

BIRMINGHAM CITY COUNCIL

CHILDREN'S SOCIAL CARE OVERVIEW AND SCRUTINY (O&S)

COMMITTEE – PUBLIC MEETING

10:00 hours on Thursday 2nd May 2019, Committee Room 2 - Actions

Present:

Councillor Mohammed Aikhlaq (Chair)

Councillors: Debbie Clancy, Diane Donaldson, Kerry Jenkins, Kath Scott and Alex Yip

Also Present:

Councillor Kate Booth, Cabinet Member for Children's Wellbeing

Anne Ainsworth, AD for Skills & Employability

Ian Burgess, Head of Law, Education

Julia Davey, Education Adviser

Jennifer Langan, Travel Assist Lead

Rose Kiely, Group Overview & Scrutiny Manager

Amanda Simcox, Scrutiny Officer

1. NOTICE OF RECORDING/WEBCAST

The Chairman advised that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

2. DECLARATIONS OF INTERESTS

The following declarations of interests were made:

- The Chair is on the Board of Directors for the Leigh Academy Trust.
- Councillor Yip is a member of the Education Awards Committee and a school governor at Wilson Stuart School.
- Councillor Diane Donaldson is a member of the Education Awards Committee.

3. APOLOGIES

Apologies were submitted on behalf of Councillor Shabrana Hussain.

4. TRAVEL ASSIST POLICY FOR 0-25 YEAR OLDS IN EDUCATION

(See documents 1, 2 and 3).

The Chair advised Members that the purpose of the meeting is to discuss whether the Committee should, or should not, exercise its power of Call In – that is: whether to formally request that the Executive reconsiders its decision. Members of the Learning, Culture and Physical Activity O&S Committee were also invited to attend the committee meeting due to this crossing both committees' remits.

Councillor Alex Yip and Councillor Debbie Clancy proposed that the following call-in criteria applied:

- 5 – the Executive appears to have overlooked some relevant consideration in arriving at its decision.
 - 6 – the decision has already generated particular controversy amongst those likely to be affected by it or, in the opinion of the Overview and Scrutiny Committee, it is likely so to do.
 - 9 – the decision appears to give rise to significant legal, financial or propriety issues.
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- They set out the reasons for the request for call-in and expressed the view that the far reaching implications of this important policy override any perceived concerns regarding timelines and potential delay.
 - The risk register highlights potential legal challenges and clarification was sought about whether legal advice had been obtained before the policy was submitted to Cabinet.
 - The report which was submitted to Cabinet was late and had very few changes which did not adequately reflect the feedback received. This calls into question whether the concerns raised in the consultation had sufficiently been taken into account and been adequately reflected in the final policy.
 - There were concerns regarding the length of the consultation and how the consultation was undertaken, these include the timings of the consultation meetings.
 - The question regarding the stage 2 appeals process states 'to what extent do you agree with changing the Stage 2 Appeal Panel to a panel of independent Council Officers'. The objectivity of the wording was questioned as there was no mention that the panel is currently made up of a panel of cross-party independent elected Members. Therefore, it was questioned how a panel of officers will be more independent than the current arrangements.
 - Members of the committee had previously requested to see a 'tracked change' version of the policy that went to Cabinet so amendments made after the consultation could easily be identified. This was never provided.
 - Members only received the response from the DfE late on Wednesday 1st May 2019, the day before the call-in meeting, and then had to go through the policy that went out to consultation to compare it with the policy that went to Cabinet to identify whether the suggested changes had been incorporated.
 - The view was strongly expressed that it is particularly important that the policy needs to be clear to enable parents to easily understand whether their child

may be eligible for travel assistance and this is not the case with the policy as it currently stands. Specific examples were given where the policy is still not sufficiently clear which will inevitably lead to future challenge and controversy.

- The policy still does not include examples or definitions to clarify what is meant by 'exceptional circumstances', 'discretionary', or 'unsafe routes'.
- The policy was originally approved in 2013 but not implemented until 2016, so the Council has spent a number of years developing this policy to meet its statutory obligations and sufficient time needs to be given now to adequately reflect the responses to the consultation and specifically to consider and reflect on the response from the DfE.

Councillor Kate Booth, Cabinet Member for Children's Wellbeing welcomed the opportunity to feed back to the Committee. The Cabinet Member and Officers responded to the reasons for the request for call in and the following were among the main points raised:

- The Cabinet Member had been advised that the policy was legally compliant.
- The Cabinet Member provided assurance that nothing had been rushed and adequate time had been taken for the consultation (45 days in total and 28 working days) and to consider and incorporate the responses to the consultation. This included the late response from the DfE which was received outside of the consultation period, but which scrutiny Members were assured had been carefully considered.
- An extensive consultation had been carried out and the feedback was broadly in agreement with the proposed policy which is why only a few changes had been made.
- Having a single policy for 0-25 is seen as best practice.
- The responses had been regularly reviewed on an ongoing basis throughout the consultation period which facilitated the quick turnaround at the end of the consultation to allow for the amended policy to be presented to Cabinet.
- Stage 2 Appeals – there was disagreement regarding the point raised on the wording of the question and it was felt that they had taken into account responses and good practice from other local authorities.
- The Cabinet Member described the application form as 'clunky' and in need of being redesigned and officers acknowledged that the application forms do need to be amended and improved. It is intended that this will be done in collaboration with the Parent Carers Forum and Members were assured that this would happen.
- They are looking at the development of a quality framework so there will be clear processes around decision making.
- There are no definitions in the DfE guidance regarding unsafe routes and exceptional circumstances, but it was acknowledged that perhaps they could look and see if examples can be included in the policy, which would help to provide some clarity for parents and carers.

Members' queries and comments during the discussion included:

- There was a lack of clarity around the policy currently and that the current format of the policy is too long and not very user friendly or easy for parents to understand.

- It was suggested that the inclusion of case studies with examples of what would/would not be accepted would help the understanding of parents. Given that there has been a history of the Council having significant challenges with the implementation of the travel assistance policies previously, it is imperative that this is addressed in the final policy.
- Much anxiety was expressed about the fact that only two of the areas raised in the DfE response were addressed in the final policy.
- Scrutiny Members felt that the forms should be redesigned as part and parcel of the decision to approve the policy together with the appendices and they queried the legality of altering the documents (application forms) after they had been agreed as part of the policy at Cabinet. Members were informed that officers are allowed to alter the documents appended to the policy so long as this is clear when Cabinet makes the decision. However, Members felt that it is not clear whether Cabinet were aware that the forms included with the policy were a separate appendix and not part of the policy that was being adopted.

Members agreed they did not need to have a further discussion and agreed to go to the vote.

RESOLVED:

The Committee resolved to call-in the decision for reconsideration by Cabinet, by a unanimous vote of the six Members present at the meeting.

5. REQUEST(S) FOR CALL IN/COUNCILLOR CALL FOR ACTION/PETITIONS RECEIVED (IF ANY)

None.

6. OTHER URGENT BUSINESS

None.

7. AUTHORITY TO CHAIRMAN AND OFFICERS

RESOLVED:

That in an urgent situation between meetings the Chair, jointly with the relevant Chief Officer, has authority to act on behalf of the Committee.

The meeting ended at 11.41 hours.