

# **MINUTES OF MEETING OVERVIEW AND SCRUTINY COMMITTEE HELD ON TUESDAY, 3RD DECEMBER, 2019, 15:00**

## **PRESENT:**

**Councillors: Lucia das Neves (Chair), Pippa Connor (Vice-Chair), Erdal Dogan, Khaled Moyeed, Mark Chapman, Luci Davin, Yvonne Denny and Lourdes Keever**

## **ALSO ATTENDING:**

### **1. FILMING AT MEETINGS**

The Chair referred Members present to agenda Item 1 as shown on the agenda in respect of filming at this meeting, and Members noted the information contained therein.

### **2. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllr Jogee

### **3. URGENT BUSINESS**

There was no urgent business. It being a special meeting under Part 4, Section B, paragraph 17 of the Council's Constitution, no other business was considered at the meeting.

### **4. DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

### **5. DEPUTATIONS/PETITIONS/PRESENTATIONS/QUESTIONS**

The Committee received representations from a number of parents and service users:

- Brian and Sue Leveson, parents and service users of SEND transport.
- Marta Garcia de la Vega – SendPACT founder and parent/carer representative.
- Paul Murphy – Head Teacher of Lancastrian School.

The following key points were noted in relation to the representations made by parents and carers:

- a. Mr Leveson welcomed the level of engagement to date from Cllr Brabazon.
- b. There were new officers in the Children and Young People's Service as well as a new Cabinet Member for Children and Families. They had shown an increased interest in working jointly with parents and carers but there had not

- yet been any significant level of behaviour change within the service. In particular, concerns were raised that adherence to promises around co-production had been limited so far.
- c. Parents and carers had been involved in large-scale events, such as the one that had taken place as part of the Fairness Commission, and had mentioned their wish to be consulted on the development of SEND transport services. In addition, transport had been mentioned in passing as part of the engagement process for the recent Scrutiny Review that had focussed on children and young people with Social, Emotional and Mental Health (SEMH) issues and autism. However, the references to transport in such discussions were incidental and did not represent co-production or collaboration, which was an integral part of the SEND Code of Practice.
  - d. Parents and Carers set out that they each wanted to see a proper process of co-production and co-design and urged that the Council honour its pledges to work closely with parents and carers to ensure that co-production was central to the redesigned service. It was suggested that proper engagement with service users was crucial.
  - e. Concerns were raised about taking money out of existing budgets within the service to pay for a private company to undertake the change management.
  - f. Parents and carers who would be affected by changes to SEND transport needed to be fully involved. Ms de la Vega raised concerns that the views of some parents and carers had been taken out of context on this issue and urged that hearsay should not be presented as consultation.
  - g. The Committee heard from Paul Murphy, the Head teacher of Lancasterian School. The school shared a site with the Vale Special School. There had been continual issues with transport which included arrival times and the difficulties experienced by some parents and carers in arriving at the school on time. This had been raised but little progress had been made.

The following points were raised during discussion of the representation from parents and service users:

- a. The Cabinet Member thanked the deputation party for their contribution as well as the candour of their representations.
- b. The Cabinet Member set out that she did not disagree with some of the sentiments that had been expressed but cautioned that the decision that had been called in was specifically related to the award of contract. Many of the concerns raised related to co-production and how that had been undertaken to date, but the procurement process was an internal Council function. The aim of the service redesign was to improve the service and this is where co-production would be crucial and was the point at which the two issues coalesce. In effect the procurement process opened up the door to participation and co-production.
- c. The Cabinet Member reiterated that she wanted the redesign of the service to involve service users and parents and that there was a clear and explicit commitment to this. The Cabinet Member encouraged the parents and services users present to join to the co-production steering group.
- d. Officers advised that the scoping review involved engagement with schools and parents and the recommendations were drawn upon that basis.

- e. The Cabinet Member set out that the £600k budget did not come from the SEND service but was capital funding from the corporate transformation budget.
- f. The Cabinet Member reiterated that the appointment was a starting point for change and the company provided additional capacity and expertise that the Council did not possess. There had been no changes to the service as yet and the Committee was assured that any changes that were made would be subject to a process of co-production and engagement. The Cabinet Member also assured the Committee that the co-production process would be led by officers rather than the external partner.
- g. Officers set out, by way of an example, that under current arrangements the Council was paying more per mile than any of its neighbouring boroughs and that there were clear efficiency savings to be had that would not undermine the level of service provided.

The Chair thanked the parents and service users for their representations.

## **6. CALL-IN: AWARD OF CONTRACT FOR THE PROVISION OF SEND TRANSPORT TRANSFORMATION CONSULTANCY SERVICES**

The Chair read out a statement from Cllr Tucker, as the lead signatory to the Call in. The statement set out that Cllr Tucker objected to the timing of the Call in meeting being at 3pm in the afternoon. As a result he and the other signatories to the Call in were unable to make the meeting due to work commitments and there were concerns about the effectiveness of the scrutiny process in that context. Cllr Tucker also raised concerns about the fact that his alternative proposal to hold an evening meeting was not agreed by the Chair and he questioned the reasons for this. The Chair of the Housing and Regeneration Panel echoed concerns about the timing of the meeting and set out that some of the parents of SEND children were unable to make the meeting, as 3pm was an especially inconvenient time for parents.

In response, the Chair advised that she was aware that this was far from ideal but commented that she had done her best to work with people's diaries and existing commitments. The Chair advised that she had spoken with officers before the time was agreed to ensure that the family representatives could attend today's meeting. In response to a question, the Chair advised that the timing of the meeting was not related to whether she could make an evening meeting but rather was done in order to prioritise the availability of members of the Committee and the Cabinet Member, who was required to be present to respond to the Call in on behalf of the Cabinet.

In response to a further question, the Head of Democratic Services advised that the Council was legally obliged to hold the Call in meeting within 10 working days of the Monitoring Officers deeming the request as valid and that the availability of Committee members as well as the Cabinet Member had to be prioritised. The Committee was also advised that the availability of the Chamber also had to be taken into account and that the scheduling of the meeting was made more difficult by the fact that the meeting was being held during the pre-election period.

The Committee considered the Cabinet's decision for award of contract for the provision of SEND Transport Transformation Consultancy Services from the Cabinet

meeting on 12<sup>th</sup> November 2019. The signatories to the Call In were Cllr Tucker, Cllr Stone, Cllr White, Cllr Tabois and Cllr Chiriyankandath. The signatories did not claim that the decision was outside of the policy or budget framework. The reasons for the Call in were set out in the second dispatch agenda pack at page 49. The concerns of the signatories were noted as follows:

- a. It was acknowledged that SEND Transport needed drastic improvement. The objection was to the bringing in of a private, profit making company to determine and manage the changes. These included reductions in the operational budget for the service and the vast majority of the savings that arose would be given to the private company in the first two years.
- b. The private company in question had been brought in to conduct a scoping exercise that had resulted in a recommendation for an external partner to be appointed for change management. The company appointed for this was the same company that had undertaken the scoping exercise.
- c. The private sector did not have a magic wand nor an ethos that was superior to that of the public sector. Any genuine efficiencies which could be made in the service could be identified without giving £600k plus to a private company.
- d. There was unlikely to be any improvement in the genuine involvement of parents and carers by bringing in the private sector at this level. The addition of a company motivated by profit was more likely to cause a further diminution in the input and influence of service users.
- e. The gain share arrangement, whereby 40% of the savings above the expected level would be given to the company, added to the concern that the company would push through the most swingeing cuts possible in order to maximise its income. It was far from clear if or how it would be ensured that the changes were genuine efficiency savings and not merely service cuts or adverse changes for staff.
- f. The changes brought about by the contractor appointed when it had worked in Brighton had resulted in disruption of service and adverse changes being implemented, which had been objected to by schools, parents and trade unions. The Deputy Council Leader had needed to issue two separate public apologies as a result and the Council had set up an independent inquiry in response.
- g. At least one of the changes in Brighton was a service reduction as the escorts were no longer allowed to accompany the children and young people from vehicles to the school doors. Based on its practice in Brighton, there was a likelihood that the contractor would have an operational role. It was unclear what the financial consequences would be if all or part of the changes proposed by the company were rejected or if the contract was terminated early.
- h. The decision represented a large transfer of resources from the public to the private sector and might:
  - Lead to changes which are not in accordance with the Council's values;
  - Not represent value for money compared with alternative ways forward; and
  - Lead to reputational damage to the Council and its present leadership, which would be blamed for any adverse effects resulting from the involvement of the company.
- i. The deputation party requested that the decision should be rescinded and in-house work should be undertaken instead, supported by a not for profit external

resource such as APSE and in consultation with trade unions and service users.

Cllr Brabazon, the Deputy Leader and Cabinet Member for Children and Families responded to the Call in. Also in attendance were Ann Graham, the Director of Children's Service; Eveleen Riordan, AD for Schools and Learning; Peter Featherstone, Head of Strategic Improvement and Peter Capp, Strategic Procurement. The following key points were noted in response to the Call In:

- a. Extensive scrutiny work had already been undertaken around SEND through the Children's Scrutiny Panel. As part of this process a recommendation was made that parents and carers be involved in the process as much as possible and that a co-design approach be sought. The Cabinet Member advised that she was committed to this and that the selection of an external partner was the first step in the journey of co-production. The Cabinet Member clarified that the external partners had been tasked with implementing a change programme but that this process remained in-house and was accountable to the Director of Children's Services.
- b. The Cabinet Member set out that parents were clear that the service needed improvement and that current confidence in the service was low. This was the main driver of the decision to bring in an external partner and the primary interest for all concerned was ensuring the welfare of children. Although savings were important, officers set out that the goal was to improve the service and get the best outcome for children.
- c. The Committee were advised that the procurement process was carried out in accordance with all of the relevant rules and procedures and full procurement regulations were followed as part of this process.
- d. The Cabinet Member set out that the decision to use an external partner was not privatisation and was instead undertaken in recognition of the specialised and logistical nature of SEND transport. The partner organisation that was awarded the contract had extensive experience in this area which was simply not available within the service.
- e. The Cabinet Member emphasised the fact that parents and carers were part of this process and that they would be part of the Steering Committee. The administration was committed to co-production and this process was the start of that journey.
- f. In regards to concerns about the value for money, the Cabinet Member set out that the contract was done in such a way that the partners would not receive a fee unless the stated outcomes were achieved.

Following the Cabinet Member's response to the Call-in a number of questions were put to the Cabinet Member. The following was noted in response to the discussion of this:

- a. In response to a question, officers set out that the scoping review detailed areas for improvement, at no point did the review set out the need to find an external partner. The review did however identify a number of opportunities to improve the service and possible directions of travel.
- b. In response to a question about the number of companies involved in the procurement process, officers set out that 57 companies were shortlisted and contacted with a possible expression of interest. 11 companies expressed an interest to bid but only one company submitted a bid for the tender. In response

- to a follow up question, officers advised that the feedback they received from the other ten companies was that they did not feel that they possessed the requisite skill set or staff to undertake the contract.
- c. In response to concerns raised from Brighton and Hove City Council in relation to CCTV, officers advised that the issue related to the transformation partner specifying that all of the companies it used had to have CCTV and it was subsequently found that one of them did not. Officers suggested caution before coming to any conclusions and that this could be something as simple as someone incorrectly ticking a box on a form. Brighton and Hove were in the process of conducting an investigation in to this matter. Officers cautioned that the deficiencies were not necessarily the fault of the transformation partner.
  - d. The intention was that the change process would include the explicit involvement of parent and carer representatives, who would collaborate in its management and be an integral part of its Steering Group. There was a genuine commitment to co-production. This would begin once the contract began and continue for its duration.
  - e. In response to a question, officers advised that the change process that was being adopted had worked very well elsewhere. The service would remain in-house. The involvement of the private company would cease after two years. The transformation process had a broad scope. Efficiencies would be in the background and would not impact directly on service.
  - f. In response to a request for clarification as to whether scoping had been undertaken as part of the scoping review, officers set out that an overview of this consultation process was provided to Cabinet on 12<sup>th</sup> November and was included at page 28 onwards of the agenda pack.
  - g. In response to a question, the Committee was advised that due diligence and had been undertaken in respect of the contractor appointed. The problems referred to in Brighton had not arisen from the involvement of the contractor. Positive feedback had also been received from elsewhere. The Cabinet Member expressly set out that the service could not remain as it was. Improvements needed to be implemented.
  - h. In answer to a question, officers stated that they were of the view that that the percentage split of savings that were achieved with the contractor was reasonable, given the size of the budget. Officers clarified the £635k was identified as feasible savings as part of the scoping review. The external partners had guaranteed those savings so this was considered to be risk free for the Council. The gain share agreement was considered reasonable and it was hoped would result in a legacy of a drastically improved service.
  - i. The Cabinet Member clarified that the £635k savings identified was a one off saving that would then be built into the base budget. The fee was payable at the point of contract exit after 2 years and the fee was based on the extent to which they met the agreed savings identified in the scoping review.
  - j. The Cabinet Member reported that the contractor appointed had specialised expertise and the service was very complex and there were a wide range of inter-related issues to be considered. There was also a need to collaborate with parents and carers and this would be built in to the process. The changes would be managed by the Council. The process did not constitute outsourcing but was change management. The Invest to Save funding that had been obtained had been directly linked to service transformation and would not have been provided otherwise. The service would continue to be provided in-house.

Only the drivers and the buses were provided externally and the option of bringing them in house as well would be considered in due course.

- k. The Parents and services users present advised that they were concerned that some things that had been said around consultation with parents taking place they did not necessarily believe to be true and questioned the lack of evidence for those meetings. The Chair commented on her disappointment that consultation did not seem to have been undertaken with parents and service users following the specific recommendation that OSC made in July during its scrutiny of the MTFS proposals in Children's Services in July.

## **RESOLVED**

In consideration of the report from the Monitoring Officer and Section 151 Officer, the Committee determined that the Cabinet decisions was within the Budget and Policy Framework.

OSC set out that they had received clear evidence on the need for change within SEND transport and that the decision taken by Cabinet sought to address this matter. In determining its conclusion, the Committee took advice from the Monitoring Officer and agreed to refer the decision back to Cabinet with a requirement to take forward the following recommendations and emphasising the role of co-production, and the engagement and involvement of families and carers.

The Committee is aware of examples of co-production in commissioning and delivery of these type of services. The Committee feels strongly that Cabinet should consider how all commissioning in the borough incorporates co-production. The Committee was disappointed that families had not been engaged with significantly since OSC scrutinised the MTFS proposals in Children's Services in July 2019. Co-production has been a weakness across the Council and we note that this is an area that families would like us to continue to improve on.

The Committee recommends that Cabinet strengthens co-production in the context of this decision and across SEND transport transformation, prior to phase 1 of this contract.

- I. That Cabinet follow best practice in good governance in formulating the reference group that was referred to during the Call-In meeting, along with its membership and leadership and refers to parent advocates and respected co-production organisations.
- II. That Cabinet co-produce the terms of reference for the reference group and that the membership of the group follows best practice examples.
- III. That Cabinet asks its chosen partner to sign up to an agreement or charter which clearly sets out the participation and role of the voice and the views of families.
- IV. That Cabinet acknowledge and understand that parents should be seen as equals and that they should be given confidence that they will be listened to.

- V. That any decision on phase 2 of this contract should fully involve parents, carers and service users just as they will have been through the formulation of the reference group.

**7. EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED**

That the press and public be excluded from the remainder of the meeting as the items below contain exempt information, as defined under paragraph 3 and 5, Part 1, schedule 12A of the Local Government Act.

**8. CALL-IN: AWARD OF CONTRACT FOR THE PROVISION OF SEND TRANSPORT TRANSFORMATION CONSULTANCY SERVICES**

**RESOLVED**

The Committee noted the information contained in the exempt part of the report.

CHAIR: Councillor Lucia das Neves

Signed by Chair .....

Date .....