evidence of these questions being raised during the appraisal process or discussed by the BIG Panel.

Model provided by Enterprise Solutions

- 2.15 All but one of the BIG Applications we have reviewed have used a version of a forecasting model supplied by Enterprise Solutions.
- 2.16 The first tab of the model pertaining to one of the BIG Applications (BIG4) stated:

*"This Excel Workbook is intended to help you compile a realistic Financial Forecast for your **proposed business start-up** [our emphasis]."*

- 2.17 Companies House records show that this company was incorporated almost two years before the date of the corresponding BIG Application. BIG4 should not, therefore, have been treated as a "proposed" business start-up and should have been asked to use a more appropriate model.

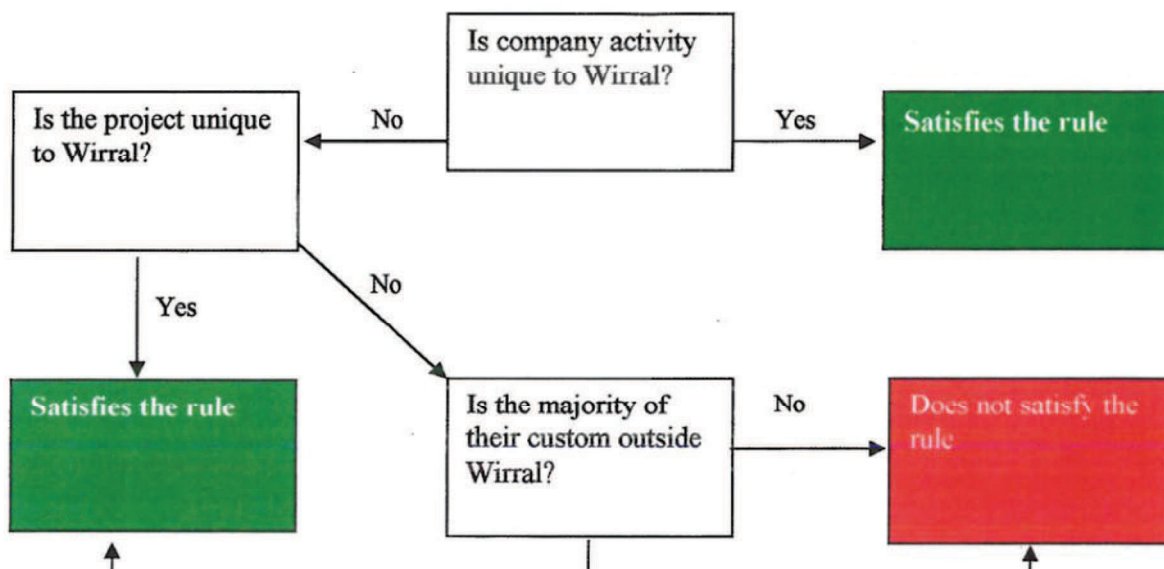
- 2.18 In speaking to the directors of BIG4, they have told us that they initially submitted a forecast using the same approach which they had adopted when making an earlier successful application for a BIG, but were asked to re-submit the forecast using the Enterprise Solutions model.
- 2.19 Furthermore, the underlying assumptions within the forecasting model used by many of the BIG Applicants were inherently optimistic as it assumed that the applicant would incur none of the following which would have resulted in reduced profits and cashflow:
- no bad debts;
 - no stock loss/wastage.
- 2.20 Furthermore, the model appears to have assumed that creditors would either have been paid during the month in which the sale of the corresponding item of stock (or similar) had taken place or one month in arrears. This would not necessarily have applied to businesses which:
- had a lead time of more than one month to convert stock into sales, ie the forecasts linked creditor payments with sales, rather than with the purchase of goods and services; or
 - new or financially distressed businesses which might have been expected to pay in advance for goods and services.
- 2.21 In addition, without manual amendment, the model took no account of the impact that existing liabilities (such as VAT creditors) might have had on future cashflow and the corresponding applicant's ability to pay its debts as they fell due.

THE LOCAL COMPETITION TEST, AND BIG4

- 2.22 The criteria which should have been used to consider BIG applicants, as submitted to WBC's cabinet stated that the:

"project must pass the "local competition test" in that their sales are not primarily to a local market or be primarily at the expense of local businesses."

- 2.23 The test required that sales were not primarily to a local market. In order to help a panel of people responsible for reviewing BIG Applications, WBC produced a flow chart which summarised the "local competition test" as follows:



- 2.24 The extract here shows that the test would be passed if the company or its project was unique to the Wirral. Although the flow chart made reference to the location in which sales had been made, the location of the sales was not a relevant consideration if a conclusion had already been reached that either the "company's activity" or the "project" were unique to the Wirral. Thus, the flow chart does not reflect the wording per the criteria submitted to WBC's cabinet.
- 2.25 Based on the contents of the flowchart, BIG4's application satisfied the local competition rule because its project appears to have been "unique". However, the flowchart did not go on to ask where the sales were primarily to be made, one of the criteria set before WBC's cabinet.
- 2.26 We have spoken to the WBC employee who was responsible for drafting both the BIG criteria and the flowchart discussed above. He has advised that BIG4's application did not fail the local competition test as its project was unique to Wirral. We note that this is on the basis of the flow chart discussed at paragraph 2.23, which does not reflect the wording of the criteria submitted to WBC's cabinet as discussed at paragraph 2.22.

THE DECISION MAKING PROCESS

- 2.27 The flowchart attached as Document 4 to our draft report dated 5 June 2013 indicates that the panel set up to consider BIGs could either:
- "reject an application"; or
 - "agree with the positive recommendation of the Appraiser and confirm award of the grant".
- 2.28 In our view, BIG applications submitted by BIG1, BIG2, BIG3, BIG5, and BIG6 contained what appear to have been financial anomalies. These apparent anomalies were not explained to the corresponding BIG Panels.
- 2.29 The BIG Panel was made up of a combination of people employed by WBC and from third party organisations. With reference to the BIG applications we have reviewed, only one "third party" panellist sat on all of the applications listed within paragraph 2.28. Having discussed some of the anomalies with that panellist, we understand that had he been made aware of the anomalies we discussed with him, he would not have supported the corresponding application without additional information or before the apparent anomalies had been resolved.
- 2.30 It is uncertain what impact this might have had on the applications. This is because, although we have seen minutes of BIG Panel meetings which reflect practice, we have seen no guidance documentation setting out whether the BIG Panel's decisions were to be taken on a majority basis or on the basis of a unanimous decision.
- 2.31 With reference to "practice", BIG Panel meeting notes dated 21 April 2011 indicate that on one occasion (not associated with the applications listed at paragraph 2.28) an application had succeeded even though one of the BIG panellists had felt that the application should have been rejected. On at least one occasion, therefore, a BIG Application succeeded despite one panellist taking the view that the application should have been rejected. However, this was not reflected in written terms of reference.

INDIVIDUAL APPLICATIONS SUBJECT TO REVIEW

BIG1, BIG2, BIG3, BIG5

- 2.32 In reviewing these applications, we found significant anomalies which were not brought to the BIG Panel's attention.

2.33 For example, one or more of these four BIG Applicants submitted:

- cash flow forecasts which did not appear to take account of existing liabilities, such as VAT which would, had they been reflected in the cash flow forecasts raised doubt about the applicant's ability to pay debts as they fell due;
- a balance sheet, where an opening balance did not match the corresponding closing balance from the previous period;
- accounts which indicate that the applicant had paid unlawful dividends (ie contrary to the Companies Act);
- forecasts which assumed that turnover and profitability would grow quickly despite a recent history of declining turnover and losses.

2.34 Each of these anomalies might have been addressed and explanations sought, and/or revised and more prudent forecasts prepared for the benefit of the BIG Panel. It is possible that the BIG Applicants we have considered might have:

- provided more complete or more accurate financial information resulting, ultimately, in a successful application; or
- been unable to provide better financial information resulting, ultimately, in the application being declined.

2.35 It is difficult to second guess what impact this information might have had on the BIG Panel. This is particularly true given that the judgement as to whether an application should have succeeded would not have been easy given that BIGs were intended to support businesses which had been unable to locate finance from commercial sources, such as high street banks.

BIG6

2.36 BIG6 provided WBC with two BIG Applications and appear to have provided two sets of accounts in support of those applications with differing year ends.

2.37 The two sets of accounts are almost identical, for example, referring to exactly the same levels of turnover and net profit.

2.38 We also note that both sets of accounts include a £500 grant which appears to have been provided by WBC. Based on the information available to us, it seems that WBC might have recognised that the grant should not have been accounted for in both sets of accounts as it was provided around four months before one of the two accounting periods had begun.

- 2.39 We met with BIG6 and discussed the corresponding application. As things stand, it is unclear, whether BIG6's declaration that the information provided in the corresponding application was "correct and given in good faith" had been appropriate.

RECOMMENDATIONS

- 2.40 We have made detailed recommendations in our draft report, dated 5 June 2013. These include recommendations that WBC considers whether it:

- can, or should, claw back the BIG given to BIG6; and
- should refer BIG6's application to the Police.

- 2.41 We have recommended that the Police should be asked to confirm that sharing our present draft findings with any third parties would not jeopardise any actual or potential Police investigation. We have recommended to WBC that WBC ensure that the Police are satisfied that either we and/or WBC are able to share these draft findings with any third parties before proceeding further. To do otherwise might jeopardise any subsequent police investigation, if any such investigation was deemed necessary.

- 2.42 It should be noted that, if WBC decide to refer BIG6's application to the Police, it should delay any efforts to claw back the grant until the Police have given the matter due consideration.

- 2.43 It is also very important that WBC:

- reviews the criteria it uses to review grant and similar applications to avoid ambiguities in the corresponding criteria wherever possible; and
- ensures that where panels are used to review applications, the panellists are given written terms of reference.



www.grant-thornton.co.uk

© 2013 Grant Thornton UK LLP. All rights reserved.

"Grant Thornton" means Grant Thornton UK LLP, a limited liability partnership.

Grant Thornton UK LLP is a member firm within Grant Thornton International Ltd ('Grant Thornton International'). Grant Thornton International and the member firms are not a worldwide partnership. Services are delivered by the member firms independently.