

**EDUCATION, CHILDREN AND FAMILIES BUDGET AND PERFORMANCE  
MONITORING SUB-COMMITTEE**

Minutes of the meeting held at 7.05 pm on 18 July 2018

**Present:**

Councillor Neil Reddin FCCA (Chairman)  
Councillor Will Rowlands (Vice-Chairman)  
Councillors Kathy Bance MBE, Nicholas Bennett J.P., Judi Ellis  
and Stephen Wells

Emmanuel Arbenser

**Also Present:**

Councillor Yvonne Bear  
Councillor Peter Fortune, Portfolio Holder for Children, Education  
and Families  
Councillor Tony Owen

**1 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Marina Ahmad. Councillor Kathy Bance attended as alternate.

Apologies for absence, in relation to Item 6 (Minute 6), were received from Councillor Chris Pierce, Reverend Roger Bristow, Joan McConnell and, Angela Leeves.

**2 APPOINTMENT OF VICE-CHAIRMAN**

The Chairman proposed from the Chair that Councillor Will Rowlands be elected Vice-Chairman. The Sub-Committee unanimously endorsed the proposal.

**RESOLVED: That Councillor Rowlands be appointed Vice-Chairman for the 2018/19 Municipal Year.**

**3 DECLARATIONS OF INTEREST**

Councillor Reddin declared an interest in Item 6 (Minute 6) as he was a former Governor at St Olave's, including part of the time period covered by the report, and as a result had been interviewed as part of the investigation. It was noted that the Chairman of the Education, Children and Families Select Committee would be in the Chair for Item 6.

Councillor Wells declared an interest in Item 6 (Minute 6) as a Member of the Court of the Foundation of St Olave's and St Saviours. Councillor Wells also declared that he had been interviewed as part of the investigation.

Councillor Judi Ellis and Emmanuel Arbenser declared interests in Item 8 (Minute 8) as they were Governors at Riverside.

**4 MINUTES OF THE MEETING HELD ON 27 MARCH 2018 AND MATTERS OUTSTANDING**

**RESOLVED** that the minutes of the meeting held on 27 March 2018, be agreed.

**5 QUESTIONS FROM MEMBERS OF THE PUBLIC ATTENDING THE MEETING**

Councillor Bennett took the Chair and reported that six questions in relation to Item 6 had been received (appended at Appendix A).

**6 REPORT OF INVESTIGATION INTO ST OLAVE'S GRAMMAR SCHOOL**  
**Report ED18063**

(Councillor Nicholas Bennett in the Chair)

This item was a joint item with the Education, Children and Families Select Committee.

In October 2017, on behalf of the Local Authority, the Deputy Chief Executive commissioned an independent investigation into practice at St Olave's Grammar School to consider, specifically, the transition of pupils from Year 12 to Year 13 and aspects of governance and, more generally, the school's ethos and culture and their impact on children and adults. Most of the 49 recommendations were being addressed by the school's Governing Body. Eight recommendations or part recommendations required action from the Local Authority and the report set out the action being taken.

The investigation was very thorough, following through all written submissions and interviewing all those who put themselves forward. As soon as he took up post, the new Chair of Governors took firm action to address the areas of immediate concern. With the Acting Head Teacher and with the support of the Governing Body and the staff team, he reaffirmed the Christian ethos of the Church of England school, stating unequivocally that the school must serve its pupils, rather than the achievements of pupils serving to enhance the reputation of the school.

The Local Authority accepted all the recommendations and was taking action to address them. The investigator had eight recommendations or part recommendations which required action by the LA.

The Chairman welcomed the Venerable Dr Paul Wright, Archdeacon of Bromley and Bexley and new Chairman of the St Olave's Board of Governors to the meeting.

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Dr Wright stated that by September 2017, it had become apparent that there were a number of issues that needed to be addressed. The Local Authority instigated a thorough investigation and the report which had now been published made very uncomfortable reading. Having suspended the Head Teacher before the Autumn half-term the Governing Body set about making changes which would eventually become recommendations in the report.

The key issue of the absence of a Local Authority Governor was rectified in a matter of weeks. Decisions were taken concerning how Governors would take a deeper interest in the life of the school. It was clearly accepted that the School was there for the benefit of the Students and not the other way round.

The Governing Body worked with the investigator. Efforts were made to ensure that the school was compliant in terms of both governance and values. Communications were reviewed. Work was undertaken to ensure that communications worked more effectively and that parents were listened to and their concerns and any issues raised received an adequate response.

By the time the report was formally received the resignation of the former Head Teacher enabled the School and the Governing Body to address those recommendations that had remained outstanding. The Governing Body had tried to respond to the challenges of parents, both past and present, as best it could. A meeting had been held the previous evening to give all those affected a further chance to help the school get it right.

The illegal policy concerning transition from Year 12 to Year 13 had been reversed and no pupil should feel anxious about not being allowed to remain in the school. Support, such as counselling, would also be provided to pupils who felt that they were struggling.

In conclusion, the Chairman of the Governing Body reported that the School was now looking forward to entering a new era and the implementation of the recommendations would be reviewed after 6 and 12 months.

In response to questions, the Chairman of the Governing Body confirmed that the School and its Governing Body had accepted all the recommendations and to date approximately 75-80% of the recommendations had been implemented. Where recommendations had not yet been implemented efforts were being made to ensure that action was taken. A letter would be sent out to parents on Thursday 19<sup>th</sup> July setting out the Schools response to the report. The Chairman of the Governing Body explained that the aim was to demonstrate to staff, parents and students its commitment to their wellbeing. Governors were seeking to go further than the letter of the recommendations in order to achieve that aim.

Concerning the two companies that had been established by the former Head Teacher and the former Business Manager; the Chairman of the Governing Body explained that one of the companies had been wound up. The other company, which dealt with intellectual property rights, had been transferred to the

Foundation.

In response to a question concerning the recommended skills audit of the Governing Body and specifically the issue surrounding accountancy experience, Dr Wright confirmed that the skills audit had been undertaken. In addition the resilience of the Governing Body had been reviewed. Two new appointments had been made, effective from 1<sup>st</sup> September 2018, and both the new Governors had accountancy experience. The Chairman of the Governing Body reported that the composition of the Governing Body had now changed, with new Members joining. The issue of the terms of office of individual Governors had also been addressed and rectified.

In relation to a question concerning how the Governing Body was working with staff and students that had been subjected to bullying, Dr Wright explained that a number of actions had been taken: Communication had been improved as had the capacity to listen. A number of school policies had been revised. Governors held regular meetings with both students and staff. The Chairman of the Governing Body attended regular meetings with the 6<sup>th</sup> Form as well as regular meetings with parents in order to hear views. The Governing Body was keen to ensure that it was operating in an open and transparent manner.

As part of the drive for more openness, transparency and support a number of wholly inappropriate practices had been reviewed such as the practice of 1 year fixed term contracts for teaching staff which the Chairman of the Governing Body described as “disgraceful”. The Governing Body had been working hard to shift the negative culture that had existed in the past. All those involved recognised that there was still more to do and that it would take time to repair the damage of the past and rebuild confidence.

Governors were seeking to re-engage with a wider cross section of the community and encourage better links between the school and the local community. To this end, the Scout Hut would be refurbished so that it was fit for purpose as a community resource.

In terms of emotional support for pupils and staff, the School was looking at securing appropriate and professional ways to help individuals. Increased counselling support was available and the School was looking to work with the Local Authority to secure further support. The Chairman of the Governing Body recognised that this particular aspect was a challenge, particularly when a number of the pupils affected had left the School. The impact on the pupils could not be underestimated and there was no easy answer.

The Chairman of the Governing Body reported that the relationship between the Governing Body, parents, pupils and teachers was improving and that the Governing Body had, particularly over the last three terms, worked hard to provide reassurance and instil confidence through effective meetings and providing what any teaching professional would expect in terms of pay and conditions. The Governing Body wanted pupils to know that they should enjoy their education and that whatever their results they would never be considered a failure. If students

were known to be struggling the school would work with them and their parents to achieve good outcomes. It was possible that such outcomes may include moving to a different school however, any decisions that needed to be taken in this respect would be theirs, no decisions would be imposed by the school. No pupil would be made to feel that they were second best.

Turning to the issue of the significant reserves that had been built up, the Chairman of the governing Body confirmed that use of these funds would be entirely transparent. A letter would be sent to parents setting out the planned use of the funds. A “shopping list” had been developed in consultation and this included works such as: security of the school, building maintenance, refurbishment of the toilets, and new sports facilities. What the Chairman of the Governing body described as “disgraceful practices” that had operated in the past, such as expecting pupils to pay for their own photocopying, had been ended. Staff and pupils would be provided with the necessary teaching resources.

The Chairman of the Governing Body stressed that the role of Local Authority Governor was critical. It was even more critical as a result of the Independent Investigation report as it was essential that the Local Authority was represented on the Governing Body and that strong links were maintained. The Governing Body was very grateful for the nomination of the former Leader of the Council, former Councillor Steven Carr, as Local Authority Governor.

In response to a question concerning how the school would seek to balance aspiration with ensuring that pupils were not made to feel they had failed if they did not meet the aspirations, the Chairman acknowledged that this would be difficult. Most of the pupils at St Olave’s had high aspirations and would want to do well. Managing any disappointment would not be easy but the school would be seeking to promote and instil a range of values, not just that of academic excellence. Significantly, there would also be parents who had very high aspirations for their children, where anything less than 4 A\*s at A-Level would not be acceptable and this also would have to be managed.

A Member noted that the Headmistress of St Saviours had a very extensive pastoral support system in place. The Member questioned whether the Chairman of the Governing Body had taken the opportunity to work with his counterpart at St Saviours to identify areas of learning. In response the Chairman of the Governing Body highlighted that historically the relationship between the two schools had been poor. Due to current diary commitments it had been difficult to meet with the Chairman of the Governing Body at St Saviours however, the Acting Head Teacher at St Olave’s had been working closely with his counterpart at St Saviours. It was clear that there were common areas and there was a clear hope that the two schools could work together to develop mutual recognition as this would be welcomed.

A Member noted that previously the vision for the School had been that of the former Head Teacher only as no meaningful consultation had taken place. The Chairman of the Governing Body reported that Governors had been working with the Acting Head Teacher to formally develop shared values. In September 2018,

the Governing Body would be spending a day with the Senior Leadership Team to develop a shared vision.

The Chairman of the Select Committee noted that the former Head Teacher had “fallen on his sword” and questioned whether any other staff would pursue the same course of action in light of the recommendations in the investigation report. The Chairman of the Governing Body responded by saying that he believed that the school now had the right people in the right place and that the individuals that had previously been inhibiting the school were no longer there.

The Chairman of the Select Committee thanked the Chairman of St Olave’s Governing Body for attending the meeting and responding to questions. The Portfolio Holder for Children, Education and Families was invited to address the Committee.

The Portfolio Holder expressed his gratitude to Dr Wright and the wider team for all they had done to address the concerns and failings outlined in the investigation report. The Portfolio Holder stated that it was difficult to read through the report without being overwhelmed by disappointment and anger at the way that pupils, staff, parents and governors were treated.

It was important that personal responsibility was taken. The Local Authority, its Members and Officers, must never forget the responsibility to all pupils at the school both past and present.

The Chairman of the Select Committee invited the Deputy Chief Executive and Executive Director for Education, Care and Health Services to address the Committee.

The Deputy Chief Executive reported that he had commissioned the report in September 2017 following concerns that had been raised. There were eight key recommendations for the Local Authority, either full recommendations or part recommendations, within four themes. Key actions had been developed in order to address and implement the recommendations.

The Deputy Chief Executive provided assurances that the Select Committee would be provided with updates on the progress of the recommendations within 6 and 12 months. This would enable and facilitate the necessary challenge and scrutiny in terms of the implementation of the recommendations and support to the school.

In drawing the discussion to a close and summing up, the Chairman of the Select Committee stated that as a former Deputy Head Teacher he had never read a report such as the one before the Committee. The Chairman stated that in light of what had been identified during the Independent Investigation he was amazed that Ofsted had inspected the school and assessed it as Outstanding.

Very few people had come out of the Investigation well. The Chairman paid tribute to the few that had:

- The parents that had continuously challenged and raised the Judicial Review;
- Mr Tony Wright-Jones, the Parent Governor who raised concerns time and time again to little avail;
- The former LA Governor, former Councillor Julian Grainger who had tried to challenge the Head Teacher and hold him to account;
- Councillor Reddin who had been a Governor and had raised concerns and attempted to expose bad practice;
- Staff who had been bullied and intimidated but yet continued conduct themselves professionally and raise concerns; and
- Parents and Pupils at the school, particularly the pupil referenced on page 144 of the report who had raised a petition and then stood his ground and persisted to question the Head Teacher in the face of anger and threats.

Looking forward, the Chairman of the Select Committee noted that positive action in terms of improved practices and transparency had come out of the Independent Report commissioned by the Local Authority. The Chairman thanked the report author, Christine Whatford CBE, for the thorough investigation that she had conducted.

The Chairman stated that it was extraordinary that one man had been able to remain in a school for 7 years whilst exhibiting the behaviours referenced in the report.

A new Governing Body was now in place and it was hoped that Governors would be in a position to effectively challenge and hold to account. It was important that both staff and pupils were treated in a caring manner. The Chairman of the Select Committee stated that, despite the findings of the investigation, he had been heartened by what he had heard during the discussion concerning the improvements that were being made.

The Chairman once again thanked Christine Whatford for the report that she had produced and proposed that the Select Committee note and accept the recommendations in the report. The Chairman also proposed that a short report be presented to the next Full Council meeting reporting the evidence heard by the Committee and confirming that the Select Committee was satisfied with the measures being put in place to affect change. It was agreed that further updates should be presented to the Committee in 6 and 12 months.

**RESOLVED: That:**

- 1. The report of the independent investigation into St Olave's Grammar School and the actions being taken by the school and the Local Authority in response to that report be noted;**
- 2. A follow up report on the implementation of the recommendations of the investigation report be received in six months and twelve months; and**

- 3. A short report be presented to the next meeting of Full Council outlining the evidence heard by the Committee and confirming that the Select Committee is satisfied with the measures being put in place.**

At the Conclusion of the joint item the Chairman of the Sub-Committee, Councillor Neil Reddin, resumed the Chair.

## **7 PRE DECISION SCRUTINY OF PORTFOLIO HOLDER DECISIONS**

The Committee considered the following reports where the Children, Education and Families Portfolio Holder was recommended to take a decision:

### **a EDUCATION, CHILDREN AND FAMILIES BUDGET MONITORING Report ED18059**

The Sub-Committee considered the budget monitoring position for 2018/19 based on activity up to the end of May 2018.

Overall, the position for Education was a predicted overspend of £95k. The main areas of overspend were in Adult Education where there were pressures in staffing and on income generation from fee paying courses causing pressures of £155k. The Schools budget was predicted to overspend by £392k in year. This would be deducted from the £1,180k carried forward from 2017/18. £188k of the brought forward balance had been allocated to support the central DSG services in year. This gave an estimated DSG balance at the end of the financial year of £600k.

The Children's Social Care division was currently overspending by £1,524k (net of management action of £985k). Placements for children continued to be a pressure area. The overspend before management action stood at £2,492k overspent. The number of placements had increased above budgeted levels, particularly in residential homes, independent fostering arrangements and special guardianship arrangements. This was in part due to the increase in the number of children reaching the threshold for secure placements and no secure placements being available. The Committee noted that this was a national issue. There was also a small overspend predicted on staffing across the division of £58k. This was being monitored closely and Members noted that further progress was being made in moving away from agency staff. There was also a small overspend in expenditure on 'Staying Put' of £24k and an underspend in accommodation of £65k in Leaving Care.

The Deputy Chief Executive reported successes in recruiting local in-house foster carers for Bromley children and this would help to reduce pressures on the budget.

In response to questions from the Sub-Committee the Deputy Chief Executive confirmed that he was confident that the right children were being taken into

care. There were two key decision makers for children being taken into care: the Deputy Chief Executive and the Interim Director of Children's Social Care. Children's Social Care was a demand-led service and it was therefore difficult to predict the number of children that would enter the statutory care system. The safety of children was the paramount consideration and if it was right that children were taken into care then they would be taken into care. Financial challenges were a secondary consideration. Noting the enormous variation in costs a Member suggested that it made sense to further promote in-house fostering.

The issue of recruiting foster carers for children with disabilities was also discussed. A Member noted that more needed to be done to support these specialist foster carers and provide incentives to encourage more foster carers into this specialist area. The Sub-Committee noted that the Education, Children and Families Select Committee would be undertaking a review which would encompass this at its next meeting on 16<sup>th</sup> October 2018 and it was agreed that this issue should be further explored at that meeting.

The Deputy Chief Executive reported that one of the implications of the Social Care Act 2017 was that children that had been adopted in Bromley, not necessarily through Bromley Adoption Agency, had a statutory right to access the virtual school. Children Looked After would also be able to call on the services of the Local Authority up to the age of 25.

In response to a question concerning unaccompanied minors, the Deputy Chief Executive explained that an unaccompanied minor was a child who had fled from another country, who had travelled alone and had no parents to care for them, and who was under the age of 18. There was a statutory duty for the Local Authority to care for them. Bromley now had 23 unaccompanied minors but had not yet met its quota under the pan-London agreement. There was an expectation that a further seven children could be placed in Bromley as the quota was 30.

In considering the under-collection of income within Adult Education, the Interim Director of Education confirmed that it was in fact an under achievement of income. The Interim Director also explained that income from Adult Education was allocated into the central Council budget rather than being reinvested in the Service.

Turning to the Schools' budget for 2019/20, the Interim Director of Education reported that in 2018/19 the Local Authority had been required to obtain approval from the Secretary of State to top-slice £1million from the Schools' Block for the High Needs Block as the Schools' Forum had not supported this proposal. There had been sound reasons for doing this and the Secretary of State had approved the request. The Schools' Forum would once again be asked to make a continuing contribution to the High Needs' Block and the Local Authority would need to demonstrate the economies that had been made, such as the Primary Outreach Service, but it was not clear whether the Schools' Forum would feel minded to support the proposal.

**RESOLVED: That the Portfolio Holder be recommended to:**

- (i) **Note that the latest projected overspend of £1,619,000 is forecast on the controllable budget, based on information as at May 2018; and**
- (ii) **Agree to the release of the carry forward funding as set out in section 5 of the report.**

**b EDUCATION, CHILDREN AND FAMILIES OUTTURN REPORT  
Report ED18058**

The Sub-Committee considered a report setting out the provisional outturn position for 2017/18. The provisional outturn for the “controllable” element of the Education, Children and Families Committee budget in 2017/18 was an overspend of £925k compared to the latest reported figure of an overspend of £874k which was based on activity at the end of December 2017.

The Chairman noted that pressures within Fostering and Adoption were major contributors to the variance and the Sub-Committee noted that these were key issues that officers were attempting to address in the 2018/19 financial year.

**RESOLVED: That the Portfolio Holder be recommended to endorse the provisional outturn for the Children, Education and Families Portfolio.**

**c CAPITAL PROGRAMME MONITORING - 1ST QUARTER 2018/19  
Report ED18058**

The Sub-Committee considered a report setting out proposed changes to the Capital Programme for the portfolio. The changes had been reported in full to the Executive on 11<sup>th</sup> July 2018 and subsequently agreed.

In response to a question concerning capital investment required for the SEN centre of excellence, the Interim Director of Education reported the guidance from the DfE was awaited concerning how an expression of interest for a bid for a Free Special School in the Borough would need to be submitted. In terms of land, a Member noted that educational development sites had been identified in the Local Plan.

**RESOLVED: that the Portfolio Holder be recommended to note and confirm the changes to the Capital Programme.**

## **8 SPENDING BY PRIMARY, SECONDARY AND SPECIAL MAINTAINED SCHOOLS 2017/18** **Report ED18057**

The Sub-Committee considered a report setting out information on all revenue and capital balances held by Primary, Secondary and Special maintained schools as at 31 March 2018. The report also provided a comparison to the balances held at the same time in the previous year.

Balances were reported in accordance with the DfE Consistent Financial Reporting (CFR) Regulations. This was a framework for reporting income, expenditure and balances. It provided schools with a benchmarking facility for comparison between similar schools to promote self-management and value for money.

The average level of revenue balances, both committed and uncommitted, for Maintained Primary Schools stood at 9% of School Budget Shares, compared to 11% at the end of 2016/17, a decrease of 2%. Secondary School balances had also decreased by 3% to stand at 7%. Special School balances had increased from 8% to 10%.

All schools with balances in excess of 8% had been asked to complete a proforma detailing the reason for holding a high balance and their plans for reducing the balance in year.

In response to a question concerning the large balances that had built up at St Olave's, the Interim Director of Education reported that one of the issues at St Olave's was that of funds being held outside of delegated balances and it was in those funds that the impressive balances were sitting.

The Chairman noted that where balances in excess of 8% had been identified schools had provided good explanations for the high balance.

**RESOLVED: That the report be noted.**

## **9 YOUTH OFFENDING SERVICE UPDATE**

The Sub-Committee received an update on the progress made by Bromley Youth Offending Service (YOS) in securing improvement and responding to the findings from inspections.

Since the last update the YOS had formally established its own improvement Board chaired by the Director of Children's Social Care. The Board met on a fortnightly basis. The YOS partnership was working towards 7 key priorities:

- Protecting the child or young person
- Reducing reoffending
- Protecting the Public
- Governance and Partnerships

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- Interventions to reduce reoffending
- Ensuring that the sentence is served
- Improving Practice

The latest published data showed good outturns in relation to first time entrants and reductions in reoffending rates. The positive outturn demonstrated a commitment to improving performance, improved casework and partnership work that occurred daily to effect change with young people.

As the information was not available at the meeting the Deputy Chief Executive agreed to provide information concerning the number of staff in the service and the ratio of permanent to temporary staff following the meeting. The Deputy Chief Executive reported that both he and the Director of HR chaired a recruitment panel which considered the key challenges around the recruitment of social workers. Issues around the Youth Offending Service would be considered the following week.

The Chairman suggested that it may be helpful for Members to raise the issue of the unacceptable delays in the confirmation of the financial position from central government as reductions in grant could impact on the wider staffing budget and also made it almost impossible to undertake an accurate financial forecast.

Members stressed the importance of reflecting the views of the young person and their family. The Deputy Chief Executive confirmed that the views of the child formed part of the social worker assessment but that the comments that had been made concerning the importance of seeking regular user feedback would be taken back to the Head of Service.

The Deputy Chief Executive also agreed to provide data surrounding the percentage of young people within the Youth Offending Service accessing Children and Adolescent Mental Health Services.

The Sub-Committee requested that an organisational chart detailing posts and current vacancies also be provided following the meeting.

**RESOLVED: That the update be noted.**

**10 CHILDREN, EDUCATION, AND FAMILIES PORTFOLIO PLAN  
2017/18 UPDATE  
Report ED18064**

The Sub-Committee considered an update of the Children, Education and Families Portfolio Plan 2017/18 and the proposed Portfolio Plan for 2018/19. The new Portfolio Plan was in line with Building a Better Bromley vision for children and young people and the Education, Care and Health Services Departmental Business Plan.

In relation to a question concerning whether the Portfolio Plan had been informed by the Select Committee's recommendations over the past two years the Assistant

Director for Strategy, Performance and Business Support confirmed that some of the Committee's recommendations, for instance those around CAMHS and NEET, had informed the Plan. Key recommendations were cross referenced with the Portfolio Plan.

The Co-opted Member, in relation to Priority 4 - SEND Reforms, requested that more be done to encourage employers to offer more apprenticeship opportunities to young people with special educational needs and disabilities.

**RESOLVED: That**

- 1. Progress on the actions associated with the Children, Education and Families Portfolio Plan 2017/18 be noted; and**

**The proposed Children, Education and Families Portfolio Plan 2018/19 be noted.**

**11 PERFORMANCE REPORTING - CHILDREN'S SCRUTINY DATASET  
Report ED18062**

The Sub-Committee considered a report setting out the outturn of key performance indicators and associated management commentary. The Sub-Committee noted the commentary in relation to key performance indicators performing below expectation.

The Assistant Director for Strategy, Performance and Business Support explained that at the end of the year RAG ratings would not be 'green' across the board as a number of challenging, aspirational targets had been put in place.

In relation to targets surrounding social workers allocated to young people in care, the Assistant Director stressed that every young person in care should have an allocated social worker. Members also stressed the importance of developing and building relationships and trust between young people and their social workers.

In response to a request for comparative data from statistical neighbours the Assistant Director confirmed that this could be included but that data would not be available for all key performance indicators as not all were nationally reported.

**RESOLVED: That the report be noted.**

**12 CONTRACTS ACTIVITY REPORT CHILDREN, EDUCATION AND  
FAMILIES PORTFOLIO  
CSD18098**

The Sub-Committee received an extract from the March 2018 Contracts Register.

In response to a question the Deputy Chief Executive confirmed that Departmental Commissioning Strategies would be considered at the internal Commissioning

Board on 30<sup>th</sup> July 2018.

The Head of Programme Delivery explained that the Council's Contracts Database automatically assigned risk status and procurement status and the red rating was purely an alert for action. The Head of Programme Design confirmed that no ECHS contracts had been flagged for concern.

A Member suggested that in order to make the Part 1 register more useful a more pragmatic approach should be taken to the information that could remain in Part 1.

The Head of Programme Design confirmed that when contracts were re-let the starting principle was one of seeking to secure a better service at a lower cost and as such no contracts represented growth.

The Head of Programme Design agreed to provide further information on the course of the Gateway Review of the extension to the Barnardos contract following the meeting.

**RESOLVED: That the report be noted.**

**13 ECHS RISK REGISTER QUARTER 4  
Report ED18065**

The Sub-Committee considered the Education, Care and Health Services Risk Register and the existing controls in place to mitigate the risks.

**RESOLVED: That the Education, Care and Health Services Risk Register be noted.**

**14 UPDATE ON SELECT COMMITTEE RECOMMENDATIONS  
Report CSD18112**

The Sub-Committee considered an update on progress on the recommendations made by the Education Select Committee in 2016/17 and the Education, Children and Families Select Committee in 2017/18.

A further update, including responses to recommendations from the last two reviews of 2017/18, was tabled.

It was agreed that the Chairman and Vice-Chairman of the Select Committee would review the recommendations and identify those that had been implemented or overtaken by events and therefore did not need to be reported to future meetings of the Sub-Committee.

**RESOLVED: That the update be noted.**

**15 DATE OF NEXT MEETING**

The next meeting of Education, Children and Families Budget and Performance Monitoring Sub-Committee would be held at 7.00pm on 30<sup>th</sup> October 2018.

**16 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000**

**RESOLVED** that the press and public be excluded during consideration of the items of business listed below as it was likely in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present, there would be disclosure to them of exempt information.

**17 EXEMPT MINUTES OF THE MEETING HELD ON 27 MARCH 2018**

**RESOLVED** that the Exempt (Part 2) minutes of the Education Budget Sub-Committee meeting held on 27 March 2018 be agreed.

**18 CONTRACTS ACTIVITY PART 2 REPORT CHILDREN, EDUCATION AND FAMILIES PORTFOLIO**

**Report ED18099**

The Sub-Committee noted the Part 2 commentary.

**RESOLVED: That the Part 2 report and commentary be noted.**

The Meeting ended at 9.30 pm

Chairman

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**EDUCATION, CHILDREN & FAMILIES  
BUDGET AND PERFORMANCE MONITORING SUB-COMMITTEE  
18<sup>th</sup> July 2018**

**QUESTIONS TO THE CHAIRMAN OF THE EDUCATION, CHILDREN AND FAMILIES SELECT COMMITTEE**

Questions received from Mr Julian Grainger:

Noting that:

**A) In November 2011, the then Director and Assistant Direction of Education were:**

- i) aware of the recently applied Y12 to Y13 academic exclusions**
- ii) stated that it was (in terms) “school policy” i.e. no query about lawfulness [#emails 16Nov11 (raised “lawfulness”, 17Nov11 & 18Nov11]**

**B) On subsequent occasions, Education Officers were made aware of Regulation breaches by the School and in 2014 made aware of alleged bullying of staff, Officers were asked to “investigate” and on each occasion the informer was told (in terms) nothing can be done other than the “nuclear” option of an Interim Executive Board.**

**C) It emerged in Autumn 2017 that:**

- i) academic exclusion was unlawful,**
- ii) powers existed under Education Act 2005 s 51 and Education & Inspections Act 2006 s60, to launch an investigation,**

**a) Would the Chairman agree that legal knowledge about academic exclusions displayed in 2011 by the then senior officers was less than it should have been ?**

**Reply**

Yes

**Supplementary Question 1**

In addition to those senior officers, an Appeals Panel clerked by a Member of the Council and with access to additional expertise missed this point. Will you ask what legal advice the Council gave to that Panel in 2011.

**Reply**

The Chairman stated that he saw no useful purpose in trying to investigate something that happened 7 years ago. Clearly there had been bad legal advice in the past from not just from the Council but from a number of other agencies including the Office of the Schools Adjudicator and the DfE when the local MP

raised an issue. The Chairman also highlighted that the Governing Body would also have had the power to seek its own legal advice and had chosen not to do this. The chairman stated that it was a sad fact that it had taken a Judicial Review for the matter to come forward.

**b) Can the Chairman suggest why, when presented with Regulation breaches and alleged bullying of staff, the relevant officers failed to mention the additional, less “nuclear” powers [including the one cited at the front of this Agenda Item (s51)].**

**Reply**

The investigation report conveys a shift in focus within the Council towards the reconstitution of the governing body. The report points out that the LA could not challenge the instrument of government which complied with regulations. The procedural errors and, ultimately, the formation of companies which would have warranted investigation triggered the use of section 51 which is limited to gathering information. The section 1 power which supported it was only exercisable with positive engagement from the school and did not give rights to require co-operation.

**Supplementary Question 2**

Given the number of breaches of regulations that had occurred by 2015 and had been drawn to the attention of the Council (the questioner cited examples of the breaches) it is a mystery why no investigation was commissioned.

**Reply**

The Chairman replied that he did not feel it was right to speculate on such matters.

**c) What steps can be taken to ensure that, when Members query a piece of advice, the relevant Officer actually goes and ensures that his information is complete or up to date ?**

**Reply**

Trust and confidence between officers and Members of the Council underpin the operation of the Council. At its best, this is built on respectful challenge on both sides . Members can ask for formal advice and if not satisfied escalate to an officer’s manager or within the their Group hierarchy. There are also rights for Members to request matters are placed on the agenda of scrutiny and other committees. We continue to strive to improve our practice and to maintain a shared ambition for the education and welfare of Bromley children.

### **Supplementary Question 3**

The questioner stated that he was making the point that when poor advice is given Members of the Council need to have the confidence to question and challenge.

### **Reply**

The Chairman stated that as the questioner would know from his time as a distinguished councillor and scrutiniser of council decisions, he as Chairman of the Constitution Improvement Working Group and of the Agenda format working Group had been instrumental in improving our scrutiny process and ensuring that Members had better advice before taking decisions. For instance requiring Agenda Sheets to show the Statutory requirements for any decision under the Legal heading and distinguishing between matters where the Government had merely issued 'Guidance' and the law

## **QUESTIONS TO THE CHILDREN, EDUCATION & FAMILIES PORTFOLIO HOLDER**

**Questions received from Mr Tony Wright-Jones:**

**The Recent St Olaves report states that in 2011 the LA lawyer knew the year 12/13 progression policy existed.**

**6. The role of the local Authority.**

**6.1.1**

**The Director's response to being told about this was "this is a continuation of St Olave's having prevented students continuing from Year 12 to 13". So the LA was aware of the practice as early as 2011**

**6.1.2 Conclusions**

**The lawyer confirmed that he did know but he had not told the school because he would never have direct contact with a school and would go through the officers in Children's Services but no one had asked him.**

**1. Why did the Lawyer not inform the Director of Education and Portfolio Holder on a formal basis, such as an email, as a duty of care? The Lawyer and LA officers will of course know that 'Ignorance of the law is no excuse'**

**Reply**

This is dealt with extensively in the independent investigation report.

**Supplementary Question 1**

As is stated in the report ignorance of the law is no excuse.

**Reply**

The Portfolio Holder stated this was accepted.

**2. If they did, Why did they not take any action or any further advice?**

**Reply**

The Portfolio Holder stressed that the events under consideration were historical events. The Lawyer to whom the report referred had now left the Council and it was therefore not possible to ask the person concerned directly. However, as the report explained in detail; as the lead education Lawyer the individual had no direct contact with the school.

**Supplementary Question 2**

The questioner stated that one would expect officers within the Local Authority to have a knowledge of the law. Extensive information was widely available via Google concerning the illegality of Year 12 to 13 exclusions on the basis of

academic performance and the officers should not have needed advice from a lawyer to know the practice was illegal.

**Reply**

The Portfolio Holder agreed with the questioner and stated that many people that had been involved should have known. The question that had been asked however was why had the Lawyer not informed the school it was illegal and this was set out in the report.

**3. Why did it take the threat of legal action before the LA did anything?**

**Reply**

The Portfolio Holder stated that he did not accept the basic premise of the question. The action taken by the Local Authority to commission an independent investigation of practice at St Olave's was triggered by an accumulation of factors, reflected in the independent investigation terms of reference (transition between Years 12 and 13; safeguarding policy and practice; reports of threats and intimidation of pupils, parents and staff; formation of companies, operation of governance arrangements). This provided a reasonable basis for intervention by the Local Authority, had such intervention been based on a single factor it may have been open to challenge by the governing body. The Portfolio Holder stated however that reading the devastating report highlighted that something should have happened sooner.

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