



Leicester
City Council

Minutes of the Meeting of the
ADULT SOCIAL CARE SCRUTINY COMMISSION
(Virtual Microsoft Teams Meeting)

Held: TUESDAY, 30 JUNE 2020 at 4:00 pm

P R E S E N T:

Councillor Joshi (Chair)
Councillor March (Vice Chair)

Councillor Batool
Councillor Kaur Saini

Councillor Kitterick
Councillor Thalukdar

In Attendance

Councillor Russell – Deputy City Mayor, Social Care and Anti-Poverty

Also Present

Mukesh Barot – Healthwatch Leicester

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56. APOLOGIES FOR ABSENCE

Apologies for absence were received from Martin Samuels, Strategic Director, Social Care and Education.

The Chair welcomed everyone to the meeting, and reminded everyone it was a virtual meeting, as permitted under Section 78 of the Coronavirus Act 2020 to enable meetings to take place whilst observing social distancing measures. The procedure for the meeting was outlined to those present.

At the invitation of the Chair, all officers present at the meeting introduced themselves.

57. DECLARATIONS OF INTEREST

Members were asked to declare any interests they had in the business on the agenda.

Councillor March declared a Prejudicial Disclosable Interest in agenda item 7,

Revision to Adult Social Care Charging Policy and informed those present that she would withdraw from the meeting when the agenda item was discussed. The Chair informed the meeting that he would change the order in which agenda items would be taken and moved agenda item 7 to the end of the meeting.

Councillor Joshi declared an Other Disclosable Interest in that his wife worked for the Reablement Team at Leicester City Council.

In accordance with the Council's Code of Conduct, the interest was not considered so significant that it was likely to prejudice the Councillor's judgement of the public interest. Councillor Joshi was not, therefore, required to withdraw from the meeting during consideration and discussion of the agenda items.

58. MINUTES OF THE PREVIOUS MEETING

AGREED:

That the minutes of the meeting of Adult Social Care Scrutiny Commission held on 4 February 2020 be confirmed as a correct record.

The Chair informed those present that since the last meeting Cllr Khote had passed away. Thoughts and best wishes were passed to her family and friends.

59. PETITIONS

The Monitoring Officer reported that no petitions had been received.

60. QUESTIONS, REPRESENTATIONS AND STATEMENTS OF CASE

The Monitoring Officer reported that no questions, representations or statements of case had been received.

61. ADULT SOCIAL CARE - RESPONSE TO COVID-19

The Strategic Director Social Care and Education submitted a report which provided the Commission with an overview of the ongoing work and support provided by Adult Social Care (ASC) services in response to the Covid-19 pandemic. Members were recommended to note the report and provide any comments and feedback to the Strategic Director and Executive.

Councillor Russell, Deputy City Mayor, Social Care and Anti-Poverty, thanked officers working in Adult Social Care who she described were absolutely incredible. She stated staff had gone above and beyond their normal duties and had thought through every possible option to keep service users safe in challenging circumstances.

Ruth Lake, Director of Adult Social Care and Safeguarding, presented the

report. Key messages to note included the service had been able to continue to provide the core statutory offer to ensure the safety of individuals and by ensuring they continued to receive the care and support they needed. It was further reported that home visiting had been reduced in order to avoid non-essential visits whilst following social distancing guidance.

It was reported that there was a reduction in elective hospital activity and enablement referrals had fallen. It was further noted there was lots of capacity to meet demand across all services due to a reduction in the level of usual business, but levels were beginning to return to normal. Members were informed there had been a significant change in the number of alerts being made, largely because people were worried about their neighbours. Officers continued to work hard to enable all front-line services to continue safely and ensure safety and wellbeing of staff.

Tracie Rees, Director of Adult Social Care and Commissioning, referred to the services for vulnerable individuals being provided by external providers. Officers were working closely with care homes of which there were 103 in the city. The Council had a contact with 99 of those but continued to work with them all to monitor the impact of the virus, including levels of PPE to ensure safe working practices.

It was reported the Council had also secured a block contract with a local care home for the provision of 15 isolation beds for patients discharged with Covid-19 or were showing symptoms of infection.

There had also been extra support for domiciliary care and supported living providers to ensure no one was waiting for a package of care to be arranged. There was also ongoing support to voluntary sector providers.

It was noted that Hastings Road Day Centre had closed on 20th March due to the pandemic. Staff had continued to provide an outreach support service to prevent crisis, and to enable people to access other community services. Members noted that testing was ongoing with kits delivered to every care home in the zone marked out. The Council continued to work with county colleagues to ensure test kits were available, regular webinars were held to share timely information, and additional finance had been provided to the whole of the care market to cover additional costs incurred. It was noted there would be challenges moving forward in terms of the sustainability of the market, such as the reduction in the number of those going into care homes, and viability issues around workforce levels, and issues had been flagged at national level.

Work was in progress to determine the impact of Covid-19 on the Adult Social Care workforce and wider social care market, and officers would work through lessons learnt and bring back a report to the Commission for consideration.

The Chair thanked officers and staff who had worked tirelessly to provide service to constituents which were vital. He asked officers to pass on best wishes and sincere thanks to staff.

Members than asked questions of officers and the following responses were given:

- With concerns raised about a spike in numbers and second wave of Covid-19 cases, it was re-emphasised that testing had increased with a team working with those in national government to increase testing on care homes residents and staff. It was reported that testing on residents was undertaken monthly as it was uncomfortable for residents. Testing on staff was being done weekly. A letter had also been sent to care providers regarding the use of PPE. The risk of staff testing positive would reduce the number of staff, and an emergency workforce was being used. The key issue was nursing staff, as some homes could only operate if nursing support was on site.
- There may be challenges for care homes in returning back to normal. Having received government money with less residents, there were concerns about the viability of some homes being able to continue to operate with reduced fee income, whilst still having the same bills and costs. There had also been a slow down of the number of people placed into care homes. A national report had been commissioned through the Association of Directors of Adult Social Services (ADASS).
- It was noted that loved ones were not actually able to visit hospitals or care home settings. It was acknowledged that transition from hospital could be concerning. It was reported that there had been no spike in hospital admittance numbers, and no issues with discharge from hospital. It was further noted that care homes were being as supportive as they could be, for example, through connecting loved ones together via video and teleconferencing. Feedback about care staff had been very good.
- In terms of the voluntary sector, there had been no additional funding, but importantly no cuts to existing funding. Officers would provide further detail for Commission Members on funding support provided.
- Information received so far indicated that Covid-19 increased cases were in the working age population. Whilst recognising it might not directly affect those they usually worked with, they might have extended families at risk.
- The Council had written to all care providers to remind them of the additional protective measures to take. Messages had also been put out to the community to make sure the frail and elderly population knew where to go for help and testing. There was a geographical arrangement to provide support to identify those that were vulnerable who would be contacted proactively to ensure arrangements were in place to support them.
- There was continuing support to people who were shielding. There was confirmation that food parcels were not decreasing but were increasing.
- The Council continued to reiterate messages to people in East Leicester, to ensure people remained vigilant with measure to keep them safe.
- Officers visiting residents were using PPE and were confident they were not carrying infection into or out of people's homes.
- Post code data had just been received of people having been diagnosed with having Covid-19, and analysts were busy looking at the data. The Council had the ability to run information through Liquid Logic, and post code data could be used to cross match to identify vulnerable people. It was

noted that whilst there was an increase, officers were not seeing this translate into hospital admissions.

- Through the Leicester Employment Hub, 12 care workers had secured direct employment with care providers.
- The Authority still continued to provide funding for lunch clubs, and some had continued to provide food deliveries.
- Under lessons learnt work was in progress to determine the impact of Covid-19 on mental health, and people using services, carers and staff would be signposted towards self-help networks. The Richmond Fellowship was also providing mental health support by telephone to people who may need then during this time.
- It was queried if there were facilities for people who needed to shield from a family member who had tested positive for Covid-19, but people should try to isolate following government guidance.
- It was reported there were issues around data protection and the use of post code data from Public Health England and what it could be used for. It was stated that safe usage of the data could be demonstrated.

The Chair thanked the officers for the report.

AGREED:

that:

1. The report and comments by the Scrutiny Commission Members be noted.
2. An ongoing response to Covid-19 be brought back to the next meeting of the Commission.
3. That an item be included on the use of Liquid Logic combined with the post code data from Public Health England in generating a targeted shielding response with regards to the outbreak.

62. LEICESTERSHIRE COUNTY CARE LIMITED

The agenda items were taken out of order.

The Strategic Director Social Care and Education submitted a report which updated the Commission on the proposal made by Leicestershire County Care Limited (LCCL) to change the Terms and Conditions of staff that had transferred from the Council's employment in 2015. Members were recommended to note the content of the report and to provide comments and feedback to the Strategic Director and Executive.

Councillor Russell, Deputy City Mayor, Social Care and Anti-Poverty, introduced the report and referred to the threat to the staff terms and conditions at a time when staff were undergoing a very difficult period, and were finally getting recognition for the work they did. Working with Unison, the Authority had made various approaches to the Owner of the homes and had done whatever it could to encourage them to engage and discuss the issue. It was noted the Authority would continue to monitor the quality of the care provided in the homes, and reiterated the potential for LCCL to lose long-standing, well-

trained staff. It was reported that LCCL had made a request to defer final payments to the Council, and it had been responded that a discussion could be had if they deferred making any changes to the terms and conditions until after the Covid-19 pandemic and when it would be known what was happening in the care market. The Authority was continuing to monitor the financial position of LCCL to make sure the Authority did not have a chain that was unstable, which would have a significant impact on residents, but the last accounts publicly available did not show that this was the case.

Tracie Rees, Director of Adult Social Care and Commissioning, informed the meeting that despite Unison making representation, the Company had issued workers with a letter to state they had until Saturday 4th July to sign a new contract or they would be dismissed. It was reported that Unison had stated staff were worried about their employment status and were likely to sign up to the terms and conditions. Looking forward it was noted that Unison could take LCCL to a tribunal. It was also recorded that the company had high income levels which did not reflect the rationale for changing conditions.

Members noted the Company had stated they were making changes due to Covid-19. It was reported that the Council had paid over £167k to cover expenses, and voiced concern the Company was making profit, had a good level of occupancy but were still reducing the terms and conditions of staff. It was also voiced they had failed to take into account public mood and the support being given to care workers and the NHS.

Tracie Rees informed the meeting that in terms of the amount of money the Company owed Leicester City Council, the final payment of £265k for the sale of Thurncourt was due at the end of the five-year period in October 2020, so at this point in time they had paid the requirements for the homes.

Councillor Russell reported that both she and the City Mayor had written to the Chief Executive at LCCL on behalf of the Council, had written to government ministers expressing disgust on how LCCL were being allowed to continue with the way they were treating staff, but the Government required the Council to continue to pay additional money to the company despite this. It had also been raised with the Care Minister and flagged in a variety of ways including with local MPs who had taken up the issue.

Councillor Kitterick brought to the attention of the meeting that LCCL had declared a £1.5m profit in 2018, an increase in profit declared in 2017 of £983k. He added that the company stated they were making changes to terms and conditions as the business model they had was not viable, but it was a business model they had taken on and had increased profits of 50%. He asked if officers could check the LCCL family owners' connection with Essex County Care Limited (ECCL), which was showing a mirror situation of a £1m profit loss in 2017 and £1.3m lost in 2018. He voiced concern that money being given to LCCL from the Council was filling a financial void for the company in Essex. He added that as a warning to other authorities that the decision taken as a council showed the inadvisability of selling its care homes to private owners.

Councillor Russell responded that in terms of additional funding an even approach had been taken, and a standardised rate on how the Council paid for care beds was across the board in order to try and maintain the quality of care, ensuring they could employ sufficient staff, to allow staff to take time off to undertake training, be covered for holidays, to maintain the physical quality of homes, and also in recognition that running costs had increased. She added that when commissioning beds in care homes, when a decision was taken by a family to place a family member in a care home, that the home was somewhere they could stay for a long time, and to not pay a company money might destabilise a facility. It was further reported that the most recent money from government had been parcelled out to care homes. Information had been provided to MPs to assure them that money had been used to support residents and staff and not to further line the pockets of those running the business.

Tracie Rees informed the meeting that the Council were aware that LCCL owned a number of care homes in the Essex area, and that over a number of years they had made a number of decisions to leave the market in that area, had closed some building and were seeking to sell other buildings, which might go some way to explain why they had a deficit in terms of their profits. Members responded that normally when a business was sold it did not produce a deficit, that the accounts for the company were disturbing. Councillors asked the when looking at Essex County Care Limited it might also be worth officers looking at the CQC reports also.

In response to a question, Tracie Rees reported that when the care homes were sold and the staff were TUPE'd across, there used to be a 12 month ruling whereby terms and conditions could not be changed, but there was only a certain amount of legal protection for a period of time to protect staff. It was noted that the only time an organisation could change TUPE conditions were for certain conditions, one of them being economical. LCCL had stated they wanted to change terms and conditions for that reason. Members were informed that when the sale of homes went through several years prior additional conditions could not be imposed anything in terms of the conditions around retaining staff indefinitely as TUPE stood alone as a separate legal entity and could not be changed that as a condition of sale. It was also agreed at the time to pay the same fees to LCCL as to other care homes in the city.

Members were informed that all care homes were registered with the Care Quality Commission (CQC), the regulatory body for care homes, and regularly undertook inspections of home. The Council had flagged to CQC the current situation with the home and concerns that if a number of staff members were to leave the organisation the potential effect it would have on the care of residents and remaining staff. The Council also had its own quality assurance framework used to monitor conditions at the home. It was noted that the homes all had a good rating.

The Chair thanked officers and Members for their participation.

AGREED:

that:

1. The report and comments by the Scrutiny Commission Members be noted, particularly the concerns for the way LCCL were treating staff.
2. Officers look at the finances and CQC reports of Essex County Care Limited homes.
3. A report be brought back to the Commission in due course.

The Chair requested if Members have any additional questions that they forward them by email to the relevant officer for a response.

Having made a declared a prejudicial disclosable interest, Councillor March left the meeting at this point at 5.27pm.

63. REVISION TO ADULT SOCIAL CARE CHARGING POLICY

This agenda item was taken last.

The Strategic Director Social Care and Education submitted a report which informed the Commission of the findings of a consultation exercise in relation to proposed changes to the charging policy for non-residential care services. Members were recommended to note the consultation findings and make any comments to the Strategic Director and Executive and not the implications of Covid-19 on the approach to implementation of any decision.

Councillor Russell, Deputy City Mayor, Social Care and Anti-Poverty, stated a commitment had been made to bring the results of consultation back to Scrutiny. It was further stated that it was not known if the Government would try to recoup some of the additional monies it had paid out during the pandemic, or whether funding increased if the Government recognised difficulties. The Deputy City Mayor also said the Council did not want to be in a position to reconsult and increase anxiety.

Ruth Lake, Director of Adult Social Care and Safeguarding presented the report and brought to the attention of Members recommendations contained within the report, but deferral implementation from April 2021 due to the pandemic, as detailed in section 3.8 of the report. Members were asked to note options identified for consideration in relation to the treatment of disability benefits provided via the Department for Work and Pensions (DWP) and were provided at section 3.6 to the report.

Councillor Kitterick outlined reasons why he believed the report should not be considered during the Covid-19 pandemic, and the decision to take away £1.3million worth of cuts against the most vulnerable in society. He added that in light of the pandemic until the authority could look at the whole of the budget for the foreseeable future that Scrutiny give the strongest steer that they recognise financial pressures, but that the authority stay with Option 1, to continue disregarding the higher or enhanced rate of disability benefits down to the lower or standard rate, within the financial assessment, and for a future consultation to be undertaken, and that the Council look across all finances

following the Covid-19 pandemic.

Councillor Russell stated she completely understood Members' opinion on the report, but the changes would not affect all individuals but would be tailored to individual circumstances. She added the council was in a difficult position and had been asking government to look at funding for Adult Social Care since 2010.

The Chair noted that the report was due to be brought to the Adult Social Care Scrutiny Commission for a while, and that sooner or later a decision would have to be made, and that the consultation had received a good response with over 1,000 people responding. The Chair asked that if the proposals were approved and the maximum increase of £29.45 contribution per week be required, what support would those people affected get as a buffering zone. Matthew Cooper, Contracts & Assurance Business Manager, drew to Members' attention that the potential income levels of £1.3million was based on an estimate of take up of benefit in Leicester and affected those on the higher rate of disability benefits. It was further noted the figures should be considered with caution the authority could apply discretion. A social worker would look at the care package in place alongside benefit being claimed, to look at other welfare changes and benefit cuts, and to assess impact on the individual with regard to 'Minimum Income Guarantee'.

Ruth Lake reported that if a decision was not taken within a reasonable timescale since consultation, it would be open to legal challenge if people felt the outcome of the consultation was no longer relevant to making a decision, and that in the future there would need to be commissioned a new statutory consultation.

The Chair noted Members' concerns in relation to the treatment of disability benefits. He noted the arguments to consider Option 1 and have further consultation on the matter for a final decision and asked for Members' opinion.

Councillor Kitterick moved that Option 1 be taken as the agreed option from the report to maintain the status quo, and when looking at finances the authority undertake another wider statutory consultation following the Covid-19 pandemic, the findings of which would be brought back to a future meeting of the Scrutiny Commission. This was seconded by Councillor Batool, and on being put to the vote the motion was carried.

AGREED:

that:

1. The report and comments by the Scrutiny Commission Members be noted.
2. Option 1 be taken as the agreed option from the report to maintain the status quo, and when looking at finances the authority undertake another wider statutory consultation following the Covid-19 pandemic, the findings of which would be brought back to a future meeting of the Scrutiny Commission.

64. CLOSE OF MEETING

There being no other items of urgent business, the meeting closed at 5.56pm.