

**AYLESBURY VALE BROADBAND REVIEW AND BREACH OF CONFIDENTIALITY INVESTIGATION**

**1 Purpose**

- 1.1 To reply to recommendation 17 in the Aylesbury Vale Broadband Review dated May 2018 carried out by BDO LLP (BDO).

**2 Recommendation**

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| 2.1 To note the details and results of the investigation by the Monitoring Officer into the breach of confidentiality and make any comments about implementation of recommendation 17 made by BDO. |
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**3 Background**

- 3.1 In April 2015 the Council set up Aylesbury Vale Broadband (AVB), a trading company, to provide high-speed broadband functions in parts of the Vale which were not likely to be served by either commercial providers or through national schemes.
- 3.2 The Council was a 95% shareholder of AVB and invested £1.44m into the company.
- 3.3 AVB has now been sold to Gigaclear, a commercial provider. Prior to the sale of AVB the Council had concerns about the governance of and reporting by the company and the value for money achieved from the investment which resulted in political tension. After the sale, external auditors BDO were commissioned to provide an independent review of the inception, governance, reporting and investment in relation to AVB which could inform any future commercial activities entered into by the Council.
- 3.4 Whilst BDO considered that subject to any claim under the warranties provided on sale, AVB had provided value for money, they did identify issues with both reporting arrangements and reports which were made to the Council. BDO considered that whilst reports given to Council were in fact accurate, they did not present the whole picture and tended to focus on forecasts without sufficient actual trading background which may have allowed better views on whether the forecasts were realistic.
- 3.5 BDO considered that the leaking of confidential information during the creation of AVB contributed to the limited reporting by the company to the Council. The disclosure resulted in a complaint being made to the European Union by Village Networks that a loan by the Council to AVB, to enable it to start trading, was a breach of state aid rules. The complaint included confidential information which had been provided to Members on yellow pages and which was not, at the time, in the public domain. It should be noted that the complaint was not taken any further by the EU and no investigation ever sanctioned.
- 3.6 BDO therefore made the following recommendation in their review:  
*“Recommendation 17*  
*If the Council’s wider Members are to have greater oversight of the Council’s commercial ventures, then the confidentiality requirements of ‘yellow papers’ must be respected”*
- 3.7 The Council therefore asked that the Monitoring Officer carry out an investigation into the unauthorised disclosure of the confidential information.

## **4 Investigation**

- 4.1 It was considered that the investigation should focus on who had disclosed the information, so that appropriate action could be taken, and how they had disclosed it, so that appropriate preventative measures (if any) could be recommended and considered for the future.
- 4.2 As BDO have already conducted an investigation which included gathering evidence and interviewing a number of individuals it was felt that they may have relevant information. BDO were therefore asked a number of general questions to check whether this was the case and to find out whether further investigation was possible.
- 4.3 BDO's response was that they did not hold any relevant information on either who had disclosed the information nor how it had been disclosed.
- 4.4 As the recipient of the confidential yellow papers, Village Networks, was also asked for details of who had provided them with the information and also how they had received it. As at the date of this report no response has been received.
- 4.5 Two other methods to find evidence of who had disclosed the information was considered and discounted as not viable.
- 4.6 The first of these was to search AVDC email accounts: this could potentially show the disclosure to Village Networks.
- 4.7 This was not considered a viable option as it was extremely likely that any such email would have already been deleted or it was sent from a non-AVDC account to which we would not have access. It was therefore considered that this option would be a disproportionate use of resources and potential invasion of privacy with no real prospect of success.
- 4.8 The second option was to interview or ask every member whether they had disclosed the information.
- 4.9 Given the well known cross party wish to learn lessons and follow the BDO recommendations, as no-one had voluntarily confirmed they had disclosed the information it is almost certain that this option would not identify the discloser and would similarly be a disproportionate use of resources.
- 4.10 In relation to how the information was disclosed, this could be confirmed either from an email trail (if this was in fact the method of disclosure), the person who disclosed the information or the recipient of the information. For the reasons detailed above the first two methods are not viable and the last has been requested but as stated no response has been received.

## **5 Current position**

- 5.1 The Monitoring Officer knows what information was disclosed but does not know who disclosed it or how it was disclosed.
- 5.2 In the absence of any other details about the discloser or means of obtaining those details no further investigation is possible.
- 5.3 The BDO recommendation was to ensure confidentiality of yellow papers was respected. The implementation of the remainder of the recommendations made by BDO will help to ensure this. Further practical solutions for maintaining the confidentiality of yellow papers can also be used in the future

if deemed necessary. The Monitoring Officer considers that such decisions should however be taken on a case by case basis taking into account the subject matter and the issues at the time.

- 5.4 Any comments of the Committee in this regard would be useful for future reference.

Contact Officer  
Background Documents

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Aylesbury Vale Broadband Review