

ADULT SOCIAL CARE AND COMMUNITIES SCRUTINY COMMITTEE

MINUTES of a meeting of the Adult Social Care and Communities Scrutiny Committee held on Tuesday 13 August 2019 at the Council Chamber - Shire Hall, Gloucester.

PRESENT:

Cllr Phil Awford	Cllr Stephen Hirst (Chair)
Cllr Iain Dobie (Vice-Chair)	Cllr Shaun Parsons
Cllr Terry Hale	Cllr Steve Robinson

Substitutes: Cllr Paul Hodgkinson (In place of Cllr Jeremy Hilton)
Cllr Loraine Patrick (In place of Cllr Carole Allaway Martin)
Cllr Will Windsor-Clive (In place of Cllr Andrew Gravells)

In attendance: Margaret Willcox OBE, Commissioning Director: Adults
Gillian Parkinson, Head of Legal Services
Simon Harper, Statutory Scrutiny Officer
Stephen Bace, Lead Democratic Services Adviser
Cllr Roger Wilson, Cabinet Member Adult Social Care
Commissioning
Cllr Lesley Williams, Lead Signatory

Apologies:

1. APOLOGIES

See above.

2. DECLARATION OF INTERESTS

No additional declarations were made at the meeting.

3. CALL-IN OF CABINET DECISION

3.1 A report responding to the call-in and setting out the matters to be considered by the committee had been circulated before the meeting. The decision called in had been taken by the Cabinet on 24 July 2019 regarding the future provision of care homes in Gloucestershire. This related to the closure of Southfield and Wyatt House.

The signatories of the call-in were

1. Cllr Paul Hodgkinson
2. Cllr Lesley Williams

3. Cllr Eva Ward
4. Cllr Rachel Smith
5. Cllr Kate Haigh

Outline of the Process

- 3.2 The Chairman invited the Statutory Scrutiny Officer, Simon Harper, to set out the process for the committee to consider the call-in. The procedure rules were set out in detail in the constitution. In summary, any Cabinet decision could be called in within a prescribed timescale. Call-in should only be used in exceptional circumstances and be invoked when there was evidence to suggest one or more of the prescribed grounds had been satisfied.
- 3.3 The committee were advised that members were to consider the grounds stated in the call-in notice which were:
- (Call in procedure rule 3.3) In making the decision, the Cabinet, Leader of Council or Cabinet Member took account of an irrelevant matter or failed to take account of a relevant matter.
 - (Call in Procedure 3.4) The Cabinet, the Leader of the Council or a Cabinet Member or Officer under delegated powers acted contrary to the Cabinet Procedure Rules, the Access to Information about the County Council's Formal Business and/ or the principles of decision making set out in part 2, Article 7.02 of the Constitution.
 - (Part 2, Para 7.02.3) – They should take proper consultation with others.
 - (Part 2 Para 7.02.8) – They should be properly reasoned and alternatives that are discounted should be identified and the reasons for their rejection explained adequately.
- 3.4 The first stage was for the committee to decide whether it agreed wholly or partially with the grounds for call-in. If they did agree with any of the grounds there were four possible options for the committee to decide.
- Support the Cabinet's decision without comment
 - Make adverse comment about the way they reached their decision, but no adverse view on the decision itself.
 - Propose changes to the decision, modifications or an alternative to achieve the same effect
 - In exceptional circumstances, which the committee must determine, arrange for fill council to review or scrutinise the decision.

Initially the spokesperson for the signatories would be asked to speak followed by the Cabinet Member in response.

Consideration of the Call-in

3.5 Cllr Lesley Williams, as lead signatory of the call-in, outlined that the decision had been called in as the signatories believed that Cabinet had not taken proper consultation with residents, their families and the wider community or other stakeholders. In addition the due regard statement pack had not been published five full days before the meeting and she stated that it was not possible to be certain that Cabinet members had seen it. She added:

- The Council had commissioned ASV, an associate of the Constitution Institute, to discuss with residents and families the possible closure of the care homes. Cllr Williams referred to the report and stated that the proposals had not been in the formative stage and so this went against the Gunning principles. In addition there had been inadequate notice given to residents and no regard given to the responses. The Cabinet Member had determined that consultation was not necessary and she stated that this was not constitutional.
- Cllr Williams explained that the reasons for rejection was not explained adequately or reasoned alternatives were not considered when residents' views had not been properly obtained. It was suggested that even in the short amount of time, staff had come up with strong alternatives such as refurbishment of the homes, working with the Order of St Johns Trust to encourage more residents and reviewing GCC contracts.
- In relation to the Access to Information requirements she stated that the due regard statement had been published on 19 July 2019 and that this was not five clear working days before the meeting. She referred to legislation detailing that the agenda and reports should be made available within that timeframe.
- She requested that the decision be sent to full Council for consideration.

3.6 Cllr Roger Wilson, Cabinet Member for Adult Social Care Commissioning, responding to the call-in, introduced his report within the pack. He stated that neither of the grounds for call-in was valid adding:

- The call-in statement was published on 19 July 2019, but the Council was not obliged to publish a due regard statement but did so voluntarily in order to demonstrate that the Cabinet had taken account of the equality duty. It was not a legal requirement to publish that document.
- He explained that Cabinet was not obliged to consult before making a decision. If they chose to consult then they were obliged to follow the principles outlined in the constitution. In this case, Cabinet had conducted an engagement process independently facilitated by experts from the Constitution Institute to understand the views. The decision not to consult was taken as it was felt that a lengthy consultation process could lead to a

reduction in staff. The threat of closure could lead to self funders leaving and reducing options for social care residents in the future. He expressed concern that the call-in process had delayed the decision and had seen that reduction in staff and movement of residents.

- 3.7 The first stage of the process was for the committee to decide whether they agreed wholly or partially with the grounds for call-in. The Chairman invited members to make comments and ask questions of all parties before putting it to the vote.
- Some members expressed concern regarding the lack of consultation. The Cabinet Member had highlighted that there was a need to move swiftly because of the tight timescales. One member suggested that it had been Cabinet who had determined the tight timescale and that there had been no need for that. One member provided the example of a press release from the Cabinet Member being released and then meetings being held within 2 days which gave the appearance of the decision having already been made. The Cabinet Member reiterated the importance of reducing the disruption that a lengthy process could cause. Constitution Institute advice had been followed to minimise the anxiety and worry of residents.
 - Some members' spoke of the exemplary care provided at Wyatt House and Southfield and stated that every avenue should be explored. One member warned that this move would shorten the lives of the residents.
 - In response to a question, the Cabinet Member referred to the overall strategy that had been reaffirmed in June 2019 and that every opportunity had been made to ensure that all residents and staff and family members had been contacted. Once the decision was implemented there would be a consultation process looking at the impact.
 - One member spoke strongly at the possible precedent of allowing this decision to stand without consultation having been taken. He referred to the potential of quick decisions being taken in relation to other care homes across Gloucestershire. He emphasised the need for proactive scrutiny ahead of the decision being taken. In response it was noted that the same process had been followed in relation to other care homes previously and the Cabinet believed that it was the right approach. One member commented that those other decisions had not been called-in. The Chair suggested that a future item at the committee could look at the overall strategy and processes in relation to care homes.
 - It was suggested that the timescale from letters being sent to residents and those residents being able to engage with someone had been too short. It was explained that every effort had been made to contact families and that officers had worked weekends and evenings to ensure this engagement was carried out effectively. The Constitution Institute had not advised on the

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timescale, and experience of how to handle this was already in place at the Council.

- 3.8 Following the discussion, the committee was asked to vote on whether they agreed wholly or partially with the grounds for call-in as set out in the call-in notice.

On being put to the vote, the grounds for call-in were not accepted.
Therefore it was

RESOLVED to support the Cabinet decision. The decision could therefore be implemented immediately without being considered again by the Cabinet, the Leader of the Council or Cabinet Member.

CHAIRMAN

Meeting concluded at 10.50 am