

Development Committee

Tuesday, 3rd February, 2009

SPECIAL MEETING OF DEVELOPMENT COMMITTEE

Members present: Councillor M. Browne (Chairman); and
Councillors Attwood, Campbell, Convery, B. Kelly,
McCarthy and Rodgers.

In attendance: Ms. M. T. McGivern, Director of Development;
Mr. C. Quigley, Director of Legal Services;
Mr. J. Nelson, Community Services
Area Manager (East); and
Mr. N. Malcolm, Committee Administrator.

Apology

An apology for inability to attend was reported from Councillor Ekin.

Rape Crisis and Sexual Abuse Centre

The Committee was reminded that the Council, at its meeting on 5th January, had referred back to the Committee its minute of 10th December in relation to a request for funding which had been received from the Rape Crisis and Sexual Abuse Centre. The Committee was reminded further that, on 14th January, it had deferred consideration of the matter to enable a special meeting to be held to which representatives of the organisation would be invited.

The Committee considered the undernoted report:

“Relevant Background Information

At its November meeting, Committee considered a request from the Rape Crisis and Sexual Abuse Centre (RCSAC) to extend BCC financial support agreed in 2006 in response to their ‘extenuating circumstances’. The support, which was time limited, was agreed as £14,600 per annum in each of the financial years 2006/07 and 2007/08.

Committee agreed to defer consideration of the matter to enable legal and other advice to be obtained with a view to the matter being considered further at a special meeting of the Committee.

The information requested was considered by committee at its December meeting and took the form of:

- **Details of officer support provided to allow the RCSAC both time and technical assistance to address the concerns raised by the Department of Health in order that they might re apply for departmental funding. (See Appendix 1)**

- Legal advice in relation to the ability of Council to provide financial or other assistance to the Rape Crisis and Sexual Abuse Centre under the following two headings:
 1. Can the Council provide financial support to an organisation in a situation where its latest audited accounts demonstrate that its current liabilities significantly exceed its total assets?
 2. Can the Council alternatively offer technical support to the group for the purpose of enabling its books to be audited for the last financial year in order that Council and other potential funders will then be able to make a proper assessment of its actual financial position?

The Director of Legal Services joined the meeting for the item and a summary of his advice is attached as Appendix 2.

Key Issues

In further consideration of the request for additional funding from the RCSAC Committee considered the contributing issues:

- RCSAC do not meet the eligibility criteria for Community Service large grant provision;
- the BCC support package agreed reflected a time-limited response to specific circumstances and included exit funding and officer support in the form of technical support to address concerns raised by their core funder, the Department of Health;
- the lack of available up to date audited accounts and information indicating that current liabilities exceed total assets.

Committee indicated a willingness to assist the organisation to address its financial difficulties and agreed to offer the following support:

1. to provide assistance, either by way of the appointment of an external auditor or by the provision of in-house expertise up to a value of £6,000, to the Rape Crisis and Sexual Abuse Centre to enable its accounts for the year 2007/2008 to be audited, subject to the organisation formally agreeing to work with the Council in the preparation of a Recovery Plan for the Centre and to the Centre agreeing to become affiliated to Advice Northern Ireland or Citizens Advice; and

2. should the organisation agree to these conditions, a report be submitted to the Committee at its meeting in April, 2009 on the outcome of the audit of the accounts and the Recovery Plan for the Centre, at which time the Committee will re-consider the request for further financial assistance.

Community Services Officers met with representatives from RCSAC to outline the offer. In the interim, the group have benefited from a substantial financial donation. They have also agreed a number of proactive steps which includes the establishment of a specific fundraising committee and the engagement of independent financial accountants to audit their accounts. These will be presented when available.

In response, Committee agreed to invite a presentation from the RCSAC at this special meeting.

Resource Implications

Financial

No provision has been made for financial support within the 2008/09 budget or the 2009/10 revenue estimates.

Recommendations

Committee are asked to consider information presented by RCSAC in support of their request for financial assistance.

Documents Attached

- Appendix 1 – Details of Officer Support
- Appendix 2 – Legal Advice

Abbreviations

RCSAC – Rape Crisis and Sexual Abuse Centre

Appendix 1

Details of officer support to Rape Crisis Centre

This support was given in order to allow the RC&SAC both time and technical assistance to address the concerns raised by the Department of Health in order that they might re apply for departmental funding.

1. Officer support and access to dedicated training to address the specific financial and administrative systems deficiencies – this was through Community and Leisure finance section. RC&SAC failed to accept this indicating they felt that Council systems and financial procedures were not appropriate to their needs
2. In response to the above, RC&SAC were invited to identify an alternative source who could deliver training of a nature appropriate to their needs. BCC could then confirm the proposed training's suitability and pay for it through the requisition system.
3. RC&SAC did not identify an alternative provider. The officer therefore indicated that an appropriate amount from the £14,600.00 per annum allocation could be used towards securing relevant, financial and administrative training for the group.
4. Prior to the financial award of 2006/07, Community Development Officer support was given to address basic financial systems such as petty cash procedures, production of income and expenditure records, funding applications and organising Annual General Meetings
5. Community Services has maintained ongoing officer contact with the group, particularly around monitoring throughout the 06/07 and 07/08 financial periods. Contact was focused on the need to meet monitoring requirements, to collect information and to advise the group on how to implement improvements.
6. To assist the group to submit information in relation to the current request, unlimited access to named Community Development Worker support was offered for a period of 3 weeks i.e. 24 September to 17 October 2008

Appendix 2

Legal Advice

The Director of Legal Services provided advice to inform the original decision taken by the Community & Leisure Sub-Committee at a meeting on 17 October 2006 in consideration of the general issue of funding to the Rape Crisis and Sexual Abuse Centre. The advice was as follows:

'where a funding application falls outside the criteria established for the relevant grant scheme then Council should normally apply the general principle that the Council as a

public body in operating grant schemes must act and be seen to be acting in a manner which is objective, transparent and fair. There may however be circumstances where an application for funding is made to Council which does not fall within the criteria of any grant scheme, but which the Council might wish to support on the basis that there are special or exceptional circumstances which would justify doing so.

Accordingly, Council does have a discretion to consider applications of such a nature, but the Members must exercise particular care in coming to their decision. Prior to taking any decision, the Members should have regard to all relevant matters, including in particular the following:

1. The advice of the officers, particularly advice in relation to any adverse effects that an agreement to award funding might have on the ability of the relevant Department to operate their grant programmes in a stable and fair manner;
2. The issue of whether a decision to award funding might create a precedent for other applications which would result in the Council being placed in a difficult situation at a future date;
3. Whether any other organisation is likely to be able to plead special circumstances of the same general nature; and
4. Any other issues which might be relevant in the particular circumstances.

It is a matter for the Members to come to an informed decision, having taken all the foregoing matters into account. If the Members feel that there are exceptional or unique circumstances relating to the funding application and that the merits of agreeing to the application outweigh any potential negative difficulties, the Members have discretion to make that decision'.

At the November 2008 meeting, the Development Committee asked for further legal advice in relation to the ability of Council to provide financial or other assistance to the Rape Crisis and Sexual Abuse Centre under the following two headings:

- Can the Council provide financial support to an organisation in a situation where its latest audited accounts demonstrate that its current liabilities significantly exceed its total assets?

- Can the Council alternatively offer technical support to the group for the purpose of enabling its books to be audited for the last financial year in order that Council and other potential funders will then be able to make a proper assessment of its actual financial position?

The Director of Legal Service has indicated the previous advice holds and:

'it therefore follows that the Council has the power as a general principle to provide funding to the Rape Crisis and Sexual Abuse Centre provided that Members have taken into account the above listed criteria. Furthermore Legal Services have advised that the vires for the Council being able to make the grant to this group derives from the provisions of S.108 of the Local Government Act (NI) 1972.

On the specific issue of whether the Council can provide funding to an organisation which appears to be in a position of insolvency, officer and legal advice would be that it would not be appropriate for the Council to put any more funding into that organisation. The rationale for that position would be that the provision of further funding to the organisation is like to be abortive in terms of achieving the Council's objectives. This advice would reflect the legal position which is clearly established by case law. Thus in relation to whether or not the Council can provide funding to this organisation in the context of its current financial position, Members should consider whether there is a realistic likelihood that the funding will assist the Council to achieve its particular objective ie the public's access to a professional counselling agency for victims of rape and sexual abuse. From the information available legal advice suggests that it would be difficult to make a further award of funding similar to that of October 2006. There may be an argument to provide a reduced amount of funding if there is a realistic prospect that financial assistance would assist with financial stability allowing the organisation to seek other funding.

In summary, there is presently no sustainable basis for the Council to accede to the Centre's request for advice funding in the amount applied for. Nevertheless if Members reasonably feel there to be a valid business case for doing so then Committee may consider recommending some limited form of assistance to the Centre subject to there being a realistic prospect that the outcome of that assistance will be a meaningful enhancement of the Centre's current difficult position."

The Community Services Area Manager indicated that he had been informed by the Centre that it had received a number of donations which had enabled it to proceed to have its accounts audited without the need of a contribution from the Council. The organisation was also prepared to work with the Council to enable a Recovery Plan for the Centre to be prepared and had requested that an officer from the Community Services Section assist with this process.

Ms. Tina Calder and Ms. Pearl Gray from the Rape Crisis Centre were admitted to the meeting and welcomed by the Chairman.

The Chairman informed the deputation that all the Political Parties in the Council were supportive of the work undertaken by the Centre and explained that the Committee was keen to receive an updated report regarding the organisation's current situation, particularly with regard to its finances and accounts.

Ms. Calder circulated papers to the Committee which provided information on the Centre's financial position, a statement of affairs provided by its auditors and details of forthcoming fundraising events. She informed the Committee that, following the broadcasting of a television programme regarding the work of the Centre, a considerable number of donations had been received. This had resulted in the organisation's debt being reduced to a manageable level. In addition, the group had reached an agreement with its landlord whereby its rent would be paid at the end of each financial year, which meant that the rent for the period 2008/2009 would be due shortly. An arrangement had also been reached with Inland Revenue regarding outstanding monies which it was owed and all the staff had been paid any salary outstanding.

Ms. Calder indicated that the statement of affairs provided by the Centre's accountant indicated that there was a shortfall in the organisation's accounts of £12,177. This amount included the costs of the rent for the building occupied by the Rape Crisis Centre for the period 2008/2009 and the organisation intended to use the £14,600 which it had requested from the Council to meet this expenditure. In addition, the Centre would request the Council to provide a similar amount in the 2009/2010 financial year to be used to pay the rent in that year.

She informed the Committee that, in December, 2008 the Centre had come to the realisation that if the administration and fundraising of the group, which had been the cause of its recent problems, were to be looked after by a separate organisation it would be able to concentrate solely on providing counselling to rape victims. Accordingly, the Administration and Funding Rape Crisis Trust had been established to manage the Centre and to obtain funding for it. The Trust was in the process of inviting representatives from political, business, voluntary and community sectors with experience in fundraising or administration to join its Board. In addition, the Trust was in the process of seeking Charitable Status and the Rape Crisis Centre had submitted an application to become a member of Advice Northern Ireland.

The representatives of the Rape Crisis and Sexual Abuse Centre advised the Members that:

- (i) the Centre had two full-time and three part-time volunteer counsellors who were all suitably qualified and trained;

- (ii) the membership of the Trust had not yet been finalised; and
- (iii) following the evaluation which had been undertaken by the Department of Health, Social Services and Public Safety and discussions with the Centre's accountants, a number of changes in the way in which the organisation conducted its business had been made.

In conclusion, the representatives requested that the Committee provide a sum of £14,600 to the Centre during the financial years 2008/2009 and 2009/2010 which would be used to pay the rent for the organisation's building.

The deputation then thanked the Committee for receiving them and retired from the meeting.

In answer to Members' questions, the Director of Legal Services indicated that it appeared from the information which had been provided that the Rape Crisis and Sexual Abuse Centre's financial situation had improved. However, the Committee had been provided only with a statement of affairs and not the audited accounts, although it appeared that the group's audited accounts would be available shortly. He therefore suggested that the Head of Audit, Governance and Risk Services examine the audited accounts and submit an opinion thereon to the Committee to enable it to be fully informed prior to taking a decision on the request for funding which had been made by the representatives from the Rape Crisis Centre. However, he noted the proposal that it was the Centre's stated intention to apply the requested grant funding to discharge arrears of rent and the Committee would need to consider whether that proposal was appropriate. In addition, he reminded the Committee that, on other occasions when the Council provided funding to organisations, the Council monitored the groups to ensure that the use to which the funding was put was in compliance with the grant conditions applied by the Council.

Following discussion, the Committee noted the information which had been provided by the representatives of the Rape Crisis Centre and the contents of the report provided by the Director of Development and agreed that it would consider the matter further when the Centre's audited accounts had been examined by the Head of Audit, Governance and Risk Services.

Chairman