

**FINANCE & AUDIT SCRUTINY PANEL  
29 JANUARY 2009**

*Present :-* Councillor Sue Lissimore (Chairman)  
Councillors John Bouckley, Martin Goss, Dave Harris,  
Jackie Maclean, Nigel Offen, Gerard Oxford and  
Laura Sykes

*Also in Attendance :-* Margaret Kimberley  
Nigel Chapman  
Paul Smith  
Tim Young

*Substitute Members :-* Councillor Wyn Foster for Councillor Kevin Bentley  
Councillor Mike Hogg for Councillor Jon Manning  
Councillor Andrew Ellis for Councillor Dennis Willetts

**Tim Young (in respect of his current appointment (as a Council nominee) to the Board of Colchester Borough Homes and being a former Chairman of the Board) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Nigel Chapman (in respect of his current appointment (as a Council nominee) to the Board of Colchester Borough Homes and being the current Vice Chairman of the Board) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Dave Harris (in respect of his current appointment as a Council nominee to the Board of Colchester Borough Homes) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Margaret Kimberley and Paul Smith (in respect of their current appointments (as a Council nominee) to the Board of Colchester Borough Homes) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Wyn Foster and Councillor Sue Lissimore (in respect of their former appointments as Council nominees to the Board of Colchester Borough Homes) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

#### **54. Review of the Responsive Repairs and Decent Homes Contract**

Mr. Peter Nourse, Topmarks Consultants, Mr. Adrian Pritchard, Chief Executive, Colchester Borough Council, Ms. Alison Inman, Chairman of Colchester Borough Homes, Mr. Greg Falvey, Chief Executive, Colchester Borough Homes, Councillor Beverley Oxford, Portfolio Holder for Neighbourhoods, Mr. Ian Vipond, Executive Director, Colchester Borough Council, Mr. Matthew Young, Head of Street Services, Ms. Lindsay Barker, Head of Strategic Policy and Regeneration, Councillor Tim Young,

Former Chairman and current member of Colchester Borough Homes, Councillors Chapman and Kimberley, former Portfolio Holders for Neighbourhoods and current members of Colchester Borough Homes, and Councillor Smith, current member of Colchester Borough Homes all attended the meeting for this item.

### **Have Your Say**

Mr. Patrick Duggan, a resident from St. Andrews Ward, addressed the panel saying he was initially in favour of the Alms Length Management Organisation (ALMO) at its inception, but soon began to have major concerns about the organisation, believing that there was a clear conflict of interest for those tenants and leaseholders of the Colchester Borough Homes Board. Mr. Duggan did not think these board members could act in the best interests of all tenants.

Mr. Duggan concluded by saying that given all the meetings that took place over many years to resolve issues with the contracts he could not comprehend that the cost of this contract could overrun to the extent that it had.

Mr Day, a resident from the Dutch Quarter, addressed the panel saying that in 2004 a surveyor and window company representative came to his home to survey the property with a view to bringing it up to a decent home standard, and was advised the work would commence in February of that year. Nothing happened, and he was told the paperwork had been lost. Mr. Day said his property was surveyed a further two times, and in this time spoke to various officers who advised him that his property was also in need of external decoration. At the time that a new boiler was installed into his property, Mr. Day said the contractor damaged his bath and this was not replaced. Mr. Day concluded by asking how far done the line were we in completing the Decent Homes Programme.

Mr. Watson, a Colchester resident, addressed the panel saying that he believed that Colchester Borough Homes and Councillors were to blame for the mess we are in now. Mr. Watson was angry at the amount of money that was thrown at properties in the St Anne's and St Andrew's Wards whereas it now appeared that tenants would have to do with a reduction in the level of work to be undertaken at each property, having been told by the former Chief Executive of Colchester Borough Homes that extra finances would be made available and tenants would receive new kitchens. Mr. Watson concluded by saying he and other tenants had been let down by Colchester Borough Homes.

Mr Wright, a Colchester resident, addressed the panel, asking for a response to the following questions. As a result of the partnership contract problems: Has the internal systems and controls being strengthened? Do the current members of the Board of Colchester Borough Homes have a better understanding of the organisations finances? Will Colchester Borough Council suffer as a result of the additional funding required to complete the Decent Homes Programme? Will the Council incur financial penalties if the Decent Homes Programme is not completed within the prescribed time scales?

### **Review of the Responsive Repairs and Decent Homes Contract**

The report on the Responsive Repairs and Decent Homes Contract was presented to the panel by Mr. Nourse.

In response to Councillor Hogg, Mr. Nourse said a list of names who attended the Wivenhoe Away Day in January 2006 would be given to members of the panel.

Mr. Nourse, in response to Councillor Offen, said he believed that the benefits of a partnership working contract was it gave more scope for innovation and new approaches, giving the introduction of hand held terminals as an example of innovation. Mr. Nourse confirmed that the Strategic Partnership Group (SPG), represented by all three partners dealt with all strategic partnership issues, whereas the Core Operational Group (COG) dealt with day to day detail.

Mr. Nourse confirmed that the responsibility for developing financial controls and systems was a joint project between all three partners.

Mr. Nourse confirmed to Councillor Oxford that the level of work, that is the number of components used, not the standard of the work undertaken, was reduced once it became apparent that rural properties would require greater finance than was originally anticipated, thereby reducing the level of funding available for the outstanding properties. Mr. Nourse also confirmed that what transpired following the appointment of the Service Manager in 2006 confirmed the need for this post from the outset of the contract.

In response to Councillor Harris, Mr. Nourse said a lot of lessons had been learnt during the whole period of the contract, and as stated in paragraph 8 of his report. In terms of the issues and problems that occurred, Colchester is not unique in their experiences, and whilst there was pressures to obtain a 2 star rating and with this the Government funding, this goal needed to be complimented by the things listed in paragraph 8.

Mr. Judd, Scrutiny Officer confirmed to Councillor Goss that no minutes were recorded of the Wivenhoe Away Day, though there was a bullet point summary of the work undertaken at this event, that would be made available to the members of the panel. Later on in the proceedings, Mr. Pritchard explained that the Wivenhoe Away Day was a working meeting attended by senior officers and representatives from Colchester Borough Council, Colchester Borough Homes and Inspace. It was later on during the event that the Portfolio for Housing, and the Chief Executives of Colchester Borough Council and Colchester Borough Council and the Chair of Colchester Borough Homes attended to hear a summary of the developments of the day, and the controls agreed to be implemented, that included the appointment of a Service Manager.

Mr. Nourse confirmed to Councillors Offen and Lissimore that he had been provided with a comprehensive minute of Colchester Borough Home's public meetings that he had requested.

In response to Councillor Ellis, Mr. Nourse said that whilst all three partners knew their roles and responsibilities, it was not until following the Wivenhoe Away Day did these become firmly imbedded, and the lessons learnt from Wivenhoe should have been

sorted out earlier in the contract. Officers from all three partners should have been provided with the appropriate training at the outset of the contract, with appropriate ongoing training thereafter.

The Chairman thanked Mr. Nourse for attending the meeting and addressing the panel.

Ms. Alison Inman, Chairman of Colchester Borough Homes, Mr. Greg Falvey, Chief Executive of Colchester Borough Homes and Councillor Tim Young, Former Chairman of Colchester Borough Homes addressed the panel.

Ms. Inman, a member of Colchester Borough Homes since 2007 and Chairman of Colchester Borough Homes since October 2008 spoke about the governance arrangements at Colchester Borough Homes, saying the Board of Colchester Borough Homes was made up of fifteen members, including six Colchester Borough Council Councillors, with sub committees such as the Finance and Audit Sub Committee that provide the scrutiny. Ms. Inman confirmed that all meetings are fully minuted.

Ms. Inman spoke about the complexity of the partnership arrangements, though this type of contract arrangement had gained industry wide recognition, including the Audit Commission and the Confederation of British Industry (CBI).

Mr. Greg Falvey addressed the panel explaining that he believed the report by Mr. Peter Nourse on the partnership arrangements is the clearest report to date, with the recommendations agreed upon. Mr. Falvey said he commenced work at Colchester Borough Homes in 2007 with the situation regarding the partnership being uncomfortable from the outset of his employment, though he believed matters were at this time being dealt with robustly by both the Colchester Borough Homes Team and the Colchester Borough Council Team working together.

Councillor Young addressed the panel, firstly stating that the Former Chief Executive of Colchester Borough Homes was unavailable to attend this meeting due to genuine reasons. Councillor Young believed the establishment of Colchester Borough Homes was one of the greatest achievements of Colchester Borough Council since that time, explaining that prior to the commencement of the Decent Homes Programme, housing repairs and refurbishment was in a total mess, but now totally transformed. Councillor Young praised the report of Mr. Nourse for great clarity.

Councillor Young said all members of the board of Colchester Borough Homes served Colchester very well and he believed there was no conflict of interest having Colchester tenants as board members, believing they have Colchester at heart. Councillor Young believed that the Audit Commission's two star assessment of Colchester, coupled with the possibility of improvement, proved that Colchester's ALMO was one of the best in the country.

Councillor Young confirmed that St. Andrew's Ward was the fifth ward to have the Decent Homes Programme undertaken, and he and Ms. Inman later in the proceedings, confirmed that the standard of materials used in the decent homes upgrades had not lowered, though what had changed were the number of components being replaced in each property.

In response to Councillor Maclean, Mr. Falvey said the decent homes contract was jointly managed by the three partners with the Strategic Partnering Group (SPG) having overall strategic control, though the partnership had deteriorated over a period of four years leading to the Wivenhoe Away Day. The SPG was represented by officers and members of Colchester Borough Council and Colchester Borough Homes and officers from Inspace. Councillor Young said the minutes of meetings of the SPG were fed back to the board of Colchester Borough Homes. Mr. Falvey confirmed to Councillor Foster that the three partners of the SPG had equal voting rights, though in respect of importance, the Council was the client, Colchester Borough Homes was the agent and Inspace was the contractor.

In response to Councillor Lissimore's comment that she, as a board member in 2006-2007 believed that board members were kept in the dark over what was happening, Ms. Inman felt it was believed that members had the necessary experience needed to understand what was happening and what was being done to manage the situation. Councillor Goss said it was for members to question and challenge, and therefore know what was happening.

Councillor Lissimore said questions were asked, but she doubted the accuracy of information given to members in response. Given Ms. Inman's belief that this would not of been the case, Councillor Lissimore said she would be prepared to discuss this further outside the meeting.

Mr. Falvey, in response to Councillor Offen said he considered, given the huge size of this construction contract that the partnering ethos from the outset was laudable, and this type of contract was being pushed in the public sector by the Audit Commission. Councillor Young concurred with Mr. Falvey, adding that it was generally considered that difficulties with the contract began to surface when the building contractor moved from a private company to a public limited company. Councillor Young also believed the SPG was an open and transparent process and did not hide things from the Colchester Borough Homes board.

Mr. Falvey confirmed to Councillor Offen there had been control problems with the Gas Service contract which had led to punitive action.

In response to Councillor's Ellis and Harris, Councillor Young said that the inclusion of a 'break-clause' within this type of contract was now recognised as important, though it should also be recognised that other large dual partnering contracts e.g. the provision of the Council's IT Services, with commitment from all partners, did work well.

Ms. Inman confirmed to Councillor Harris that having the Asset Management function devolved from Colchester Borough Council to Inspace was in retrospect, probably a mistake, though this function did now fall under the management of Colchester Borough Homes.

Ms. Inman said she regretted that the decent home programme had not yet been completed, but knew every effort was being made by officers to ensure the future upgrade of homes in rural wards would be done as soon as was possible.

Responding to Councillor Goss, Councillor Young said all contracts have the potential to fail, though he believed the decent homes contract did not fail totally, confirming that to date, 5,000 properties had been brought up to the decent homes standard. Councillor Young also confirmed that he believed the morale of staff within Colchester Borough Homes was always a concern to himself and executive officers, though he believed from memory that morale remained good, with sickness levels within the organisation, a good measure of morale, and these were lower than the Council's during the height of the contractual dispute(s). Ms. Inman said the situation for all staff leading up to the contract drawing to an end was difficult for all three partner organisations, but confirmed the atmosphere was now changing, and with teams now working together improvements to working conditions was evident.

In response to Councillor Lissimore, Mr. Falvey said there was inevitable concern at executive level for the morale of staff at Colchester Borough Homes, anecdotally considered good at the outset of the contract, and it was understandable that staff sickness was discussed by a sub committee of Colchester Borough Homes during the course of the contract. Mr. Falvey said that staff now had a sense of liberation since moving on in 2008.

Ms. Inman said she was confident for the future, with the responsive repair service ongoing and costs being driven down. The remaining Decent Homes programme would be delivered by the Council and she hoped that Colchester Borough Homes would have the opportunity to manage this on the Council's behalf, and sincerely hoped there would not be a recurrence of previous events.

Mr. Falvey thanked the panel for the evening's open dialogue, and expressed his gratitude to officers at the Council and Colchester Borough Homes for their efforts in difficult times. Staff had been critical but honest of each other, and with jointly owned aspirations, the dialogue between the partners was now positive and very good. Mr. Falvey also paid tribute to the former Portfolio Holders for Neighbourhoods for their work during the difficult times.

Mr. Adrian Pritchard, Chief Executive, Colchester Borough Council, Mr. Ian Vipond, Executive Director, Colchester Borough Council and Mr. Matthew Young, Head of Street Services, Colchester Borough Council addressed the panel.

Mr. Pritchard explained that he began his employment with Colchester Borough Council as Executive Director and one of his first tasks was that of lead director with responsibility for negotiating the contract with Inspace and setting up the ALMO. Mr. Pritchard said the outset of the commencement of this contract was at a time when the Council was experiencing difficulty in employing the adequate number of qualified and skilled building trade staff, there was no repair service in terms of bookings and tradesman were only completing between one to five jobs per day. The contract was a three partner contract that would provide a responsive housing repair service and an upgrade to council homes to a decent standard, though the Council had the ultimate responsibility given that the properties were the Council's properties and the tenants were the Council's tenants. It was explained that the Council was encouraged to go down the 'partnership' route, with the Council already engaging in a number of similar and successful contracts. Anthony Collins Solicitors are leaders in the field for this

type of contract and it was fitting that their lawyers were tasked with setting up the legal agreement.

Mr. Pritchard explained that the legal agreement required the Council to have the partnership agreement with the contractor, with Colchester Borough Homes acting as the managing agent. Colchester Borough Homes were unable to enter into the partnership agreement, as should they have defaulted, they would have had no assets for the contractor to claim against.

In regards to the working of the contract, Mr. Pritchard said the initial contract was negotiated with the private company Willmott Dixon, an excellent contract, with no major issues in the first two years of the contract. Auditors stated in 2005 that there were serious financial control issues that were addressed in 2006 and given an audit assurance. Willmott Dixon performed very well in the first two years of the contract, but when this company was floated as a public limited company with shareholders the culture of the organisation changed. It was no longer a family owned company but one needing to satisfy shareholders. From 2005-06 onwards the Council started to experience real problems with a major breakdown in partner relationships in the final two years of the contract.

In response to Councillor Lissimore, Mr. Pritchard said that whilst in legal terms the Chief Executive of Colchester Borough Homes was the Service Manager, and from the outset of the contract a part time person was employed to carry out this function, the Council was aware that this was not an adequate situation acknowledging that at some stage a separate full time Service Manager would be needed.

Mr. Ian Vipond explained that he was appointed Head of Housing in June 2005, at which time a lot of work was being undertaken to try to address the teething problems that had come from the first years of the contract, and that it was the Strategic Partnering Group that had made the decision to organise the partnership development day at Wivenhoe.

Mr. Pritchard responded to Councillor Ellis by saying that with lessons learnt, in hindsight, it would have been prudent to include a break clause in the contract, and the Council now includes break clauses in a number of their contracts. Mr. Vipond said the contract was a good contract that allowed for a number of mechanisms if performance was not achieved e.g. in terms of how sums of money were paid, though the contract was not looked at until issues began to surface. The intention was for the contract to provide savings that would enable the Council to provide further funding to the partnership arrangement. Difficulties emerged when it became apparent that probably all the properties rather than the original survey estimate of sixty percent of properties would need to be upgraded to a decency standard and it became clear there was insufficient funding for this.

In response to Councillor Oxford, Mr. Pritchard explained that whilst the auditors had raised issues concerning significant financial control weaknesses in 2005 at the time that the contract partner was Willmott Dixon, it was not believed that these issues were at a level that threatened the Decent Homes Programme. Mr Pritchard confirmed to Councillor Goss that one of the benefits of the partnership contract was to rid ourselves

of a mountain of client functions, with the Audit Commission recommending this type of contract on the basis of why spend money on client functions that could be used to contribute to the financing of the contract.

Mr. Vipond explained to Councillor Goss that it was the responsibility of Colchester Borough Homes to communicate to tenants, and that they had a good record of keeping tenants informed. Mr. Young confirmed that tenants had received letters from Colchester Borough Homes at various stages within the process, to inform them of outstanding works.

Mr. Pritchard said he was sorry that there are tenants still waiting for their homes to be upgraded to the decency standard. The Council was committed to completing the Decent Homes Programme as soon as possible and officers are looking at ways to try and achieve this aim.

Mr. Pritchard agreed to the resolution that would propose that future contracts would identify the Service Manager's responsibilities that would ensure contract controls and systems are properly managed on a regular basis. Mr. Pritchard also agreed to a proposal to Cabinet that an annual independent external audit of partnership systems and controls of all 'significant' contracts should be undertaken and reported to the Finance and Audit Scrutiny Panel.

Councillors Margaret Kimberley and Nigel Chapman, former Portfolio Holders for Neighbourhoods, and Councillor Beverley Oxford, the current Portfolio Holder for Neighbourhoods addressed the panel.

Councillor Kimberley paid tribute to Mr. Nourse's report which she believed clarified the whole situation extremely well. Councillor Kimberley, Portfolio Holder from May 2006 to May 2008, right in the thick of the difficult times expressed by others during these discussions, and despite the difficulties, believed that a culture of trust within the partnership was espoused. During the troubled times the concentration on inspection took up a lot of time with a lot of management energy sidetracked to the inspection process.

Councillor Chapman, Portfolio Holder for Neighbourhoods from May 2004 to May 2006, offered support to the evening's review and thanked those that attended for their contributions. Councillor Chapman said he believed that a lot of changes to personnel in senior positions during the life of the contract contributed to a lack of continuity. Whilst accepting that staff do move on, he believed too many staff moved too quickly. Councillor Chapman said it was too easy in hindsight to criticise, and things could and did go wrong, but the lack of continuity did not help the situation. Councillor Chapman said that as a ward Councillor for a rural ward, in general, rural Council homes are older than those within the urban wards, and by virtue of age required more work to bring up to a decency standard. He therefore felt it was a grave misjudgement of this part of the Decent Homes contract that suggested otherwise.

Councillor B Oxford, Portfolio Holder for Neighbourhoods said she wished to apologise to those residents of Colchester who had through the Decent Homes process been ill treated, saying there was now a need for both the Council and Colchester Borough



Homes to rebuild confidence to these tenants. Councillor Oxford said there was now a need to move forward and every effort would be made to restart the Decent Homes Programme, concurring with the need for greater financial controls and systems, and regular monitoring with penalty clauses.

Councillor Smith, Portfolio for Business and Resources addressed the panel saying he was disappointed as he felt there were still some questions that remained unanswered, issues like the cost of decency upgrades to rural homes which had been raised over a long period of time. Councillor Smith was disappointed that issues previously raised by the Financial and Audit Scrutiny Panel were not included in the agenda papers in the form of minutes from these meetings, and suggested that some of the questions raised by Councillor Lissimore could be answered through access to confidential minutes of the Colchester Borough Homes Board meetings.

Mr. Pritchard in response to Councillor Smith said if any members felt there were significant questions that they still required an answer to, to direct these to the Executive Director, Mr. Ian Vipond or the Chief Executive of Colchester Borough Homes to consider and respond appropriately.

*RESOLVED* that the Panel;

- i) Considered and noted the report on the management of the Responsive Repairs and Decent Homes Contract.
- ii) Requested the following information;
  - A list of names who attended the 'Wivenhoe' event in January 2006.
  - Bullet point summary of the work undertaken at the 'Wivenhoe' event.
  - The cost of the 'Wivenhoe' event.
- iii) Endorsed the 'lessons learnt' as identified in paragraph 8 of the report and recommended these to Cabinet for consideration and implementation, in respect of significant contracts of this type.
- iv) Proposed to Cabinet that future contracts would identify the Service Manager's responsibilities and that in turn would ensure contract controls and systems are properly managed on a regular basis.
- v) Proposed to Cabinet that an annual independent external audit of partnership systems and controls of all 'significant' contracts should be undertaken and reported to the Finance and Audit Scrutiny Panel.