

COUNCIL

MINUTES OF THE MEETING HELD ON

TUESDAY, 31 MAY 2016

Councillors Present: Steve Ardagh-Walter, Peter Argyle, Pamela Bale, Jeff Beck, Paul Bryant, Anthony Chadley, Keith Chopping, Hilary Cole, James Cole, Roger Croft, Richard Crumly, Rob Denton-Powell, Lynne Doherty, James Fredrickson, Manohar Gopal, Paul Hewer, Clive Hooker, Carol Jackson-Doerge, Marigold Jaques, Mike Johnston, Graham Jones, Alan Law, Tony Linden, Mollie Lock, Alan Macro, Tim Metcalfe, Graham Pask, Anthony Pick, James Podger, Garth Simpson, Richard Somner, Anthony Stansfeld, Quentin Webb (Chairman) and Laszlo Zverko

Also Present: Nick Carter (Chief Executive), Martin Dunscombe (Communications Manager), Mac Heath (Head of Children and Family Services), David Holling (Head of Legal Services), Juliet Penley (Service Manager - Children), Shiraz Sheikh (Principal Solicitor), Robert Alexander (Conservative Group Executive) and Moira Fraser (Democratic and Electoral Services Manager)

Apologies for inability to attend the meeting: John Ashworth, Councillor Howard Bairstow, Councillor Dennis Benneyworth, Councillor Dominic Boeck, Councillor Graham Bridgman, Councillor Jeanette Clifford, Councillor Lee Dillon, Councillor Billy Drummond, Councillor Adrian Edwards, Councillor Sheila Ellison, Councillor Marcus Franks, Councillor Dave Goff, Councillor Rick Jones, Councillor Gordon Lundie, Councillor Ian Morrin, Councillor Virginia von Celsing, Rachael Wardell and Councillor Emma Webster

Councillors Absent: Councillor Jeremy Bartlett and Councillor Nick Goodes

PART I

21. Declarations of Interest

The Monitoring Officer noted that Councillor Lynne Doherty had been granted a dispensation by the Governance and Ethics Committee to speak and vote on financial proposals pertaining to Short Breaks Funding.

22. Short Breaks for Disabled Children (Urgent Item)

(Councillor Lynne Doherty's employer was a recipient of Short Breaks funding. Following the granting of a dispensation to speak and vote on this item she determined to remain in the meeting and vote on the item).

The Council considered a report (Agenda Item 3) which had been brought to Council due to Judicial Review proceedings being brought against the Council by parents of users of short breaks services.

MOTION: Proposed by Councillor Lynne Doherty and seconded by Councillor James Fredrickson

That the Council:

“considers the report and its appendices and resolves that the decision of the 1 March 2016 be reaffirmed.”

Councillor Lynne Doherty in introducing the item commented that it was necessary to revisit the budget decision made on the 1 March 2016 with regard to the provision of short breaks for disabled children within West Berkshire.

COUNCIL - 31 MAY 2016 - MINUTES

Councillor Doherty explained that litigation was being brought against the Council by two families who were in receipt of the short break service. The original budget decision was taken with all the information provided at this meeting and was included in Appendix B. The decisions taken in March 2016 were the result of an unprecedented demand to make budgetary savings whilst still meeting all of the Council's statutory duties. The Council also needed to continue to protect other areas of children's and adult's social care provisions. All options were considered and there was very little 'room for manoeuvre'.

Councillor Doherty emphasised that the original decision was not taken easily, but that it had been an informed decision. Councillor Doherty stated that, unless similarly affected, it was difficult to comprehend the daily difficulties faced by disabled children or the impact this had on their families. The Council fully recognised the need to protect and promote the welfare of this vulnerable group. Councillor Doherty believed that an effective service could still be delivered on the reduced budget proposed in March. She also believed that it was possible to minimise the effect of the proposed reduction and still meet the needs of both children and carers within the District. The local offer which was promoted to all families contained many supported services that the Council did not fund. Current providers were continuing to deliver services and new providers continued to emerge.

Councillor Doherty recognised that change could be difficult at the best of times and for this group it might be even more of a challenge. She highlighted that the Council would continue to review its offer to ensure it was meeting need. Councillor Doherty therefore requested that Members reaffirm the decision taken in March 2016.

Councillor Graham Pask queried why the Council was having to revisit the decision if all the information had already been presented to Members.

Councillor Alan Macro raised a point of order. He noted that the decision taken on the 01 March 2016 was subject to the 'six month rule' and therefore according to the Constitution it could not be rescinded. The Monitoring Officer explained that in accordance with paragraph 4.16.1 of the Constitution a Motion could not be moved to rescind a decision made at a meeting of the Council within the preceding six months unless notice of the Motion was given under Rule 4.9 (Motions) and was signed by at least one-quarter of all Members of Council. As Members were being asked to reaffirm the decision made on the 1 March 2016 and not rescind it the 'six month rule' did not apply.

Councillor Macro commented that there was a significant cost in terms of time and money being expended in order to reaffirm a decision. He felt that by reaffirming the decision it was almost certain that the appellants would proceed with the Judicial Review. He stated that he was disappointed that the report did not provide detail on the likelihood of the Judicial Review being successfully defended nor did it set out the indicative costs to the Council.

Councillor Macro noted the statement from Christine Lenehan from the Council for Disabled Children and commented that he was disappointed that the report did not address the issues that she had raised in her statement. He also stated that the witness statements showed how valuable the service was to the families that had submitted them. He noted that one of the statements included a reference to having to place one of the children in residential care which could negate the savings made by the proposal.

Councillor Keith Chopping stated that he believed that the previous decision was made in the knowledge that the Council would still meet its obligations and he asked that the Portfolio Holder confirm that this was still the case.

COUNCIL - 31 MAY 2016 - MINUTES

Councillor Richard Somner stated that he understood that the savings were well protected in comparison to others and he asked for confirmation that his understanding was correct.

Councillor Lynne Doherty responded to the queries raised by Councillors Pask, Chopping and Somner. She stated that Council would still meet its statutory duties as set out in the Children's Act 1989 and the Breaks for Carers of Disabled Children Regulations 2011.

Councillor Doherty noted that the decisions made at the Council meeting had been based on three principles namely: that the Council would ensure that it met its statutory duties, that the Council would ensure that it minimised the impact on the most vulnerable and that the Council would work with communities to deliver services in a different way. She believed that in making the decision at the Council meeting in March 2016 all three of these criteria had been met.

Councillor Alan Law noted that Members had been presented with the information they had considered at the 1 March 2016 Council meeting as well as the additional information presented at that meeting (the witness statements). He stated that after considering the additional information he would not change the decision that he made in March. He was disappointed that there was an inference in the statements that Councillors had been presented with inadequate information to base their decision on and that they had been derelict in their duty of care. He stated that nothing could be further from the truth. Members had been presented with a lot of information from Officers, including feedback from an extensive consultation exercise. He had also spoken privately with the Portfolio Holder and Officers before the Council meeting. Councillor Law explained that despite the fact that he had personal experience of the need for respite care he was happy to defend the process and decision taken earlier in the year.

Councillor Graham Jones recognised the value of the short break service. He drew Members attention to page 112 of the paperwork which set out the budget motion in detail. He reminded Members that at the time of the meeting he had commented that this was the most difficult Council meeting he had ever had to attend. He also drew Members' attention to page 115 which set out the amendment that was made at the Council meeting where, in response to the consultation, he and the Leader had proposed that £170k of the transition funding be allocated to the Short Breaks for Children budget. Councillor Jones also reminded Councillor Macro that on page 117 of the paperwork in the minutes of the Council meeting he had thanked Councillor Macro for the co-operation across the chamber during the discussions on the budget.

Councillor James Fredrickson noted that the decision on the budget had been taken at the March meeting of Council. Subsequent to the decision being made a legal challenge had been brought against the decision to reduce funding for short breaks for children. Members were presented the original information submitted to the budget meeting and statements from those involved in the legal challenge. At the time the original decision was made it was accepted that these were the most difficult decisions the Council had ever had to make. At the time of the decision Members were acutely aware of their responsibilities under the Public Sector Equality legislation. The Council undertook one of the largest consultation exercises of any English Unitary Authority and as a result of that consultation some of the transition funding was allocated to the delivery of short breaks for children's' services budget. The Council had to make complex and difficult decisions but he was confident that a balanced outcome had been arrived at.

Councillor Fredrickson stated that he disagreed with Councillor Macro and that as the Portfolio Holder responsible for Legal Services he felt that it was important to give Members the opportunity to review the decision they had made in light of the legal challenge. He stated that it was also important not to pre-empt the costs and impact of a

COUNCIL - 31 MAY 2016 - MINUTES

Judicial Review but instead Members were being asked to consider the additional information presented in the statements. He concluded by saying that the decisions that the Council had been forced to make were unpalatable but that the Council was required to agree a balanced budget and he therefore recommended that Members re-affirm their previous decision.

The Motion was put to the meeting and duly **RESOLVED**.

(The meeting commenced at 7.00pm and closed at 7.17pm)

CHAIRMAN

Date of Signature