

6.6 Agenda F and GP 9 July 2019

Wardens Service - Contractual arrangements.

NB Recommended decision is at the foot

Three parish councils – Steyning, Upper Beeding and Bramber jointly pay HDC to provide the wardens' service.

The councils pay in proportion to their respective populations.

HDC manages the wardens

A joint committee of the three parishes gives strategic direction to the service

The arrangements necessitate

1 A contract between the three council and HDC re provision of the service in return for payment

2 A memorandum of understanding between the three councils concerning their obligations and rights among each other

The arrangement runs on a three-yearly cycle.

The last arrangement expired on 31 March 2019. New arrangements should have been put in place long before then by the old council. This is worth emphasising as Cllr Northam with his online postings and Cllr Lloyd with his comments at last full council are implying that the uncertainty felt by the wardens is because of unnecessary delays by the new council.

The fact is that on 8th May we inherited draft documents which were very inadequate

The most obvious was that the HDC contract ran for three years and the MOU for only one when they clearly need to be for the same term.

Also there was a very adequate definition of what we would be getting in return for our payments, including no KPIs.

The termination provisions were inadequate and inconsistent

There were inconsistent provisions about the management and answerability of the wardens.

Provisions purporting to be binding on HDC were in the MOU to which it is not a party.

This all became apparent on 24 May when Rod and I were invited to a meeting of the two other councils and Greg Charman of HDC when we were handed a new version of the MoU by Upper Beeding and HDC indicated that they were still working on key performance indicators and on indemnity provisions.

That meeting ended with broad agreement of what needed to be amended and completed. And an indication was given in principle to Greg to enable him to give comfort to the wardens that the new agreement would be backdated to 1 April.

For reasons unknown SPC was not shown the documents amended by Bramber (I think) which the other two councils then adopted.

The main amendment concerning the termination provisions was incorrectly drafted and so ineffective and therefore would have been unacceptable to SPC.

There was also an indemnity provision which did not bother me but which Bamber and UBPC were concerned about and which HDC therefore needed to work on.

Other problems with the drafts had been overlooked; principally the provisions in the MoU which were directed at HDC when it is not a party.

To quote Greg Charman on 14 June:-

"I have gone over the document again and considered Cllr Campbell's observations, none of which cause a problem. I therefore attach the latest version with the changes applied along with wording added to the appendices where appropriate. Since our meeting, I have continued to hold a dialogue with our legal team about the indemnity section which I hope to hear back about next week. For this reason the section remains highlighted as it has not yet been changed. As soon as I hear back I will share with you any suggested revisions....."

"...KPI's – I will need agreement from all 3 PC's that you are happy with these suggested KPI's or indeed any changes you wish to make before incorporating as Appendix 4 to the agreement please...."

"...My thanks to Cllr Campbell as the points made a valid and should clear up any grey areas....."

The final version of the HDC contract came in on 2 July following HDC sorting out the indemnity provision.

That is part of our briefing papers and I recommend acceptance conditional on the one outstanding point (which hopefully we may hear about before the meeting) – we want up to two representatives on the steering committee from each council. Only one vote per council but achieves greater continuity and expertise if there can be up to two.

KPIs (appendix to HDC Contract) as indicated by Greg, all three councils need to agree them. We have indicated that we will be recommending them to SPC. For reasons unknown, we have not heard from the other councils that they are happy with the KPI's (see below)

The final version of the MOU is also in the briefing papers and is also recommended for acceptance. For reasons not understood the other two councils have declined to meet again with us and Greg. Their clerks have also declined to say that they will be recommending this version to their members for acceptance. Accordingly, there is some difficulty as obviously all four parties have to be signing up to the same two documents including the appendices.

I recommend that our decision is that :-

We recommend full Council to authorise SPC's clerk to sign and release the two agreements in accordance with the latest draft versions - provided that if any party declines to accept them as drafted then further negotiations will be required. Meanwhile, the Clerk to give assurance to the wardens that we have been using our best endeavours to bring matters to completion and that our aim continues to be to conclude the agreements as soon as possible and that they will be backdated to 1 April.