

THE CHILDREN'S BILL

PROGRAMME AREA RESPONSIBILITY: CORPORATE STRATEGY AND FINANCE, EDUCATION AND SOCIAL CARE AND STRATEGIC HOUSING

CABINET

14TH OCTOBER, 2004

Wards Affected

County-wide

Purpose

To address the Council's approach to the Children's Bill and specifically its approach to the appointment of a Cabinet Member with responsibility for Children's Services.

Key Decision

This is a Key Decision because it is significant in terms of its effect on communities living or working in an area comprising one or more wards. It was included in the forward plan.

Recommendation

- THAT**
- (i) Cabinet addresses the issue of the appointment of a Cabinet Member for Children's Services at its meeting on 21st October, 2004 when it has available the report of the Constitutional Review Working Group;**
 - (ii) Cabinet at that meeting gives consideration to the designation of an interim appointment pending the formal approval of the change to the Constitution by Council at the November Council meeting;**
 - (iii) Cabinet gives consideration to the two options before proceeding to the appointment of a Director of Children's Services:**
 - Option 1 - to proceed to an immediate appointment of Director of Children's Services.**
 - Option 2 - to proceed to the appointment of an interim Director of Children's Services, either**
 - (a) on the basis of a restricted advertisement to eligible internal candidates; or**
 - (b) on the basis of an external advertisement for an interim Director of Children's Services;**
 - (iv) the Chief Executive and Head of Human Resources be authorised to take the necessary steps to advise the Director of Education, the Director of Social Care and Strategic Housing and the Acting Director of Social Care and Strategic Housing of the potential impact of those changes on their existing contracts with the Council.**

Further information on the subject of this report is available from
N.M. Pringle, Chief Executive on (01432) 260044

Reasons

To establish the Council's initial response to the Children's Bill so that the Council is in a position to respond promptly upon the Bill receiving Royal Assent.

The Children's Bill

1. At the risk of over-simplifying the Children's Bill, it is in essence a piece of framework legislation which provides the basis for structural change. Sections 7 - 9 which include Section 7: Co-operation to Improve Well Being; Section 8: Arrangements to Safeguard and Promote Welfare; and Section 9: Information Databases, are designed to promote a different background against which councils will participate in the provision of services to children through existing public bodies.
2. There are extensive powers for the Secretary of State to issue guidance, the contents of which are currently undisclosed. It is known, however, that the guidance is in an advanced stage of drafting and there is much informed speculation as to the extent of that likely guidance.
3. There are also provisions in the Bill which reserve the right to specify appointed dates for a number of the provisions, in particular the appointment of a Director of Children's Services, a Director of Adult Services and a lead Member for Children's Services.
4. Local authorities that are Children's Services authorities for the purpose of the Bill (and Herefordshire Council is such an authority) are currently required to appoint a Chief Education Officer and a Director of Social Services. Those requirements are removed when authorities exercise their power under the Act to appoint a Director of Children's Services and a Director of Adult Services. The Bill makes it possible for local authorities to make these appointments and gives the Secretary of State a power to require them to do so by Order at such time as he thinks appropriate.
5. The County Secretary and Solicitor confirms that the Bill is constructed in such a way that the obligation to appoint a statutory Director of Education ceases once an appointment is made to the post of Director of Children's Services. The obligation to maintain the appointment of a Director of Social Services continues however until such time as an appointment is made to the post of Director of Adult Services. At the point when the appointment of a Director of Children's Services is made, the then Director of Social Services would cease to have responsibility for Social Services to young people.
6. The manner in which the Bill is constructed appears to prioritise the appointment of a Director of Children's Services over that of Director of Adult Services and that is reflected in the steps that a number of authorities have taken to appoint a Director of Children's Services in advance of the Bill receiving Royal Assent. Equally, some authorities have tackled the issues simultaneously, in some cases taking the opportunity to combine the management of Adult Services with other authority functions.
7. There appears to be no provision in the Bill to prevent the posts of Director of Children's Services and Director of Adult Services being combined and undertaken jointly but the whole tenor of the explanatory notes which accompany the Bill is predicated on the basis of those posts being maintained separately. There is the potential through the issue of guidance by the Secretary of State and the nomination by the Secretary of State of the appointed date to ensure that separate posts are

maintained from the appointed date.

Practical Considerations

8. What this section of the report seeks to do is to illustrate some of the considerations which need to be taken into account before looking at the options which might be available to the Council. The inherent dilemma posed by the Bill is that it is essentially about introducing a cultural change to the way in which the main publicly provided services through Education and Schools, Social Services, Health, the Youth Service, Connexions, etc. centre on the child rather than on organisations or institutions. The vast majority of professionals who operate in the field would subscribe to those principles.
9. The dilemma is that one of the imperatives for cultural change is leadership. It is difficult to provide that leadership without addressing some of the structural changes heralded in the Bill. There have been past indications of flexibility being included in the Bill (and/or guidance) to enable local discretion on the part of Social Services and Education authorities which are very different in their make up and the communities they serve. It is realistic now, however, to proceed on the principle that there will be little flexibility in relation to the appointment of a Director of Children's Services and Director of Adult Services.
10. Whilst both the Society of Education Officers and the Association of Directors of Social Services have recognised many of the strengths of the Bill, they have perhaps unsurprisingly expressed that support with slightly different emphases. Whilst many of the concerns they have respectively expressed have been legitimate, they have added to the complication of providing local leadership.
11. Against the background of the previous paragraph, it will be important to take account of the discipline of the individual chosen to take the Children's Services' portfolio and to ensure that in any further restructuring sufficient prominence is given to the discipline not represented by the qualifications of the appointed Director of Children's Services, i.e. if the Children's Services Director is a former Director of Education, it would be important in the ensuing structures to give appropriate support to the Social Services disciplines within Children's Services. Equally, if the individual appointed as Director of Children's Services was, say a former Director of Social Services, it would be important to give due prominence to the individual who will head up support to the Educational institutions, i.e. schools. Whilst it is important not to overplay the point, experience elsewhere to date has indicated that dealing with the anxieties of schools has been more problematic than dealing with the anxieties of those involved in children's social work services. This needs to be carefully considered in deciding how to proceed.
12. Section 16 of the Bill which deals with Joint Area Review is particularly important. Those clauses provide for a unified approach to the inspection of Children's Services in a local authority area. These contemplate reviews of all Children's Services provided in the area of each local authority in England, a process which is to be known as "Joint Area Review". The authority has had a number of inspections within Social Care in recent years: the Joint Review 2003; Supporting People 2003; Adoption 2004; Older People's Services 2004. There would, therefore, be no particular imperative for an inspection from the Social Care perspective, although it is important to note that the last inspection of Children's Services was 2001.
13. This needs to be contrasted, however, with the position in Education where there was an anticipated Ofsted of the local education authority in the current year. The

usual convention is to notify Ofsted inspections at least two terms in advance. No notification has been received to date. The consultation paper on Joint Area Reviews had indicated that it was unlikely that the Ofsted process would continue beyond April, 2005. There may be exceptions where authorities are experiencing particular difficulties but there is no indication of that experience in Herefordshire.

14. This position has now been further confirmed by receipt of the undated letter from the Audit Commission received here on 23rd September, 2004, a copy of which is attached as Appendix 1.
15. The importance of this point is that it makes it highly likely that this Council will be one of the early authorities to experience a Joint Area Review and new style corporate assessment. The importance of this slightly complex point is that any inspection team would examine carefully the authority's response to planning for the Children's Bill (Act) and to see how that had been reflected in practice at the time any inspection took place. It is fairly obvious that this would be a material consideration for any inspection team.
16. As reported to Cabinet in July, work has already commenced at a practical level on the practicalities of integration of some aspects of Children's Services currently carried out within Education and Social Care and Strategic Housing. Mrs. Ann Heath and Mr. Henry Lewis are currently leading this group with support from further representatives from the Youth Service, Education and Social Care and this report is written with the benefit of their initial advice.
17. The above points are not an exhaustive list of the considerations but it is intended to provide for Cabinet a broad framework of the pressures which exist.

The Way Forward

Appointment of Lead Member for Children's Services

18. It is important to address this issue as soon as possible and there is the potential to do so either in advance or alongside the proposals for the appointment of a Director of Children's Services. This will need some re-alignment of the current Cabinet portfolios but it would be possible to designate a Member to undertake that role in advance of formal amendment to the Constitution.
19. This matter has been raised within the Constitutional Review Working Group and their recommendation is due to be the subject of report to Cabinet on 21st October.

Appointment of Director of Children's Services

20. This has been seen by most authorities as a priority and a significant number of authorities have already advertised and/or made such appointments. The appointments have been made on a number of different bases depending on local circumstances but pending the passage of the Children's Bill have had to be made on the basis of continuing to fulfil the obligation to maintain the statutory posts of Director of Education and Director of Social Services although that has most frequently been achieved by co-designating the role of Director of Children's Services with one of those other statutory posts.

Director of Adult Services

21. There have so far been very few appointments to the post of Director of Adult Services although in a minority of examples it appears that Adult Services have been placed with a wider range of Adult and Community based services.

Way Forward - Options

22. There are numerous options but most are based on two possible themes.
23. A move to immediate permanent appointments - this would require the open advertisement of the new posts of Director of Children's Services and Director of Adult Services for one or other of those posts. There are issues that would have to be considered in relation to local succession. There are both advantages and disadvantages of proceeding in that way. The guidance and the appointed dates would be particularly important. It is anticipated that priority would be given to filling the position of Director of Children's Services but the Council would not be in a position to complete that exercise and to see the successful applicant take up the post until April/May next year at the earliest. That raises the question of whether that would provide sufficient time and stability to address the challenge of self-assessment and an early Joint Area Review/corporate assessment. There would also be further structural issues for the Council to address in considering an appointment to the Director of Adult Services.
24. The making of an interim appointment or appointments to cover the roles of Director of Children's Services and Director of Adult Services or both. It would be possible to go out to advertisement for an interim appointment on a national basis but that of course would negate some of the principal advantages of moving forward to an interim appointment. One of the main advantages of an interim appointment of Director of Children's Services is that it enables an immediate start to be made on the agenda with the successful appointee already understanding the local context. The length of the interim appointment is directly connected to the appointed date set by the Secretary of State but in going forward with an interim appointment, the Council would be able to review the position during the course of the appointment. There would be every advantage in seeking to use the maximum period afforded by the eventually appointed date. The initial indications were that that would be at some point during 2007 but there does now appear to be a prospect of that final date being extended to 2008. If the appointment of an interim is confined to existing eligible staff then that would involve consideration being given at the meeting to the position of particular employees and a summary of the position has been prepared which will be circulated as a separate confidential report.
25. The Chief Executive has asked that it be made clear that he believes that it will be necessary to consider with the individual appointed to any interim position the impact of any final recommendations in relation to Children's Services on the remaining senior management of the authority. That is likely to involve a wider review of the senior management structure. The timing of that would also have to be discussed.

Conclusion

26. This report has been considered in draft form by the Panel appointed by Cabinet to consider these issues. The Panel comprises the Leader of the Council, the Cabinet Member (Education) and the Cabinet Member (Social Care and Strategic Housing). Both options are before Cabinet for consideration but the Panel will offer its views on the two options at the meeting of Cabinet.

Alternative Options

As detailed in the report.

Risk Management

There is a reputational risk to the Council as well as a potential service risk if it does not address the challenge of the Children's Bill (Act) in a timely manner.

Consultees

As detailed in the report.

Background Papers

None identified.