

BIRMINGHAM CITY COUNCIL

HEALTH AND SOCIAL CARE O&S COMMITTEE

1000 hours on 5th February 2019, Committee Room 6 – Action Notes

Present:

Councillor Rob Pocock (Chair)

Councillors Nicky Brennan, Mick Brown, Peter Fowler, Ziaul Islam and Paul Tilsley.

Also Present:

Councillor Paulette Hamilton, Cabinet Member for Health and Social Care

Councillor Lisa Trickett

Councillor Lou Robson

Professor Graeme Betts, Director, Adults Social Care

Clive Heaphy, Chief Finance Officer

Lisa Cockburn, HR Deputy Business Partner

Rose Kiely, Overview & Scrutiny Manager, Scrutiny Office

Gail Sadler, Scrutiny Officer, Scrutiny Office

1. NOTICE OF RECORDING

The Chairman advised that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (which could be accessed at "www.civico.net/birmingham") and members of the press/public may record and take photographs.

The whole of the meeting would be filmed except where there were confidential or exempt items.

2. APOLOGIES

Apologies were received from Councillors Chauhdry Rashid and Suzanne Webb.

3. DECLARATIONS OF INTEREST

Members were reminded that they must declare all relevant pecuniary interests and non-pecuniary interests relating to any items of business to be discussed at the meeting. If a pecuniary interest is declared a Member must not speak to take part in that agenda item. Any declarations will be recorded in the action notes of the meeting.

Councillors Lou Robson and Rob Pocock noted that their constituency parties had received a donation from Unison in support of their Ward election campaigns in 2018.

Councillors Ziaul Islam and Nicky Brennan declared they were members of Unison.

4. REQUEST FOR CALL IN: ENABLEMENT SERVICE

The Chair set out the purpose of the meeting which was for the Committee to decide whether it should, or should not, use its power of Call-In to formally request the Executive to reconsider its decision taken on 22nd January 2019 to:

- Approve the final revised proposals for an improved Enablement Service set out in the report;
- Noted the agreement by Unison and the City Council to continue with ACAS talks.

The request for Call-In was made to the committee by Councillors Lou Robson and Lisa Trickett on 23rd January 2019.

Reason for the Call-In

The Chair asked Councillors Lisa Trickett and Lou Robson to explain why they had requested that the decision be called-in. The following reasons were highlighted:

5. *the Executive appears to have overlooked some relevant consideration in arriving at its decision.*
 - At Cabinet on 22nd January the Leader referred to the fact that negotiations with the Union were continuing and that Unison would be bringing forward further proposals by 1st February. This was not reflected in the report that went to Cabinet. At the same meeting the recommendations to implement Option 1 in the enablement report were agreed which appeared to be at odds with what had previously been articulated by the Leader about continuing negotiations. The Leader had agreed not to implement the policy decision until the proposal from Unison had received fair consideration by the Cabinet.
 - The report fails to make reference to or take account of relevant financial and budgetary issues which should have been considered. Specifically the extra £5.6 million in ring-fenced funding which has been made available for adult social care by central government which additional resources could have been used to support the social care transitioning pathway and is not mentioned.
 - Overlooking relevant considerations including failing to reflect the feedback from a consultation adequately in the form of an objective summary sufficient to allow 'intelligent consideration and response' by the Cabinet or failing to adequately and objectively reflect the impact on the staff affected when arriving at decisions potentially exposes Birmingham City Council to the risk of judicial review proceedings.

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.*

- Embarrassing and damaging for the reputation of Birmingham City Council to have such an ongoing, long-running dispute.
- The dispute has already generated considerable press coverage and concerns have been raised by Birmingham MPs.
- To proceed to negotiate directly with the staff involved on an individual basis, potentially overriding the collective bargaining approach, could prove a risk to the Council.

8. *There is a substantial lack of clarity, material inaccuracy or insufficient information provided in the report to allow the Overview and Scrutiny Committee to hold the Executive to account and/or add value to work of the Council*

- The report was taken to Cabinet as a late report but no compelling reason was given for the report being late.
- The report was taken to Cabinet as an urgent report but no adequate reason was given for the report being treated as urgent. The fact that discussions have been ongoing for some time and it is essential that the discussions are concluded is not an adequate reason for the report being taken as a matter of urgency.
- The CQC report is cited in terms of evidence to support the decision taken by Cabinet but the CQC report highlighted a systemic failure rather than a failure of the Enablement Service itself. Therefore the evidence in the CQC report is insufficient to justify supporting the decision that was made.
- There is a lack of facts about how the proposal will improve the quality of the service for the benefit of service users.
- No information included on the costs of the dispute to date and the chronology of the dispute needs to be clarified.

Cabinet Member and Officer Response

Councillor Hamilton, assisted by Professor Graeme Betts and Clive Heaphy, responded as follows to the issues raised:-

- Birmingham City Council wants to provide a sustainable, in-house enablement service which delivers value for money and also meets the needs of staff and service users.
- The aim of the report was to seek approval of Option 1 but not implement the recommendation whilst further seeking a negotiated settlement with Unison resulting in ambiguity.

- The wider context which needs to be understood is that hospitals are coming under increasing pressure resulting in the need to facilitate quicker discharge of patients and the current enablement service is not responsive to this need.
- Currently only 20% of service users have been enabled to become independent when they leave the service after six weeks. Whereas 80% were not enabled and needed further care. These outcomes compare unfavourably when compared with other local authorities and the proposed model aims for 80% of service users to be enabled when they leave the service.
- In relation to the financial position it was established that all figures are currently theoretical until staff have been consulted on an individual basis about their preferences.
- It was acknowledged that it may be necessary for another report to be brought back to Cabinet following detailed consideration of the Unison proposals.

Discussion by the Committee

In the ensuing discussion, the following points were made by members of the Committee:

- The scrutiny members had difficulty in understanding why the report was put forward as a late and urgent report at the Cabinet meeting on 22nd January after it had been agreed that Unison would be given until 1st February to bring forward proposals. Members felt that insufficient justification was given for the report being late, urgent and contradictory.
- A query was raised about the number of referrals which are currently being declined due to lack of capacity in the enablement service and who is providing this service. The response was that these cases are being picked up by private homecare providers but no information on the numbers involved was provided.
- Members were concerned about lack of adequate communication with frontline staff and service users. Members were told that one-to-one meetings were offered to staff in 2017 but that take up of the offer had been low. The Cabinet Member and officers said that meetings had taken place with service users. The scrutiny members were of the clear view that insufficient evidence had been provided on the part of the management about discussions with service users or staff.

- Members queried whether more efforts could have been made to explore the self-rostering proposals which were put forward by Unison and which was piloted in one constituency.
- Members questioned what legal advice had been sought in relation to the consultation with individual members of staff and the potential implications for the collective bargaining process. The response was that the advice was that there was a need to consult on a one to one basis as an integral part of the consultation.
- The point was made that patients with multiple health issues are referred to the enablement service on discharge from hospital when in many cases referrals to other services where their needs would be better catered for would be more suitable. Assurances were given that the proposed model incorporated a more targeted approach to help improve efficiency and appropriateness of the service.

RESOLUTION:-

The Committee resolved unanimously to call-in the decision for reconsideration by Cabinet on the grounds that:-

5. – the Executive appears to have overlooked some relevant consideration in arriving at its decision.

- The overriding issue with the decision was that the scrutiny members had difficulty in understanding why the report was put forward as a late and urgent report at the Cabinet meeting on 22nd January after it had been agreed that Unison would be given until 1st February to bring forward proposals. Members struggled to understand why the Cabinet did not wait until after the further Unison proposals had been made and considered to make their decision. Members also felt that the reasons given for the report being late and urgent were inadequate.

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.

- It is incontrovertible that this decision has already generated and continues to generate considerable adverse publicity and controversy both in the press and amongst local MPs and amongst the staff and service users affected.

8. – there is a substantial lack of clarity, material inaccuracy or insufficient information provided in the report to allow the Overview and Scrutiny Committee to hold the Executive to account and/or add value to the work of the Council.

- Insufficient relevant information to evidence improved outcomes for service users, which was available but not included with the report, to facilitate the Cabinet to give a considered response before making the decision.
- In particular more information needs to be included on:-

- benchmarking data for outcomes compared with other local authorities
- more evidence of feedback from service users;
- information about the collective bargaining agreement and legal advice in relation to that; and
- an expansion of Newton's proposals under section 3.8 of the report.

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 1225 hours.