

Lancashire County Council

Education Scrutiny Committee

Minutes of the Meeting held on Tuesday, 17 June, 2014 at 2.00 pm in Cabinet Room 'C' - The Duke of Lancaster Room, County Hall, Preston

Present:

County Councillor Cynthia Dereli (Chair)

County Councillors

T Aldridge	C Henig
P Buckley	S Holgate
Mrs S Charles	D Lord
A Cheetham	S Perkins
C Crompton	M Perks
B Dawson	C Wakeford

Co-opted members

Mr Kenvyn Wales, Representing Free Church Schools
Mr John Withington, Representing Parent Governors
(Primary)

1. Apologies

County Councillors Steven Holgate and Terry Aldridge replaced County Councillors Bev Murray and Misfar Hassan respectively, for this meeting.

Apologies for absence were presented on behalf of co-opted members Janet Hamid, Teresa Jones and Fred Kershaw

2. Appointment of Chair and Deputy Chair

It was reported that Full Council, at its meeting on 15 May 2014, had approved the appointment of County Councillor Cynthia Dereli as Chair of the Committee and County Councillor Susie Charles as Deputy Chair for 2014/15.

Resolved: That the appointment of County Councillor Cynthia Dereli as Chair of the Committee and County Councillor Susie Charles as Deputy Chair for 2014/15 be noted.

3. Membership, Terms of Reference and Programme of Meetings.

A report was presented on the Membership and Terms of Reference of the Committee.

Resolved: That the Membership and Terms of Reference of the Committee, as now reported, be noted.

4. Disclosure of Pecuniary and Non-Pecuniary Interests

None disclosed

5. Minutes of the meeting held on 11 March 2014

The Minutes of the Health Scrutiny Committee meeting held on the 11 March 2014 were presented and agreed, subject to the inclusion of apologies from Mr K Wales.

Resolved: That the Minutes of the Health Scrutiny Committee held on the 11 March 2014, as now amended, be confirmed and signed by the Chair.

6. Transport Policy for Children and Young People with Special Educational Needs and Disabilities

The Chair welcomed County Councillor Matthew Tomlinson, Cabinet Member for Children, Young People and Schools who was attending the meeting in accordance with Standing Order 23.6(4) in order to respond to questions and comments.

She also welcomed and introduced the following officers from the Directorate for Children and Young People.

- Louise Taylor – Interim Executive Director for Children and Young People
- Sally Riley - Head of Inclusion and Disability Support Scheme.

The Chair then introduced County Councillors Michael Green and Graham Gooch who had been invited to attend the meeting in order to present the case in support of the call-in.

Purpose of the Meeting

Wendy Broadley explained that following the request from five county councillors, as set out in the report, this special meeting of the Committee had been called in order to discuss whether the Committee wished to formally "call in" the decision by the Cabinet Member for Children, Young People and Schools to introduce a

parental contribution for discretionary post-16 transport support for young people with Special Educational Needs and Disabilities (SEND).

It was explained that the Committee would initially hear presentations from County Councillors Green and Gooch, followed by the cabinet member. Members of the Committee would then have an opportunity to ask questions or clarify any issues before making a decision in relation to the formal 'call in'.

The Committee was reminded that the purpose of the meeting was not to consider the cabinet member's actual decision but to determine if and on what grounds the cabinet member could be asked to reconsider it.

At the Chair's invitation, County Councillor Green presented reasons for the call in request. He contended that the cabinet member had failed to take proper account of the 630 responses to the consultation, 80% of which had been opposed to the changes being considered and that insufficient account had been taken of the needs of young people with SEND. He referred to what he described as a frank and thorough discussion at the Executive Scrutiny Committee following which that Committee had resolved to suggest amendments to the proposals. These included a recommendation that the annual increase to the parental contribution be based on the Retail Price Index only and that the proposed additional 5% annual increase be dropped. He expressed the view that the policy would have the greatest impact on vulnerable members of society, and also that the changes would have a significant impact on the educational achievements of young people with SEND, restricting their choice of school/college, and perhaps whether to attend at all.

County Councillor Gooch expressed significant concerns with the consultation, in particular that insufficient efforts had been made to secure a wide range of responses, and also that, in his view, that it had been a cosmetic exercise with positions already established before the responses came in.. He referred to relevant legislation including that which placed an obligation on local authorities to ensure those with a disability can access education. He said that disabled young people were already over-represented in the NEET (not in education, employment or training) group; this proposal would make matters worse by "pricing out learners" and would also impact on those hoping to attend university by preventing them from obtaining the necessary qualifications. He felt that the decision taken discriminated against disadvantaged young people.

Sally Riley provided some context and background to the current position relating to discretionary transport for young people with SEND, much of which was also set out in the report which had been provided in the agenda papers.

She summarised the financial implications of discretionary transport for the county council and also for service users and explained that the cabinet member's decision aligned the transport policy for young people with SEND with the mainstream transport policy.

She explained that every effort had been made to conduct a comprehensive consultation - 2,500 direct letters had been sent to service users, proposals had

been available on-line, and the consultation had been conducted in the same way as the consultation for mainstream transport provision. Every response had been read.

It was explained that this county council's approach to transport support was comparable with that of other local authorities, most of which were consulting on discretionary charges and the cabinet member's decision was in line with what was happening nationally.

Much work was ongoing to actively reduce the overall spend on transport provision, for example the 'one school, one operator' approach currently being trialled at three special schools.

Sally Riley emphasised that nothing was being done that would limit opportunities for this group of young people and the county council was doing its best to provide as many opportunities as possible to allow young people to develop.

County Councillor Tomlinson added that his decision had been taken in the context of significant financial pressure on the county council. He emphasised that this type of transport provision was discretionary and that the parental contribution had been set at a level that fell in the middle of the range set by other authorities nationally. The 5% annual increase had been set to allow service users to plan with some certainty for future years' increases. Also, he believed that setting the level of increase now would reduce the possibility of a decision to apply a larger increase in the future. He refuted suggestions that the consultation had been inadequate and said that the vast majority of service users would be unaffected by his decision. He was confident that his decision had been fair, transparent and sustainable.

The Chair then invited comments and questions from the Committee; the main points are summarised below:

- It was suggested that £475 per annum was a large sum of money to request from families in the first year of charging and that increases equivalent to the RPI plus 5% would be much higher than families would receive in their salaries. It would be more difficult for families with more than one child and it was families and carers just above the free school meals threshold who would be most affected; a smaller increase would be preferred.
- In response to a question how many young people would be affected by this decision, it was anticipated that 235 would be affected in year 1; 219 in year 2; and 217 in year 3. 90% of young people would be in receipt of free transport; 10% were affected. It would be the same figure whether or not the young person was in the mainstream category or the SEND category.
- It was pointed out that the outcomes of the consultation had been prepared by the Corporate Intelligence Unit – completely separate from the Children and Young People Directorate.
- Members acknowledged that there were a number of checks and balances within the decision, including a review of the arrangements within 12 months. It was important, however, to ensure that families did not experience hardship

and reassurance was sought that means testing would be robust. In response, it was explained that the same approach that applies throughout the council would be taken, with the possibility of expanding the criteria to achieve a more explicit understanding of whether or not the family was eligible for the charge.

- Sally Riley said that some families have access to a mobility vehicle, which could be used to transport the young person to school, with the ability to make a claim for mileage if appropriate.
- It was suggested that the cabinet member's decision be delayed until the implications of the new SEN Code of Practice had been fully considered.
- The cabinet member again explained that he had decided to apply a 5% increase to provide some future certainty to those affected by the charges.
- The Committee was reassured that robust systems were in place to support families with children with SEND. The point was made that young people with SEND do not themselves wish to be treated differently from others, however, if a family's financial circumstances changed help would be available; there was an ongoing commitment that all young people would have the opportunity to attend further education.
- In response to a direct question to CC Green asking what he felt should have been done differently in the consultation process, CC Green said he was concerned that the consultation had allowed for only one reply per household. Sally Riley reminded the Committee that anyone could respond on-line including others in the household.
- The Chair reminded the Committee that means testing was not 'fool proof' and that there was an appeals process available for families who were judged as ineligible for free transport.
- It was recognised that it was important for all young people, including those who might have a range of difficulties in differing degrees, to feel part of their peer group. The Committee was assured that the policy covered all needs and the level of support was adjusted, as appropriate, to enable the young person to get to school or college. There was a range of skilled support staff, including SEN assessment staff and social workers, working alongside each other and educational services to provide a holistic approach.
- Regarding the conduct of the consultation, a question was asked whether there was any information to suggest that the consultation had been conducted differently from any other, or whether there was evidence that the cabinet member had not been dutiful in taking account of the responses. The cabinet member again confirmed that the consultation had been sent directly to every parent/guardian of children and young people in receipt of SEN school or college transport and that each response had been looked at. The views of the Executive Scrutiny Committee had been considered and one of its recommendations accepted. He asserted that his actions had "not been perverse or unusual".
- Sally Riley confirmed that the methodology had been exactly the same as that relating to mainstream transport. The letter referred to above had been an exceptional step. Additionally, the consultation had been available to all on the 'Have Your Say' website. The Lancashire Parent Carer Forum had also received the consultation (all consultees were listed in the report). It was

understandable that mixed views had been received – some in favour and some against.

- CC Gooch reiterated his point that the responses from families affected would have been predictable. He said that disability discrimination legislation allowed for positive discrimination and that the transport policy for young people with SEND should not be aligned to the mainstream policy; this group deserved more support.
- The cabinet member's assertion that applying a 5% annual increase allowed service users to plan was challenged as invalid and not legitimate, and it was suggested that it was this element of his decision that should be reconsidered.
- The Consultation document referred to concerns raised by Cardinal Newman College that a number of pupils would have to change colleges mid-way through their course. Sally Riley reported that she had re-iterated to the MP and also the college that the proposed approach was about finding the most appropriate course for the young person and, if that was delivered at a college further away than their nearest college, transport would be provided; there would be no disadvantage in that respect.

Following the discussion, the Chair invited County Councillors Green and Gooch to make closing comments.

County Councillor Green pointed out that the recommendations of the Executive Scrutiny Committee had had cross party support. He felt that a parental contribution of £475 from the outset of charging was excessive, as was an increase equivalent to the RPI plus 5%. He recognised the financial pressures on the authority, but felt that this proposal would impact on the most vulnerable people in Lancashire, and he was asking the cabinet member to look again at the impact of his decision on the vulnerable and take proper account of the recommendations of the Executive Scrutiny Committee; his decision appeared to have been taken quickly and without proper account of the views of that Committee.

County Councillor Gooch also asserted that families would be unable to afford the additional annual 5% increase.

County Councillor Tomlinson replied that he had taken a difficult decision, but in doing so had built in checks and balances. He was confident that the consultation methodology had been fair and transparent and had gone beyond what would normally be expected. He had met with Cabinet colleagues, including the Leader, following the meeting of Executive Scrutiny Committee to discuss the recommendations made by that Committee and had accepted one of four proposed changes. He assured this Committee that he had had due regard to the views of Executive Scrutiny.

Following the debate, it was moved and seconded that the Cabinet Member should not be asked to reconsider his decision made on 5 June 2014 in relation to the introduction of a parental contribution for home to school/college transport for young people with Special Educational Needs and Disabilities (SEND).

On being put to the vote the motion carried and it was:

Resolved: that the Cabinet Member should not be asked to reconsider his decision made on the 5 June 2014 in relation to the introduction of a parental contribution for home to school/college transport for young people with Special Educational Needs and Disabilities (SEND).

7. Urgent Business

No urgent business was reported.

8. Date of the Next Meeting

It was noted that the next meeting of the Committee would be held on Tuesday 15 July 2014 at 10.00am at County Hall, Preston.

I M Fisher
County Secretary and Solicitor

County Hall
Preston