

MINUTES of the meeting of Overview and Scrutiny Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Monday 23 April 2012 at 10.00 am

Present: Councillor A Seldon (Chairman)
Councillor JW Millar (Vice-Chairman)

Councillors: AM Atkinson, PL Bettington, WLS Bowen, MJK Cooper, PGH Cutter, EPJ Harvey, AJ Hempton-Smith, TM James, Brig P Jones CBE, JW Millar, R Preece, SJ Robertson, P Rone, PJ Watts and JD Woodward

In attendance: Councillors JA Hyde, PM Morgan and DB Wilcox (Cabinet Member – Environment, Housing and Planning)

Officers: J Davidson (Director of People's Services), D Taylor (Deputy Chief Executive & Director of Corporate Services), C Baird (Assistant Director People's Services Commissioning), K Bishop (Development Manager Northern Localities), M Emery, (Head of Business Support), P Granthier (Head of Commissioning – Children's Services), G Hardy (Special Projects Lawyer), G Singh (Interim Category and Supplier Relationship Manager), T Brown & P James (Governance Services), Herefordshire Clinical Commissioning Group: C Gritzner (Chief Operating Officer), Wye Valley NHS Trust: H Oddy (Deputy Chief Executive and Director of Resources) & T Tomlinson (Director of Operations).

105. APOLOGIES FOR ABSENCE

Apologies were received from Councillors RC Hunt, MAF Hubbard and JLV Kenyon.

106. NAMED SUBSTITUTES

Councillor AJ Hempton-Smith substituted for Councillor JLV Kenyon, and Councillor JD Woodward for Councillor MAF Hubbard.

107. DECLARATIONS OF INTEREST

Councillors Bettington, Bowen Cutter, Harvey, Hempton-Smith, Jones, Preece and Robertson declared personal interests as School Governors in agenda items 7 and 8: the Call-in of the Cabinet Member's decision on the procurement of services.

108. SUGGESTIONS FROM MEMBERS OF THE PUBLIC ON ISSUES FOR FUTURE SCRUTINY

There were none.

109. CLINICAL COMMISSIONING GROUP

The Committee received a presentation on the work of the Clinical Commissioning Group.

Cathy Gritzner, Chief Operating Officer, gave the presentation. This covered the operation of the new NHS structures; the organisational development of the Herefordshire Clinical Commissioning Group (CCG); the percentage mortality by cause of deaths under 75 years; the CCG's organisational values; its plan to focus on those at medium risk; the timetable for the CCG authorisation process and elements of that process.

A copy of the presentation has been placed with the agenda papers on the Minute Book.

In discussion the following principal points were made:

- The Group's intention to focus on people at medium risk with an emphasis on promoting wellbeing was discussed. The opportunity for the Committee and the Council to promote health following the transfer of public health responsibilities to the Council was noted. A Member emphasised that it was important not to lose sight of the fact that what people really wanted was quick and effective treatment.
- The performance of the Care Quality Commission and the robustness of the Regulatory Framework governing the provision of health and social care as a whole was questioned. The Director of People's Services agreed to provide a briefing note to Members to enable them to consider if the current arrangements were sufficient.
- Reference was made to the costs of the national reorganisation of the health service. The role of the Health and Wellbeing Board in examining the financial viability of the Herefordshire system was noted.
- It was noted that the arrangements for establishing the CCG Board and its composition was prescribed by the National Commissioning Board.
- It was noted that the Council was responsible for commissioning the local Healthwatch body in the County and that a report was scheduled to be made to Cabinet in the Summer.
- A question was asked about how the CCG would engage with the public. The Chief Operating Officer commented on the role of lay Members on the CCG Board and observed that there were a variety of other mechanisms for gathering public views, including surveys by the Council.

RESOLVED:

That (a) a further update be made to the Committee in three months time;

(b) a briefing paper be circulated to Members of the Committee providing a breakdown of the 17.5% of deaths under 75 years that were attributed in the presentation to the Committee to other causes; and

(c) a briefing paper be circulated to Members of the Committee on the Regulatory Framework governing the provision of health and social care as a whole.

110. WYE VALLEY NHS TRUST

The Committee received a presentation from the Wye Valley NHS Trust.

Howard Oddy, Director of Resources (DoR) and Deputy Chief Executive of the Trust, gave the presentation. This included information on performance against quality measures, key performance measures, progress on delivering the new model of care, the Trust's financial position and action in response to that position.

He highlighted that the Trust faced a very serious financial position. The Trust had only broken even for 2011/12 with a payment of £5m of non-recurrent support from the West Mercia NHS PCT Cluster. There was a funding gap of £9.5m for 2012/13 and the outlook for 2013/14 identified the need for an injection of £6.4m of recurrent funding.

A copy of the presentation has been placed with the agenda papers on the Minute Book.

In discussion the following principal points were made:

- A Member had informed the Committee in March that he had been told that a patient had been inappropriately discharged in the middle of the night. The Trust's Director of Operations reported that he had been unable to discover the patient's identity and investigate the case. However, following national coverage of concerns about discharges from hospitals at night he had commissioned an audit of hospital discharges. It was requested that the findings be circulated to Members.
- Members requested that future reports on performance should be expanded to provide details of performance each month to enable Members to assess performance trends.
- The DoR explained that some of the performance measures including the one relating to carers receiving needs assessments were distorted by data collection issues. The volume of demand had also had an impact on the ability to respond within the target. The Director of People's Services commented on the pressures that the significant increase in caseloads had placed on staff and the bearing this had had on the capacity to meet performance targets.
- One of the proposed responses to the financial pressure was to consider creating sustainable acute services through strategic partnerships. The DoR confirmed that if material service changes were proposed these would be subject to consultation. A strategic review was taking place with the clinical Commissioning Consortium to establish the clinical and financial viability of services. In cases where services were currently provided by a single consultant one option might be to secure provision of the service from another organisation but for the service to continue to be delivered from local premises.
- In response to a suggestion that the presentation had painted a gloomy picture, the DoR commented that performance in 2011/12 had been good and the Trust performed well compared with others. The financial position needed to be addressed but the Trust was providing good services. Members suggested that it would be important to receive assurance that the financial pressures were not having and would not have a detrimental impact on the service quality.
- The upward trend in activity at the hospital was discussed. The DoO commented that the demand for acute care would be stemmed by having local access to services and continuing the measures to reduce the number of emergency admissions. The longer term solution over the next 2-4 years was the redesign of services and a focus on health and wellbeing at the primary care level. Investment in neighbourhood

teams including nurses and occupational therapists was needed to drive that change. A bid for £4m had been made. The analysis indicated that this would be cost effective given the high cost of acute care.

- It was noted that a review of Private Finance Initiative Schemes by the Department of Health (DoH) had not found the Hereford Hospital Scheme to be especially problematic. Some organisations had received additional support from the DoH following that review. The Trust could not therefore renegotiate the contract but was seeking to manage the contract as effectively as possible. Savings had been identified that would contribute to the financial shortfall.

RESOLVED:

That (a) a further update be provided to the Committee in three months' time;

(b) a briefing paper be circulated to Members of the Committee on the findings of the audit of hospital discharges;

(c) the Task and Finish Group established to seek more information on aspects of the Trust's work should also seek assurance that the financial pressures were not having and would not have a detrimental impact on the service quality;

(d) the future performance reports should be expanded to provide the Committee with a clearer understanding of performance trends, and should include readmission rates;

(e) it be requested that a seminar should be held for all Councillors on the relationship between Wye Valley Trust and the Council; and

(f) a briefing note be circulated on the performance of Primecare.

(The meeting adjourned between 12.08 and 12.20 pm)

111. TASK & FINISH REVIEW - PLANNING SYSTEM REVIEW - DEVELOPMENT CONTROL AND THE OPERATION OF THE CONSTITUTION

The Committee considered the findings arising from the Task & Finish Group – 'Planning System Review- Development Control and the Operation of the Constitution' and whether to recommend the report to the Executive for consideration.

The Chairman of the Task and Finish Group presented the report.

In discussion the following principal points were made in relation to the Group's report:

- It was proposed that the Monitoring Officer be requested to ask the Audit and Governance Committee to consider whether the Planning Rules should be changed to provide that Members serving on the Planning Committee should in future be entitled to vote on applications within their Wards.
- The new role of Town and Parish Councils under the national Planning Policy Framework was discussed and whether the report needed to contain a recommendation relating to this point. The Team Leader Strategic Planning commented that the role of Town and Parish Councils had always been recognised as an important part of the Planning process. A Neighbourhood Planning Team had been established in response to the new requirements.

- It was suggested training was needed for Town and Parish Councillors to enable them to comment more effectively on planning applications.
- It was questioned whether the timeframe requiring a redirection within 3 weeks of the application being notified to relevant ward members was sufficient.
- The proposals for Member training were welcomed, emphasising the importance of this being available to all Members, mindful of the possibility that they might be required to act as a named substitute at a Planning Committee meeting.

Some comments were made about the planning process generally. These included a request that those Town and Parish Councils who wished to receive paper copies of applications within their area rather than by electronic communication were entitled to do so.

It was also requested that the provisions regarding pre-application advice following the introduction of a fee for the service needed to be communicated more effectively.

RESOLVED

- That (a) **the findings and recommendations of the Task & Finish Group – Planning System Review - Development Control and the Operation of the Constitution’, be approved for submission to the Executive and to the Audit and Governance Committee with the addition of one further recommendation as set out at (b) below;**
- (b) **that the Monitoring Officer be requested to ask the Audit and Governance Committee to consider whether the Planning Rules should be changed to provide that Members serving on the Planning Committee should in future be entitled to vote on applications within their Wards; and**
- (c) **the Executive’s response to the Review including an action plan and the response of the Audit be reported to the first available meeting of the Committee after the Executive has approved its response.**

112. CALL-IN OF CABINET MEMBER (HEALTH & WELLBEING) DECISION CONCERNING THE PROCUREMENT OF SERVICES TO SUPPORT THE DELIVERY OF HEREFORDSHIRE'S YES WE CAN PLAN FOR CHILDREN AND YOUNG PEOPLE

The consideration given to this item is recorded in its entirety in Minute number 113 below.

113. CALL-IN OF CABINET MEMBER (HEALTH & WELLBEING) DECISION CONCERNING THE PROCUREMENT OF SERVICES TO SUPPORT THE DELIVERY OF HEREFORDSHIRE'S YES WE CAN PLAN FOR CHILDREN AND YOUNG PEOPLE

RESOLVED: that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for this item of business on the grounds that it involved the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, relating to the financial or business affairs of any particular person and it was considered that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

(This is the complete Minute of the discussion that took place during the exclusion of the public and press. No separate summary has therefore been prepared.)

(Councillors Bettington, Bowen, Councillor Cutter, Harvey, Hubbard, Hunt, Jones Preece and Robertson declared personal interests.)

The Committee reviewed the decision of the Cabinet Member (Health & Wellbeing) concerning the procurement of services for children and young people.

The decision had been called in by three Members of the Committee: Councillors MAF Hubbard, JLV Kenyon and SJ Robertson.

A document was circulated at the meeting setting out a redacted, and consequently publicly available, version of an exempt report previously circulated to Members of the Committee. A public and redacted version of questions submitted by those who had called-in the decision together with the responses was also circulated. The questions and responses had not been available for circulation prior to the meeting.

The Committee was advised that contractual negotiations were continuing and that it was important to ensure that every party involved was treated fairly and that commercial confidentiality was preserved.

On that understanding a representative of a Trust that funded third sector organisations was invited to address the Committee about general concerns they had about some aspects of the process that had been followed. They expressed concern that it was their impression that some actions had been taken that did not comply with the Council's compact with the Third Sector and that the way in which the process had been conducted, with short notice of changes to arrangements, had made it difficult for charities, who were reliant on volunteers, to participate in the process.

One of the Members who had initiated the call-in emphasised that given the importance of the services under consideration and concerns expressed by a number of volunteers the decision had been called in to ensure that the procurement process had been conducted properly.

The Director of People's Services commented that efforts had been made to improve commissioning and procurement processes to ensure that the providers clearly understood the processes and the services that they would be expected to provide. The Assistant Director noted that the Service was keen to improve its processes and learn from the first year of operation and had taken steps to ensure that it did.

The Head of Commissioning (Children's Services) commented on the arrangements that had been made to tender for the services under discussion. She observed that four months' notice had been given of the intention to end the existing contracts and that providers had been advised that they should start to implement the exit strategies that they had been requested to produce in July 2012 to show how they would manage contracts until the end of March 12. She acknowledged that there had been some slippage in the contractual process. This was not uncommon when dealing with something of such complexity.

The Interim Category and Supplier Relationship Manager then gave a thorough explanation of the procurement process itself and .

In discussion the following principal points were made:

- Concern was expressed at the slippage in the process and the uncertainty this had created for service providers and service users. In response the Director commented

that the need for improvements in this part of the process was acknowledged and improvements were proposed.

- The fairness of the process was questioned. The report to the Cabinet Member had stated, at paragraph 7, that some services that had been previously procured individually had been grouped together the view being that this would make them more attractive to potential providers and potentially secure greater value for money. However, no provider had tendered for 3 of the lots of services offered under the single tendering exercise for targeted and specialist family support, previously provided under three separate contracts. It was suggested that this meant that the strategy had therefore failed, raising a number of questions about future service delivery and who would provide a service apparently unattractive to existing providers. It was suggested that the effect on the care economy in the County also needed to be taken into consideration.

The report noted that discussions were now taking place with preferred providers. The basis on which these discussions could take place and their appropriateness was also questioned.

In response it was stated that the issue was not about the services themselves changing and becoming unattractive. A number of providers had registered interest on the Council's procurement portal. The issue was the stretch targets included in the tender and the capacity of providers to meet these targets.

For the lot where the evaluation of the tenders received had found that the tenders did not meet some technical and financial criteria, and the three lots where no tender had been received, the Council had exhausted the formal procurement route and could open discussions with other preferred providers. The aim was to provide a revised and more targeted service. Having tested the market the Council could now consider its options. These included the option of the Council itself providing services.

The tendering process was continuing and no evidence had been provided that small providers were being excluded from the process.

Some Members expressed regret that the length of discussion on other issues on the agenda had affected the Committee's ability to consider the issue before them to the degree that it deserved. It was suggested that this was a failing of the new scrutiny model that required the single scrutiny committee to cover all aspects.

RESOLVED: That the Cabinet Member's decision be accepted on the basis that the Committee was satisfied with the procurement process, and the acknowledgment that lessons had been learned that would need to be taken into account in future procurement exercises.

The meeting ended at 2.18 pm

CHAIRMAN