

# **OVERVIEW AND SCRUTINY MANAGEMENT COMMISSION**

## **MINUTES OF THE MEETING HELD ON TUESDAY, 17 APRIL 2012**

**Councillors Present:** Howard Bairstow (In place of David Holtby), Brian Bedwell (Chairman), Dominic Boeck, Jeff Brooks (Vice-Chairman), Paul Bryant (In place of Mike Johnston), Virginia von Celsing, Dave Goff, David Rendel, Andrew Rowles (Substitute) (In place of Marcus Franks), Tony Vickers, Quentin Webb and Emma Webster

**Also Present:** Nick Carter (Chief Executive) and Jan Evans (Head of Adult Social Care), Councillor Sheila Ellison, Councillor Roger Hunneman, David Lowe (Partnerships & Scrutiny Manager), Councillor Gwen Mason and Elaine Walker (Principal Policy Officer)

**Apologies for inability to attend the meeting:** Councillor Marcus Franks, Councillor David Holtby, Councillor Mike Johnston and Jason Teal

**Councillor(s) Absent:**

### **PART I**

#### **96. Minutes**

The Minutes of the meeting held on 21 February 2012 were approved as a true and correct record and signed by the Chairman.

#### **97. Declarations of Interest**

Councillor David Rendel declared an interest in Agenda Item 11, but reported that, as his interest was personal and not prejudicial, he determined to remain to take part in the debate and vote on the matter.

#### **98. Actions from previous Minutes**

The Commission received an update on actions following the previous meeting. Comments were received regarding the following items:

2.2 – The Chairman noted that only 12 Councillors were school governors at the time of the meeting. Reports were received from several members of the Commission that they had previously been school governors but had been asked to leave, or had applied but not been considered. Councillor Jeff Brooks suggested that the Commission could raise awareness amongst schools of what could be offered to them by Members appointed as school governors by providing information to the chairman of each governing body.

David Lowe informed the Commission that Central Government were currently reviewing the role of school governing bodies as it was considered that they did not appear to be properly accountable.

Councillor Emma Webster suggested that all Members could be contacted to find out who had been a school governor, and the reasons why they had left.

The Chairman confirmed that the letter to academies agreed at the Commissions meeting in February would be composed and sent. He further agreed that the Education Service would be consulted regarding how to encourage school governing bodies to include Councillors in their membership.

2.10 – David Lowe informed the Commission that a meeting had been arranged to begin the process of amending the Housing Allocation Policy. Members who would take part included Councillors Tony Vickers and Dominic Boeck. Work would begin shortly.

**RESOLVED** that the Education Service would consider how to encourage school governing bodies to include Councillors in their membership.

**99. Items Called-in following the Executive on 29 March 2012**

The Commission considered a supplementary report concerning the Call In Item EX2320 – Funding Arrangements Framework for Domiciliary Care and Non Residential Services which was submitted to Special Executive on 12 April 2012.

Councillor Jeff Brooks presented the reasons for calling in this item

1. The decision was contrary to the views expressed by those responding to the public consultation;
2. The decision contradicted the Council's Strategy 2012-16;
3. There was no evidence that the cost to the Council of managing this policy had been evaluated.

Councillor Jeff Brooks expanded on these points, stating that he was concerned that a high level of officer time would be required to process the 26 people who had been identified in the report. He believed that this cost would negate the expected savings. Councillor Jeff Brooks further stated that the savings that were expected to be achieved by the introduction of this policy were not significant in relation to the Council's total savings target and he was therefore not convinced that the introduction of this policy was appropriate.

Jan Evans provided the following responses to the points raised by Councillor Jeff Brooks:

1. A summary of the consultation responses had been provided in the report. The majority of respondents were concerned about the proposed changes, but most accepted that it would be unfair to expect the Council to pay significantly more to keep people in their own homes, if they were happy to take a place in residential care. Further responses indicated that some people would be happy to pay to 'top up' their allowance. Jan Evans explained that the proposals had been made with a clear priority not to affect front line services.
2. There were four key priority areas within the Council Strategy 2012-16 including 'Caring for and protecting the vulnerable'. Jan Evans explained that the proposal would not take services away but would provide alternative options.
3. The savings stated in the report were based on a current level of 26 people who were currently in the community and who had care packages in excess of £35,000. Extending the savings into the future to include individuals falling into this category at a later date could see far greater savings.

Jan Evans went on to stress that the 26 individuals highlighted in the report were intended to be indicative of the possible savings. It should not be inferred that these people would all be moved to care homes. All cases would be assessed on an individual basis to ensure the most appropriate care was provided. However the policy would allow care managers to recommend that an individual's care needs could be better met in a care home.

Councillor Paul Bryant asked whether the 26 individuals had been asked whether they would like to stay at home or move to a care home.

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Jan Evans reminded the Commission that the 26 individuals noted in the report were only indicative of savings, and that no changes would be made to their care package without a full assessment and consideration of the options.

Councillor David Rendel requested clarification on the statement that 'needs were better met in a care home' and asked who would make this judgement. He went on to ask whether the Council would enforce moving an individual to a care home if it was cheaper, but against their wishes and those of their family. Jan Evans responded that the assessment would provide the Council's view, but that decisions regarding care provision would continue to be made in conversation with the individual and their family. Where an assessment indicated that providing care in a residential home would be the most suitable option, but this was against the wishes of the individual or family, it could not be enforced, however the care manager would work with the family to understand the reasons for their preference.

Councillor David Rendel asked if care provision would be restricted in the individual's home if they had refused to move to a care home, in order to reduce costs. He was concerned that this policy would have a disproportionately adverse impact on those requiring the greatest levels of care. He further asked for clarification as to whether there was a difference between care provided in the individual's home and that provided in a residential home. Jan Evans responded that whilst the cost of care was a consideration, it was just one of many elements that contributed to the final decision. Consideration would equally be given to family wishes and the individual's emotional well being.

Councillor David Rendel also asked for clarification as to how the savings total had been calculated. Jan Evans replied that the figure of £160,000 was the result of adding each of the 26 individual's care costs that were in excess of £35,000. This figure was considered to be a generous allowance for care costs. Jan Evans further explained that the 26 people who had been included in these calculations were all older people, however the policy would be applied across all care groups.

Councillor Dave Goff asked whether people would have an appeal route if they disagreed with a decision made about their care. Jan Evans responded that appeals would be made through the Council's complaints procedure.

Councillor Emma Webster asked for Jan Evans' thoughts on the number of responses received to the consultation as her opinion was that past consultations of this nature resulted in far higher numbers of responses. Jan Evans responded that she had been surprised that more responses had not been received, however feedback had also been received from open sessions.

Councillor Emma Webster asserted that she believed the appropriateness of care was paramount and understood that allowing time to be spent with the service user and their family was invaluable in reaching an appropriate, and agreed, care package. She noted that although a cost parameter of £35,000 had been set, this did not mean that care would be withdrawn if the cost rose above this level, and that it would be decided on a case by case basis according to need. She asked whether the assessment process allowed individuals to understand the different levels of care they could expect from different care packages. She further asked whether people could be shown a care home environment to help allay their fears. Jan Evans responded that individuals were provided with a clear understanding of the different levels of care they could expect at home or in a residential home. She further stated that visits to care homes could be arranged.

Councillor Tony Vickers was concerned that the cost of contested decisions, in increased care management time and legal costs, would negate the proposed savings. Jan Evans

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responded that the policy would allow conversation to be raised early with individuals beginning to show indications that a care home might better suit their needs.

Councillor Joe Mooney explained that there were a number of people in West Berkshire with a high level of care needs. Whilst in their own homes they did not have 24 hour care provision. In these cases, their needs might be better served in a care home where care provision would be available at all times. He further stated that West Berkshire was considered to be 'asset rich and cash poor', and consideration should therefore be given to those families who wished their relatives to remain at home for financial reasons rather than for their best interests. He explained that a charge could be put on an individual's home if they were to move to a care home, this was not possible if the individual stayed at home, thereby preserving inheritance.

Jan Evans explained that neither Reading nor Oxfordshire had experienced problems with similar policies. She was concerned at the negative views being shown by the Commission; that they seemed to feel that moving to a care home was the end of the line. She countered that care home provision was a positive choice for people.

Councillor Tony Vickers clarified that the concerns raised at the meeting reflected the lack of choice afforded to families, not the fact of moving to a care home. Councillor Joe Mooney reiterated that all cases were dealt with individually and assessed according to merit.

Councillor Jeff Brooks raised a concern that moving an individual to a care home represented a significant change to their life which would not be welcomed by many. He also believed that the proposed savings were at risk of not being achieved. He suggested that as the majority of respondents to the consultation had concerns over the change which could cause significant upheaval and distress, weighed against the risk of not achieving savings, made the decision to adopt the proposed changes incorrect.

Councillor Jeff Brooks proposed that the Executive be asked to reconsider their decision on the matter.

Councillor Joe Mooney responded that he had attended all of the public meetings regarding this consultation, and reminded the Commission that only a small proportion of those consulted provided their views. He further reminded the Commission of the forthcoming increase in the numbers of older people in the district which could result in greater levels of savings as they entered the care system. He stated again that each individual case would continue to be judged on its merits. Councillor Joe Mooney did not believe that individuals would lose their right to choice and reminded the Commission that an appeal process was in place. He pointed out to the Commission that savings needed to be made across the Council and questioned where savings should be made if these proposals were rejected.

Councillor Roger Hunneman expressed concern at the perception that had been created by the choice of words in the proposal report. He suggested that stating a cost parameter of £35,000 would lead individuals who were in receipt of care at this level or higher to believe that they would automatically be placed in a care home. He believed that the aims of the policy would be better served by a tone of encouragement rather than one of threat.

Councillor David Goff said that this policy was the same as other authorities who had not received a high level of appeals or objections. He had heard from people with concerns about their relatives staying at home when a residential environment would be more beneficial.

Councillor Dominic Boeck stated that he understood the value of staying at home, but also recognised that every case was different. He was encouraged by the compassion in

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adopting a policy that accounted for the merits of individual cases. He believed that the proposed policy presented a sensible approach.

Councillor Paul Bryant recognised that people were not being forced into a care package that they did not want, and that discussion with the individual would lead to an appropriate decision being made. He also pointed out that there were many people whose circumstances meant that they were not aware of what was best for them. He believed that the proposal put forward to the Executive, with sufficient safeguards, was suitable for purpose.

Councillor Jeff Brooks noted that the Council was reliant on policies being implemented properly by Officers. He expressed particular concern that the policy stated that the Council would be within its rights to refuse to fund home care where an assessment had indicated that care provision would be better met in a residential home. He indicated that should this policy statement be implemented poorly in the future, a great deal of distress would be caused.

The Chairman allowed Councillor Joe Mooney to respond to this concern. Councillor Jeff Brooks noted his objection to Councillor Joe Mooney speaking after Councillor Jeff Brooks' proposal had been put forward.

Councillor Joe Mooney raised the issue of the duty of care the Council owed to those it was responsible for. He speculated about the media headlines should an older person be allowed to remain at home when an assessment had indicated more suitable care would be provided in a care home if, for example, the older person received no visitors, or had an accident.

Councillor Jeff Brooks objected to a new opinion being raised after his proposal.

The Chairman noted the two points of view that had been expressed during the debate. He reminded the Commission of the proposal put forward by Councillor Jeff Brooks to refer the decision back to the Executive for reconsideration. The proposal was put to the vote.

At the vote the proposal was defeated.

**RESOLVED that:** the funding Arrangements Framework for Domiciliary Care and Non Residential Services would not be referred back to the Executive for reconsideration and could therefore be implemented with immediate effect.

### 100. Councillor Call for Action

There were no Councillor Call for Action.

### 101. Petitions

There were no petitions to be received at the meeting.

### 102. Planning performance data for Q3 2011/12

The Commission considered an update report (Agenda Item 8) on key accountable measures and activities for quarter three of the 2011/12 year.

The Chairman noted that the number of Amber reports had reduced in quarter three, but the number of Red reports had increased. He went on to comment that he was satisfied with the information shared in the exception reports for most activities noted as Red, and was happy that corrective action was being taken, but had invited Jan Evans to provide further details of activities within Adult Social Care.

Councillor David Rendel commented that it would be of more use to the Commission to receive the most up to date information, as quarter three returns were now four months

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out of date. Nick Carter explained that the year end information had not yet been finalised, however he would provide a verbal update to the Commission during discussion of the item where the result was known.

During discussion of the measures, the following clarifications were received:

- Jan Evans noted that whilst figures were still provisional, she was confident that 'Care assessments completed within 28 days' would be Green for year end.
- Jan Evans referred the Commission to the exception report for 'service users and carers receiving self directed support (including personal budgets) and explained that the implementation of personal budgets had been particularly complicated with little guidance provided by central government. However a recent review of the process in West Berkshire had resulted in a simpler approach and would allow all individuals being assessed or reviewed from May 2012 to be allocated a personal budget. The original, national target for full implementation by 2013 had been found to be unrealistic and would be revised. Following questioning, Jan Evans provided the following information:
  - Personal budgets could be controlled by the individual, or the Council could retain control of the budget at the individuals request;
  - Some individuals managed their personal budgets with the support of a family member.
- Councillor Tony Vickers was concerned by the measure for 'People presenting as homeless who are prevented from being homeless' as this concealed a significant increase in the number of people presenting as homeless. He raised a particular concern for those who scored lowest when assessed. Nick Carter informed the Commission that some contextual information would be introduced in next years measures to help provide a clearer picture. The Chairman asked if the issue would be picked up in the scrutiny review into the changes to the Housing Allocation Policy. Councillor Tony Vickers was unsure if the terms of reference for the review would extend to this particular issue, and requested that all relevant stakeholders were invited to meet to deal with the issue urgently. The Chairman agreed to write to the Portfolio Holder to register the concerns of the Commission.

**RESOLVED** that the Commission would write to the Portfolio Holder for Planning, Transport Policy, Housing, and Economic Development to register concerns around the increase in people presenting as homeless.

### 103. Examination of facilities in place for younger people

The Commission considered a report (Agenda Item 9) concerning a scrutiny review into the facilities available for young people.

The Chairman invited the Commission to comment on the recommendations presented.

Councillor Sheila Ellison noted that although many of the recommendations were already being acted on, formal approval of the recommendations by the Commission would strengthen the need for activity to be carried out and progress monitored.

Following questioning, Councillor Sheila Ellison provided the following information:

- Currently few schools or Council owned properties were available for use by the community out of hours;
- The Berkshire Association of Clubs for Young People (BACYP) contributed to funding and training for leaders of youth clubs. It might be necessary for Parish and Town Councils to fund clubs in their area, and this would be an opportunity for communities to provide what was needed locally.

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- It had been recognised that very few people were interested in volunteering to help run youth clubs and activities;
- There was an online register of facilities available to young people;
- Of 16 youth clubs that had closed, 9 had reopened.

Councillor Emma Webster conjectured that it would be useful to understand why 7 former youth clubs had not reopened. She continued by stating that youth clubs would not satisfy all young people and requested information on what else was available. Councillor Sheila Ellison replied that youth clubs were intended to provide a safe environment with planned and managed activities for young people to meet.

Councillor David Rendel requested to know what was currently being run at the Waterside Building.

Councillor David Rendel asked whether the Pupil Referral Unit (PRU) had been involved in the review. Councillor Sheila Ellison responded that they had not, however she had been made aware of activities where young people who could have been targeted through the PRU had been involved. She believed that individual youth clubs should involve the PRU as appropriate, as the community would be better placed to understand what was required in the area.

The Chairman agreed that the recommendations should be circulated to all Members, but requested a preface be drafted as an introduction. The preface might include information to direct people to the online register of facilities.

The Chairman suggested that it might be appropriate to request an annual update on performance against the recommendations submitted.

The Chairman proposed that the recommendations be agreed subject to the actions agreed during the discussion.

When put to the vote, the proposal was carried.

### **Resolved that:**

- (1) The recommendations from the scrutiny review be circulated to all Members with the inclusion of a preface
- (2) The Youth Service Operation Manager to provide Councillor David Rendel with information explaining how the Waterside Centre was currently being used.

## **104. Domestic Abuse**

The Commission reviewed the proposed terms of reference for a scrutiny review into the response to domestic abuse.

Councillor David Rendel proposed the following amendments:

- That the first item be amended to read 'The extent or prevalence of actual and reported domestic abuse in the district';
- That the fourth item be amended to read 'Consider what might be done further to improve how domestic abuse is dealt with including cooperation with neighbouring authorities'.

Councillor Emma Webster clarified that it would be possible to obtain estimates of unreported domestic abuse, for example through anonymous telephone help lines. She further volunteered to participate in this piece of work.

The Commission agreed to adopt the terms of reference subject to the suggested amendments being included.

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**RESOLVED that** the terms of reference be adopted subject to the inclusion of the following amendments:

- That the first item be amended to read 'The extent or prevalence of actual and reported domestic abuse in the district';
- That the fourth item be amended to read 'Consider what might be done further to improve how domestic abuse is dealt with including cooperation with neighbouring authorities'.

### 105. Health Scrutiny Panel

*(Councillor David Rendell declared an interest in Agenda Item 11 by virtue of the fact that his wife was a GP in West Berkshire. As his interest was personal but not prejudicial, he determined to take part in the debate and vote on the matter).*

The Commission considered a report (Agenda Item 11) on the work of the Health Scrutiny Panel (HSP).

Councillor Quentin Webb reported that at the meeting of the Health Scrutiny Panel held on 27 March 2012 the following topics had been discussed:

- An update on the progress of the NHS Continuing Health Care (CHC) Programme;
- An interim report on Dignity and Nutrition at the Royal Berkshire Hospital (RBH).

**Resolved that** the report be noted.

### 106. Resource Management Working Group

The Commission considered a report (Agenda Item 12) on the work of the Resource Management Working Group (RMWG).

Councillor Tony Vickers reported that at the meeting of the Resource Management Working Group; held on 28 February 2012 the following topics had been discussed:

- An update on the development of the Highways Asset Management Plan;
- The Council's month 9 Financial Report;
- The establishment report;
- The closure report on the Timelord Programme.

Councillor Tony Vickers provided an amended work programme for the Resource Management Working Group's next meeting. The Group had decided that it would no longer review the first months of the Parkway Centre, as it would be more beneficial to wait until the second phase of the development was complete. Instead the Group would consider the Council's policies on energy saving, and the current status of day services.

**Resolved that** the report be noted.

### 107. West Berkshire Forward Plan March 2012 to June 2012

The Commission considered the West Berkshire Forward Plan (Agenda Item 13) for the period covering March 2012 to June 2012.

**Resolved that** the Forward Plan be noted.

### 108. Overview and Scrutiny Management Commission Work Programme

The Commission considered its work programme and that of the Health Scrutiny Panel and Resource Management Working Group for 2011/12.



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Councillor Jeff Brooks proposed that an item be added to the work programme to consider the effectiveness of consultations undertaken by the Council. He expanded his proposal to request that the review included other organisations and how they felt they had been consulted. This would be beneficial to residents as it would provide reassurance that responses were being used appropriately.

Councillor Emma Webster suggested including both public and private sector case studies, and would be able to submit these.

Members discussed their experiences of poor consultation and consultation that might be biased by outside groups.

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

**Resolved that** a review into the effectiveness of consultation undertaken by the Council be added to the Commission’s work programme.

*(The meeting commenced at 6.30 pm and closed at 8.48 pm)*

**CHAIRMAN** .....

**Date of Signature** .....