

OVERVIEW AND SCRUTINY MANAGEMENT COMMISSION

MINUTES OF THE MEETING HELD ON TUESDAY, 1 JULY 2014

Councillors Present: Peter Argyle (Substitute) (In place of Mike Johnston), Brian Bedwell (Chairman), Jeff Brooks (Vice-Chairman), Paul Bryant (Substitute) (In place of Sheila Ellison), Dave Goff, Roger Hunneman, Gwen Mason (Substitute) (In place of Alan Macro), Virginia von Celsing, Quentin Webb, Emma Webster and Laszlo Zverko

Also Present: Nick Carter (Chief Executive), Steve Duffin (Head of Adult Social Care Change Programme), Jo England (Client Financial Services Manager), Mark Evans (Head of Children's Services), June Graves (Head of Care Commissioning, Housing & Safeguarding) and Rachael Wardell (Corporate Director - Communities), David Lowe (Scrutiny & Partnerships Manager), Charlene Myers (Democratic Services Officer) and Councillor Irene Neill (Children and Young People, Youth Service, Education)

Apologies for inability to attend the meeting: Councillor Sheila Ellison, Councillor Mike Johnston and Councillor Alan Macro

Councillor(s) Absent: Councillor Garth Simpson

PART I

1. Minutes

The Minutes of the meeting held on 15 May 2014 and 20 May 2014 were approved as a true and correct record and signed by the Chairman.

2. Declarations of Interest

There were no declarations of interest received.

3. Actions from previous Minutes

The Commission received an update on the actions from the previous minutes.

Item 2.3, Affordable Housing: The Chairman explained that the item was postponed in order to allow negotiations to continue between the Council and the developers. Councillor Jeff Brooks stressed that the discussions should take place at a suitable time and therefore supported the view that the item should be postponed.

Councillor Brooks proposed that the item was deferred until September/ October 2014 in order to ensure the item was revisited promptly, irrespective of the progress of negotiations.

Councillor Webster proposed that if negotiations were still underway then it would not obstruct the Commission from discussing the topic which looked to review access to affordable housing in general.

Resolved that

- The topic for Affordable Housing would be deferred until September/ October 2014.

4. West Berkshire Forward Plan 18 June 2014 to 30 September 2014

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The Commission considered the West Berkshire Forward Plan (Agenda Item 5) for the period covering 18 June 2014 to 30 September 2014.

David Lowe advised that a matter had arisen that necessitated the consideration by the Executive of an urgent decision. The matter related to recruitment and retention of staff in Children's Services.

David Lowe quoted the following from the Constitution: *the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 in September 2012 included a requirement to publish 28 clear days' notice of any intended key decision. On occasions, however, situations arise where an urgent decision needs to be made in respect of an item that does not appear on the Forward Plan.*

The Commission heard that as notice of the need to include the urgent item was received within the 28 working day period but before five clear working days before the meeting, the authority needed to give notice to all Members of the Overview and Scrutiny Management Commission about the decision and the reasons why it was deemed to be urgent.

The report would set out a strategy to address recruitment and retention issues in Children's Services and the investment required to implement the strategy. The item was considered urgent as delays in implementing the strategy could compromise the Council's position.

Councillor Jeff Brooks questioned whether the item related to Agenda item 7. Rachael Wardell advised that the matters were unrelated, the urgent item for consideration related to the proposal to introduce a three tier foster care system and specifically the communications and marketing of the model. By contrast the proposal for urgent consideration was developed in response to the increased level of agency staff employed and turnover in key front line teams and the risk this posed to children and young adults. The proposal sought to respond specifically to the issue of staff recruitment and retention and was felt that the matter required urgent attention.

The Commission heard that a special Management Board meeting was scheduled for 17 July 2014 in order to consider the item and accelerate it through the Executive cycle in order that it could be considered at the Executive meeting of 24 July.

Councillor Brook asked whether the item would be subject to Call-In. Nick Carter advised that it would not. *(Note added post meeting)*

The call-in procedure shall not apply where the decision taken by the Executive has to be implemented before the expiry of the call-in period. This will only be the case if one of the following applies:

- *The item is deemed an Urgent Key Decision as set out in Rule 5.4.7 (Special Urgency – Key Decision).*

David Lowe explained that the Commission could have sight of the report prior to discussion at the Executive and subsequently provide their recommendations. As such, a special OSMC meeting would be required before 24 July 2014.

Councillor Brooks stressed that the time available for the Commission to meet and consider the report ahead of the Executive meeting was impracticable.

Councillor Zverko Lazlo joined the meeting at 18:15

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Rachael Wardell offered to explain the proposal in more detail and provide reassurance that the urgent item had arisen as a necessity, in order to address the risks associated with the staff arrangements in the Children and Young People service.

The Commission heard that the report focused on staff issues within four key front line teams, Referral and Assessment, East and West Long Term Team and the Disabled Children's Team. Those teams were currently becoming increasingly reliant on high levels of agency staff which was most detrimental to procedures, practice and damaging to children and families.

Rachael Wardell explained that the teams had previously used agency staff who tended to stay with the team for a longer period of time, however, more recently there had been a noticeable increase in the turnover of agency staff and subsequently more changes to family social workers. Rachael Wardell stressed that the Council had sought to introduce measures to encourage the retention of key staff before now but the issue had since developed to the point where immediate action was required.

The report would propose measures to retain staff, subject to their performance, over a period of three years by the inclusion of financial incentives and training.

Councillor Brooks queried whether the urgent item addressed a statutory pressure. He stated that the issue appeared to relate to an operational issue which had not been highlighted to the Commission before. Councillor Brooks explained that he was uncomfortable with the suggestion that the Executive would consider the proposal for a three year commitment with restricted intervention by the Commission. It was stated that the Commission had limited information, therefore it was agreed that a special meeting would be organised in order to discuss the report ahead of the Executive and, if necessary, make comment and recommendation for consideration alongside the report.

Councillor Emma Webster stated that although the issue triggered a level of uncertainty amongst the Commission, she considered that Officer's would have done everything possible to address the issue before requesting an urgent intervention which ultimately sought to protect vulnerable residents of West Berkshire.

Resolved that

- The Children Services: Recruitment and Retention report would be available to review from 17th July 2014 and a special meeting would be organised for 21st July 2014 to discuss ahead of the Executive on 24 July 2014.
- The Forward Plan be noted.

5. Overview and Scrutiny Management Commission Work Programme

The Commission considered its work programme 2013/14.

Councillor Peter Argyle advised that the initial Children Service Governance Task Group was due on 18 July 2014.

Resolved that the work programme be noted.

6. Items Called-in following the Executive on 8 May 2014 and 19 June 2014

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Councillor Jeff Brooks introduced the item, Children's Services External Placements which he and Councillors David Allen, Tony Vickers, Roger Hunneman, Alan Macro had called in. The report had been agreed at the 08 May 2014 Executive meeting.

Councillor Brooks stated that whilst he supported the 'invest to save' concept in relation to the proposals, he asked that the decision to employ a Social Media Administrator and an increased advertising budget, together totalling £200,000 over 4 years, be scrutinised.

Mark Evans explained that the proposal was part of a larger project which aimed to increase the number of local foster carers thereby enabling children to remain local. The current arrangements relied upon the service of independent foster carers, which was expensive and involved the child being located far from their school.

The Commission heard that currently 99 children were placed with local foster carers at a cost of £1.5 million and 27 children were placed with independent foster carers at a cost of £1.2 million. Mark Evans highlighted the vast difference between placement costs and stated that the project also aimed to provide better quality care.

Mark Evans stressed that the foster care market was extremely competitive. The Fostering Network, a charity representing foster carers' and children in foster care's interests, issued a press release on the 25 May 2014 reemphasising the need to recruit younger foster carers as many existing foster carers were reaching the end of their foster care career. The marketing campaign aimed to encourage a wider demographic of local foster carers with a specific set of skills in order to support more challenging foster care cases. Mark Evans stated that the most effective way to reach potential new foster careers was via social media. Advertising via social media was proven to be successful as demonstrated within Hampshire County Council and other local authorities.

Mark Evans explained that the cost of £200,000 over the course of 4 years should be considered in the wider context of the £4 million budget to deliver care.

Councillor Irene Neill explained that the paper detailed the launch of the project and that currently it was not possible to provide the job description for the Social Media Administrator. The process for developing the specific job description would take place in due course.

Councillor Jeff Brook felt that the proposal over looked the current skills available within the Council's Communications Team and encouraged isolated working between the two. He felt that the item could be considered in more detail if the job descriptions were available.

Councillor Emma Webster advised that she researched the item in advance of the meeting. In her opinion the placement of a Social Media Administrator within the service enabled detailed and informative responses to enquiries, as it was often the case that the Officer had a greater understanding of the team and service.

Councillor Webster proposed that the details of the call-in did not require further scrutiny. Councillor Quentin Webb concurred with Councillor Webster, the intention of the role was clear and required the support from the Commission in order to deliver a function which would enhance the service.

Steve Duffin explained that local foster carers cost roughly £20,000 per placement per year; independent fostering agencies cost the Council approximately £37,000 per year. The reason 27 children had been placed with independent foster carers was due to the shortage of local foster carers. By recruiting two additional foster carers the savings would cover the costs of the Social Media Administrator role. The Commission heard that it was beneficial if children were placed with local foster carers for reasons aside from the financial impact.

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Councillor Hunneman asked whether the proposal considered uniting the campaign with other Local Authorities. Mark Evans advised that the option was considered but the nature of the recruitment was competitive and required concentrated, local advertisements.

Councillor Hunneman asked whether the role would be reviewed for its effectiveness. Mark Evans stated that the service constantly reviewed the effectiveness of recruitment and the proposed role would form part of the reviews.

Councillor Webster proposed that the role was reviewed in 12 months time to gauge effectiveness and ascertain the savings delivered. The Commission was encouraged to look at page 35 of the agenda which stated that the service would not expect to see savings from a reduction in the use of independent foster carers for 2 years post implementation. If the Commission was minded to scrutinise the savings delivered by the role then it was suggested that the activity had a regard to the savings forecasted longer term.

Councillor Paul Bryant felt that the details of the job description were required in order to fully consider the proposal. Rachael Wardell explained that the job description would be in place before the role was advertised and that an operational process existed to ensure the service recruited appropriately.

The Commission voted on the matter, there were four abstentions received and seven votes in favour of the proposal.

Resolved that

- The item would return to the Commission in 12 months post implementation to review the effectiveness and savings delivered by the Social Media Administrator.

7. Councillor Call for Action

There were no Councillor Call for Action.

8. Petitions

There were no petitions to be received at the meeting.

9. Fairer Contributions Policy

Councillor Gwen Mason introduced a report detailing the Fairer Contributions Policy and thanked the Commission for postponing the item in order that a representative from the Disability External Scrutiny (DES) Board could contribute towards the discussion.

Councillor Mason explained that feedback provided via the DES Board suggested that overall the Fairer Contributions Policy was difficult to understand and therefore required simplification. However, the suggested topic for scrutiny sought to review the Disability Related Expenditure of the Fairer Contributions Policy in particular.

Jo England introduced the report to the Commission. The current Fairer Contribution Policy had been in place since April 2012, the Policy's purpose was to provide a mechanism to establish how much an individual receiving an adult social care service would be required to contribute towards the cost of their care.

On 21 July 2003 the Council introduced the Fairer Contribution Policy which was broadly in line with the Department of Health's (DH) 2001 guidance. As the previous policy had only charged individuals 50% of any Attendance Allowance or care component of Disability Living Allowance in payment, the new policy dramatically increased the amount that individuals had to pay.

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To alleviate the financial impact additional elements of expenditure were also included in the 2003 policy that was over and above the DH guidance. These included the inclusion of water rates, an element for building maintenance for owner occupiers and not charging for a second carer. A decision to charge an individual 90% of their chargeable income was also made to alleviate the financial impact.

The Policy was reviewed on an annual basis to take account of new DH capital thresholds and benefit rates. The next major change to the Policy was on 7 April 2008 when the Policy was amended to charge individuals 100% of their chargeable income in line with the DH guidance.

In response to budget reduction proposals for 2012/13 the Policy was reviewed and following wide consultation a decision was made to remove the concessions included in the 2003 Policy. This included charging for second carers and removing expenditure items from the policy that should be covered by general living expenses i.e. water rates and building maintenance.

Jo England stated that Disability Related Expenditure, allowable as part of the financial assessment, was also reviewed to bring it in line with the DH guidance and neighbouring authorities.

The Chairman welcomed Alan Fleming from the DES Board to comment on the report and explain why they requested the item for scrutiny.

Alan Fleming thanked the Commission for inviting him to the meeting and stated that he was the Deputy Chairman of the DES Board. He proceeded to explain that the DES Board were concerned that the current DRE policy was inadequate and resulted in a negative financial challenge for those in need.

The Commission heard that on occasion service users had to prioritise living related expenditure in order to meet care costs. Alan Fleming provided examples of the types of additional support residents required around the home and garden and the dilemmas faced when trying to fund them. Alan Fleming referred to the increased number of DRE appeals since the change was made to the policy and suggested that this was evidence that residents were unhappy with the guidance.

Alan Fleming stressed that the challenges impacted on his extended family who would deliver the support he was otherwise unable to afford. Alan Fleming stated that this was a common issue amongst service users.

Councillor Brain Bedwell asked Officer's to explain how they dealt with the issues outlined by Alan Fleming. Jo England explained that the guidance was provided by Central Government and restricted levels of discretion. The DH guidance was designed to ensure that a service user had sufficient money to meet their basic housing costs and disability related expenditure and retain their basic 'Protected Income'.

The assessment calculation was summarised as the following;

The financial assessment will make sure that all service users retain a basic living cost allowance plus 25%. This was a level of 'protected income' that would not be considered in the financial assessment. Each service user would have at least this level of income to pay for their housing, living and disability related expenses, before they are asked to pay an assessed charge for Adult Social Care Services.

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The financial assessment calculation was represented as:

- Assessable income
 - Level of 'protected income'
 - Housing expenses
 - Allowable expenses
 - Disability related expenses
- = Net disposable weekly income

For adult social care services that have an assessed charge, the Financial Assessments and Benefits Team will undertake a financial assessment to work out how much service users will be charged.

The financial assessment considered service users':

- *Income and savings*
- *Allowable expenditure (such as housing costs) and*
- *Extra expenses they may have due to a disability or condition.*

Councillor Roger Hunneman asked how the Council helped service users to manage basic needs expenditure. Jo England stated that government grants were in place to help support residents; these were outside the charging policy. The Commission heard that residents would be entitled to their basic income plus 25% before the assessment considered charges for Care.

June Graves explained that of the various grants available there were flexible payback options to consider. The Adult Social Care Service endeavoured to support service users so they could remain in their home by way of making necessary modifications, the grants were designed to assist with such work.

Councillor David Goff asked whether the challenges highlighted by Alan Fleming could have been met under the previous policy and requested clarification from Officer's in terms of the changes made in 2012.

Jo England explained that the previous policy funded health care which should have been funded by health services, contribution towards water rates and building maintenance. The policy was amended and subsequently brought in line with Central Government guidance and policies within neighbouring Local Authorities.

Officers were asked to clarify the cost to the Council associated with the Policy. Jo England stated that each case was assessed in isolation; there was no upper limit in terms of allowances as such restrictions would contradict the purpose of the policy.

Councillor Jeff Brooks referred to point 5.5 of the cover report and suggested that it would have been helpful if Officers provided details regarding the savings made by the change. Furthermore, Councillor Brooks suggested that the Commission required sight of the consultation results in order to assess the effectiveness of the policy. In his view the Commission required more detailed information in order to consider the item appropriately. Councillor Brooks stated that there was no doubt the policy required

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simplification; he stated that the quality of information contained within the report was questionable.

Councillor Mason explained that a concern from the DES Board related to inconsistency of assessments and the difficulty services users had in understanding the outcome of an assessment. Jo England advised that the team comprised of three experienced advisors and an appeal process ensured service users could request a review of a decision.

Councillor Paul Bryant acknowledged that Members had concerns about the cost associated with the policy, he suggested that the report required information about how many clients the Council had, how the budget was allocated and the upper limit within the budget. It was agreed that the information would be helpful and would enable the Commission to fully consider the parameters of the policy.

Councillor Emma Webster made reference to item 6.6 of the policy which listed the exclusions of the DRE and asked whether they were exclusions as guided by Central Government or as agreed by the Council. Jo England explained that many of them were taken from the DH guidance. Councillor Webster suggested that crucial basic care needs included within the list placed people in a more vulnerable state. Councillor Webster echoed concerns raised by Members that the policy was confusing and required simplification.

Councillor Webster requested a review of the list to consider elements which could be altered if within the power of the Council to do so and within the constraints of the budget, and to understand elements which were outside the power of the Council to change but could be influenced to change in the longer term.

Jo England explained that elements of the policy were changed by Central Government. It was stated that the Fairer Contributions Policy would be reviewed as a part of the Care Act review in 2015/2016.

Councillor Hunneman queried why broadband and telephone charges were included within the DRE exclusion list. It appeared appropriate to assume that a large majority of service users would require such services in order to access the Fairer Contribution Policy. Jo England explained that DRE expenditure aimed to address unmet care needs, the decision was made that such services were paid for by the general public and a similar approach would be taken in the context of policy. Councillor Hunneman challenged the decision on the basis that services users had to prioritise expenditure based on a very limited source of funds.

Councillor Hunneman queried how many grant applications were successful. Jo England stated that the grant success rate was 86%, the proportion that was unsuccessful generally related to incomplete applications or a request for further information/ evidence.

The Commission heard that the assessment timescale varied dependant on a number of factors such as the involvement from other services, at which point the process was reliant on progress of the Department for Works and Pensions. The aim of the service was to complete an initial assessment within 21 days of receiving the referral.

Nick Carter suggested that the policy answered some of the questions raised by the Commission. He asked whether Members felt the issue related to the boundaries of the DRE and to what extent the Council could exercise its discretion and create an

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opportunity to widen the scope of the policy. Nick Carter suggested that such information could be bought back to the Commission for further consideration.

David Lowe explained that in response to an action captured within the previous meeting, Councillor Mason was asked to clarify the scope of the item. The Commission heard that the DES Board wanted to highlight the issue relating to the operation of the DRE specifically. David Lowe suggested that the issue concentrated on the content of the DRE exclusion list and therefore, by providing Members with information about the flexibility of the list within Local Authorities, the item could be revisited.

Councillor Brooks challenged the proposed scope of the discussion; he felt the Commission required evidence to illustrate the efficiency of the policy by way of understanding the reasons for appeals, the output from the consultation and nature of complaints received. It was suggested that in order to appropriately consider the topic, a better understanding of the service user experience would be required. Councillor Brooks suggested that the item be deferred until such time when the information was available.

Councillor Webb asked whether the Government guidance was statutory. Jo England stated that it was not.

June Graves reminded the Commission that the policy was reviewed and subsequently amended following the 2012 consultation. The consultation invited all service users to comment on the proposed changes to their individual situation. The Commission heard that the previous policy delivered services above and beyond Government guidance which was proving difficult to maintain. The revised policy brought the Council in line with other local authorities .

June Graves stated that the assessment considered input from the support team around the individual at that time, she stressed that the policy enabled a degree of flexibility in order to deliver the best arrangement of the individual. The service took a person centred approach, in conjunction with a view to the benefits awarded to that individual. June Graves explained that the income generated from charges to care was used to deliver the wider Adult Social Care service and was therefore part of the financial dynamic of the service delivery.

June Graves stated that the number of appeals correlated with the change to the policy. Previous assessments were more generous and it was therefore less likely that someone would appeal the decision.

The Chairman suggested that an OSMC task group formed part of the wider review of the policy. June Graves welcomed the inclusion of an OSMC task group.

Councillor Mason asked whether Members were part of the appeal process, Jo England stated that they were not. Councillor Mason suggested that this was changed. It was agreed that a member of the DES Board would also form part of the OSMC task group.

Resolved that

- A Task Group would be established in order that the Commission could contribute towards the DRE policy review.
- Officers would provide information regarding the constraints of the Government guidance around the DRE exclusion list.

10. Key Accountable Measures

Nick Carter introduced the item to the Commission, he highlighted that item 1.4 illustrated areas of over performance which should be noted. Nick Carter stated that in some cases Red items were outside the control of the Council and it was considered realistic to see some areas reported as red due to the challenging targets set.

Councillor Emma Webster asked whether there should be any concern regarding the reported status of the grants allocated; Rachael Wardell explained that the status was representative of one case above the targeted number of cases to be concluded within the set timescale.

Councillor Paul Bryant asked why the number of Performance Indicators (PI) had increased. Nick Carter explained that PI's were locally determined, the Executive and Commission were involved in the development of the indicators but overall they were produced by Officers. Officer's focused on areas of high risk, under performance or strategic priority.

Indicator were reviewed in a yearly basis, decided by the Council and not mandated by Government. It was considered appropriate to set roughly 50 PI's.

Councillor Roger Hunneman stated that the Target Setting Task Group was due to meet later in the month, considering the report retrospectively. Nick Carer explained that in order to set the indicators consideration was given to the outturn from the previous year and therefore it was expected that the information would be delayed.

Councillor Hunneman suggested that the PI's included cross border measures in order that the Council could compare performance against other Local Authorities. Nick Carter highlighted that where possible national comparisons were reflected within the report.

Councillor Jeff Brooks suggested that concern should be given to the trend of some items were previously reported as amber and then deteriorated to red. He stated that it could be assumed that the service had sufficient warning to manage the performance. Councillor Brooks highlighted areas where targets had been adjusted and whether they were justified.

Councillor Brian Bedwell stated that if the Commission required then an Officer could be asked to attend the meeting in order to expand on items contained within the report.

Resolved that

- The report was noted.

11. Severe Weather

David Lowe introduced the Severe Weather report to the Commission. The report illustrated the methodology of the review and sought to receive the Commission's approval prior to commencement of the Task Group.

The scope of the review would consider the Council's preparedness and response to recent severe weather along with ongoing maintenance within communities.

Councillor Brian Bedwell stressed that the review involved numerous meetings through the course of September, he encouraged Members to make necessary arrangements in advance to ensure they were available.

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Resolved that

- The report was noted

12. Scrutiny Annual Report

David Lowe introduced the item and stated that the report would be submitted to full Council on 22 July 2014.

Resolved that

- The report was noted

(The meeting commenced at 5.00 pm and closed at 7.30 pm)

CHAIRMAN

Date of Signature