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OVERVIEW AND SCRUTINY MANAGEMENT COMMISSION

MINUTES OF THE MEETING HELD ON TUESDAY, 25 FEBRUARY 2014

Councillors Present: Jeff Beck, Brian Bedwell (Chairman), Sheila Ellison, Dave Goff, Mike Johnston, Alan Macro, Gwen Mason, Tim Metcalfe, Andrew Rowles, Garth Simpson, Tony Vickers, Virginia von Celsing, Quentin Webb, Emma Webster and Laszlo Zverko

Also Present: Sean Anderson (Head of Customer Services), Mel Brain (Service Manager - Housing Strategy and Operations), Nick Carter (Chief Executive), Andrew Bruce (Newbury Foodbank Chair), Adrian Brunskill (Sovereign South + West), David Lowe (Scrutiny & Partnerships Manager), Jan Rothwell (West Berkshire Citizens Advice Bureau) and Elaine Walker (Principal Policy Officer)

Apologies for inability to attend the meeting: Councillor Jeff Brooks

PART I

72. Minutes

The Minutes of the meetings held on 7 January 2014 and 21 January 2014 were approved as a true and correct record and signed by the Chairman, subject to the following amendments:

7 January 2014

- Councillor Andrew Rowles advised that he had been present at the meeting;
- Page 4, bullet point 2: amend '24 months after completion' to 'within 24 months of completion'.

21 January 2014

- Page 6, Item 66, paragraph 1: amend '2011/12' to '2013/14';
- Page 6, Item 66, paragraph 4: amend 'and that that this was expected' to 'and that this was expected'.

73. Declarations of Interest

There were no declarations of interest received.

74. Actions from previous Minutes

The Commission received an update on actions from the previous meeting and made the following comments:

2.2: Councillor Virginia von Celsing asked why the Continuing Healthcare update had been postponed until April. Nick Carter responded that he and Dr Cathy Winfield (Chief Officer of North West Reading CCG) would be more able to provide a full and clear update on progress at this time. Had an update been provided at this evening's meeting, it would not be sufficiently informative;

2.4: Councillor Tony Vickers asked what consideration had been given to the effects of road closures on 'available routes', identified as suitable routes for children to use when

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walking to school, for example when the route was flooded. The Chairman agreed to request a response for the next meeting.

2.5: David Lowe provided information in relation to Freedom of Information requests received by the Council, commenting that five years worth of data had been provided which demonstrated a year on year increase in requests for information. David Lowe clarified that the Freedom of Information Act defined situations in which an exemption could be applied to allow the Council to refuse provision of the requested information. The majority of exemptions were due to requests involving personal information, or requests that would exceed the appropriate cost limit, which allowed 18 work hours to extricate the information.

Following questioning from the Commission, David Lowe provided the following responses:

- Approximately half of all appeals that had been escalated to the Information Commissioner had been found against the Council;
- There was legislation in place to allow appeals to continue to tribunal should the requester or public authority be unhappy with the Information Commissioner's findings;
- There was no clear reason for the increase in the number of requests for information, however it was considered likely that people were becoming more aware of their right to request information under the Act. In addition it was apparent that news stories would trigger a spate of requests for related information;
- There had been an increase in employees dealing with Freedom of Information requests from 1 FTE (full time equivalent) to 1.4 FTE. The team also dealt with corporate complaints;
- Where a request was too large to be accepted, it was the responsibility of the Council to inform the requester of this, and to provide advice for example to suggest that the scope of the request be reduced, or that they might wish to pay for the excess time required (this would approximate to £25 per hour). To date, no one had agreed to pay for the extra time;
- The number of people who made repeat requests was low. The number of distinct requesters would be confirmed to the Commission;
- The increase in requests in recent years was common across the public sector and there was no indication that this would stabilise or reduce in coming years;
- The average cost per information request was not calculated;
- Ongoing reviews at a national level were aimed at mitigating the effect of the number of requests being received. Consideration was being given to the introduction of a charge for each request with the aim of dissuading some from making the request, however this had not been applied and there was no certainty that it would be in the future;
- Both local and national media made requests to the Council for information, and might request information from all local authorities for the same information. However it was not possible to identify the number of requests from the media as only a name and address needed to be provided by them – it was not necessary for them to state in what capacity the request was being made;
- It was possible to aggregate several requests from a single person to establish whether the total work would exceed the appropriate limit of 18 hours;

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- The team in Strategic Support was tasked with managing the process of logging the request, obtaining the information from the relevant service area, and responding within the required timescales. The team was not expected to be sufficiently knowledgeable in all areas of the organisation to be able to identify incorrect information unless it was clearly evident. It was the responsibility of individual service areas to ensure that the information they provided was accurate.
- Should incorrect information be released, and this was identified, a correct version would be sent with an apology. The recent example of incorrect information being released and published nationally was the first occurrence of this magnitude.

RESOLVED that:

- Caroline Corcoran would provide a response indicating what happens when 'available routes' become unusable due to local conditions;
- David Lowe would confirm the total number of individuals who had made Freedom of Information requests to the Council.

75. West Berkshire Forward Plan 12 February to 30 June 2014

The Commission considered the West Berkshire Forward Plan for the period covering February 2014 to June 2014.

Resolved that the Forward Plan be noted.

76. Overview and Scrutiny Management Commission Work Programme

The Commission considered its work programme for the remainder of 2013/14 and into 2014/15.

Councillor Quentin Webb advised the Commission that the recommendations that arose from the review into eligibility criteria had all been accepted by the Executive. The Chairman thanked the members of the Task Group for the work undertaken.

Councillor Webb additionally advised the Commission that the first meeting of the Task Group looking into homelessness amongst young families would be held on 3 March 2014 when the terms of reference would be agreed.

Councillor Jeff Beck informed the Commission that the expected last meeting of the Shaw House Task Group had been cancelled due to flooding and had been rearranged for 7 March 2014.

Councillor Laszlo Zverko enquired about the terms of reference for the review into energy saving and requested that information be provided on contract renewal procedures from the point of providing notice of renewal and the number of contracts for both gas and electricity. Councillor Tony Vickers asked that consideration also be given to methods for generating energy.

[7:05pm: Councillor Emma Webster joined the meeting.]

The Commission considered three new topics for scrutiny:

The governance arrangements in place for Children's Services

Councillor Gwen Mason asked if it was appropriate to include consideration of the Children and Young People Partnership when it had met only once. Nick Carter suggested that it might be appropriate if Members wished to ask why it had only met once.

The Commission agreed to add this item to the work programme.

Fairer Contributions Policy for non-residential care services

Councillor Mason requested that this item be added to the work programme as issues had been raised via the Disability External Scrutiny board and the West Berkshire Disability Alliance who had commented on the clarity and appropriateness of the policy in relation to Disability Related Expenditure.

The Commission agreed to add this item to the work programme.

The response to the flooding situation in West Berkshire

Councillor Alan Macro requested that an item be added to the work programme to consider the response given by all relevant organisations, including the Council, to the recent flooding in West Berkshire. Councillor Macro highlighted that this had been the third major flooding incident in ten years and he believed it important to continue to learn from these events in order to improve future responses.

The Chairman reminded the Commission of the scrutiny review into the flooding of July 2007, commenting on the success of some of the measures taken as a result of the review.

Councillor Vickers supported the request, and commented that this flooding had been significantly different to previous events and therefore a new review would be likely to uncover new issues and mitigation methods.

The Commission agreed to add this item to the work programme.

The Commission wished to thank all of the services that had assisted in recent weeks, and particular mention was made of the 33 fire authorities from other areas of the country who had contributed.

Resolved that:

- The review into energy saving within the Council would include consideration of:
 - contract renewal procedures from the point of providing notice of renewal;
 - the number of contracts for both gas and electricity;
 - methods for generating energy.
- The following items be added to the work programme:
 - The governance arrangements in place for Children's Services;
 - Fairer Contributions Policy for non-residential care services;
 - The response to the flooding situation in West Berkshire.

77. Items Called-in following the Executive on 13 February 2014

No items were called-in following the last Executive meeting.

78. Councillor Call for Action

There were no Councillor Calls for Action.

79. Petitions

There were no petitions to be received at the meeting.

80. Welfare changes

Sean Anderson introduced a report on the impact of welfare reform in West Berkshire. Mel Brain, Adrian Brunskill (Sovereign South + West Regional Housing Manager), Jan Rothwell (West Berkshire Citizens Advice Bureau Chief Executive) and Andrew Bruce (Newbury Foodbank Chair) were also present to provide information to the Commission.

Council Tax Support and Council Tax Collection Performance

Sean Anderson informed the Commission that Council Tax Benefit had been replaced by Council Tax Support in April 2013. Local Authorities had been tasked with creating their own schemes but were required to ensure that pensioners were not affected by any changes. The scheme in West Berkshire required that all households would pay a minimum of 8.5% of their Council Tax, excepting pensioners and people of working age in receipt of disability related benefits. This had resulted in approximately 2,500 people who now paid a contribution towards Council Tax who had previously been in receipt of 100% benefit.

The lead time for implementation of the support scheme had been short, however Sean Anderson believed that it had been delivered with little disruption to the process. At the end of the financial year, further analysis could be conducted to understand the levels of Council Tax collection and default payments, particularly within the group of people who were now required to pay a contribution.

Councillor Vickers asked about the reduction in the number of Council Tax Support claimants between April and December 2013, in particular, how many non-exempt people were no longer claiming the support. Councillor Vickers further asked for greater detail about the increase in those to whom a summons for non payment of Council Tax had been issued, noting that there had been an increase of approximately 20%. Sean Anderson responded that this information would not be available until the end of the financial year, but that it was intended that this information would be determined.

Councillor Dave Goff asked why there had been a reduction in the number of claims for Council Tax Support. Sean Anderson replied that the number of claims did vary from year to year, but that this reduction was considered to be reflective of the uplift in the economy and the resulting employment statistics.

Councillor Goff commented on the apparently contradictory information showing a reduction in claimants against an increase in the number of people defaulting on their payments. Sean Anderson again confirmed that this detail would not be analysed until the end of the financial year but suggested that the reason could be work related.

Councillor Webb asked whether employment rates would be tracked in order to draw future comparisons. Sean Anderson confirmed that they would.

Social Sector Size Criteria

Sean Anderson explained that this scheme reduced the level of housing benefit that would be paid to tenants in social sector housing in order to support only the space that was considered necessary for the number of tenant(s) in a property. The scheme had been referred to nationally as 'Bedroom Tax'.

Adrian Brunskill explained that Sovereign Housing Association had spent time preparing their tenants for this change prior to its implementation, but had found that many people were not willing to act until the last minute. For some people it was because they had formed an attachment to their homes, particularly if they had been tenants for some time, and were unwilling to leave. There was a greater demand for smaller properties than Sovereign were able to supply.

Preparatory work had included:

- Tenancy Support Advisors to assist people to understand their options, for example applying for discretionary housing payments to cover the difference between their rent and their housing benefit;
- Sovereign altered their procedures to allow people to move even when they were in arrears with their rent which previously was not allowed;

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- Money was put aside to assist in practical ways for example assistance with moving costs;
- Tenants were encouraged to use 'Homeswappers' in order to arrange mutual exchanges with other tenants. Sovereign assisted people to advertise their homes effectively on this system, and allowed these exchanges even if a tenant was in arrears. There had been a 31% increase in mutual exchanges.

Adrian Brunskill explained that rent arrears had increased from 3.9% to 4.3%. This was concerning to Sovereign as a regular income stream was vital to enable payments to be made for new property builds. There remained many tenants who wished to downsize but there was not enough appropriate property currently available. Discretionary Housing Payments had proved helpful to many.

The associated costs of a tenant moving to a different property had increased for Sovereign. As landlord they were required to carry out standard electricity and gas testing, and minor repairs were more often reported on a property new to a tenant than one they had been living in for some time. This had an onward impact on Sovereign's ability to undertake more significant repairs.

The Chairman asked if people had been generally willing to downsize. Adrian Brunskill responded that some had been proactive in the early stages and had been able to obtain a good property; also some who had been looking to increase their property size took advantage and were able to negotiate this. However some people had believed they would manage the increase in their costs, and had made no early enquiries, but were now struggling.

The Chairman asked what Sovereign was doing to encourage developers to build one and two bedroom properties to satisfy the demand. Adrian Brunskill confirmed that Sovereign were active in this area, but the lead time for new properties was up to two years before they were able to be let and the change in levels of housing benefit payments had occurred over a relatively short period of time.

Mel Brain informed the Commission that the Council had also undertaken significant amounts of preparatory work including amending policy to ensure tenants would not be considered to be under-occupying a property once the scheme came into force. Negotiation also took place with developers to encourage the building of a greater number of smaller properties.

There were significant implications for the Council as, if tenants were evicted due to defaulting on rental payments, this would create a duty of homelessness for the Council to manage. It had not yet been determined whether defaulting on rental payments because of the introduction of the social sector size criteria could be considered as intentional homelessness (which would incur a lesser duty for the Council) and this would remain uncertain until tested in law. Mel Brain continued that there had been a number of legal challenges to the welfare reforms but so far none had been successful. It was necessary to consider that some people might be hoping for a successful challenge that would assist their position, but if this did not occur, they might find themselves in difficulty.

Adrian Brunskill advised the Commission that the number of evictions had increased but it was not certain whether this was due to a reduction in housing benefit payments as a result of this scheme.

Councillor Beck asked why rent arrears were greater in this region than in others. Adrian Brunskill was not aware of any factor to cause this but commented that more recent figures now showed the increase to be only slightly worse than last year.

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Councillor Webster asked how Sovereign was managing those people who were unwilling to move due to emotional attachments to their homes. Adrian Brunskill acknowledged that some of the smaller properties within Sovereign's portfolio were not desirable to current clients, but advised that flats were being built, and that there had been an increase in the popularity of bungalows. Sovereign were undertaking a review of their asset base more generally.

Councillor Vickers commented that whilst this scheme was painful, it was necessary to avoid unfairness in the private rental sector. Councillor Vickers referred to the statement that if people were not able to afford social sector rent, they would not be able to afford a home anywhere, and asserted that the Council should be taking action to address this, suggesting that the Council could use its borrowing power, and should address issues with developers who cited economic viability as a reason not to progress affordable homes. Councillor Vickers asked whether Sovereign's and other provider's credit ratings had been affected by the greater uncertainty of rental income. Adrian Brunskill replied that building smaller homes in numbers was difficult to achieve, and that part of the intent of the reform was to encourage people to alter their circumstances, for example to get a job and no longer be reliant on housing benefit, thereby being able to remain in their larger home. With regard to credit ratings, the greater concern was for the introduction of Universal Credit which would pay benefits to the individual rather than directly to the provider. This would create far more uncertainty as to whether rent would be paid and Sovereign, and other providers, would maintain their income. Currently financial institutions were comfortable with the mitigation work that Sovereign had undertaken and were not concerned for their financial stability. Mel Brain commented that mutual exchanges were taking place between registered providers, but most involved Sovereign properties which reflected the high proportion of stock held by them.

Councillor Macro asked how Sovereign's tenancy affordability assessment related to social sector size criteria. Adrian Brunskill explained that the assessment considered all of the potential tenant's income, including benefits that they received, and compared this to the rent they would pay. Sovereign would not expect the rent payment to exceed 40% of income. Seven people had been refused tenancies over the last year due to this assessment, but the Council's Housing Service was often able to assist perhaps by acting as a guarantor. Mel Brain raised a concern that where an applicant would receive housing benefit to cover 100% of their rent, this should be considered even if the rental value was greater than 40% of their income. Adrian Brunskill advised the Commission that Sovereign would soon be reviewing whether this level was appropriate. He explained that Sovereign would explore with the applicant ways in which they could incur less rent, for example looking at other locations and other types of property; referring people to tenancy support services and getting more involved in job seeking. However if indications remained that the person would not be able to afford the rent, they would be refused a tenancy.

Councillor Goff asked if anyone had been made homeless as a result of refusing them a tenancy. Mel Brain replied that the Council had picked up a duty to some people and arrangements had been made for them for example by becoming a guarantor for their rent for a year, in the knowledge that they would receive 100% housing benefit.

Jan Rothwell informed the Commission that under-occupancy had caused problems for people with disabilities who used a small room for storage of equipment or where couples were required to sleep in different rooms. An issue had also arisen where people had become suddenly ill and unable to work. There was a general feeling of unfairness as there were insufficient smaller properties available. Adrian Brunskill informed the Commission that there had been cases of properties being reclassified as 'one-bedroom' where the second room was very small. However Mel Brain advised that this

reclassification would cause landlords to incur a loss as the rent level would be recalculated.

Councillor Macro asked whether tenants with a spare room could have a lodger. Mel Brain confirmed that this would be possible and was an option suggested to tenants both by the Council and by Sovereign.

Councillor Sheila Ellison asked whether there had been any effect on the waiting list for people looking to increase the size of their property as three bedroom houses had previously been popular and therefore in short supply. Mel Brain responded that some mutual exchanges had taken place and that some larger homes had become available.

Discretionary Housing Payments

Mel Brain explained that Discretionary Housing Payments (DHP) were not a benefit but were to provide temporary financial assistance to those in receipt of housing benefit where the benefit was not sufficient. Local policy had been developed in line with national guidance and was applied equally to all applications. There was an annual allocation of funds to which the Government and the Council contributed, and an applicant would need to demonstrate financial hardship and be in receipt of housing benefit in order to be successful. In addition, the payments were only able to be applied to things that were housing benefit eligible. Vulnerable people would be prioritised according to the policy, and payments would be used to assist people to maintain employment, to prevent homelessness and to provide rent in advance or rent deposits.

Applications for DHP had increased significantly since the introduction of the welfare reforms with 711 applications in 2013/14. Each decision required two Officers to agree, although the applicant could request a review of the decision if they were unhappy. The average payment made was £28.42 per week.

Payments were often awarded for a period of three to six months, and applicants might submit a new application to continue payments following this period. Where an applicant could not demonstrate that they had taken active steps to address their situation, the continued payment might be refused.

Property adaptations for disabled people were supported and were not a barrier to moving properties if an appropriate property became available.

Councillor Vickers expressed his contentment with how DHP was being dealt with, but asked what would happen to the remaining fund if it was not all spent. Mel Brain replied that any remaining fund would meet the Council's existing liabilities under the policy. Mel Brain reassured the Commission that funding was not held in reserve for any reason, and that all applications were considered and assessed against the same criteria.

Councillor Vickers further asked why a limit had been set for payments covering rental costs. Mel Brain responded that should the Council decide to increase payments to cover rent, it would have the effect of increasing rent prices more generally thereby making rent even more unaffordable. The Council were able to make higher payments to assist with more expensive rental prices. This was uncommon but had proved successful where it had been applied.

The Chairman asked how long payments could be paid for. Mel Brain replied that payments might be for a single week or for a period of time that ended on 31 March of the financial year. It was not possible to approve a payment into the following financial year, however clients were encouraged to reapply if their need remained. The policy recommended that payments should be made for between three and six months.

Community Grants

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Mel Brain informed the Commission that the Department for Work and Pensions (DWP) had abolished the Community Care Grant and Crisis Loans a year ago, with the Council being required to set up the Communities Grant scheme. One difference was that under the previous schemes, applicants had received a cash sum to address their needs, but under the current scheme, the Council would source the item required to ensure that the applicant received it.

Jan Rothwell advised the Commission that the new scheme was not a replacement for the previous scheme as it was necessary for a person to be in receipt of certain benefits in order to apply. The change had impacted most on people who found themselves in temporary financial hardship and the DWP would not provide a short term loan, and the Council would not approve a Community Grant.

The Chairman asked whether the Council received Government funding for this scheme. Mel Brian informed the Commission that the Government were providing two years of funding and it was unknown what assistance might be given after this time.

Councillor Zverko asked how Officers were managing the changes relating to welfare reform. Sean Anderson advised the Commission that Officers were mitigating the impact of the changes through effective working and they continued to work in the interests of the claimant. The expected implementation of Universal Credit would be challenging for Officers.

Food Bank

Andrew Bruce gave a presentation to the Commission on the work of the West Berkshire Food Bank explaining that the need for a Food Bank in Newbury had been established 20 months ago by Christians Together. There were at the time, several small operations providing food and essential goods to people in need, but it was recognised that a central system would be more beneficial to a greater number of people. It was estimated that approximately 800 people were being fed and this might rise to 1800 given the economic climate at the time.

The Trussell Trust enabled the West Berkshire Food Bank to be set up 46 weeks prior to the meeting, as a charitable organisation – the first in the UK. Currently Newbury, Thatcham and Hungerford were each operating a food distribution centre and talks were underway to establish a fourth food bank in the east of the district. There were over 100 active volunteers and 65 occasional volunteers operating the centres.

As well as the provision of food, the food banks were able to provide toiletries and cleaning products. Products were donated by churches, supermarkets, organisations and individuals. Food warehousing space was limited and the Food Bank aimed to maintain stock for eight to ten weeks. This helped to avoid food stocks going out of date.

The centres operated through a voucher system. People were provided with up to three vouchers, each of which entitled them to obtain ten meals worth of food from one of the distribution centres. Vouchers were provided by referrers such as the Council, the Citizen's Advice Bureau and Sovereign.

The centres had seen a continued increase in the number of people being fed over the 46 weeks of operation. The biggest group of people attending were white, single people between 25 and 64 years of age, and most often not in employment or on low income.

Councillor Webster asked when it was expected that a food distribution centre would be open in the east of the district. Andrew Bruce replied that it was not certain but could be another three or four months. Councillor Webster requested that the Commission be informed when it opened. Councillor Macro suggested that discussions be opened in the Mortimer or Burghfield areas where he believed a food bank was being set up.

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Councillor von Celsing asked why people were in need of food bank vouchers. Jan Rothwell explained that it was often due to a delay in receiving benefits following application for them, or when people transitioned between benefits.

Benefit Cap

Sean Anderson informed the Commission that the Government had implemented a 'cap' on the total value of benefits a family could claim. There were certain exemptions, and to date 31 families in West Berkshire had been identified as being affected by the cap. The excess benefit above the cap was to be removed from the family's housing benefit and was therefore of concern to the Council.

Councillor Mike Johnston commented that the example of a family's benefits package being reduced by £293 per week implied that the family were previously in receipt of benefits totalling over £50,000 per year, more than some families earned. Sean Anderson replied that there were often complex issues behind the statistics and that this report sought to present the information, not to defend it.

Universal Credit

Sean Anderson advised the Commission that Universal Credit had been expected to have been implemented already, but there had been delays in the national roll out programme. The system was intended to streamline the benefits system to make it clearer and easier to understand. Mel Brain expressed the generally felt concern that a single payment would be made to the individual who would be expected to manage their money appropriately.

Jan Rothwell informed the Commission of research undertaken by the Citizen's Advice Bureau during the pilot schemes. The research found that 50% of clients would be affected and five areas of essential preparation had been identified:

- Budgeting
- Managing Money
- Banking
- Staying informed of changes to the system
- Being online (Universal Credits would be operated digitally by default)

The research found that 70% of people would need assistance in one or more of these areas.

The purpose of the chosen approach was to prepare people for employment and the resulting home budgeting, but there was an expectation that some people would not budget appropriately, and might prioritise an immediate, non-essential requirement above future rent payments for example.

Adrian Brunskill reported that the greatest threat to Sovereign was that housing benefit would no longer be paid directly to them, and this raised a risk of people falling into rent arrears. Sovereign had reviewed their current client base and identified that people who were in less stable employment whose benefit history was sporadic were of greatest risk. There was also a group of people, who currently received full housing benefit and had had no need to manage payments to Sovereign themselves, who were an unknown risk as it was uncertain how they would manage their income from Universal Credit. It was expected that notification would be received of those affected by the change, and Sovereign could then seek to assist individuals, however it was not certain that notification would be forthcoming.

Sean Anderson advised the Commission that the scheme was being piloted in four areas currently and that lessons were being learned from those.

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The Chairman asked if it would be helpful for the Council to write to the Government to seek clarity on the scheme. Adrian Brunskill suggested that this information would be sought by every local authority, but was still not available.

Councillor Webb asked if tenants were able to pay by direct debit. Adrian Brunskill replied that some paid by direct debit, and where this worked it would be viewed favourably, but it would be necessary for Sovereign to know the date that the individual would receive their benefit payment in order that Sovereign could arrange a direct debit payment the following day.

Councillor Vickers commented that whilst the intention to encourage self-management was good, the method of payment was of concern and it was clear that agencies would need to be informed of who would be affected in order that they could be prepared and advised in advance, and it was not certain that this information would be received.

The Chairman thanked everyone who had contributed to the meeting.

(The meeting commenced at 6.30 pm and closed at 9.20 pm)

CHAIRMAN

Date of Signature