

# Appendix

# 16

## The Executive

### Minutes of the meeting held on 8 September, 2008

- PRESENT:** Councillor R. G. Parry, OBE (Deputy Leader) (Chairperson)
- Councillor Eurfryn Davies  
Councillor R. Ll. Hughes  
Councillor R. Ll. Jones  
Councillor C. McGregor  
Councillor B. Owen  
Councillor Goronwy Parry, MBE  
Councillor E. Schofield  
Councillor Ieuan Williams
- IN ATTENDANCE:** Managing Director  
Corporate Director (Environment & Technical Services)  
Corporate Director (Education & Leisure)  
Director of Legal Services / Monitoring Officer (Item 9 only)  
Head of Service (Finance)  
Head of Service (Policy)  
Head of Service (Highways & Transportation) (Item 11 & 12 only)  
Head of Service (Leisure & Community)  
Head of Service (Environmental Services) (Item 15 only)  
Head of Development Control (EGJ) (Item 9ch only)  
Child / Young People Framework Co-ordinator (GH) (Item 8 only)  
Principal Waste Management Officer (MPE) (Item 15 only)  
Committee Services Manager
- ALSO IN ATTENDANCE:** Councillor J. V. Owen (Item 6)
- APOLOGY:** Councillor P. M. Fowle
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#### Sympathy

The Chair referred to the death last Friday of Mr. Byron Williams, Corporate Director of Housing and Social Services. He referred to Byron as a gentleman and as a quiet and diligent worker who had looked after people all his life. The Chair of the County Council would be paying his own respects at the next Council meeting on 16th September. Members and Officers stood in silent tribute as a mark of their respect.

#### Welcome

The Chair extended a warm welcome to Dr Zoe Radnor, Associate Professor in Operation Management at Warwick Business School, who had been invited by the Managing Director to assist with a supportive strategy process within this Council, particularly with the Executive.

Dr. Radnor was an advisor to the Cabinet Office and the National Audit Office with regard to performance management, strategy and process improvement. She also worked with Central Government Departments, Local Authorities and Health Trusts.

#### **1 DECLARATIONS OF INTEREST**

Councillor G. O. Parry declared an interest in Items 3 and 7 of these minutes and was not present at the meeting during any discussion or voting thereon.

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Councillor R. Ll. Hughes declared an interest with regard to any item of business on the agenda which might relate to the employment of his son in the Highways Department.

Councillor E. G. Davies declared an interest in Item 11 of these minutes and was not present at the meeting during any discussion or voting thereon.

1 **2 URGENT MATTER CERTIFIED BY THE MANAGING DIRECTOR - (OR HIS APPOINTED OFFICER)**

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None to report.

3 **3 MINUTES**

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**RESOLVED that the minutes of the Executive held on the following dates be confirmed as true records:-**

• **21st July, 2008**

Arising thereon - Item 6. Allocation of Performance Incentive Grant

Councillor Elwyn Schofield referred to the amount of unallocated money (£655k) in the PIG fund. The Council were already 6 months into the current financial year and he enquired as to what it was intended to do with this remaining sum ?

The Head of Service (Finance) in reply stated that it was customary to allocate this sum later in the financial year since it followed the work done on the Improvement Plan and the high risk plans. In addition to the sums allocated in July, other plans or proposals would be submitted to the Executive within the next few months.

Councillor E. Schofield again questioned as to what the intentions were for spending this amount. He mentioned that the minute referred to the possibility of deferring £300k for the HR system project which was a weakness identified within the Council and also to the need for better management information on staff resources. There were in his opinion too many examples within the Council of deferring decisions until it was too late in the day and the Council were thereafter unable to spend it within the financial year. He did not feel that he had received a good enough answer by the officer which would give security that the money would be spent. He considered that the HR system was urgently required.

The Deputy Leader suggested that Officers prepare a report on this matter to the next scheduled meeting of the Executive in October.

**RESOLVED to request a report back to the next scheduled meeting of the Executive on 6th October, 2008, with regard to the remaining unallocated sum of £655k within the PIG moneys awarded by the Welsh Assembly Government to this Council for 2008/09.**

• **1st August, 2008**

5 Item 6 - David Hughes Endowment

6 Councillor E. Schofield queried as to whether this was a minute and not an additional contribution by any Officer? Were these the clerk's minutes or were they an additional report?

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8 The Managing Director in reply stated that they were the minutes of the last meeting for confirmation and that he did not understand Councillor Schofield's question.

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10 Councillor Schofield stated that there were some details contained therein that he did not remember discussing and that is why he was asking the question. Were they minutes or was it a report that had come from the Department? He asked whether the minutes had been prepared in their entirety by the Clerk to the meeting?

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12 The Committee Services Manager replied that it was he who had prepared the minutes

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Councillor E. Schofield stated that the minutes clearly showed the discussion that had taken place and what his contribution had been as Portfolio Holder in that he was against the selling of any holding from the David Hughes Estate. In his recollection that was what was decided. It was fair to say that the Executive had asked for a further report to ascertain the amount of capital currently invested in the Estate. That was a separate matter. Certainly, the minutes should reflect the clear decision that was reached, that the Council does not move ahead to sell any holding from the David Hughes Estate.

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19 The Vice-Chair stated that this was his recollection as well and accepted this amendment to the minute.

**RESOLVED to amend the draft minute to reflect the actual decision which the Executive believes was taken, namely to state that the Council does not move ahead to sell any further holdings from the David Hughes Estate.**

#### 4 MINUTES FOR INFORMATION

**RESOLVED to note the contents of the minutes of the following meetings held on dates shown:-**

- Voluntary Sector Liaison Committee-1st February, 2008
- Corporate Parenting Panel - 3rd July, 2008
- Health Alliance - 21st July, 2008
- Community Safety Partnership Executive Group - 24th July, 2008

#### 5 IMPROVEMENT PLAN

Reported by the Head of Service (Policy) - That papers previously presented to the Executive (1st August 2008) and to a joint meeting of the Principal Scrutiny Committee and the two Overview Committees (27th August - Appendix 1) provided the background to the 2008/09 Improvement Plan (draft). The papers outlined the conclusions of the annual risk assessment exercise which was a statutory requirement under the Wales Programme for Improvement, and was the outcome of a risk assessment workshop held between the Management Team and Heads of Services on the 14th July. The risks were subsequently discussed and agreed more formally between the Council and its regulators in a Joint Risk Assessment (JRA) meeting on the 18th July, 2008.

The Executive on the 1st August, 2008 resolved as follows:

- To confirm the risks identified and the proposed improvement pathways.
- That in future, monthly meetings be held between Corporate Directors and their respective Portfolio Holders to monitor areas of high risk.
  - That the overspend in the Social Services budget be listed as an emerging risk under Para 3.1 of the report to this Committee
  - To refer Appendix 1 to the Principal Scrutiny Committee for observations and that comments be forwarded to the Executive (September meeting).

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A copy of the draft plan was enclosed (Appendix 2) and an extract from the minutes of the Joint Committees held on 27 August, 2008 was also attached at Appendix 3.

Work was still ongoing to finalize the Improvement Plan. The deadline under the guidelines for publication of the Improvement Plan was 31st October annually. In accordance with the Council's Policy Framework, the Council was requested to formally consider the Improvement Plan.

Councillor Ieuan Williams, Portfolio Holder, reiterated that the Executive had recently resolved to change the timetable for monitoring corporate risks from every quarter to every month and that it was also important to draw in the overspend in the Social Services budget. The other corporate risk was Housing Benefits.

Councillor E. Schofield queried as to why the report (Para 3.1) referred to the Benefits Service as an emerging risk? This matter he said had been in existence since over a year. He enquired as to who was responsible for not alerting members of the problem?

The Head of Service (Finance) in reply stated that a meeting had been held with the Regulators back in February regarding the performance of the Benefits Section and they at the time did not consider this to be a high corporate risk. Officers had been meeting with the Regulators since then and they had not come back with any viewpoint that the risk had worsened but saw that it had decreased because of the improvement in performance. It was not the Service, but the project to create a new system that had been recognized as a risk. A system as complicated as Revenues and Benefits was bound to create a risk of not performing. Officers had expressed this view to members long before the project commenced.

Councillor E. Schofield stated that he was not prepared to accept the explanation as a fair reflection of the situation. He did not come to the same conclusion, in that the Ombudsman had stated in his report that there were very serious weaknesses in the Department as far as the payment of benefits was concerned. The Ombudsman had condemned the Department. The draft report had been received in 2007 and it was August 2008 before the finalised report had been published. No report highlighting this risk had reached the Executive since its inception in May 2008. Everybody knew that the new systems were coming in and management should have addressed the problem. He suggested that officers should re-read the Ombudsman's report if they believed that it did not show a high risk. He therefore believed that the Executive should receive a comprehensive report informing members of what steps had been taken to remedy the situation.

The Deputy Leader reminded members that the report of the Ombudsman would be given consideration at the next County Council meeting.

Councillor G. O. Parry, MBE, Portfolio Holder drew members attention to the fact that it was a draft report last year. The Department did respond to that report and tried to get corrections to the situation. Bringing in new software did create problems in changing from one system to another. The Ombudsman had not accepted the suggestions or reference made, nor had he received comments from the DWP, which was part of the problem in addressing the situation.

The Ombudsman had seen information from one source, but the Department were still in discussions with the DWP and other agencies who were part of the process. The DWP were supportive of what had been put in place and which was being implemented. The situation appeared to be improving. Yes, there was a backlog that needed to be addressed and yes, there were problems in implementing the new system.

As regards risk, over 6,000 people received benefit support through this system. The Ombudsman referred to 2 cases. What percentage was that 2 out of 6,000? Very little. It had been accepted that

compensation was payable in these cases. He supported the Department and the work being done and the fact that the DWP were supportive of what was happening.

Councillor E. Schofield in reply stated that when complaints were received in terms of decisions made by members, those got publicity and they got publicity with a push from the Officers and became public. This matter went back over two years and in that time he had not seen any report by Officers within the Council highlighting the issue. In other words it was concealed, because this was the responsibility of Officers. He remained concerned because if this could be hidden, what else was hidden and Members were not aware of under the high risk elements. He was critical of the way this had been handled. Although he welcomed the fact that the situation had improved, it didn't negate the fact that there had been deficiencies which were addressed by the Ombudsman. With all due respect, he thought it ridiculous to say only two complaints had been made out of 6,000. These were just the two complaints that had gone to the Ombudsman and it was quite a difficult process for people to get to grip with. It was misleading to suggest that the Ombudsman was not fair. The report that he had read included detailed input from the officers of this Authority and also detail from the complainants. Based on that, the report was not published without everybody concerned having the opportunity to respond to what had been said.

Councillor G. O. Parry, MBE in reply stated that there were only two complaints in the Ombudsman's report. The Department had people looking at the systems and what was operational within the Authority. Members needed to remember that there was the issue of confidentiality in terms of the complainants themselves.

The Managing Director stated that he did not accept that the officers were hiding anything. He was fully supportive of what had been said by Councillor Parry this afternoon. What was important was to learn lessons. The public had a right to complain against the Council to the Ombudsman. It was then his duty to investigate and report back on his findings to the Council. What was important was that the service was improving and not deteriorating. He did not agree with Councillor Schofield on this issue at all.

Councillor Ieuan Williams highlighted another priority in the Improvement Plan namely further development of the Council's performance management framework, in particular the roll-out of the Ffynnon Pan Wales performance monitoring software to monitor key performance indicators. This would assist Members to monitor performance. He also considered that this system would need to be rolled out over the next 6-18 months. He was also concerned as to the reference made in the Ombudsman's report that the Council had refused to work with the DWP at the beginning and that it was only done afterwards.

Councillor G. O. Parry, MBE in reply stated that there was a reference to an Action Plan. This Plan had been in the offing at the time of the investigation and there was no reason to reveal that, before it was completed and finalised.

The Head of Service (Finance) stated that the Ombudsman had identified a failure to collaborate with the DWP. Officers had challenged that statement. Somebody from the DWP did come to these offices and made some recommendations. She was sure that members of the Executive and the County Council would not have accepted what the DWP was suggesting at that time. The word used was "sacrifice", to use the resources of other services towards benefits, let them deteriorate in order to rescue this one service that the DWP was interested in. Officers refused to do that. They had then approached DWP at the first possible opportunity and asked for another team that could work constructively with Officers. This had now happened.

Councillor E. Schofield expressed concern that under Asset Management, the report did not identify who was in charge. The largest asset the Council had was its staff. The job evaluation saga certainly showed that the Council did not look after that particular asset particularly well. He considered that there was a lack of consistency across the organisation, in the application of the Council's HR strategies, policies and procedures.

Councillor Ieuan Williams stated that a lot of work needed to be done over the next three years to reduce these risks. Having a strategy of reporting on progress every month would hopefully show some improvement for the future.

Members examined the recommendations of the Principal Scrutiny Committee, thanked them for their work but pointed out that under "Access and Provision of School Places" the schools rationalisation strategy would not be completed by December 2008 as had been suggested by that Committee.

#### RESOLVED

- To note and take on-board the comments made on the Council's highest risks by the Principal Scrutiny Committee and the Overview Committees at their joint meeting on 27th August, 2008.
- To note that the Schools Rationalisation Strategy will not be completed by December 2008 as was suggested by the Principal Scrutiny Committee.
- To recommend to the County Council that authority be given to the Head of Service - Policy in consultation with the Leader and Portfolio Member for Performance to finalise the Plan by the deadline of 31 October, 2008.

#### 6 REVIEW OF POST OFFICES

Reported by the Head of Service (Policy) - That in May 2007 the Government announced a range of proposed measures to modernise and reshape the Post Office Network and put it in a more stable footing for the future.

Post Office Ltd had now put in a place a Network Change Programme to implement these measures which would involve the closure of up to 2,500 national Post Offices to be replaced with the introduction of about 500 service points known as 'Outreaches' to mitigate the impact of the proposed closures. In general terms, nationally, Post Office Ltd had stated that these would not affect the majority of Post Office branches.

These changes were being introduced on a phased basis. The Area Plan Proposed for North Wales was announced on the 29th July, 2008. The consultation period ended on 15 September.

Regionally, proposals included closure of 52 branches and to replace a further 14 with Outreach Services. Locally there were proposals to close the following Post Offices:

- Caergeiliog
- Church Terrace, Holyhead
- Four Mile Bridge
- Llaingoch
- Llanbedrgoch
- Llandegfan
- Talwrn

No outreach services were planned in Ynys Môn as part of these proposals.

The Head of Service stated that Post Offices provided a vital community service and contributed towards securing a sustainable future. In addition they were recognised as a vital hub of community life not only providing for everyday needs but also as a meeting place in the community. Post Offices, therefore, were valued as an important resource within communities, serving in many cases as village shops selling convenience goods and providing financial services. They also reduced the need for villagers to travel elsewhere for their basic essentials. They had an important role to play in the sustainability of settlements, and planning policies sought to support that role.

Furthermore, in planning terms, post offices were classified as retail shops. Many post offices also functioned as village shops, and in some cases the post office may be the only shop remaining in a village.

A key issue for the Ynys Môn Unitary Development Plan was to support rural life at a time of change in agriculture and the rural economy. The Plan's general strategy aimed to secure sustainable development in all rural settlements. Village shops and Post Offices were recognised as a vital ingredient of rural and community life.

The impact of these proposals were at variance with the Council's objectives of promoting quality life and regeneration and the strategic priorities highlighted in the Community Plan. They did not serve to mitigate the impact of antipoverty in its widest context.

The impact on age groups also needed to be considered and perhaps more so the elderly and vulnerable. Nearly 25% of the Island's population was over 60 years old, e.g. Llanbedrgoch had one of the highest proportions of people aged 70-79 in the North West region. It was forecast that those 65 years and over would increase by 13.5% at the next census in 2011. In terms of household type, there was an above average proportion of households containing older people living alone. Therefore, the inconvenience of travelling to other Post Office outlets needed to be considered and the added pressure on communities in the present economic climate.

A summary of the local population profile, current opening hours, proximity to nearby Post Offices and bus services was attached at Appendix 1 for information.

Councillor J. V. Owen, Local Member for Llaingoch, expressed his concern that the case put up by Post Office Ltd to close the Llaingoch Post Office was not factually correct, in that there was no bus service available to the alternative Post Office at Porthyfelin. Llaingoch Post Office was a vital service that had been serving the community for over 100 years. He asked that the document be amended to reflect this point.

The Managing Director drew the Committee's attention to the fact that Post Offices Ltd had stated that no outreach services were planned in Ynys Môn as part of these proposals and this needed to be discussed further with the Post Office.

Councillor R. Ll. Jones stated that the villagers of Llaingoch looked upon the Post Office as a central part of the village life. He considered that the Executive should voice its concern as to the proposed closure and requested a re-think by the Post Office.

Councillor C. McGregor referred to the proposed closure at Talwrn, which was both a shop and a Post Office. One could not live without the other. He mentioned that a recommendation had been made by a cross party Parliamentary Committee in Westminster to the Post Office that they should not close any Post Office where a shop was connected to it and where that shop was the only place of business in the village. He hoped that as a County Council it could respond to that and he supported the comment made by the Managing Director as to an outreach service on Anglesey. He further stated that the recommendations of the Post Office were totally unacceptable and he employed members to strongly oppose this strategy.



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Councillor E. G. Davies stated that it was the Post Office at Old Llandegfan that was being named and closure would involve a walk of around a mile to reach Llandegfan Post Office. Over the years the Ward would have lost 3 out of 4 of its Post Offices.

Councillor R. Ll. Hughes mentioned that he already lost two post offices in his Ward, namely Malltraeth and Llangristiolus. That effect had been profound. The proposals at Llaingoch and Talwrn were a step back in his opinion.

Councillor G. O. Parry, MBE referred to the Four Mile Bridge Post Office closure. It served the village and also the Rhoscolyn area and other parts. What would be lost would be the community contact. Without the Post Office, the shop would close and without the shop there would be no contact for local people.

The Deputy Leader referred to the fact that in his Ward, the Bryngwran Post Office had been closed for two years. On behalf of the Executive he wished to state that the members stood firmly against the closure of any of the Post Offices listed.

**RESOLVED to authorise the Head of Service (Policy) to make representations to Post Office, Ltd, in consultation with the Leader of the Council.**

### **7 MATTER REFERRED BACK TO THE EXECUTIVE FROM THE PRINCIPAL SCRUTINY COMMITTEE HELD ON 20TH AUGUST, 2008 - SMALLHOLDINGS ESTATE**

Reported - That the Principal Scrutiny Committee at its meeting on 20th August, 2008 had called-in the Executive's decision(s) of 1st August, 2008 with regard to the Council's future Smallholdings Policy.

Submitted - A copy of the minutes of that Committee together with its recommendations to the Executive.

**RESOLVED to note and take on board the recommendations of the Principal Scrutiny Committee.**

### **8 CHILDREN'S PLAN**

Reported - That it was a requirement of the Children's Act 2004 that Ynys Môn provided a Children and Young People's Plan for the period 2008-2011. The Plan had to be a comprehensive one and should set out what services the County proposed to put in place to meet the needs of all children in the 0-19 range. The Executive and the full County Council were asked to approve the Plan as prepared and to adopt it as a strategic document.

In accordance with the requirements of the Act, a draft version of the Plan was prepared and published for consultation (May 2008). Hard copies were printed and these were distributed to all Councillors. On completion of the consultation period a full meeting of the Children and Young People's Strategic Partnership was held (July 22nd, 2008) and the 30 responses to the Draft Plan were discussed. These responses included the opinions of children and young people. The responses were combined as a series of adaptations to the Draft Plan so as to produce the final version which was now presented.

Integral to each of the seven core aims contained within the Plan was the idea of drawing up priorities and these would be the foundations on which all developments in the provision of services for Children

and Young People would take place over the next 3 years. The priorities were noted in the enclosed executive summary of the Plan.

The Children and Young People's Plan was a Partnership Plan and the County Council, as one of the partners would have responsibilities to deliver on these priorities by March 2011. As the Plan was derived from legislation, the County would be subject to external inspection not only on the contents of the Plan but also on how the County Council and its partners responded to the priorities. The Education, Health & Welfare Overview Committee had discussed the draft version of the Plan on two occasions and had accredited its contents. The Plan had also been subjected to an impact assessment by the Policy Officers Group.

Councillor R. LI. Hughes enquired as to whether any feedback had been received from the Welsh Assembly Government following the County Council's decision of 3rd April, 2008, to request WAG to make the necessary funds available in order to provide free school meals to all children throughout Wales without the need for a means test?

The Children and Young People's Framework Manager replied that there had been no response to date, but he mentioned that in a report the Assembly had recently issued on Child Poverty it stated that any movement towards alleviating Child Poverty must take this idea of stigmatisation into account.

**RESOLVED to approve the contents of the Plan and to recommend to the County Council that it adopts the Plan as a strategic document of the Council's intentions for the period 2008-2011.**

## 9 CHANGES TO THE COUNCIL CONSTITUTION

### (a) DELEGATION TO THE LEGAL SERVICES MANAGER

Reported by the Director of Legal Services/Monitoring Officer - That the Executive having considered the report at its meeting on the 14th April, 2008 had resolved "to recommend to the County Council that it revises the Constitution by adding to the delegated power of the Legal Services Manager two clauses at Para 3.5.3.6 of the Constitution" - (Para 1.2 of this report refers)

Following a request for 'call-in', the Principal Scrutiny Committee considered the matter at its meeting on 30th April, 2008, and resolved:-

*"To defer the discussion of this Committee to the Executive and that a detailed report be submitted to the Executive outlining the recommendations of this Committee."*

The Executive at its meeting on 19th May received for information the minutes of the Principal Scrutiny Committee held on 30th April, 2008 and resolved, inter alia, to

*"Recommend the report to the full Council while accepting the recommendation of the Principal Scrutiny Committee that paragraph 2(12) be amended to include a list of the relevant Committees."*

Further, the Executive at its meeting of the 23rd June, resolved to confirm the minutes of the meeting of the Executive held on the 19th May but "to include an additional resolution whereby all delegated decisions taken in this report by the Legal Services Manager be reported back to the Executive."

The two clauses had therefore been amended in the light of the above decisions and were now submitted for approval by the Executive and confirmation thereafter by the County Council.

Councillor Clive McGregor as a new member on this Council, expressed concern that control and management was moving more and more towards Officers. He stated that he had no problem with that as such, but there had to be accountability and in the last 3-4 months this to him was not sufficiently clear.

If delegations were to take place he would prefer one designated person to be accountable. If something went wrong and there was an Inquiry, he couldn't find who had made/ did not make the decision. Unfortunately, he felt strongly that Members were not getting this and he therefore recommended that the report be not adopted until a complete change took place.

He believed that Members and Officers must co-operate since there was no example of that taking place within the Council at present. Many things came to the Executive for decision and they were not aware of the background and he considered this not to be good governance.

The Managing Director stated that it was obvious that Councillor C. McGregor was concerned with regard to something and he would welcome the opportunity of discussing those concerns with him after this meeting.

Councillor C. McGregor stated that he was willing to meet with the Managing Director to discuss his concerns.

Councillor G. O. Parry MBE stated that the course of action proposed would reduce the time that such issues took and it would be a statement to the public that the Council acknowledged responsibility and the Officers felt that this would be a step forward.

Councillor E. Schofield felt, like Councillor C. McGregor that there was too much transfer of responsibility to Officers and that at the end of the day it was Members that were accountable. Consequently, there was responsibility to supervise decisions very carefully. He felt that there were too many post mortem's and he did not consider that bringing a report for decision to the Executive would seriously delay things.

The Executive could meet urgently at any time to consider such reports. He felt that responsible Officers within Departments had the expertise to present reports to Committees and were aware of the legal and financial obligations. Yet, before the Executive today was a suggestion that the Officer could not proceed until clearance had been given by the Legal and Financial Departments.

The reasonable sensible solution would be to give that Officer authority to move ahead with the decision making and if the Head of Department felt that guidance was required then it was their right to seek that guidance. This proposal would place constraints upon the system and result in the loss of job satisfaction to some extent.

Councillor R. LI. Hughes stated that if the Ombudsman had decreed that compensation be paid to a Claimant by the Council, then he was quite prepared for that to be delegated to the Head of Legal Services, because he saw little point in it coming before the Executive just to rubber stamp it.

Councillor E. Schofield in reply stated that although it was strongly recommended that payments should be made by the Ombudsman, it was not obligatory and ultimately it was the Council that must decide whether or not to pay or challenge the decision. He felt that a Councillor may wish to have the opportunity of challenging the Ombudsman's decision and whether or not a member was in the Cabinet or serving as a backbencher, that democratic right had to be protected. He therefore recommended that the Executive did not accept the first part of the recommendation and that a report should be presented to the Executive before any payment was made.

The Director of Legal Services/Monitoring Officer in reply stated that what Officers were proposing was that there be delegated authority to settle complaints under the Corporate Complaints Procedure, before they got to the Ombudsman. If Officers cannot exercise that power then the full Council exercised it.

Councillor E. Schofield stated that the Council did not have a proper Complaints Procedure in place. A suggestion and an introduction of an interim report had been sent to Members but there was very little change in that to what had always been in existence. In other words, members of the public complained to the Department they were complaining about, and perception wise, in his opinion, would believe that the department would protect itself, in that they were carrying out their own investigation. He believed that the Council did not have the structures at the moment where the responsibility lay with members to secure procedures and structures, that could give clarity to members of the public that things were being dealt with properly. In the absence of that and until that had been completed, he was not going to start delegating further decisions which took it further away from the public eye and from public scrutiny.

Councillor C. McGregor enquired as to whether there was anything in law that prevented a motion to the Council that responsibility be delegated to the Executive? The safeguard in that was that every decision of the Executive was open to challenge at the County Council.

The Director of Legal Services/Monitoring Officer in reply stated that she did not believe that it was possible for the Executive to exercise that function but the provisions would have to be checked and see whether that was possible or not.

She went on to state that the proposal before Committee today was that the Legal Services Manager, and the Head of Service of the relevant Service, had delegated authority to settle claims before they reached the Ombudsman where they were justified under the Principles of Remedy to make financial settlement, but that they be reported to the Executive, which was the amendment that the Executive requested on the last occasion when it looked at this report. One of the things that had been said today was about performance and where these complaints were falling. Was there a particular service or services, were there particular issues that were coming up time and time again? That report was the way of being able to identify what those issues were and possible areas that required intervention.

Councillor E. Schofield still expressed concern that what was being proposed would involve officers making payment before the Council had the opportunity to consider whether to pay or not. He did not believe that a decision could be reached today until legal advice was given as to whether the Council could delegate its responsibility in this respect to the Executive.

The Chair stated that this matter would therefore be deferred pending legal advice to the County Council meeting. The Director of Legal Services/Monitoring Officer stated that she would provide that advice to Council.

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The Director of Legal Services/Monitoring Officer stated that the second part of the proposal was intended to make more explicit the powers of the Legal Services Manager to act on decisions taken by the relevant officers or by Committees. The Executive were supportive of this in principle on 23rd June, subject to the insertion of the names of the decision making Committees.

Councillor Schofield enquired whether under this proposal Departments were similarly required to consult with the Legal and Financial Departments before acting?

The Director of Legal Services/Monitoring Officer in reply stated that this involved a situation where the decision was taken by an Officer, with the delegated authority, or by a Committee, and they then asked the Legal Section to act on their decisions.

Councillor E. Schofield stated that he could understand that a Department might feel it appropriate to get in touch with the Legal or with the Finance Department on some occasions, but otherwise he felt that this did not quicken things up which he considered was the purpose of re-organisation to begin with. There may be certain issues where there will be a requirement to consult, but that should be at the discretion of the Head of Service.

The Director of Legal Services/Monitoring Officer in reply stated that Councillor Schofield was talking about consultation before the event, i.e. before the reports went to Committee or decisions were taken. What was being proposed here was acting on those decisions after they had been taken, e.g. agreement to enter into a contract, consent, wayleave, whatever it may be. She did not think that the Head of Service, would be happy to sign off a contract.

Councillor E. Schofield provided members with an example. The David Hughes Estate had a substantial amount of money invested which could not be used by the Department that was responsible for looking after the Estate and if we were talking about legal obligations as landlords, there were serious obligations regarding the condition of people living in these houses. He meant serious, where people were having to put plastic covering over their houses in order to keep the rain out and where children were being taken with asthma attacks to hospitals and the Finance Department was refusing access to that money. There was money to carry out the work, therefore Members must protect the right of the professionals in different departments to carry out their legal obligations, and when there was money there to be carrying it out, who at the moment made the decision ?. That is why the wording as it appeared now was inadequate.

The Head of Service (Finance) in reply stated that the example provided by Councillor Schofield did not reflect the general issue. The Estate was a Charity and was a fund towards further education on Anglesey. It was inspected by the Charities Commission and came under the Charities Act. Education was the dominant factor and not agriculture and the purpose of every part of the capital and revenue had been managed line by line in the Deed. In terms of what the Finance Department had said to the Property Department, if there was a legal obligation to spend, then of course that money would have to be spent.

Councillor E. Schofield stated that once a decision had been made, then those formal requirements would be presented to the Department but at the moment those two departments were involved at the consultation stage, at the preparation, and so on. As regards the point made by the Head of Service (Finance), he was fully aware that this was a Trust and fully aware that it was the Cabinet that actually had the power to run this particular Trust. When he asked the Head of Department for emergency work to be carried out he was told that the matter was under the control of the Finance Department who would not release the money. That is why he raised it and therefore he was factual as to what he was saying. The Finance Department were controlling those elements. He was also fully aware of the responsibilities under the Trust, the constitution of which made it absolutely clear that the first responsibility was as landlord to look after its tenants. Whatever profit there remained afterwards would trickle down for other charitable use for the poor and for education.

The Chairperson suggested that Councillor Schofield should speak with the Head of Service to discuss the matter he had raised.

Councillor Schofield stated that with all due respect he did not think that it was the Head of Service that was making the decision.

The Chairperson stated that he had a proposer and seconder to accept the report.

Councillor Schofield proposed an amendment whereby Members should await a further report. What had been suggested here was that the Director of Legal Services/Monitoring Officer would present a report to the Council. He felt that the matter had been raised in this Committee and he felt it was owed an explanation.

Councillor R.LI. Hughes proposed the report. As a Member and a responsible Member of this Council and the Executive he would not like to see any document, contract or anything else going out unless it was put before the Legal Department. These were the professionals to do the work. A Section 106 in Planning was not worth the paper it was printed on unless it was signed off by the Legal Department so that is why he thought this was the reasonable thing to do.

The matter was put to the vote and the amendment by Councillor Schofield was lost.

(a) RESOLVED that the matter of a delegating power to the Legal Services Manager in respect of payments made S.92 of the Local Government Act 2000 be referred to the County Council for determination and that the Director of Legal Services / Monitoring Officer be requested to advise full Council on whether or not it would be feasible to delegate this responsibility down from the Council to the Executive.

(b) RESOLVED by a majority, to recommend to the Council to revise the Constitution by adding to the delegated power of the Legal Services Manager the following clause at 3.5.3.6:-

12 To sign any contract, agreement, notice or any other document to implement any resolution by the Council, any of its current Committees or sub-Committees to include their successors and any other committee created from time to time (and including the current committees and sub-committees which are Planning and Orders Committee, Appeals Committee, Schools Exclusion and Admissions Appeals Committee, Social Services Appeals Committee, Standards Committee, Audit Committee, Governance & Risk Management Sub-Committee, Customer Focus Sub-Committee, Appointments Committee and Licensing Committee) or by the Executive or by a Member or Officer acting under executive power or needed to implement instructions given by or on behalf of any Heads of Service in respect of any matter delegated to him/her.

#### **(b) SCRUTINY CALL-IN PROCEDURE**

Reported by the Director of Legal Services/Monitoring Officer - That the Local Government Act 2000 provided the statutory basis for what was commonly known as the "call-in" procedure i.e. overview and scrutiny committees must have power (among other things) to review or scrutinize decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive.

This Council's current call-in procedure was exercised when 4 Members of the Principal Scrutiny Committee made a request for such a call-in. This Committee was the only Scrutiny Committee which had the power of call-in.

Following the election in May, and the political groupings that developed thereafter, it became clear that the members of Opposition groups, including unaffiliated members, on the Principal Scrutiny Committee did not, and do not, number 4, being the minimum number of members of that Committee required to exercise the call-in procedure. The effective use of the procedure would rely upon support from among the ruling coalition groups.

The Council may therefore consider that it would be appropriate to review the continued desirability of the current arrangements.

In preparation of this report, and in anticipation of members wishing to have information as to how other Councils in Wales exercise call-in, a request was made to the other 21 Councils as to how many members were needed to make a request for call-in. A response was obtained from 12 Councils and was detailed at Attachment CH of the report.

The WLGA had also conducted a survey regarding call-in in general, and although that document was still in its draft stage some information from that source, which received replies from 18 Councils, was presented at Attachment D.

The possible options available to exercise the call-in procedure were detailed at Paragraph 5.1 - 5.7 of the report.

**RESOLVED to recommend to the County Council that paragraph 4.15.16.3 of the Constitution be amended so as to allow 5 non-Executive members of the County Council to call-in any decision made by the Executive.**

**(c) DELEGATION TO THE HEAD OF SERVICE (ECONOMIC DEVELOPMENT)**

Reported by the Director of Legal Services/Monitoring Officer - That the Economic Development - Head of Service's current delegated powers regarding European issues were contained in 3.5.3.2.3 of the Council's Constitution, namely -

*"to submit applications for funding from European Community sources on behalf of all departments within the Council and ensure the most benefits to Anglesey therefrom and through Objective 1."*

It referred specifically to "Objective 1". It was necessary to update and develop it in line with new European Union (EU) programmes which had now come into operation

The Economic Development - Head of Service would soon be submitting a number of EU convergence (previously Objective 1) as well as other EU and external funding applications.

The Director of Legal Services/Monitoring Officer stated that they had been asked to draft this report by the Head of Service. It amounted to two changes, one which was not substantial and the other Members might consider to be. The first was a change of wording to reflect the change of terminology from Objective 1 funding to Convergence Funding. As far as that was concerned it didn't materially extend the delegated powers to the Head of Service but there was an extension to the delegated powers in the second part. This was asking for power to enable the Head of Service to engage in joint projects, including overseas projects, but subject to the prior approval of both the Legal Section and the Director of Finance.

Members were agreeable to the first part of the report but further discussion took place as regards the second part.

Councillor E. Schofield referred to the relevant part of the report which stated :-

*"To submit applications for funding from European sources on behalf of all departments within the Council and to ensure the most benefits to Anglesey therefrom and through all European Union and other external funding programme applications to engage in joint project developments either acting as lead sponsor or project partner subject to the approval of the Section 151 Officer."*

He did not read that as just presenting. At the end of the day a contract that had been prepared to be scrutinized for the protection of this Authority. He read that as requiring approval from those Departments before they engaged in participation and in discussions. He agreed that at the end of the development of a project, that it should be overseen from a legal point of view. That was not what he was arguing about. He was concerned that they became involved during the engagement process and he considered that this was not good practice, it did not encourage job satisfaction and it belittled the professionalism of people in that particular occupation.

Councillor B. Owen, Portfolio Holder for Economic Development also felt that the Head of Department, should have the right to submit these applications unconditionally. He thought Officers should be responsible enough to go and seek legal opinion.

The Director of Legal Services/Monitoring Officer responded that there were two elements here and that the necessity of having the approval of the 151 Officer and the Monitoring Officer lent itself better to

only the second proposal, so you had in the first place the Head of Service autonomously able to submit applications, so that you finished that sentence with "external funding programme application" And then if you started a new sentence "and further to engage in joint project development" and that should be the subject of the approval of Legal and Section 151 on the basis that they were going to undertake a great deal of work to get these projects off the ground and if there were legal or financial impediments or risks to the Authority they needed to know about them before they did the work and not after, because by then it was too late. Even if the Council hadn't signed up it was still a huge waste of time and resources if there were issues that they needed to address during the course of that dialogue and negotiation.

Councillor E. Schofield in reply stated that the Officer was assuming that those Officers were not capable of making a decision whether they needed that advice.

The Director of Legal Services/Monitoring Officer stated that there had been examples where that had happened. Reports having to be pulled at the last minute because neither Finance nor Legal had been consulted early enough. This had actually happened in practice and she thought that it was a significant risk to the Authority.

The Corporate Director (Environment and Technical Services) stated that the elements where he expected the Department to consult upon would be where the Council was a lead sponsor and project partner. It was that legal issue of the implication of being in partnership. It was these two elements specifically, not the actual work of developing the partnerships. There were legal and financial elements which could be quite complex and as a Director he would be happier if the wording showed those elements specifically.

Councillor Clive McGregor stated that Officers were paid at the market rate for their experience and for their knowledge. If they were unable to do what was required and follow the procedures properly then a mistake had been made in appointing them. He strongly felt that these people must have the right to manage and if mistakes were made there was a disciplinary procedure and that would need to be used. If there were examples of work being done unnecessarily in the Finance Department or the Legal Section, what had happened about that? Members were accountable at the end of the day and he therefore recommended that the Officer should have the right to do the work and that should the Officer require Legal or Financial opinion, then the Officer had the authority to seek it. He would not compel anybody to do it, and if things went wrong those Officers knew where they stood.

Councillor E. Schofield stated that Heads of Departments must have the confidence of the Council and everybody that had been involved in employing them to get on with the job and at the end they would present their project for clearance regarding financial involvement or legal requirements.

Councillor E. G. Davies proposed that the last paragraph of the recommendation should end with the words -

*"project partner" and that the words "subject to approval by the Section 151 Officer and the Monitoring Officer, and to develop projects with appropriate overseas countries e.g. Ireland (on EU Interreg projects" etc." be deleted.*

Councillor C. McGregor seconded the proposal by Councillor E. G. Davies.

1

**RESOLVED to recommend to the County Council to revise the Constitution by changing to the delegated power of the Economic Development - Head of Service at 3.5.3.2.3 and inserting the following clause -**

**to submit applications for funding from European Union sources on behalf of all departments within the Council and ensure the most benefits to Anglesey therefrom and through all European Union and other external funding programme applications, to engage in joint project development either acting as a lead sponsor or project partner.**



only the second proposal, so you had in the first place the Head of Service autonomously able to submit applications, so that you finished that sentence with "external funding programme application". And then if you started a new sentence "and further to engage in joint project development" and that should be the subject of the approval of Legal and Section 151 on the basis that they were going to undertake a great deal of work to get these projects off the ground and if there were legal or financial impediments or risks to the Authority they needed to know about them before they did the work and not after, because by then it was too late. Even if the Council hadn't signed up it was still a huge waste of time and resources if there were issues that they needed to address during the course of that dialogue and negotiation.

Councillor E. Schofield in reply stated that the Officer was assuming that those Officers were not capable of making a decision whether they needed that advice.

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**to submit applications for funding from European Union sources on behalf of all departments within the Council and ensure the most benefits to Anglesey therefrom and through all European Union and other external funding programme applications, to engage in joint project development either acting as a lead sponsor or project partner.**

*(Councillor R. LI. Hughes and G. O. Parry, MBE wished it to be recorded that they had not voted on this matter).*

#### **(ch) PLANNING DEPARTURE NOTICES**

Reported by Councillor R.LI. Jones, Portfolio Holder - That at its meeting on 19 September, 2007 the Council resolved, amongst other things, to change the Constitution for a trial period of 12 months in relation to most planning applications that amounted to a departure from the development plan. The effect of the change was to remove the right of a local councillor to the Planning and Orders Committee, virtually all planning applications which amounted to a departure from the development plan.

The full Council resolved to review the situation in 12 months' time and this report fulfilled that requirement.

Tables produced within the report summarized the position on the receipt and determination of departure applications by the Planning Committee and Officers (under delegated powers) for the 12 months prior to the change in September 2007 as compared to the period since that change.

It would be unwise to read too much into the precise figures, as the circumstances of each case were not known and the overall sample was not large. However, there were three distinct trends revealed by the figures. These were that the number of departure applications made had fallen, that the number of departure applications reported to the Committee had fallen and that the number of departures granted permission had fallen.

**RESOLVED to recommend to the County Council that it makes the changes proposed to the Constitution in Appendix 2 of the 18 September 2007 report permanent.**

#### **10 LDP PRE-DEPOSIT CONSULTATION**

Reported - That the Council had a statutory duty to prepare the LDP. It was a key part of the Council's policy framework dealing with strategic land use issues. However, rapid progress was now required to restore confidence in the overall timetable and ensure the Council could progress the plan in a timely fashion. The Council would have a further opportunity between the 'pre deposit' and 'deposit' stages of preparing the plan to consider local detail having established a preferred strategy for the plan.

There had been significant slippage in the timetable that was set out in September 2006. This had now required the "Delivery Agreement" to be revisited and formal submissions made to the Welsh Assembly Government to revise the timetable etc.

The next stage of plan making required a six week period of public consultation on the "preferred strategy" and the setting of the strategic framework for the plan. Advice from WAG stressed the aim should be a document that focused on strategic guidance in a straightforward manner. The LDP should not repeat national guidance and background detail should be in the evidence base, not the main plan.

This required a new way of thinking about plan preparation. The LDP was not previous plans revisited but a new style of plan that could compliment the Wales Spatial Plan and the Island's Community strategy.

The next step was to publish the pre-deposit plan and complete the six week period of public consultation. To achieve this the necessary documents must come before the Executive and County Council by late October.

**RESOLVED that the six week period of pre deposit consultation on the LDP is organised at the earliest opportunity with a view to completing this stage before Christmas 2008.**

#### **11 COMPULSORY PURCHASE ORDER - FFORDD PENHESGYN**

2

Reported by the Head of Service (Highways & Transportation) - That the Penhesgyn Waste Transfer Station was located north of Menai Bridge and could be accessed from the B5420 to the west or the A5025 to the east, with the access roads from both directions being narrow and winding.

Whilst Penhesgyn used to be a landfill site for the County's waste it was now used as a Waste Transfer Station, as well as being an In-Vessel Composting Centre and Household Waste Recycling Centre.

It was proposed to widen the 620m long road from the B5420 to Penhesgyn, to a width of 7.3m with both verges having a minimum width of 1.0m.

Land purchase for the proposed scheme was required from three land owners. Land negotiations had been successful with one landowner and the required land had been purchased, but difficulties had been encountered with the other owners, although generous terms of compensation had been offered.

In order to purchase the necessary land for constructing the scheme, it appeared that the only means available now was to Compulsory Purchase this land.

#### **RESOLVED**

- **To agree to the implementation of a Compulsory Purchase Order for the remainder of the land required to construct the improved access road from the B5420 to the Penhesgyn Waste Transfer Station.**
- **To delegate authority to the Portfolio Holder, in consultation with the Heads of Services, the authority to take any further actions in connection with the implementation of this decision.**

#### **12 COMPULSORY PURCHASE ORDER - HOLYHEAD PROJECT**

The Corporate Director (Environment & Technical Services) reported that the item had been withdrawn since there was now an agreement between the County Council and Anglesey Aluminium Ltd. regarding the purchase of land. The total had been agreed and the Council would pay the Board's reasonable legal costs.

**RESOLVED to note that the item had been withdrawn.**

#### **13 BID FOR PERFORMANCE INCENTIVE GRANT - PERFORMANCE AND QUALITY MANAGER POST, LEISURE SERVICES**

Reported by the Head of Service (Leisure & Communities) - That included in the report of the Director of Finance to the Executive on 21st July, 2008, was a request by Leisure and Communities Services for the continuation of P.I.G funding for a further three years from June 2009 to May 2012 in order to support the 'secondment' of the Manager of Plas Arthur Leisure Centre to the post of Performance and Quality Management, in the Service.

## The Executive 08.09.2008

The Executive deferred a decision on this agenda item, requesting details of the impact and contribution of the Performance and Quality Management position to the Service.

Details of the primary functions of the post were included in the supporting evidence (attached matrix), indicating how facets of the post related to Council and National targets, and performance indicators.

The Performance Management Post was key to co-ordinating and delivering within the Service, and the post holder was now becoming accustomed to the Ffynnon Management System, which would allow his expertise to be shared across the Education & Leisure Department.

The post was paid on Salary Scale S.O. 1/2, and funding required from P.I.G. including on-costs (£34,932.14), travelling (£500), administration costs (£500) was £35,932.14.

Councillor Ieuan Williams informed members that this officer wrote Part 1 of the Leisure Strategy which was a main risk for this Authority. He requested that the report be submitted to the Executive as soon as possible in order to move ahead with its completion.

The Head of Service (Leisure & Community) in reply stated that the report would be presented to the Education Overview Committee on 7th October and thereafter to the Executive.

Councillor Ieuan Williams also referred to the fact that PIG grant involved monitoring and perhaps the emphasis needed to be changed from Improving Performance to the Monitoring of Performance. He enquired as to whether this could be done?

The Head of Service (Leisure & Community) in reply stated that this was possible since the officer in question did collect and present data.

Councillor Ieuan Williams stated that he would like to see improvements in the take-up of people attending Leisure Centres and that officers should look at other Councils to see how they promote health and the use of leisure centres.

Councillor E. Schofield looking from the Property aspect, stated that expenditure was required in respect of the Millbank facilities at Holyhead. There was a sum of approx £400k available from the fund set up to invite the Island Games to Anglesey and this sum could be used regarding the aspirations in the area. He requested a report to the Executive in this respect.

### RESOLVED

- To approve the bid for P.I.G. funding to continue the 'secondment' of the Manager of Plas Arthur Leisure Centre, for another 3 year term, to the post of Performance and Quality Management, in the Education & Leisure Department.
- That consideration should be given to placing more emphasis on improving monitoring and planning within the post job description.
- That officers be requested to report back to the Executive with regard to the unallocated funds set aside under the Leisure Improvement Reserve.

### 14 EXCLUSION OF THE PRESS AND PUBLIC

1

Resolved that under Section 100(A)(4) of the Local Government Act 1972 the press and public be excluded from the meeting during discussion on the following item

as it involved the likely disclosure of exempt information as defined in Paragraph 16 of Schedule 12A of the said Act.

## 15 GAERWEN WASTE MANAGEMENT DEPOT IMPROVEMENT WORKS

Reported by the Head of Service (Environmental Services) - That the Council's Waste Management Section had recognized for a long while that significant improvement works had been necessary at the Depot. In particular, there had been a need to allocate significant capital funds to provide a new reconstructed hard standing and surface water drainage system at the site.

Following a procurement process undertaken by the Waste Management Section, external architects were appointed to act as project managers for the Depot improvement works.

The project managers in consultation with the Waste Management Section and the current waste collection and cleansing contractor prepared detailed tender documents for the improvement works. The main features of the improvement works specification included:

- A new reconstructed hard standing for the whole of the Depot site;
- A new surface water drainage system;
- A new car parking area;
- Refurbishment of offices, mess facilities and toilets.

In July 2008, four tenders were received for the improvement works and were detailed at Paragraph 3.3 of the report.

Following a detailed evaluation using price and quality scoring factors, it was recommended that the contract for the Depot improvements should be awarded to Company A, who had submitted the lowest tendered price.

With the Executive's approval of the proposal, the improvement works were expected to commence in September/October 2008 and continue for a period of approximately 6 months.

The potential spend on this project was estimated to be £514k.

However, following discussions with the electricity provider regarding the electrical connection at the Depot, there may be a need to allocate a further £40k to construct a new substation as part of the improvement works. Such an undertaking would require around a further £5k in fees, resulting in a potential overall expenditure of £559k for the whole improvement works.

The Council had allocated significant capital funding over recent years to specifically target waste related issues. The Corporate Director (Finance) advised that £300k was identified as an indicative amount for this project and added to the waste obligations contingency. This 'Waste Obligations' capital funding currently stood at around £1.4m. It was therefore proposed that the required expenditure on the Depot improvements works be funded from this 'Waste Obligations' capital source. Allocation of the larger sum may mean that there was less funding available for key waste projects. However, some of the projects identified as priority need had now become less of a priority and the proposal would not have an adverse effect on the programme in the short term.

**RESOLVED** to approve the allocation of up to £559k from the Council's Waste Obligations capital budget, in order to fund improvement works at Gaerwen Waste Management Depot.

The Executive 08.09.2008

The meeting concluded at 4:25p.m.

COUNCILLOR R. G. PARRY, OBE  
CHAIRPERSON