

## Overview and Scrutiny Performance Board

### Wednesday, 6 December 2017, County Hall, Worcester - 10.00 am

		<b>Minutes</b>
<b>Present:</b>		Mr C J Bloore (Chairman), Mrs E A Eyre (Vice Chairman), Mr A A J Adams, Mrs J A Brunner, Mr P Middlebrough, Mrs F M Oborski, Mr C B Taylor and Mr P A Tuthill
<b>Also attended:</b>		Mr A I Hardman, Deputy Leader and Cabinet Member for Adult Social Care Mr P M McDonald, Labour Group Leader Mr A Fry Ms C M Stalker Mrs E B Tucker, Group Leader 2017 Group  Sander Kristel (Director of Adult Services), Sheena Jones (Democratic Governance and Scrutiny Manager) and Samantha Morris (Overview and Scrutiny Officer)
<b>Available Papers</b>		The members had before them:  A. The Agenda papers (previously circulated); B. The Minutes of the Meeting held on 7 November 2017 (previously circulated).  (A copy of documents A will be attached to the signed Minutes).
<b>1008</b>	<b>Apologies and Welcome</b>	The Chairman welcomed everyone to the Meeting.  No apologies were received.
<b>1009</b>	<b>Declaration of Interest and of any Party Whip</b>	None.
<b>1010</b>	<b>Public Participation</b>	None.
<b>1011</b>	<b>Confirmation of the Minutes of the Previous Meeting</b>	At its last meeting on 7 November 2017, the Board discussed the Local Transport Plan 4. A summary of the points made during the meeting was circulated to those present at tabled at Council on 9 November 2017. Councillor Adams suggested that in future it may be

**1012 Call-In:  
Engagement on  
Options for  
Future Delivery  
- Connect  
Short-Term  
Service and  
Council -  
Provided Day  
Services for  
Adults with a  
Learning  
Disability**

helpful if all members present agreed the comments during the meeting where any points of disagreement could be discussed.

The Minutes of the Meeting held on 7 November 2017 were agreed as a correct record and signed by the Chairman.

In accordance with the Constitution, the Overview and Scrutiny Performance Board (OSPB) was asked to consider a decision made taken by the Cabinet on 2 November 2017 in relation to Engagement on Options for Future Delivery - Connect Short-Term Service and Council - Provided Day Services for Adults with a Learning Disability. This decision was called-in by the required number of Members and was attached to the Agenda.

In accordance with the Council's Overview and Scrutiny Rules, the following had been invited to attend the meeting:

- Signatories to the call-in
- Mr A I Hardman, Cabinet Member with Responsibility for Adult Social Care
- The Director of Adult Services

The following order of proceedings was suggested:

- Presentation by Members of the reasons for calling-in the decision
- Questions and clarification
- Response by the Cabinet Member/Officer
- Questions and clarification
- Any closing remarks by the Cabinet Member/Officer
- Any closing remarks by those calling-in the decision.

Once it had heard from all parties and considered the decision called-in, the OSPB would need to consider whether to:

- a) Accept the decision without qualification or comment (in which case it could be implemented immediately without being considered again by Cabinet); or
- b) Accept the decision (in which case it could be implemented immediately without being considered again by Cabinet) but with qualification or comment which the relevant Cabinet Member

with Responsibility must consider and respond to:  
or

- c) Propose modifications to the decision or require a reconsideration of the decision (in which case the implementation of the decision was delayed until the Cabinet had received and considered a report of the Overview and Scrutiny Performance Board);  
or
- d) In exceptional circumstances ask the Council to consider whether option (a), (b) or (c) is appropriate (in which case the implementation would be delayed until after the meeting of the Council to which it had been referred and, if Council resolves option (c), Cabinet had reconsidered the matter having regard to the Council's view).

Members were reminded that the debate should focus on the decision making process.

Presentation of the reasons for calling-in the decision –  
Councillor McDonald

Councillor McDonald, one of the signatories to the call-in presented the case for the call-in and in doing so made the following main points:

- The Cabinet Report was seriously flawed and had elements of presumption and predetermination
- The current service was second to none, which was not recognised in the Report. There was no mention or recognition of the dedication of staff or the respect given to them by service users or their carers
- There was no explanation about how well the current service was working for the service users or the impact of the changes on their social or personal development
- Recommendation 1a) failed to recognise the needs or demands of the service. Financial sustainability was at the heart of the recommendation as well as pushing forward the Council's political agenda to become a commissioning authority, which it was suggested the Council's had a poor track record of
- Recommendations 1b) and 1c) talked about engagement not consultation, which assumed a presumption that engagement would pick up views and inform the process. This was implementation by stealth
- The implication of Recommendation 1e) and 1f)

was that after widespread engagement was carried out, there would be no one left to consult with, which again was implementation by stealth. It was disingenuous to go through a process, when the way forward had already been decided

- There was a lack of evidence and comparable analysis for the rationale of the Report, the only comparison was financial
- The Service was remodelled just over a year ago and it was questioned what had changed already to warrant a further restructure
- There was no indication of a tender process for the service, how if the service was commissioned it would be monitored, what the short term service achieved, where the inefficiencies were in the service. It seemed that the service would be fragmented to allow for outsourcing and the Report was financially motivated.

#### Questions and clarifications

It was suggested that the Cabinet recommendation to engage with all parties was right and proper as a sudden change in a service for a vulnerable group of people would be un-acceptable. It was the right way forward to be fully informed by collecting relevant information

In response to the question about why the call-in was opposed to recommendation 1f) which requested a further report be made to cabinet in April 2018 which was informed by the proposed engagement exercises and detailed impact assessments including proposals for formal consultation where required. Councillor McDonald advised that he thought it was a done deal, using the back door method of predetermination, financially driven, with no comparable analysis and not in favour of service users or carers.

The point was reiterated that the report was about seeking to engage with service users and carers to gain their views, which was very important and reasonable. Councillor McDonald believed that if this was the case then the use of a ballot would have been more appropriate.

Article 7 of the Constitution relating to Decision Making was referred to, in particular reason number 1 of the Call-in: *'it fails in regards to equal rights and equalities'* and it was pointed out that the Constitution referred to human rights and equalities which was very different to equal rights.

In response to the request for evidence that the current service was second to none, Cllr McDonald advised that the County Council's website stated this.

A Member of the Board suggested that Cllr McDonald referred to paragraphs 3, 10 and 21 of the Cabinet Report which explained the changing needs and demands of the individuals using the Service. In particular paragraph 21 referred to the fact that there was evidence that the use of Council-provided day services by people with learning disabilities had been reducing over time and trends forecasted it to continue to reduce over future years. This was due partly to changing expectations from individuals and families, particularly younger individuals, wanting a more mixed variety of services during the week and also to the growth in the number and variety of external provision of day opportunities in Worcestershire. Furthermore, many people with a learning disability have said that they want meaningful employment rather than day opportunities. This was an ambition that the Council was successfully supporting through the Supported Employment Team.

The Chairman of the Board summarised that he felt that the decision had been called-in because of a concern that it was financially motivated, being made without comparative evidence which if the Cabinet had had this available to them could have made a more informed decision.

#### Response by the Cabinet Member with Responsibility for Adult Social Care and the Director of Adult Services

In addressing the points made by Cllr McDonald, the Director of Adult Services made the following points:

The Cabinet Report was a pre-consultation report and great care had been taken to avoid the term Consultation as the Report was not suggesting Consultation but engagement which was in fact a stage earlier. Consultation was prescriptive and had legal connotations.

It was clear that the current Service was not working as effectively as possible. People with learning disabilities were advising that they wanted a different type of service; there was a demand for suitable work and meaningful opportunities and the Care Act said that Council Services needed to be more personalised. Since 2014, there had been a 40% increase in supported employment.

The Report aimed to be transparent and there wasn't any robust evidence included, as this would be gathered as part of the engagement process, which involved speaking to relevant people (including Speakeasy NOW, an advocacy service for people with learning disabilities) about the requirements of the service. The formal Consultation would take place at a later stage.

The Director confirmed that legally, there was no need for this Cabinet Report but that morally, it was right to share early thoughts with this vulnerable group of people. In the current economic climate it was important to use the money available in the most effective way possible.

The Director apologised if there had been confusion about whether the report was seeking to engage or consult and reiterated that at this stage it was definitely engagement. There was no suggestion about the quality of the current service or the staff who supported the service who were very passionate about what they did.

There would be a further Cabinet Report in April 2018 with proposals for future service delivery, including proposals for formal consultation where required.

#### Questions and clarifications

It was suggested that in order to avoid any confusion, the opening statement of the Report should have been clearer and succinct in respect of its intentions ie to engage this would have avoided any confusion between consultation and engagement.

The Director clarified that transformation of this Service was so important for this group of people because it was clear that they wanted and needed a service that was meaningful, some of the current service was one size fitted all, but that was not what was wanted. Money was tight but personalisation was important, as was doing things better.

It was confirmed that the Gunning Principles (which were based on fairness and that: Consultation must take place when the proposal was still at a formative stage: Decision-makers couldn't consult on a decision that had already been made) would be complied with.

The Director reiterated that it was the intention for the engagement process to be as widespread as possible and inform the Consultation process. Speakeasy Now

and the Association of Carers would also be included as part of the process. The Adult Care and Well-being Overview and Scrutiny Panel would also be discussing this issue at its meeting on 22 January 2018.

In addition, if any Members wished to attend the CMR Briefings there was an open invitation to all members.

#### Closing remarks by the Cabinet Member

The Cabinet Member regretted any confusion about the intention of the Report and confirmed that he wanted to be as open and transparent as possible in trying to encourage as varied a learning disability day service as possible.

He was confident that the current service needed to change as the demand and needs were changing and wanted to see a more efficient model of service and was keen to find out what that would look like. Individual impact assessments would be carried out and human rights respected. Mindful of the points made, he did not feel that the outcomes were pre-determined.

Other councillors in attendance were offered the opportunity to speak.

#### Cllr Tucker

Given that the reason for the Cabinet Report was to carry out engagement to inform a subsequent Consultation, it was very difficult, on this occasion to understand the reasons for the call-in; which seemed premature.

#### Closing remarks by those Members calling-in the decision

In his closing remarks Councillor McDonald referred to paragraph 10 of the Cabinet Report, which referred to the necessity for the Council to remain financially sustainable and manage forecast increases in demand, due to demographics and increasing needs of the population, alongside reductions in available funding. This he believed, showed an increased demand for the service not a decline as was suggested earlier. He believed that engagement was predetermination and the only reason for pre-consultation was to get the criticism and negativity out of the way first in order to impose the changes. He believed that there should have been an evidence base for the engagement and a comparable analysis.

**1013 Member Update  
and Cabinet  
Forward Plan**

Conclusion

The Vice-Chairman of the Board suggested that in light of the debate, it appeared that there was a genuine willingness for engagement and proposed that the decision should be accepted.

The point was made that it was important that service users and carers were at the heart of the decision.

The Chairman thanked the CMR and Director for their explanations. The Director agreed to consider how to include Group Leaders in the engagement process.

In accordance with the Constitution, the Board agreed to accept the decision (in which case it could be implemented immediately without being considered again by Cabinet).

Economy & Environment Overview and Scrutiny Panel

Overall, the Panel recognised the complexity of the budget plans, but for future scrutiny, the OSPB was urged to look at the quality of information provided at the initial finance development meetings, and the delay in responding to requests for further information. Comparison with previous years' figures was also essential to enable effective analysis.

The Services where a variance was projected were:

Waste Services which were forecast to overspend by £1.3m. This was due to increased tonnages and as a direct result of the energy to waste plant working more efficiently and producing less process residues and incinerator bottom ash. Having asked about the situation and work to mitigate this overspend, it was understood that this was not a concern moving forward and would reduce next year. Overall, the energy to waste plant was a good news story.

Scientific Services were forecasting a variance of approximately £500k, due to loss of a contract in Northern Ireland which was beyond the service's control. Of more concern to the Panel was the loss of business from asbestos removal, arising from the Place Partnership agreement. The Panel was extremely disappointed that entering into the Place Partnership had taken business away from Scientific Services, which had also affected the resilience of the asbestos removal service.



A variance of £132k was forecast for the Archives and Archaeology Service, which was contributed to by allocation to the service of the accommodation costs of The Hive, which the Panel strongly recommended should be reviewed.

County Enterprises (a service which employed people with learning disabilities) was forecast not to achieve the target to become self-financed in 2017/18 by £114k. In discussing the role of County Enterprises, and whether it would fit more appropriately with Adult Services, the Director was happy to continue the operation which greatly enhanced the lives and needs of those employed, which would otherwise need to be addressed elsewhere. The Panel commended this initiative.

The Panel was surprised by the forecast variance of £236k for Trading Standards. Although the figure was projected to reduce by the end of year, this pointed to a perceived lack of transparency around the original case to bring the service back in house. Nonetheless, the rationale behind the transition costs were explained and the co-location of the Council's 12 Trading Standards staff alongside Worcestershire Regulatory Services was a good result.

In October 2017, the Panel looked at the Council's plans for delivering on and enabling cycling, and was surprised that there was no budget for cycling. Cycle ways were an important part of Worcestershire's infrastructure and the Panel therefore recommended that there should be a dedicated budget. Cycling representatives suggested to the Panel that this should be set at a minimum of £10 per resident.

#### Adult Care and Well-being Overview and Scrutiny Panel

The net budget for Adult Services for 2017-2018 was £131.1m, with services for older people and learning disability taking up £124.2m in total and covering 4,856 service users. There was a shortfall in savings delivery of £3.3m mainly due to timing issues and an increase in demand and cost of services for older people. The Budget was particularly challenging in line with the national picture and it was difficult to plan as the Service was totally demand led.

The Directorate reserves were needed to support the budget.

There was concern about reducing funding for Public Health Ring Fenced Grant and the need to provide mandated services.

The Panel was waiting for further information from the Directorate on a number of points, including how contributions were calculated and Disabled Facilities Grant.

#### Crime and Disorder

Cllr Middlebrough advised that he had attended the Adult Care and Well-being Overview and Scrutiny Panel to discuss budget and funding issues relating to crime and disorder. A further meeting had been arranged with the Cabinet Member with Responsibility for Health and Wellbeing and the Director of Public Health to explore further.

#### Corporate and Communities Overview and Scrutiny Panel

With reference to the Public Health Grant, it was confirmed that £1.1 million currently appeared in the COaCH budget pending identification of qualifying expenditure across other Directorate budgets. Following negotiation between the Director of Public Health and Service Directors, funds would be transferred to Adult and Children's Services accordingly.

Further clarification was requested on what was included in Commissioned Expenditure. It was confirmed that this covered multiple contracts and included, for example, IT licences, maintenance of property (Place Partnership Ltd), and legal services.

Members were informed that at month 6, the IT Services budget was forecasting an overspend of £1.2m, which included the non-delivery of outstanding savings targets of £900k. This was due in the main to the IT support costs (laptops, licences etc) still being incurred as a consequence of a forecast reduction in headcount across the County Council not being realised as quickly as first estimated. Positive inroads were already being made into this overspend.

#### Children and Families Overview and Scrutiny Panel

The majority of the Directorate's budget was spent on placements and there was a £6m deficit. It was also noted that the Family Front Door had grown considerably

in recent months. In relation to the Placements budget, it was suggested that there was a need to consider providing more small children's homes in Worcestershire as opposed to using more expensive out-of-county placements. Similarly, an increase of in-house foster carers would reduce spend on Independent Fostering Agencies. It was acknowledged that there would always be some children with very specific needs who would need to be looked after out-of-county, but the Council should look to reduce numbers of these placements where possible.

The meeting ended at 12.05 pm

Chairman .....