

BIRMINGHAM CITY COUNCIL

CHILDREN'S SOCIAL CARE OVERVIEW AND SCRUTINY (O&S)
COMMITTEE – PUBLIC MEETING

13:00 hours on Tuesday 8th January 2019, Committee Rooms 3 & 4 - Actions

Present:

Councillor Mohammed Aikhlaq (Chair)

Councillors: Diane Donaldson and Shabrana Hussain

Also Present:

Councillor Kate Booth, Cabinet Member for Children's Wellbeing

Councillor Debbie Clancy

Councillor Ken Wood

Councillor Mary Locke, Learning, Culture and Physical Activity O&S Committee

Anne Ainsworth, Acting Corporate Director for Children and Young People

Rose Kiely, Group Overview & Scrutiny Manager

Jennifer Langan, Travel Assist Lead

Sharon Scott, Acting AD for SEND

Amanda Simcox, Scrutiny Officer

1. APOLOGIES

Apologies were submitted on behalf of Councillors: Charlotte Hodiola, Kerry Jenkins, Lucy Seymour-Smith and Alex Yip.

2. DECLARATIONS OF INTERESTS

The Chair declared that he is on the Board of Directors for the Leigh Academy Trust.

3. REQUEST FOR CALL IN: TRAVEL ASSIST

(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 are also invited to attend committee meetings when SEND and Travel Assist is being discussed and the Chair welcomed Councillor Mary Locke to the meeting.

Councillor Wood's reasons for the request for call in included:

- There is increasing demand and it is vital to get this right.
- There is insufficient / omitted information:
 - No risk assessment attached.
 - Does not include potential spend.
 - There are no timelines.
- There is a policy error as there should be two clear policies rather than one policy. These would assist with administering the policies and handling appeals:
 - A clear policy for distance of walking to school.
 - A clear policy for Special Educational Needs and Disabilities (SEND).
- The policy mentions the nearest qualifying school, what about schools that are named in the Education and Health Care Plan (EHCP)?
- It does not take into account lessons from the past, for instance, Personal Transport Budgets (PTBs) are a huge issue and do not really work in a lot of cases. Also, will PTBs cover the cost of driving through the Clean Air Zone (CAZ)? In addition, the wording in the policy states an 'increased emphasis on the use of Personal Transport Budgets' and officers will therefore steer families towards PTBs.
- The policy mentions exceptional circumstances but this needs to be clearer.
- The Council is putting the 'cart before the horse' as it is consulting on a policy when it has already agreed the commissioning strategy. Travel Assist is a historically huge issue, whereby children are legally entitled to assistance which they do not always get. Therefore, there needs to be a spending risk assessment.
- There is controversy as the policy needs to put the children first. There have already been protests in Walsall regarding proposed cuts to assisted travel.

Councillor Clancy's reasons for the request for call in included:

- This is a budget led approach which is overshadowing a child led approach.
- Criteria No 5: the Executive appears to have overlooked some relevant consideration in arriving at its decision.
 - Cabinet receives a summary of performance and the EHCPs have a red flag rating. This is due to them not being assessed in a timely manner and this could have an effect on Travel Assist. This rating has been overlooked when making the decision.
- Criteria No 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 to do so:
 - Independent travel training was discussed when Councillor Clancy was on the Education and Vulnerable Children O&S Committee. This is now being discussed again and it says this is well received by schools. Councillor Clancy queried how the Committee can measure and scrutinise whether the independent training has succeeded?
- Criteria No 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:

- Lack of transparency as the risk register has not been included.
- Paragraph 3.4 refers to developing more local special educational provision within the city. This is a good way forward, however, no information is given as to how this will be done. How can this then be scrutinised? For instance, what are the forecasts and will demand be met by using existing or new buildings etc?
- Criteria No 9: the decision appears to give rise to significant legal, financial or propriety issues:
 - Paragraph 3.5 refers to over 330 additional families having successfully applied for specialist transport during the 2017/18 academic year and the numbers of children being transported across the city has grown year on year. Therefore, this could happen in future years and there is not enough information on the indication of future demand.
 - PTBs in many cases do not work. This may lead to an increase in cars and congestion. Also, schools are already congested with some having only one exit/entrance. In addition does the Personal Transport Budget cover the cost for the CAZ?
 - There is no risk register attached and what is the risk methodology?
 - A lot of residents go to Councillors with help with Travel Assist and therefore where is the democracy if you remove Councillors from the stage 2 appeals process?
- The policy does not meet the Council Plan's priorities and as per Councillor Wood's point, there should be two policies.
- There is no reference in the policy that it will feed into the SEND process.
- There has already been an issue with guides and this service needs to be "child centred".

Councillor Kate Booth, Cabinet Member for Children's Wellbeing and Anne Ainsworth, Acting Corporate Director for Children and Young People welcomed the opportunity to feed back to the Committee and presented the reasons for the decision and these included:

- They are looking for approval to consult on the policy and they have taken into account legal advice and best practice. They have had conversations with the barrister and it is good practice nationally to have one policy. They will discuss this as part of the consultation.
- They very much welcome early conversations and the consultation will be robust and genuine and this will shape the final policy.
- The contract has been extended 13 times and the commissioning needs to be undertaken, as per the June 2018 Cabinet report the contract expires on 31 October 2019.
- PTBs have a bad reputation in Birmingham and prior to 2010 these were not organised well. They have taken legal advice in the last 4 – 5 months and they are looking at moving more towards best practice. Some schools do have access problems and they have spoken to Head Teachers about congestion. Also, more PTBs do not necessarily mean more cars, as families can look at alternatives, such as car sharing. They cannot push families towards PTBs and they will be bespoke to the family.

- They are trying to make the policy clearer and transparent and they are working towards a more modern contract with both the policy and commissioning working in tandem.
- They are cognisant that there is an increase nationally in demand. Travel Assist is a part of the broader SEND offer and the Written Statement of Action is looking at a range of options, one being more places in the city closer to where the need is. Therefore, they are looking at a holistic offer.
- They can add into the policy that it will feed into the SEND process and the Written Statement of Action.
- Changes to the stage 2 appeals is part of the consultation and this change reflects good practice. The current arrangement was not seen as good practice by the Kerslake Review and the Birmingham Independent Improvement Panel. Also, other local authorities are surprised at the current stage 2 appeals arrangement.
- They are cognisant of the legal challenges on cuts to SEND nationally and since August they have engaged a barrister.
- Travel Assist has received a lot of media attention and they want to get this right.
- They are looking at improving the EHCP process.
- Good practice is to undertake the consultation in 28 working / school days. However, they are looking to undertake this in 32 school days and would welcome any suggestions on additional groups they could consult with.
- The aim is to improve the service and the Acting Corporate Director is more than happy to bring the requested information to scrutiny. Also, Members discussed Travel Assist at their November 2018 committee meeting and the Written Statement of Action was discussed with Rachel O'Connor, Director of Planning & Performance, Birmingham and Solihull CCG in October and they will come back to update the Committee.
- They do not want the service to be procurement driven and they can talk about different options, as mini buses are not the only solution.

The Chair highlighted that Members were still awaiting the risk assessment from the previous call in regarding the Written Statement of Action. The Acting Corporate Director stated they will provide the risk assessments and moving forward it was acknowledged they need to be taken together with the Cabinet reports.

The Cabinet Member is very keen to consult and they want to move to a new commissioning strategy in the Autumn.

Members discussed the request for call-in and it was agreed that the decision would not be called in.

RESOLVED:

That the decision would not be called in and a letter would be sent to the Cabinet Member expressing serious concerns regarding the proposal to change the Stage 2 Appeal Panel from a Members Panel to an Officers Panel and the risk assessment / register is to be forwarded to the Committee.

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

No further requests for call in had been received.

5. OTHER URGENT BUSINESS

None.

6. 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 14.15 hours.