

# DRAFT

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## OVERVIEW AND SCRUTINY MANAGEMENT COMMISSION

### MINUTES OF THE MEETING HELD ON TUESDAY, 9 JANUARY 2018

**Councillors Present:** Lee Dillon, Marigold Jaques, Tim Metcalfe, Ian Morrin, Richard Somner (Vice-Chairman), Emma Webster (Chairman) and Laszlo Zverko

**Also Present:** Catalin Bogos (Performance Research Consultation Manager), Sue Brain (Service Manager, Safeguarding Adults), Nick Carter (Chief Executive), Andy Day (Head of Strategic Support), Tandra Forster (Head of Adult Social Care), Robert O'Reilly (Head of Human Resources), Andy Walker (Head of Finance), Rachael Wardell (Corporate Director - Communities), Councillor Graham Bridgman (Executive Portfolio: Corporate Services), Councillor Anthony Chadley (Executive Portfolio: Finance, Transformation and Economic Development), Stephen Chard (Principal Policy Officer), Councillor Hilary Cole (Executive Portfolio: Deputy Leader, Planning, Housing and Leisure), Councillor James Cole, Charlene Hurd (Democratic Services Officer) and David Lowe (Corporate Programme Manager)

**Apologies for inability to attend the meeting:** Councillor Steve Ardagh-Walter, Councillor Mike Johnston and Councillor Rick Jones

**Councillors Absent:** Councillor Jason Collis, Councillor Gordon Lundie and Councillor James Podger

#### PART I

#### 32. Minutes

The Minutes of the meeting held on 17 October 2017 were approved as a true and correct record and signed by the Chairman.

#### 33. Declarations of Interest

Councillor Emma Webster declared an interest in Agenda Item 7, but reported that, as her interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, she determined to remain to take part in the debate and vote on the matter.

#### 34. Actions from previous Minutes

The Commission received an update report following the actions recorded during the previous meeting. Actions 3, 8, 9, 10, 11, 12 and 13 had either been completed or were in hand and could therefore be removed from the list of actions arising from the previous Commission meeting.

Stephen Chard confirmed that actions 4, 5 and 6 (which related to the discussion on enabling more affordable housing completions) were being worked on by Officers and an update would follow in due course.

Councillor Tim Metcalfe suggested that Officers were issued with a deadline to ensure the Commission received an update in respect of these three actions. Councillor Emma Webster supported the suggestion and proposed that Officers were asked to respond by the 31<sup>st</sup> January 2018.

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Andy Walker advised, in respect of action 8, that budget surplus from backdated Council Tax and Business Rates collections were included in the subsequent year's budget.

The Commission heard that item 13 was bought forward for discussion in order that scrutiny could take place before the implementation of the General Data Protection Regulation in April 2018. Members agreed with the approach and noted that it was on the agenda for discussion.

### **RESOLVED that:**

- 1) Planning Officers would be asked to provide an update in respect of actions 4, 5 and 6 by 31<sup>st</sup> January 2018.
- 2) The action log be noted and updated as indicated.

### **35. Consideration of Urgent Items**

There were no urgent items to consider.

### **36. West Berkshire Council Forward Plan 6 February 2018 to 30 April 2018**

The Commission considered the West Berkshire Council Forward Plan (Agenda Item 6) for the period covering 6 February 2018 to 30 April 2018.

Councillor Emma Webster advised that items PP3388 and PP3389 appointed a Wokingham Councillor as lead due to the nature of its involvement with the Joint Public Protection Partnership (shared service). West Berkshire Council's representatives on the Joint Public Protection Committee were Councillors Marcus Franks and Emma Webster.

An amendment was also noted to the Portfolio Holder for item C3278 (Statutory Pay Policy 2018).

### **RESOLVED that:**

- 1) The Forward Plan be noted.

### **37. Corporate Programme**

*(Councillor Emma Webster declared a personal interest in Agenda Item 7 by virtue of the fact that she was a Member of the Fire Authority and Hungerford Fire Station had been listed as a work stream within the Corporate Programme. As her interest was personal and not prejudicial she determined to take part in the debate).*

David Lowe introduced the report to the Commission and offered to provide an overview of the work streams detailed in the work programme.

Members heard that the New Ways of Working Service Transformation (ref 1 - 6b) intended to go through the processes and tasks within every service of the Council to consider opportunities to maximise efficiency using the resources available and considering technological solutions. This work initially focused on the Planning Service and the Education Service quickly followed. The first stage focused on data gathering to understand the current position and incorporated stakeholder feedback to provide a comprehensive report. A scrutiny task and finish group was established to review the data and their views were submitted to the Project Board for further consideration.

Item 7 related to the recent Financial Challenge reviews which had been an intense piece of work involving many Officers and Managers across the Council. The review intended to identify opportunities to reduce expected expenditure and contribute towards future saving targets. It was intended that this work would continue.

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Councillor Lee Dillon advised that he had requested a copy of the minutes from this piece of work in order that the opposition party could have visibility of the discussions and pressures. Nick Carter agreed that he would speak to the Leader of the Council about this.

Item 8 detailed the focus on digitisation of some tasks (bookings, waste and courses). The aim was to improve the method of managing this work stream and also improve the customer's experience. David Lowe stated that there was a larger piece of work focusing around the Waste Service review (reference 9) and that digitalisation was an element of this work.

Items 10 and 11 detailed the work to construct shared services in Emergency Planning and Legal respectively. David Lowe advised that the Emergency Planning shared service contract was signed and the new team (formed by Royal Windsor and Maidenhead, Bracknell Forest and West Berkshire) would commence in April 2018. The Legal Services shared service discussion was ongoing with Bracknell Forest Council colleagues.

David Lowe explained that the property for item 15 (residential property - Fountain Gardens) was now purchased and offered and the next proposed project was the joint venture between West Berkshire Council and Sovereign Housing. It was intended that the replacement project would deliver the ability for West Berkshire to become a Social Housing Landlord.

Item 18 intended to look at ways to maximise the use of Central Government funding (known as the 'Apprenticeship Levy') to deliver internal training etc.

Item 19 aimed to look at the Council's position in readiness for the General Data Protection Regulation changes due in May 2018. David Lowe noted that the item was on the agenda for discussion.

Item 20 registered the need to conduct a review into the changes proposed by the revised Homelessness Reduction Act (due in April 2018) and the Council's position to ensure compliance with those changes.

David Lowe advised that the ICT demand management project aimed to look at areas of work which distracted the service from their key tasks and where this originated from - also considering levels of demand. Initial stages focused around information gathering in order to explore options going forward.

Items 22 and 23 referred to Major Infrastructure Projects (Sandleford and Grazeley). Councillor Hilary Cole advised that the discussion was ongoing with developers to ensure a suitable application was presented for the Sandleford development. Members heard that discussions continued with Wokingham Borough Council in respect of Grazeley Green but ultimately they were waiting for the final determination of the emergency planning area by the Office for Nuclear Regulation.

Councillor Webster asked why the Hungerford Fire Station had been referred to as a project within the 'One Public Estate' work stream in light of the fact that this involved minimal input from the Council. Nick Carter advised that the programme listed all estates which fell into the 'One Public Estate' remit but he acknowledged that the work to deliver the Hungerford Fire Station was already underway.

Councillor Tim Metcalfe advised that he thought the Waterside regeneration project was completed. Nick Carter explained that the final proposal was issued to the Executive in December 2017 to seek approval before it was issued to the Planning Service for further consideration.

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Councillor Dillon suggested that plans for Theale School and Highwood Primary were added to the programme due to the complexities surrounding their progression. Nick Carter advised that the programme focused on corporately led tasks and therefore he was not entirely sure those items were appropriate for this programme.

### **RESOLVED that:**

- 1) The report be noted.

### **38. Overview and Scrutiny Management Commission Work Programme**

The Commission considered its work programme for 2017/2018 and the proposed topics for future scrutiny: West Berkshire Vision 2036 and Social Mobility Commission.

In response to questions asked by the Commission, Stephen Chard advised that further topics for scrutiny to consider would be the prevalence of homelessness in West Berkshire (proposed for July 2018, post implementation of the Homelessness Reduction Act) and the establishment of a task and finish group to monitor GDPR progress.

Members heard that a proposed topic for scrutiny had been proposed by Andy Day which was not be contained in the agenda pack. It proposed the development of a task and finish group to facilitate a detailed review of the monthly budget submissions from service areas which would include consideration of overspends and savings proposals at risk. Members supported the proposal to set up a task group. Andy Day would circulate the paper which detailed the scope of the group in more detail.

The Commission agreed to defer the West Berkshire Vision 2036 discussion until later in the year (provisionally July 2018). The item to consider the findings of the Social Mobility Commission was scheduled for April 2018. .

### **RESOLVED that:**

- 1) Andy Day would circulate the paper relating to the proposed topic for scrutiny: Budget setting.
- 2) The work programme was noted and amended as discussed.

### **39. Key Accountable Performance 2017/18: Q2**

Catalin Bogos introduced the report which outlined the Quarter two outturns, for the Key Accountable measures which monitored performance against the 2017/18 Council Performance Framework. The Commission heard that the Council continued to perform well against ambitious targets and that notable achievements this quarter related to all Adult Social Care services being rated by the Care Quality Commission (CQC) as at least 'Good' or better and over 95% of the District's schools rated 'Good' or better by Ofsted.

Most of the measures RAG rated Amber had achieved results so far only slightly below targets, and were not of significant concern at this stage.

Councillor Graham Bridgman suggested that the new measure - Number of Community Conversations through which local issues are identified and addressed - was a challenging measure because it was difficult to quantify success.

The Commission discussed the measures associated with the new Universal Credit system. It was clear that the level of demand was not yet known. Councillor Dillon suggested that a review into the impact of the Universal Credit System might complement the Prevalence of Homelessness review (which would be added to the OSMC work programme), with homelessness a potential indirect consequence of Universal Credit.

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In response to questions asked, Catalin Bogos advised that the educational attainment results for the 2016/17 academic year would be available in Q3. Councillor Dillon noted that the Commission was considering a Q2 report in the Q4 period; he was frustrated by the delay in receiving accurate performance data. Catalin Bogos assured the Commission that the most recent validated data was provided at the time the report was published.

### **RESOLVED that:**

(1) The report was noted.

#### **40. Financial Performance Report 2017/18 - Month Seven**

Andy Walker introduced the report to the Commission. He stated that the Month Seven financial forecast was an over spend of £754k against a net revenue budget of £117.4million. The forecast would have an impact on the level of the Council's reserves at year end if the over spend could not be brought down by year end. The provisional Month Eight position showed a worsening of the situation to an overspend of around £1m. This continued to be an area of high focus for Executive Members and Corporate Board.

Members heard that the main driver for the forecast overspend was the £732k overspend in Adult Social Care (ASC). The over spend was as a result of increased complexity of client needs and inflationary pressures. The Communities Directorate were tasked with managing unnecessary expenditure to manage the overspend and the position was reported to Corporate Board also.

Councillor Anthony Chadley referred to the graph provided (4.2) in the report which detailed the forecast net revenue position for 2017/18 and included a comparison with the net revenue budget for 2016/17. This showed the reductions achieved to the overspend during the latter half of 2016/17 and the ability to reduce overspends. Efforts would be made to repeat this. Furthermore, the chart in 5.1 of the report was included to add transparency to the situation - which he hoped Members would find useful.

Councillor Dillon asked whether inflation rates were considered within the budget build and questioned the decision to meet inflation pressures in-year rather than at year end as in previous years. Rachael Wardell advised that it was factored into the budget but inflationary pressures in 2017/18 exceeded the forecasted level and the decision had been taken to meet these pressures in-year. Andy Walker advised that this also provided justification for the Reserve Fund as it was considered an area of potential risk - which had since materialised.

In response to questions asked about the forecasting model, the Commission heard that forecast modelling was improving but it was likely to take a similar line due to the nature of the challenge. Although Rachael Wardell agreed that they would prefer to see a less severe curve in overspend.

Councillor Lazlo Zverko asked whether the severe weather in December 2017 produced financial pressures within the Council. Andy Walker advised that the monthly report would be collated from services to form the Month 9 update. He suggested that Members would have a definitive response to this question in the detail of the next financial report.

Councillor Marigold Jaques suggested that the pressure within ASC was going to increase - along with the ageing population. Andy Walker advised that modelling around ASC financial pressures was improving but he agreed that demand was likely to increase.

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Councillor Dillon felt that it would be useful if the task group considered the need to more carefully manage budgets throughout the year, rather than imposing restrictions in the final quarter of the year. Councillor Chadley reiterated that modelling had become more sophisticated and this would improve forecasting.

### **RESOLVED that:**

- (1) The report was noted.

## **41. General Data Protection Regulation (GDPR)**

Robert O'Reilly introduced the report to Members. He advised that a Member Development session was scheduled to discuss GDPR in more detail but a report had been provided to offer assurance to the Commission that the Council was on track to deliver the necessary changes in readiness for the implementation date of 25 May 2018.

The key focus of the project had been to provide awareness around the regulation and the changes it imposed on staff, Members and the Council overall. An e-learning package had been developed to aid this campaign.

Robert O'Reilly advised that the Corporate Programme Project Board decided that an information audit (internal or external) of existing personal data held by the Council was not required at the outset of the project because, if the Council was already compliant with the Data Protection Act, the potential risk did not justify the cost involved.

Good progress was being made all around and the GDPR review would go into more detail.

The project decided to roll out new privacy notices rather than review existing privacy notices. Members heard that services were required to input specific reasons for processing personal data into the privacy notice in order to move the action forward.

The Commission was informed that the Council would conduct an examination into the types of data it processed and identify the legal basis for doing so - ensuring that this information was fully documented. Robert O'Reilly advised that the GDPR impacted every Local Authority (LA) and, as such, West Berkshire Council was prepared to consider how the majority of LAs had interpreted the regulatory changes and follow suit.

Robert O'Reilly assured Members that the Council was making good progress in time for the deadline. Councillor Emma Webster invited the Portfolio Holder, Councillor Graham Bridgman, to comment.

Councillor Bridgman stated that his involvement, as the newly appointed Portfolio Holder, had been limited but he was familiar with GDPR through his involvement with the Governance and Ethics Committee.

Councillor James Cole was invited to comment on progress - through his involvement with the project. Councillor Cole advised that the project was much wider than an ICT matter and many questions had been asked of Officers regarding the Council's preparedness for the looming implementation date. He was concerned that there was still a lot of work to be done.

He considered that progress was rather slow and a lot more thought ought to be given to the paper and third party elements of the GDPR.

Councillor Ian Morrin advised that he had some experience with GDPR. He was concerned that the Council was hesitant in its approach to complying with the changes - choosing to follow suit with the majority of LAs would not be his preferred approach. He suggested that, rather than reviewing the Council's current position, effort should be focused on identifying the standards and aiming to comply with these. Furthermore, he

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did not feel that the Council would be significantly penalised if it was found to have breached GDPR through a genuine mistake (rather than gross misconduct or negligence). However, it was imperative that the Council developed/documentated sufficient policies and procedures to ensure it had the guidelines in place to avoid such an event occurring.

David Lowe advised that the regulations, in essence, were not new to the Council. Previous reports of breaches had been reported to the Information Commissioner Officer (ICO) and dealt with appropriately and with due diligence. However, it was a balance for the ICO to ensure agencies felt comfortable reporting such breaches without fear of the repercussions - otherwise they ran the risk of deterring any reports coming forward.

Members agreed that it would be useful to create a task and finish group to monitor and support the work of the GDPR project board. In terms of timing, this would be finalised post further discussion at Corporate Board. It was anticipated that the group would then convene in February 2018 to ensure it was effective in its contribution prior to the deadline. This would also take place post the Member Development Sessions. Councillors James Cole and Ian Morrin were nominated to be involved.

*(19:40 - Councillor Ian Morrin exited the meeting)*

Councillor Tim Metcalfe asked whether the Council had insurance against fines due to GDPR breaches. Andy Walker advised that the Reserve Fund was, typically, kept for such events.

### **RESOLVED that:**

- 1) A Task and Finish Group would be established to assist with the GDPR project.
- 2) The report was noted.

## **42. OSMC Task Group: Council Strategy Refresh 2018/19**

Councillor Ian Morrin introduced the report to the Commission which had been developed through the work of a task and finish group whose aim had been to review the existing Council Strategy and areas for improvement. It was also tasked with producing recommendations which could be used to shape the next Council Strategy.

Councillor Morrin thanked Andy Day for his support and assistance during the course of the review.

Members of the task and finish group looked at how the Council was performing against existing measures and they noted that performance was, largely, where they expected it to be.

Corporate Directors were invited to attend one of the meetings which enabled Members to question them around performance and horizon scanning. It was noted that John Ashworth was unavailable to attend but Members did not feel it was necessary to request alternative representation from the Environment and Economy Directorate.

Councillor Morrin endorsed the use of teleconference facilities to conclude their work because this enabled them to meet sooner than could have otherwise been agreed.

Councillor Dillon agreed that the teleconference facility was a good use of Officer and Members time and allowed flexibility. He directed Members to point 12.4 of the report which stated the need for the acknowledgement that delivery of Council priorities was the responsibility of the entire Council. He suggested that the Council should avoid working in silos and instead it should encourage working across directorates.

### **RESOLVED that:**

- 1) The recommendations were accepted.
- 2) The report was noted.

**43. Birchwood Care Home - CQC Inadequate**

Councillor Emma Webster introduced the topic to the Commission who were reminded that the discussion would take place in two parts. Members were asked to consider the nature of their enquiry for the suitability of Part I discussion. The Part II discussion would follow.

Tandra Forster introduced the report to Members which detailed the outcome from the Care Quality Commission (CQC) inspection, completed in September 2017, which rated the Birchwood Care Home as 'inadequate'. The report set out the background to the inspection and the actions required to improve the current position.

Tandra Forster advised that, subsequent to the CQC rating, the service developed an action plan to direct focus and make changes within Birchwood Care Home; in particular around leadership and systems.

Sue Brain explained that she was appointed the task of overseeing and managing the action plan from October 2017. The action plan was an organic document which they reviewed and updated on a regular basis to monitor progress. This plan was reactive to the inspection taking place.

A key element of the action plan was leadership. In her experience, strong leadership was crucial. The new Care Home Manager was from an existing West Berkshire Council care home rated "good" and this provided a seamless transfer when they came into post (in January 2018). Furthermore, the new manager was familiar with the Council's policies and procedures, which reduced the period of time they required to settle into the role. It was expected that the new manager would take a proactive approach towards managing the action plan and the running of the care home.

Sue Brain advised that the Council was in regular conversations with the CQC, in particular the safeguarding team, which helped ensure the action plan was focusing on the right areas.

Members heard that a significant issue the Council encountered was the inability to access Care Plans. Sue Brain explained that, due to ICT restrictions, West Berkshire Council could not inherit the existing systems used to hold and manage client's Care Plans.

Other areas for improvement which had been identified were those such as the building's environment, layout and interior. These recommendations contained some quick wins and others which required investment or further investigation; these would be picked up with the new manager.

Sue Brain expected the self-imposed embargo to be reviewed and monitored. When lifted, this would be done in a phased approach.

The action plan included the delivery of training to all staff at Birchwood Care Home and this was positively moving forward.

Furthermore, it was felt that cultural change was necessary and that the Council had not yet succeeded in embedding its ethos regarding the management of the care home. Sue Brain reassured Members that this was a priority but that cultural change would take time.



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Councillor Marigold Jaques asked whether the service had the resources they required to undertake the actions as detailed in the action plan. Sue Brain advised that they had inherited a large number of agency staff, which was not unique to Birchwood Care Home, as recruitment within the care industry was notoriously challenging. The team was working hard to change this situation but it could be difficult to encourage agency staff to transfer into permanent employment for various reasons.

Councillor Dillon asked when the service became aware of the staff skillset deficit and how the service monitored performance at the care home before it was acquired by the Council. Rachael Wardell advised that the Council's Care Quality Commissioning Team visited care homes and inspected their performance for residents funded by the Council but it was impossible for them to identify every issue within a care home, particularly those that would be visible only to those managing the home. An independent regulator, the Care Quality Commission was in place for all registered care providers. Sue Brain informed the Commission that often it was necessary to have a holistic view towards the operation of a care home through the information provided by the CQC and sight of the complaints systems to highlight independent concerns. It could be difficult to identify an issue with any one of these in isolation but when the Care Team had overall visibility of these information sources then it could be possible to take a view on care quality.

Councillor Tim Metcalfe asked whether the Council felt it had the appropriate skillset and experience to develop a robust improvement plan. Sue Brain stated that the Council had ample experience and she was confident that the plan was sufficient to drive / deliver improvement. All other Adult Social Care services were rated by the Care Quality Commission (CQC) as at least 'Good' or better by Ofsted

In response to questions asked by the Commission, Tandra Forster reassured Members that they were already seeing improvements at Birchwood Care Home and this was echoed by the feedback from family/ friends of those receiving care.

Councillor Dillon asked how the same situation could be avoided in the future and what powers the Council could exercise to manage concerns regarding providers' care quality. Rachael Wardell advised that the service worked with care providers where possible to highlight concerns and secure improvements. Where necessary the Council had the option to discontinue placements with a provider if those concerns were significant and/or had not been resolved. However, such decisions would always be taken with care due to the sensitivities around moving someone from their home; noting that the family would often be happy with the care in place and want their family members to remain. For these reasons it was important to consider the bigger picture before simply suggesting a change of care provider.

The Commission heard that West Berkshire, generally, had access to good care providers which was not common place in comparison to the rest of the South East.

In response to concerns raised by the Commission, Tandra Forster advised that the Council spoke with each family impacted by the CQC assessment prior to the report's publication. The Service encouraged the involvement and input from families to shape the improvement plan because it was recognised that their contribution was key.

Members heard that the service was clear about the steps required in order that sufficient changes were made within Birchwood Care Home and it was not anticipated that the care home would be in the same position again.

In summarising the Part I debate, Councillor Webster highlighted the primary concerns as being the level of care for Birchwood Care Home residents and to ensure residents were safe, as well as learning lessons for other homes across West Berkshire. The CQC inspection found that Birchwood Care Home did not provide a sufficiently safe or caring

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service and Councillor Webster stated the importance of reassuring care home residents and their families. Sue Brain assured the Commission that the service moved swiftly to respond to the CQC’s findings. Initial meetings and follow up meetings were held with residents and their families to explain concerns highlighted from the inspection. As explained, a clear action plan was in place and was being implemented to put things right both within the Council and with key health partners as well as the CQC.

Councillor Webster thanked Officers for the information provided and proposed that the meeting proceeded under Part II for reasons associated with Paragraph 3 – information relating to financial/business affairs of particular person. The proposal was accepted by the Commission.

**RESOLVED that:**

(1) The report was noted.

**44. Items Called-in following the Executive on 21 December 2017**

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

**45. Councillor Call for Action**

There were no Councillor Calls for Action.

**46. Petitions**

There were no petitions to be received at the meeting.

**47. Exclusion of Press and Public**

**RESOLVED that** members of the press and public be excluded from the meeting for the under-mentioned item of business on the grounds that it involves the likely disclosure of exempt information as contained in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the [Local Government \(Access to Information\)\(Variation\) Order 2006](#). [Rule 8.10.4 of the Constitution also refers](#).

**48. Birchwood Care Home - CQC Inadequate**

*(Paragraph 3 – information relating to financial/business affairs of particular person)*

Members discussed the exempt CQC report following the inspection of the Birchwood Care Home.

**RESOLVED that** the exempt report be noted.

*(The meeting commenced at 6.30pm and closed at 9.15pm)*

**CHAIRMAN** .....

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