

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the OVERVIEW AND SCRUTINY PANEL (COMMUNITIES AND ENVIRONMENT) held in Civic Suite 0.1A, Pathfinder House, St Mary's Street, Huntingdon, PE29 3TN on Tuesday, 4th April 2017.

PRESENT: Councillor T D Alban – Chairman.
Councillors B S Chapman, S J Criswell,
J W Davies, D A Giles, T Hayward,
Mrs P A Jordan, L R Swain and
Mrs J Tavener.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillors Mrs A Donaldson and P Kadewere.

IN ATTENDANCE: Councillors D Brown, R C Carter,
Mrs A Dickinson, R Fuller, R B Howe and
D Watt.

84. MINUTES

The Minutes of the meeting held on 7th March 2017 were approved as a correct record and signed by the Chairman.

85. MEMBERS' INTERESTS

Councillor Mrs J Tavener declared a non-pecuniary interest in relation to Minute Number 87 as a tenant in a Luminus Property.

Councillor B S Chapman declared a non-pecuniary interest in relation to Minute Number 88 as a Cambridgeshire County Councillor and St Neots Town Councillor.

Councillor S Criswell declared a non-pecuniary interest in relation to Minute Number 88 as a Cambridgeshire County Councillor.

Councillor D A Giles declared a non-pecuniary interest in relation to Minute Number 88 as a Cambridgeshire County Councillor and St Neots Town Councillor.

86. NOTICE OF KEY EXECUTIVE DECISIONS

The Panel received and noted the current Notice of Key Executive Decisions (a copy of which is appended in the Minute Book) which has been prepared by the Executive Leader for the period 1st April 2017 to 31st July 2017.

87. REGULATORY JUDGEMENT: LUMINUS GROUP LIMITED

The following representatives from Luminus were in attendance to discuss with Members the recent Regulatory Judgement on Luminus from the Homes and Communities Agency (HCA): Dr Chan Abram,

Group Chief Executive; Reverend Kevin Burdett, Independent Board Member; Andy Chapman, Director of Finance; Nigel Finney, Executive Director (Operations) and Mike Simpson, Independent Board Member.

In order to assist the discussion questions were submitted to Luminus in advance of the Panel meeting. In addition to these Members asked follow up questions in order to attain either clarification or additional information.

After a short period of introductions the representatives from Luminus explained that it has been a busy period for the company and that officers have worked hard in ensuring that HCA's judgement is adhered to.

A Member stated that the Regulatory Judgement suggests that the Board did not have the necessary skills and knowledge to deal with the problem that was highlighted. They asked has Luminus recruited suitable qualified board members who can recognise and deal with all aspects of risk management. In response the Panel were informed that Luminus believe the Board is already sufficiently qualified to deal with commercial risk. There are three fully qualified chartered accountants on the Board and where new Members are recruited Luminus ensures that those Members have the required skills.

In a follow up question, Luminus were asked if Members of the Board did have the required skills then why did the Homes and Communities Agency (HCA), through the Regulatory Judgement, say the Board did not? In response Members were informed that the matter of judgement is an issue for the HCA, however Luminus believe the board have the required skills. In addition where there is a judgement like the gas checks, it is the requirement of the HCA to review the Board so it doesn't happen again.

Luminus were asked to clarify if they were taking the judgement seriously and were not underplaying it. In response Members were informed that Luminus were not underplaying the judgement and added that it is a difficult place to be in where there is a judgement and the HCA is seeking assurance.

On the Luminus webpage it indicated that two Members of the Board served on an Audit, Finance and Risk Committee. One of these appears to have recently left that Committee. Luminus were asked if this was because of the failure of that Committee which resulted in the Regulatory Judgement. In response Luminus informed the Panel that it wasn't the failure of the Committee that has led to a departure of the Member. The Board has reconfigured the Committee and there has been a change but it has been an internal change.

On a point of clarification a Member stated that there was a failure as Luminus wouldn't have received the judgement and subsequent downgrading. In response Members were informed that the failing was the missed opportunity to have valid gas safety certificates. In addition when the HCA find a failure they then review all processes and ask what else could fail. The Panel was informed that Luminus have accepted the judgement, changed the Board and reconfigured the Committee.

When asked about the changes Luminus have made to rectify the weaknesses it has, Members were informed that Luminus are seeking to explain to Members why they have received a judgement and recognise that the health and safety of residents is of concern to Members, however Luminus' confirmed that residents are safe. The Group Chief Executive stated that there is a tougher regulatory regime for the sector than there is for local government. Luminus have sought to rectify the issue by reconfiguring the Audit Committee so it focuses solely on audit and risk.

In addition Members were informed that whilst the judgement was focused on the gas safety certificate problem there were also governance weaknesses. However Board meetings are rigorous and identified the gas safety certificate problem via internal audit in May 2015 however Luminus did not notify the HCA. The Panel was informed that Luminus are unsure what the HCA are looking at in terms of governance and the HCA has not notified what Luminus are doing wrong.

Another Member asked how did the gas safety certificates issue manage to slip through Luminus' Risk Committee and audit arrangements. In response Luminus stated that there were a few weeks where properties didn't have a valid gas safety certificate over a two year period however the Committee was satisfied at the time that maintenance department was sufficiently handling the issue.

In addition Luminus were asked who oversees their health and safety matters, what systems are in place and how are these matters reported to the Board. In response Luminus stated that the board will question and, if need be, challenge in the area of health and safety. In respect to the valid gas safety certificate issue it wasn't challenged significantly and was picked up by internal audit the next day. There is a named Health and Safety Manager and there are other staff who support that manager in their role. The Panel were informed that there is a rigorous procedure which has been in place for a number of years. It has failed in the issue of the valid gas safety certificates however as it is an internal matter Luminus can't say why it failed.

The Council's Board nomination was not actioned or approved by Luminus so there is currently no representation from the Council on the Luminus' Board and Luminus have only recently sought to make contact with the nominee. Luminus were asked how that has happened and what are they doing to resolve that omission. In response the Panel was informed that a letter from the Council, dated 17th February 2017, arrived at Luminus' office on 1st March 2017. At the time all Board activity was suspended as a consequence of the HCA's judgement. The Group Chief Executive stated that he wrote to the Council's representative on 24th March 2017 however no response was received. There was a meeting between the Council and Luminus on 30th March 2017 when it was agreed that the Executive Councillor for Housing and Regulatory Services would formally send the details of the Council's representative to Luminus.

Luminus were asked for details about the selling of some three and four bedroom properties to either fill the financial deficit and/or to negate the need to carry out costly repairs, refurbishments or

maintenance. In response the Panel was informed that the selling of properties were not to do with the financial deficit. The company are embarking on the option appraisal process and identified properties that it was deemed not profitable to renovate. All the proceeds from the sales are reinvested into the company. In the process, houses with low energy efficiency ratings are identified for sale. The average age of properties for sale is 86 years. The average energy rating scores for all Luminus properties is 71 with the average energy ratings for the houses identified for sale being between 40 and 50.

A Member expressed their disbelief that gas safety certificates were allowed to go over by a single day as the safety of the residents is at risk. They asked Luminus how could this have happened and in response Members were informed that a mistake was made and that has been dealt with. New computer and technological systems are in place including sending tenants a text message to notify them of arrival of an engineer.

Luminus were asked how many people die as a result of carbon monoxide poisoning each year. The Member explained that the purpose of the question was to gauge how seriously Luminus viewed gas safety certificates. In response Members were informed that Luminus have had training and knowledge of regulations and are aware of the seriousness of their failure.

Luminus were asked what actions have been taken and in response Luminus stated that when the matter came to the attention of the Board an Action Plan was put in place. The maintenance department was realigned so there is clearer responsibility. A new procedure states that Luminus must make an appointment, with the tenant, eight weeks in advance of the engineer visit. There is also a new procedure in place to enter the property when Luminus engineers are refused entry. The Board are now receiving information on how many gas safety certificates are up to date. It was confirmed by Luminus that, as of 18th January 2017, no gas safety certificates were out of date.

Luminus were asked that bearing in mind the failings identified relating to gas safety, what checks have been undertaken by Luminus to ensure there are no areas of concern relating to other aspects of safety relating to their tenants and the properties they rent, specifically what checks have been made relating to electrical wiring, asbestos and Legionella. In response Luminus stated that they are acting on all other safety checks. Lessons have been learnt from gas safety checks and have been put into use with other internal audits. Members asked for a written response to the question including evidence of action taken and Luminus confirmed a written response will be sent to the Council.

In response to the question has a third party check been carried out Luminus informed Members that all checks are performed by staff however they are all registered with the regulatory body, Gas Safe. Luminus added that the judgement is not about the standard of work but the timing of the work.

Following the question do any independent bodies inspect your audits, Luminus informed Members that Gas Safe do review the quality of the audit. In other areas, such as Legionella, Luminus do

employ external companies as they don't have the expertise in house. It was confirmed that Gas Safe come and check what they want to check, they look at the quality of the work not the frequency.

Luminus were asked how are tenants involved with the running and scrutiny of the company. In response Members were informed that there is a Tenants Services Consultative Forum and a scrutiny panel which reviews the key performance indicators. Luminus stated that tenants are identified through a variety of mechanisms including elections and requesting volunteers.

A Member asked how many properties did Luminus have and how many has a gas appliance. In response Luminus informed Members that it has around 7000 properties and that 5680 had a gas appliance. A total of 30% have had failings but most are minor and fixed during the service. Of the major failings there are about 10 a year that have required a new boiler and around 2 or 3 evacuations a year.

The Chairman asked Luminus that written responses are provided for his first three questions, which Luminus have received, and that the response sent to the Democratic Services Officer (Scrutiny). The questions are:

- 1. In a statement, Mike Forrest, newly appointed chair of Luminus, said the gas safety failings were "unacceptable to us as a company that is known to have genuine care and concern for our residents' well-being". He added: "The board, in acknowledging the judgement will, as part of its reflective process, consider diligently the evidence adduced by the HCA from the IDA, when this is provided. Is Luminus now in receipt of the evidence referred to above?*
- 2. If 'No' when do Luminus expect to receive it?*
- 3. If 'Yes' what diligent consideration has been given to it and what actions are have been taken to ensure there won't be a repeat of the gas safety failings?*

The HCA found "material weaknesses" in the information provided to the board about the risk of ventures which "have not been effectively challenged" and added that "the board does not receive sufficiently detailed information to allow it to effectively monitor and make decisions on the investment, and has not effectively challenged that situation". In addition it concluded that "the regulator has concluded that board members of Luminus are not discharging their duties with adequate skill." Luminus were asked what steps do they propose to take to ensure that its Board members will now and in the future receive sufficiently detailed information to discharge their duties with adequate skill. In response Luminus stated that they have received extensive advice from consultants and they have confirmed that Board Members have the required skills to carry out their duties.

Luminus were asked why hasn't the Council's representative, Councillor Mrs R E Mathews, been appointed to the Board yet three other people have. Members were informed by Luminus that the process of appointing Board Members is the one the HCA has required. New board members have the skills required by the HCA.

Members were informed that no-one from HCA has sat in on a Board

meeting. It was suggested to Luminus that although the HCA have a right to attend, Luminus should invite the HCA to attend a future meeting of the Board.

A Member asked what price would Luminus have to pay if they fail again. In response Luminus informed the Panel that the governance rating would fall to G4 and Luminus would be absorbed into another Housing Association, however Luminus believes that this will not happen.

When asked are Board meetings open to the public, Luminus informed the Panel that Board meetings of a private company are not open to the public.

When asked how long the HCA/In Depth Assessment (IDA) investigation was underway and when was the downgrade judgement known by Luminus Board and management, the Members were informed that the IDA process took over four weeks with formal notification on 1st March 2017.

A Member expressed disappointment that they had not heard an apology from Luminus during the course of the discussion. In response Luminus stated that there was a letter of apology in the Hunts Post, a letter of apology to residents and apologies to the Council that they hadn't received notification of the judgement earlier.

In response to the question does Luminus recognise and agree with the failings identified by the HCA, Members were informed that Luminus does recognise the failings identified and that the company respects the authority of the HCA. In addition Luminus recognised that it got it wrong on gas safety certificates. It was eight months before the HCA was aware of the issue which by that time the issue had been resolved.

A Member asked what was the longest a Luminus property had gone without a valid gas safety certificate, in response Luminus stated that three properties had been without a valid gas safety certificate for up to eight months. The reason for this was that Luminus did not have access to property and injunctions to enforce entry had to be sought. Members were informed that Luminus has a report with more information on the gas safety certificates issues however they would have to take legal advice before sharing the information with the Council.

Luminus were asked what obligations are they under to supply improvement plans and actions to the HCA, when do these have to be completed and how long do they believe it will take to regain a G1 rating. Luminus informed Members that realistically they can't get the G1 rating back promptly and that it would take some time and have agreed to a voluntary undertaking in order to achieve this.

The Panel asked when was the HCA last in contact, in response Luminus stated that it was a month prior to the IDA via desktop review. In a follow up question Luminus were asked how did the HCA missed the gas safety certificates issue if they are in regular contact to which Luminus replied that the desktop reviews and surveys deal with financial performance and that the last time HCA was at a Board

meeting was a couple of years prior to IDA.

Luminus was asked on two separate occasions whether the Regulatory Notice was issued before the Regulatory Judgement. On each occasion a different answer was provided. The first time the question was asked Luminus stated that the Regulatory Notice and the Regulatory Judgement were issued at the same time. On the second occasion, Luminus stated that that Regulatory Notice was issued before the Regulatory Judgement, however they are not connected.

In response to the question would Luminus make the improvement plans and the voluntary undertaking public in the interest of transparency and as assurance to tenants and the Council as a key community stakeholder, Members were informed that Luminus would not make the voluntary undertaking public as it is a private document and is commercially sensitive.

Luminus were asked how are the skills and abilities of the Board tested in terms of recruitment, what refresh training is offered and undertaken, how often are Board members rotated and as with other Registered Providers, is there a maximum length of service. In response Luminus stated that there is a detailed performance appraisal process with an annual appraisal. Every Board Member signs a declaration that if they fail in their duties they would be required to resign and each Board Member is limited to a term of office of nine years. In addition, Luminus added that the Board was strengthened by appointing people with commercial experience. The Board was already competent but an additional Member has experience in treasury management.

After the discussion with the representatives from Luminus they left the meeting. The Executive Councillor for Housing and Regulatory Services then joined the discussion. It was noted that Members twice asked about what came first, the Regulatory Judgement or the Regulatory Notice, to which Luminus first replied that it was the Notice first and then the Judgement but later on during the discussion replied that the two are not linked. The understanding that the Executive Councillor has is that there was an existing governance investigation.

The Executive Councillor for Housing and Regulatory Services explained that the Panel had not received much more information than he and the Corporate Director (Delivery) had received at their meeting with representatives from Luminus on 30th March 2017. He added that he has been disappointed at how Luminus have approached the Council as a key stakeholder. It was noted that the Council do not have a right to demand that Luminus answer questions but as a key stakeholder would have expected much earlier engagement.

It was clarified that the HCA is not taking a view on the appointment of the Council's representative to the Luminus Board and that it is up to the Board to accept the appointment.

A Member believed that by introducing three new Members to the Board it is an admittance of failure.

The Panel noted that it is highly unusual that a company has the number of governance failings as indicated by the Regulatory Judgement. It was the understanding of the Executive Councillor for Housing and Regulatory Services that only one person has lost their job over the issue.

Members were informed that the Executive Councillor for Housing and Regulatory Services and the Corporate Director (Delivery) are to write to the HCA regarding the Regulatory Judgement.

The Panel agree to invite representatives of Luminus to the Panel meeting in June 2017 to ask them what they have done regarding the Regulatory Judgement. In addition, Members have agreed to forward on the Minutes, in relation to the discussion with Luminus, on to Cabinet.

(At 7.13pm, during the consideration of this item, Councillor Mrs A Dickinson entered the meeting.)

(At 7.54pm, during the consideration of this item, Councillor Mrs A Dickinson left the meeting.)

(At 7.57pm, during the consideration of this item, Councillor Mrs A Dickinson entered the meeting.)

(At 8.30pm, during the consideration of this item, Councillor Mrs P A Jordan left the meeting.)

(At 8.32pm, during the consideration of this item, Councillor J W Davies left the meeting.)

(At 8.32pm, during the consideration of this item, Councillor Mrs P A Jordan entered the meeting.)

(At 8.34pm, during the consideration of this item, Councillor J W Davies entered the meeting.)

(At 8.44pm, during the consideration of this item, Councillor R C Carter left the meeting and did not return.)

(At 8.44pm, during the consideration of this item, Councillor D Brown left the meeting.)

(At 8.46pm, during the consideration of this item, Councillor D Brown entered the meeting.)

88. GROUNDS MAINTENANCE SERVICE REVIEW

With the aid of a report by the Head of Operations (a copy of which is appended in the Minute Book), the Grounds Maintenance Service Review was presented to the Panel. In addition to the report, the Head of Operations informed Members that all outsourced work is fully funded and therefore is not subsidised by Council.

The additional £67k of funding agreed by Cabinet has been invested in the recruitment of seasonal staff in order to cope with the grass cutting during the growing season.

A Member asked about the maintenance of the County Council grass and how much money the Council are receiving for it. In response Members were informed that the Council are receiving about £20k. Last year the amount received was £40k however St Neots Town Council and Huntingdon Town Council have decided to take on the maintenance in their areas.

It was suggested that the Council makes it clear to residents that it is carrying out the work of the County Council however it was noted that this point was made last year and there is little appetite for it to be made again.

When asked if bush and shrub maintenance should be included in the report, the Panel was informed that a report covering this maintenance would be presented to them at the end of the growing season.

Following a question regarding the type of lawnmowers the Council has, including the lawnmowers that the service had problems with last year, Members were informed that the Council do have the same mowers however it does have a mixed set of equipment to deal with different conditions.

The Panel was informed that the service cuts the grass on a fortnightly basis but when the growing season ends it could be cut less. However Members were informed that cutting the grass less would not necessarily save money as longer grass can take more man hours to cut.

A Member asked if a proportion of the £20k saving should be given back to St Neots Town Council and Huntingdon Town Council as they are providing the maintenance of County Council grass. In response Members were informed that as both Town Councils are receiving funding from the County Council for the maintenance there is no basis for requesting a rebate from the Council.

When asked how the service could improve the rate of service requests that have been resolved within five working days, Members were informed that the service needs to be proactive to ensure that there are less service requests to begin with. This way if there are less then it would be easier for the service to resolve any requests within five working days.

(At 9.13pm, during the consideration of this item, Councillor R Fuller left the meeting and did not return.)

89. HUNTINGDONSHIRE COMMUNITY SAFETY PARTNERSHIP UPDATE

The Panel's representative on the Huntingdonshire Community Safety Partnership, Councillor Mrs J Tavener, provided Members with an update on the Partnership. Councillor Tavener stated that she had attended the last meeting of the Partnership and that several matters were discussed.

The Panel was informed that the Partnership discussed its Terms of

Reference where it was agreed that it should include resilience which it was deemed important particularly to the voluntary sector.

The Partnership also discussed the definition of vulnerability and who can be deemed as vulnerable. In addition, a report on Child Sexual Exploitation was presented which highlighted areas that are specific to Huntingdonshire.

A Member requested that, in future, could reports be presented in writing. In addition, they asked how often the meetings are held, to which Councillor Tavener stated that the Partnership meets quarterly.

When Councillor Tavener was asked did she feel a part of the meeting, the Panel was informed that a participant at the meeting can put a point forward, comment and ask questions.

90. CCTV TASK AND FINISH GROUP FINAL REPORT

With the aid of a report by the Democratic Services Officer (Scrutiny), on behalf of the CCTV Task and Finish Group (a copy of which is appended in the Minute Book), the CCTV Task and Finish Group Final Report was presented to the Panel.

In introducing the report the Chairman briefed Members on what the Task and Finish Group had done and thanked the Members of the Group and the Head of Community Services and Democratic Services Officers (Scrutiny) for arranging the meetings and assisting the Group in writing the report.

The Executive Councillor for Commercialisation and Shared Services explained to Members that a welcome but unintended consequence of the Task and Finish Group has been the improved communications with Parish and Town Councils. He added that big businesses have a matrix which they use when deciding to locate to a town and that CCTV scores highly on that matrix. In addition, Members were informed that some businesses would not be locating in the towns without CCTV.

The Executive Councillor for Commercialisation and Shared Services did explain to Members that there was a lack of quantitative evidence of how valuable and useful CCTV is to the Police. The Head of Community Services provided Members with some examples of where CCTV has made a positive difference in crime detection.

A Member suggested that recommendation one doesn't go far enough and suggested that the word 'high' is inserted to recommendation so it reads "recognise the high value of the Council's CCTV service to Huntingdonshire's residents, businesses and Cambridgeshire Constabulary". The Panel agreed with the amendment.

In response to the question is there a CCTV system which can automatically detect activity, the Panel was informed that certain cameras can automatically detect activity as they are located in areas where it is recognised that at certain times of the day there should be no activity, however as for detecting suspicious activity on the high street, the service is reliant on the skill of the operator.

91. WORK PLAN STUDIES

The Panel received and noted a report by the Democratic Services Officer (Scrutiny) (a copy of which is appended in the Minute Book), which contained details of studies being undertaken by the Overview and Scrutiny Panels Economy and Growth and Performance and Customers.

(At 10.01pm, during the consideration of this item, Councillors D Brown, Mrs A Dickinson, R B Howe and D Watt left the meeting and did not return.)

92. OVERVIEW AND SCRUTINY PROGRESS

With the aid of a report by the Democratic Services Officer (Scrutiny) (a copy of which is appended in the Minute Book), the Panel reviewed the progress of its activities since the last meeting.

A conversation ensued regarding the closure of the Council's customer service centre and the proposed closure of the Citizen's Advice Bureau (CAB) Office in St Neots. Regarding the closure of the customer service centre, the Panel noted that it was disappointing and will invite the Executive Councillor for Transformation and Customers to attend the next Panel meeting in June 2017. Regarding the CAB Office, clarification will be sought as the understanding of Officers and other Members was that CAB had an obligation in their contract to provide a face to face service in all of the District's towns.

It was suggested that a topic about patients coming out of care should be added to the work programme.

Chairman