

**EXECUTIVE AND RESOURCES
POLICY DEVELOPMENT AND SCRUTINY COMMITTEE**

Minutes of the meeting held at 7.00 pm on 23 November 2016

Present:

Councillor Simon Fawthrop (Chairman)
Councillors Julian Benington, Nicholas Bennett J.P.,
Ian Dunn, Judi Ellis, Ellie Harmer, William Huntington-
Thresher, David Livett, Russell Mellor, Alexa Michael,
Keith Onslow (Vice-Chairman), Sarah Phillips,
Stephen Wells and Angela Wilkins

Also Present:

Councillor Graham Arthur, Councillor Stephen Carr and
Councillor Robert Evans

**373 APOLOGIES FOR ABSENCE AND NOTIFICATION OF
SUBSTITUTE MEMBERS**

Apologies for absence were received from Councillor Tony Owen and Councillor Michael Rutherford, who was replaced by Councillor Julian Benington.

374 DECLARATIONS OF INTEREST

There were no declarations of interest.

**375 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE
PUBLIC ATTENDING THE MEETING**

No questions had been received.

**376 MINUTES OF THE EXECUTIVE AND RESOURCES PDS
COMMITTEE MEETING HELD ON 12TH OCTOBER 2016
(EXCLUDING EXEMPT ITEMS)**

RESOLVED that the minutes of the meeting held on 12th October 2016 (excluding exempt information) be confirmed.

377 MATTERS ARISING FROM PREVIOUS MEETINGS
Report CSD16155

The Committee noted matters arising from previous meetings.

An update from the Chairman of the Renewal and Recreation PDS Committee is attached at [Appendix A](#) to these minutes.

378 FORWARD PLAN OF KEY AND PRIVATE DECISIONS

The Committee noted the Forward Plan as published on 15th November 2016. The Chairman commented that ways of reducing the amount of paper involved in publishing the Forward Plan should be investigated.

379 QUESTIONS TO THE PORTFOLIO HOLDER FROM MEMBERS OF THE PUBLIC AND COUNCILLORS ATTENDING THE MEETING

Three questions for written reply had been received from Mrs Susan Sulis – these are attached at Appendix B to these minutes.

380 RESOURCES PORTFOLIO - PRE-DECISION SCRUTINY

The Committee scrutinised the following proposed decision by the Resources Portfolio Holder.

a TREASURY MANAGEMENT - PERFORMANCE Q2 2016/17 & MID-YEAR REVIEW
Report FSD16078

The report summarised treasury management activity during the second quarter of 2016/17 and included a Mid-Year Review of the Treasury Management Strategy Statement and Annual Investment Strategy (Annex A). The report ensured that the Council was implementing best practice in accordance with the CIPFA Code of Practice for Treasury Management. Investments as at 30th September 2016 totalled £290.3m (excluding the balance of the Heritable investment) and there was no outstanding external borrowing. For information and comparison, the balance of investments stood at £285.2m as at 30th June 2016 and £282.6m as at 30th September 2015, and, at the time of writing the report (10th November 2016) it stood at £325.4m.

RESOLVED that the Treasury Management performance for the second quarter of 2016/17 be noted and the Resources Portfolio Holder be requested to recommend that Council approves the 2016/17 prudential indicators as set out in Annex B1 to the report.

381 SCRUTINY OF THE LEADER OF THE COUNCIL

Cllr Stephen Carr, Leader of the Council, attended the meeting to update the Committee on his work and answer questions. He updated the Committee on progress with responding to the Ofsted inspection of children's services, emphasising that he wanted a thorough review of services, not just basic compliance with the Ofsted recommendations. The Action Plan had now been signed off, and the council had been given six months to improve its services. The Action Plan would be monitored by Isobel Cattermole as independent chair of the Governance Board, and the new Director would be taking up his post on 1st December. Ofsted had acknowledged that the Council had put

resources in quickly and recognised the improvements on leadership, governance and partnership working, which now needed to be embedded in the organisation.

The Leader added that he had met with agency staff to encourage them to take up permanent roles with the Council; two or three had already signed up and about a dozen more were due to meet with HR. The Chairman commented that some people liked the flexibility of temporary roles, and asked whether the Council was able to offer flexibility within full-time permanent roles. The Council did have a package of measures to attract and retain staff, and consideration was being given to recruiting further high quality social work staff from Ireland.

A Member asked whether the lessons learnt from the Ofsted inspection were being applied to other services. The Leader confirmed that he had indeed challenged the Chief Executive on this.

Another Member referred to the criticism from Ofsted that Councillors had made decisions based on financial considerations without having regard to the impact on children. The Leader responded that the Commissioner had stated that there was no evidence of this happening.

382 PRE-DECISION SCRUTINY OF EXECUTIVE REPORTS

Report CSD16156

The Committee scrutinised the following reports on the Part 1 agenda for the Executive's meeting on 30th November 2016.

(5) Budget Monitoring 2016/17

Report FSD16069

The Committee considered the second Budget Monitoring report for 2016/17, which was based on expenditure and activity levels up to the end of September 2016. The report highlighted significant variations which would impact on future years and early warnings that would have an impact on the final year end position. A net overspend on services of £7,377k was forecast.

The Committee discussed the need for better modelling of future demand. The Council's approach was based on a four year financial forecast, converting projections of demand into expected levels of activity and taking measures to mitigate the anticipated pressures. Growth proposals were only considered once all mitigation measures had been investigated by the service, and provision was made for risk and uncertainty.

The Committee commented on the following issues –

(a) SEN Transport

The main cost pressure in the Education Portfolio was SEN Transport services with a projected overspend of £1.2m; the Committee noted that there

was also a report on the Executive's agenda on the procurement of an additional Framework SEN Transport contract. Modelling of future demand was becoming much more critical, and specific work was being carried out by the Director of Commissioning with senior managers to understand what was driving the pressures and how services needed to be adapted and markets developed. One factor was that the cost of transport exceeded the cost of the placements in around half of cases, so greater account needed to be taken of this. However, there was a difficult balance to be found between minimising costs and maintaining the Council's statutory duties by meeting the needs of specific children for very specialist provision. Some Councillors argued for better utilisation of vehicles (including buses used for adult clients) and better coordination of routes, including increased cooperation with other authorities. It was suggested that removing the branding of vehicles might help with this, and that contractors should have a role in proposing innovation.

The introduction of a National Funding Formula for education would have an impact by reducing flexibility and funding for high needs would go down by about £2m, requiring SEN placements to be funded through Council Tax for the first time. A Member commented that many schools were not able to recover the full cost of 1:1 provision and that in future academies might not be able to continue with this.

Members asked for an update on progress in completing the new Education Health and Care Plans for each child. This was a major task and the Council had three years to complete the programme; it was understood that this was on target. These comprehensive plans would make it easier to discuss the overall needs of children with parents. It was confirmed that where substantial compensation payments had been made to families to provide for the needs of individual children this could not be taken into account in providing services and transport.

Due to the capacity and cost issues identified with the current SEN transport framework an additional framework was proposed to procure additional providers. There was some concern that lower cost providers were turning down routes, leading to a reliance on more expensive providers – it was difficult to predict whether this would continue with the new framework. Continued effort through commissioning was required, and the Chairman indicated that if additional investment would provide savings members would support this.

(b) Adult Social Care

An overspend of £1.8m was projected in the report for Adult Social Care, but officers anticipated that the final figure would be reduced to £1.3m by the end of the financial year. The background to this was that £8m had been removed from this budget for 2016/17; this was a major challenge, and most of this was being achieved, but some savings were taking longer to implement. This was being done without having a significant adverse impact on service users, and contingencies were available. Members commented that budgets had to be realistic and emphasised that contingencies were intended to be for

unforeseen issues and it was noted that earmarking reserves against specific budgets might lead to complacency. The Chairman commented that the previous budget monitoring report had not indicated that there was a problem, and that Members needed assurance that issues would be identified early and that there would be greater predictability in budgeting.

(c) Housing

The number of new Homelessness clients had increased, and there was an increased usage of non-self-contained accommodation outside London. Housing outside London was usually cheaper, but benefits were also lower. A Member asked about the implications for the Mears scheme – this was affected by the benefits cap but this had been taken into account within the financial model.

Members noted that there was a projected overspend of £75k at one of the Traveller sites due to high usage of utilities; a project to install meters would address this, but there had been some difficulties and this had been delayed.

(d) Children's Social Care

An overspend of £3,915k was projected in children's social care. The main issues were –

(i) Placement costs - Demand was increasing, but work was being carried out on better commissioning, thresholds and improved recovery of money due from the Clinical Commissioning Group.

(ii) Leaving Care – Ofsted had criticised the practice of placing young people leaving care into bed and breakfast accommodation; this was being addressed, but there were increased costs.

(iii) Staffing costs across the Division - Officers were trying to balance recruitment to key posts whilst holding some posts vacant. Locums were more expensive but did not necessarily provide better quality. Great efforts were being made to encourage locums to take up permanent posts.

(iv) Court ordered Care Proceedings – Residential assessment placements ordered by the courts had increased substantially. The budget assumed an average of 1.8 placements per week, but actual levels were around 8.6 per week. This was largely beyond the Council's control, but efforts were being made to improve relationships with the courts. The general view was that these placements were rarely successful in avoiding the need for children to be placed in care.

It was also noted that Legal Services had experienced a substantial increase in child care cases, and the money set aside for instructing counsel was almost all used up.

(e) Parking Enforcement

A Member asked whether the deficit on parking enforcement income would result in a penalty on the contractor. While default notices could be issued, the contractor had some flexibility over the year to recover the money.

(f) Autumn Budget Statement

The Director of Finance reported that a rise in the national Living Wage from £7.20 to £7.50 per hour had been announced in the Chancellor's Autumn Statement. This could have an effect on Direct Payments, although there was also a decrease in corporation tax which could absorb costs. Otherwise, there was little in the Statement that would assist local authority budgets – the Government's budget deficit was now expected to continue beyond 2021/22 and austerity would have to continue. Further details were anticipated over the next few weeks. One possible effect of the increase in business rates was that as well as businesses moving further out from outer London to reduce costs, boroughs such as Bromley might benefit from businesses being displaced from central London.

RESOLVED that the recommendations to the Executive be supported, with the additional comment that the Committee expects the incoming Executive Director of Education, Care and Health Services to bring predictability and stability to social care budgets.

(6) Capital Programme Monitoring – 2nd Quarter 2016/17
Report FSD16080

The Committee scrutinised the current position on capital expenditure and receipts following the second quarter of 2016/17 and the proposed revised Capital programme. The report included a recommendation for Council to agree the inclusion of a scheme for acquiring land at Cornwall Drive (the former Waste4fuel site) in the Capital Programme with a budget of £2,709m. This was the total cost of the scheme, which was largely funded by the Environment Agency; the Council's contribution was £300k.

Councillors David Livett and Judi Ellis commented on the Waste4Fuel site as ward councillors. Councillor Livett, while pleased that the site was now being cleared, considered that the problem had arisen due to the Environment Agency's failures and it was unreasonable for the Council to have to pay anything. Councillor Ellis stated that the proposal represented a good solution to ensure that the existing problems were addressed and the site was protected for the future.

RESOLVED that the recommendations to the Executive be supported.

(7) Council Tax Support/Reduction Scheme 2017/18

Report FSD16070

The report set out the results of the public consultation exercise on the proposed Council Tax Support Scheme for 2017/18. As well as alerts sent through the Council's online portal, 2,000 people had been written to – 500 people of working age in receipt of the reduction, 500 of pensionable age receiving the reduction, and 1,000 people who were not in receipt of the reduction. 960 responses had been received, including from Age Concern, Chislehurst Debt Advice Service and Penge Church Housing.

Members raised concerns about the difficulty of collecting the 25% payment given cuts to welfare benefits, and the viability of trying to collect small amounts from the least well-off residents. It was confirmed that despite the 3.99% rise in Council Tax, the collection rate for 2017/18 was only very slightly down on 2015/16, and the actual amount collected was higher than at this point a year ago. The Council did make every effort to ensure that people stayed in their tenancies, including using discretionary payments.

A Member recommended that the Council should now reconsider applying the 50% premium to empty properties. Another Member commented that some boroughs assumed that self-employed people were working full-time, and that the Council should consider specifying that full-time meant at least 35 hours per week at the Living Wage.

RESOLVED that the recommendations to the Executive be supported.

(8) Report on Progress in Implementing the Children's Service Improvement Plan

It was noted that this report was "to follow" and had not yet been published. The Chairman commented that as there had been no opportunity for scrutiny the report should not be considered by the Executive.

(13) Drawdown of Section 75 funding for the Development and Implementation of the Bromley Out of Hospital Strategy

Report CS17072

The report recommended that Council approve the release of £7m from earmarked reserves over 2016/17 and 2017/18 to provide funding requested by Bromley Clinical Commissioning Group to provide non-recurrent investment into the development of the Bromley out of hospital programme.

RESOLVED that the recommendations to the Executive be supported.

(14) Special Educational Needs Transport: Authorisation to Proceed to Procurement for Framework Transport Contract
Report ED17022

Issues relating to this report were considered under the Budget Monitoring report.

RESOLVED that the recommendations to the Executive be supported.

383 WORK PROGRAMME 2016/17
Report CSD16157

The report updated the committee on its work programme for 2016/17 and set out amended terms of reference for the Contracts Sub-Committee

RESOLVED that

(1) The work programme be noted.

(2) The amended terms of reference for the Contracts Sub-Committee (as set out in paragraph 3.7 of the report) be approved.

384 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 referred to below as it is 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.

**The following summaries
refer to matters involving exempt information**

385 EXEMPT MINUTES OF THE MEETING HELD ON 12th OCTOBER 2016

The exempt minutes of the meeting held on 12th October 2016 were confirmed.

386 PRE-DECISION SCRUTINY OF EXEMPT EXECUTIVE REPORTS
Report CSD16156

The Committee scrutinised the following reports on the Part 2 agenda for the Executive's meeting on 30th November 2016, and supported the recommendations -

(25) Redevelopment of Chislehurst Library – Agreement of Heads of Terms

(26) Award of Contract for Construction Works at St George's CE Primary School, Bickley

387 20 Snowdown Close, Penge SE20 7RU

The Committee agreed to consider an urgent report on granting a deed of variation to allow structural works to commence on this property prior to occupation of the remainder of the building, and recommended that the Resources Portfolio Holder grant the proposed variation.

(Councillors Ian Dunn and Angela Wilkins requested that their contrary votes be recorded.)

The Meeting ended at 10.03 pm

Chairman

Appendix A

Renewal and Recreation PDS Committee, 22nd November 2016
Chairman's Update

The Committee considered the expenditure on consultants supporting the portfolio, raised questions about the use of consultants for planning appeals, and queried where spending may be recoverable (such as for Biggin Hill airport). We ask the Contracts Sub-Committee to consider splitting the register so that it separates out those consultants used as part of spending that have already been scrutinised.

It also heard the annual report from Mytime Active, who reported an increase in attendances to their activities. It discusses how Mytime Active could help meet the objectives of the Health and Wellbeing Board, the chairman of which will have a meeting with Mytime as a result.

Proposals for pedestrian and market improvements to Bromley High Street were scrutinised and comments fed in. Challenge was made on how the lessons learned from Bromley North Village (both positive and negative) could be applied to this scheme. The Committee was asked for the subsequent report to quantify the footfall benefit the market has for the town, and that consideration is given for the impact on shops, eateries and existing stallholders.

Cllr Michael Rutherford
Chairman, Renewal & Recreation PDS Committee

Appendix B

EXECUTIVE AND RESOURCES PDS COMMITTEE

23rd November 2016

7. Questions from Members of the Public for Written response

From Susan Sulis, Secretary, Community Care Protection Group

1. In order to ensure the safety of the arrangements to discharge the Statutory roles of the Director of Children's Services, the 7.5.2013 Care Services & Education Scrutiny Committees resolved that: "*the Assurance Test be repeated and reported annually*"

(a) Was the Test repeated and reported in 2014?

(b) If not, why?

Reply:

As previously advised, in response to similar questions to the Executive Meeting of 18th October 2016, the "Assurance Test" report which was considered at the joint meetings of the Care Services and Education PDS Committee on 7th May 2013 and 25th February 2015, was intended to be biennial.

A New Executive Director of Education, Care & Health Services, with a Deputy Chief Executive status, joins the authority on 1st December 2016 with a specific focus on children's services.

2. For 2011/12 – 2015/16, what were the costs each year associated with the merger of the CYP & ACS Departments, and delays in appointing the DCS, for:-

(a) Officers to undertake additional duties, (eg. Acting up into statutory roles)?

Reply:

Following the departure of the previous Executive Director, three statutory direct reports received honoraria payments from 1st July 2015 at circa £9K in total as of July 2016.

- (b) Chief Officer Redundancy; Retirement; & 'Compensation for loss of office' packages?

Reply:

Again, as previously advised in response to a similar question to the Care Services Special Portfolio Holder meeting on 16th August 2016 and the Care Services PDS Committee on 13th September 2016, the previous Executive Director left by mutual consent in a legally binding settlement agreement.

Following the initial merger of the two departments, there were two Chief Officer redundancies and the associated costs were covered in the published annual statement of accounts.

3. (a) Since 2011, when have severance packages exceeding £100,000, been reported to Committee, in accordance with the Council's Pay Policy Statement?

Reply:

The severance element of the Pay Policy Statement (pursuant to the Localism Act) did not come in until 2014/15 because the relevant guidance was not issued in time for the preceding pay policy. Pursuant to the 2014/15 and 2015/16 Pay Policy Statements, any relevant severance details will be reported to the Audit Sub-Committee, without breaching individual confidentiality or the terms of any settlement agreements.

- (b) What are the criteria used to decide when to offer a Chief Officer:- (i) a 'Compromise Agreement? (ii) Compensation for loss of Office?

Reply:

The Council takes seriously its fiduciary duty, hence the use of compromise/settlement agreements are in the legal/financial interests of the Council. These are the main criteria applied on a case-by-case basis, taking into account advice from the Council's Legal and Human Resources officers.