

# SOUTH HAMS SPECIAL EXECUTIVE



## Minutes of a **Special** meeting of the **South Hams Executive** held on **Thursday, 11th November, 2021 at 10.00 am at the Repton Room - Follaton House**

Present:           **Councillors:**

**Chairman** Cllr Pearce  
**Vice Chairman** Cllr Bastone

Cllr Baldry  
Cllr Hopwood

Cllr Holway

NB: Cllr Hawkins attended via Teams and so in a non-voting capacity

### **In attendance:**

Councillors:

Cllr Abbott (via Teams)  
Cllr Brazil  
Cllr Chown (via Teams)  
Cllr Hodgson (via Teams)  
Cllr Long  
Cllr O'Callaghan (via Teams)  
Cllr Reeve (via Teams)  
Cllr Smerdon (via Teams)  
Cllr Sweett

Cllr Birch  
Cllr Brown (via Teams)  
Cllr Foss (via Teams)  
Cllr Kemp (via Teams)  
Cllr McKay (via Teams)  
Cllr Pannell (via Teams)  
Cllr Rowe (Via Teams)  
Cllr Spencer (via Teams)

Officers:

Chief Executive  
Deputy Chief Executive  
Monitoring Officer  
Democratic Services Manager

57.

### **Urgent Business**

E.57/21

The Chairman advised that she had no items of urgent business for consideration at this meeting.

58. **Declarations of Interest**

E.58/21

Members and officers were invited to declare any interests in the items of business to be considered during the course of this meeting and these were recorded as follows:

Cllr N A Hopwood declared a Disclosable Pecuniary Interest in agenda item 4(b): 'Garden Waste Collections: (b) One-Off Emptying of Garden Waste Bins in Woolwell' (Minute E.60/21(b) below refers) by virtue of her direct involvement in the matter and left the meeting during consideration of this aspect of the agenda item.

59. **Statement from the Monitoring Officer**

E.59/21

At the invitation of the Leader, the Monitoring Officer was invited to provide a statement to provide an explanation for the calling of this Special Executive meeting.

In so doing, the Monitoring Officer advised that:

- The Leader of the Council had the power to call a meeting of the Executive at any time (s)he so wished and it was his understanding that the main reasons for the Leader wishing to call this meeting were that:
  - o There was a need for a response to be made by the Executive to the Overview and Scrutiny Committee's concerns that were raised during consideration of the call-in of the Executive decision to extend the suspension of the Garden Waste Collection service at its meeting held on 5 November 2021. This was particularly pertinent given that the Overview and Scrutiny Committee had referred its concerns direct to the Full Council meeting to be held on 25 November 2021;
  - o There was an informal Executive Briefing already in the diary for this date and time, so there was an administrative convenience; and
  - o The nature of the business to be transacted was such that no prejudice was caused to members of the public by virtue of the shorter notice; and
- Whilst ordinarily, notice of the meeting must be published on the Council website at least five clear working days before the meeting was held, they were able to be convened on shorter notice (for example in the case of an Emergency or Urgency).

In conclusion, the Monitoring Officer confirmed that he was content that the calling of this Special Executive meeting did not give rise to a breach of the provisions of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

60. **Garden Waste Collections**

E.60/21

Before consideration of a report that:

- enabled the Executive to formally consider the concerns that had been raised by the Overview and Scrutiny Committee at its meeting held on 5 November 2021 on the call-in of the Executive decision to extend the suspension of the Garden Waste Collection service; and
- made reference to the one-off emptying of the garden waste bins in Woolwell.

the Chief Executive was invited to provide a statement to the Meeting. In so doing, the Chief Executive stated that:

*'On learning of Cllr Hopwood's action in arranging for a private contractor to make a one-off collection of garden waste within her Ward, as Head of Paid Service, I asked the Monitoring Officer to speak with Cllr Hopwood. The Monitoring Officer has done so. The Monitoring Officer has explained clearly to Cllr Hopwood, that no matter how well intentioned her actions were, she acted contrary to the decision of the Executive. Consequently, she was likely to have brought the Council into disrepute and failed to act in accordance with the Council's requirements as to the use of her Localities' funds, both serious breaches of the Code of Conduct and of the standards of behaviour expected of councillors.*

*I understand that Cllr Hopwood has agreed with the Monitoring Officer to give a public apology.'*

At this point, Cllr Hopwood was invited to address the Meeting and stated that:

*Members and officers may be aware that I organised a collection of brown bins within the Woolwell Ward which I represent.*

*I sought officer advice about paying for this to be done out of my locality budget after misunderstanding the advice given and went ahead with what I had organised in all good faith. I have since been contacted by the Monitoring Officer and subsequently met with him, (Mr Fairbairn) who advises that not only was the organising of waste collections within my ward against what the Executive had agreed, which was to suspend the garden waste service but I informed residents that this would be paid for out of my locality budget as I genuinely misunderstood the advice given by officers.*

*I offer an unreserved apology to both officers and Members and have assured the monitoring officer that this will not happen again.'*

The Monitoring Officer proceeded to confirm that, having spoken with Cllr Hopwood and, given the full and public apology, Cllr Hopwood was aware of her wrongdoing and that it would not be repeated.

(Having declared a Disclosable Pecuniary Interest (Minute E.58/21 above refers), Cllr Hopwood then left the meeting room).

Consideration was then given to the report.

#### **(a) The Overview and Scrutiny Committee Concerns**

The lead Executive Member made reference to each of the concerns raised by the Committee and provided the following additional comments:

##### **Overview and Scrutiny Concern 1:**

*There was insufficient consideration and/or reporting given to the implementation of Option 3 being the use of an alternative provider and in particular the possibility of the garden waste collection being taken back in-house.*

**Executive Comments:**

*In addition to the details in the published agenda report, Officers and the Lead Executive Member provided a comprehensive update at the Executive meeting held on 14 October 2021 of the process and investigations undertaken to assess what was operationally feasible within a realistic timescale.*

**Overview and Scrutiny Concerns 2 and 3:**

*The supporting report incorrectly states that there are no financial implications arising. The suspension of the garden waste collection service from mid-August 2021 until Spring 2022 will in all probability have financial implications; and*

*There was insufficient consideration and/or reporting given to the provisions of the contract with FCC.*

**Executive Comments:**

*The Council has followed the correct contractual procedure regarding the suspension of the Garden Waste Service. That process is a formal contractual change notice issued on 22<sup>nd</sup> October.*

**Overview and Scrutiny Concern 4:**

*The decision to suspend the garden waste collection until an open-ended spring date leaves many residents with their brown bins containing waste for an indefinite period.*

**Executive Comments:**

*At its meeting held on 14<sup>th</sup> October 2021, the Executive resolved to produce a letter to be sent to all residents. That letter was then delivered to all residents during the week commencing 1<sup>st</sup> November 2021;*

*Draft minute E.56/51 states “That delegated authority be granted to the Director for Customer Service and Delivery, in consultation with the Leader of Council and the lead Executive Member, to produce a letter to be sent on behalf of the Executive to all residents in the South Hams that provides an update on the waste and recycling collection service.”*

*The Executive has asked Officers to continue to explore options for carrying out a collection – recommendation 3 in the current report.*

*Paragraph 4.4 of the published agenda report for this Special Executive Meeting states “The Executive has asked FCC to provide a detailed plan to the Council by 31 December for restarting the service by 31 March 2022 or sooner.”*

**Overview and Scrutiny Concern 5:**

*Council tax levied by the Council includes a sum for the collection of garden waste and yet taxpayers are not receiving a service for which they have paid for.*

**Executive Comments:**

*To explain the background of the Council Tax legislation, Council Tax is partly a form of general taxation on a property and partly a tax on the people living in a property. Council Tax funds essential services in an area and the cost of the public services is spread across all tax payers in the same way, regardless of which services they use or receive;*

*So when you pay your council tax, it is not as simple as paying for and receiving a service. By law, the Council is unable to give a Council Tax discount to households that may not receive a specific service or receive a poor service. Therefore, we are not able to offer any reduction in your council tax bill as council tax **is a form of general taxation** rather than a service charge.*

*We continue to prioritise the services which we have a statutory duty to provide, such as refuse and recycling collections. Garden waste is a non-statutory service which has been provided at the Council's discretion.*

*Unfortunately we are not able to offer a refund of Council Tax. Council Tax is a way of funding councils, and other statutory agencies, for the varied services they provide. Waste collections are only one of the many services we provide as a District Council. It is not the same as having a contract for one specific service.*

The Executive proceeded to confirm its support for these comments to be formally presented alongside the concerns of the Overview and Scrutiny Committee at the Full Council Meeting to be held on 25 November 2021.

**(b) The One-Off Emptying of the Garden Waste Bins in Woolwell**

During discussion, the following points were raised:

- (a) Whilst accepting that Cllr Hopwood had made a genuine error of judgement, a number of Members felt that the severity of this mistake should not be underestimated. Furthermore, these Members felt it to be wholly inappropriate for any recommendation to be approved whereby the Council paid the private contractor using public monies;
- (b) When questioned, the Leader clarified that there had been no such similar arrangement explored for the Thurlestone parish. A private arrangement had been set up by a local resident and the Leader (as local Ward Member) confirmed that she had absolutely no involvement in any part of this arrangement;

*(The Leader adjourned the meeting at 11.00am to enable those in attendance to observe the two minutes silence to mark Remembrance Day. The meeting was then re-convened at 11.02am).*

- (c) With regard to the breach of the Members' Code of Conduct, the Monitoring Officer reiterated that he was satisfied that the steps that had been taken (including the public apology provided to this meeting) had resulted in him being content that the matter was now closed. As a general point, the Chairman of the Overview of the Scrutiny Committee advised that the Council processes that underpinned the standards complaints regime were to be reviewed by the Committee in the upcoming months.

(At this point (11.20am), the meeting was adjourned and re-convened at 11.35am).

It was then:

**RESOLVED**

1. That the concerns of the Overview and Scrutiny Committee raised at its meeting held on 4 November 2021 (as set out in Appendix B of the presented agenda report) have been considered and have been responded to (part (a) of the detailed minutes above refer) for presentation to the Full Council meeting to be held on 25 November 2021; and
2. That officers be authorised to continue to explore all options for resuming the service and that the Executive receives a further report by the Director for Customer Service Delivery in the Spring of 2022 on future options.

Before formally closing the Special Meeting, the Leader invited Cllr Hopwood to re-join the Meeting and make a further statement. Cllr Hopwood proceeded to inform the Executive that, having listened to the debate, it was never her wish to bring the Council into disrepute and it was therefore her intention to personally make the payment for the services of the private contractor.

The Meeting concluded at 11.35 am

**Signed by:**

**Chairman**

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