

Minutes of a meeting of the Scrutiny Commission held at County Hall, Glenfield on Wednesday, 15 March 2023.

PRESENT

Mr M. Mullaney CC (in the Chair)

Mr. T. Barkley CC
Mr. S. J. Galton CC
Mr. T. Gillard CC
Mrs. A. J. Hack CC
Mr J. Morgan CC

Mrs. R. Page CC
Mr J. Poland CC
Mr. T. J. Richardson CC
Mr. C. A. Smith CC

In attendance

Mrs D. Taylor CC, Deputy Leader and Lead Member for Children and Family Services
Mr O. O'Shea CC, Lead Member for Highways and Transport
Mr L. Breckon CC, Lead Member for Resources
Mr D. Bill CC, Spokesperson for the Highway and Transport Overview and Scrutiny Committee (for minute 66 only)

59. Minutes of the previous meeting.

The minutes of the meeting held on 30 January 2023 were taken as read, confirmed and signed.

60. Question Time.

The Chief Executive reported that no questions had been received under Standing Order 34.

61. Questions asked by members under Standing Order 7(3) and 7(5).

The Chief Executive reported that no questions had been received under Standing Order 7(3) and 7(5).

62. Urgent items.

There were no urgent items for consideration.

63. Declarations of interest.

The Chairman invited members who wished to do so to declare any interest in respect of items on the agenda for the meeting.

No declarations were made.

64. Declarations of the Party Whip in accordance with Overview and Scrutiny Procedure Rule 16.

There were no declarations of the party whip.

65. Presentation of Petitions under Standing Order 35.

The Chief Executive reported that no petitions had been received under Standing Order 35.

66. SEND - Service and Finance Update

The Commission considered a joint report of the Director of Children and Family Services, the Director of Environment and Transport and the Director of Corporate Resources which provided an overview of the provision of support provided by the Council to children and young people with Special Educational Needs and Disability (SEND). The report set out the position regarding current SEND services, providing an update on the Transforming SEND and Inclusion in Leicestershire programme, the financial pressures faced in this area, and wider impacts on SEND transport services. A copy of the report marked 'Agenda Item 8' is filed with these minutes.

Arising from discussion, the following points arose:

- (i) Members welcomed the report which provided a helpful cross departmental overview of pressures in the local SEND system. Members noted with concern the emphasis throughout the report that the current position was unsustainable and that this service area posed the most significant financial risk to the Council, despite significant efforts to address this over a number of years.
- (ii) In response to questions raised, Members noted that whilst the Department for Education (DfE) had suggested the formula for calculating the High Needs Block (HNB) of the Dedicated Schools Grant (DSG) would be reviewed, this had not yet been done despite considerable national pressure. The formula was complex, and essentially Leicestershire, when measured against its criteria, was calculated to be of low need. In contrast, however, SEND demand was unusually high in the area. The funding allocated to the County Council did not therefore meet demand by a significant amount.
- (iii) Members noted with concern the expected rise in the HNB DSG funding deficit to £91m in 2026/27 despite having factored in savings arising from the Council's Transforming SEND and Inclusion in Leicestershire (TSIL) Programme. The Director of Corporate Resources reported that Newton Europe (a national leader in this field of work) had been commissioned to support the review of the Council's SEND service and had been invaluable in helping it to develop its TSIL Programme. However, despite its knowledge and expertise, the Council could still not bring its budget for SEND services in line with the grant provided by Government.
- (iv) Members emphasised the need for national funding reform and questioned what Lead Members were doing to lobby Government to address this. The estimated national budget deficit for SEND Services was currently £3.6 billion and Leicestershire's deficit whilst significant was therefore only a proportion of what was a much bigger national financial problem.

- (v) The Director of Corporate Resources confirmed that County Treasurers had lobbied the DfE, alongside the County Council's Network, given the impact on the financial stability of many County Council's in this service area. It was thought, however, that the LGA (Local Government Association) could do more to support the position nationally. Members were assured that locally the Leader and the current and past Lead Members for Children and Family Services and for Resources had, and continued to, lobby Government. Unfortunately, the DfE was not currently showing any signs of addressing the issue.
- (vi) The Council was currently in the DfE 'Delivering better value for SEND' programme. It was likely that without significant improvement its HNB DSG funding deficit would reach a level that would push it into the DfE's 'Safety Valve' programme. However, whilst through this programme the DfE would put in funding to support local SEND services, the Council would also be required to use much of its own resources (i.e. its reserves). This would be a difficult negotiation and there were mixed reports as to the success of this approach for authorities already within this programme.
- (vii) Concerns were raised that the Council was spending significant sums transporting children to special schools which meant travelling a considerable distance in some cases. Members commented that this was not in the best interest of the Council, given cost implications, or children and their parents. A Member commented that such costs could not be allowed to continue to grow and questioned what was being done to strategically place children closer to home, as well as to identify and plan for where special school places would be needed in the future.
- (viii) Members were reassured that unnecessary travel was avoided by both the Children and Families and Highway and Transport Departments. However, it was acknowledged that children with SEND were transported to schools all around the County for a number of reasons. Sometimes this was due to parental choice. Sometimes it was due to sufficiency of local provision.
- (ix) Over the last five years strategic focus had been given to forecasting future need and where this might be located. This had been challenging and required careful planning. Through this work the Council had funded the building of a new special school (such funding coming from the Council's own capital resources, not the DSG) and it had built a number of units that were attached to mainstream schools. This provision had, however, been filled by increased demand and so pressures remained. There were plans to build a further 2 special schools in the north of the County where further need had been identified. The Director of Children and Family Services emphasised that ensuring the right children were being supported in the right provision was central to its TSIL programme.
- (x) In response to questions raised the Director of Children and Family Services emphasised that the location of a special school in every district would not address the problems faced, both in terms of demand and in reducing transport costs. Special schools often provided for generic SEND needs and so would not necessarily meet the actual needs of all children living in that area. Some children would still therefore have to travel, and such schools would likely have a number of vacant places which would affect its viability.

- (xi) The Lead Member for Children and Family Services commented that the Council could not build its way out of its current SEND demand/cost pressures. The key would be supporting as many children as possible with SEND in mainstream schools situated within their local community. The TSIL programme supported this approach, and the Council was working closely with schools to make this happen.
- (xii) Members questioned to what extent parental choice affected where a child was placed and how far they travelled. It was noted that whilst the Council might assess a local provision to be suitable, parents did sometimes appeal and such appeals were often successful. Guidance required parental choice to be given significant weight and so on appeal local authorities assessments whilst correctly carried out could often be overruled. The Director of Children and Family Services highlighted, however, that whilst parental choice held significant sway, sometimes it was simply a case of a specific school being the only choice available to meet their child's needs. In such cases the parents' choice would be supported by the Council despite its location.
- (xiii) A child's Education and Health Care Plan dictated where a child would go to school. There would be considerable discussion in undertaking that assessment of where to locate the child based on their needs and transport requirements would form part of that discussion. However, once the plan was put in place the position became fixed. The Transport Department therefore sought to optimise routes and minimise costs as best it could at that point.
- (xiv) In response to questions raised, Members noted that the Council's contracts with taxi firms contained standard clauses allowing for inflationary increases. However, inflation had risen beyond what was reasonably expected and so many were being handed back and having to be renegotiated at higher cost to the Council.
- (xv) In response to questions, the Director of Children and Family Services confirmed that through the section 106 planning agreements, efforts were being made to encourage developers to look at how to support SEND children in new mainstream schools to be built.
- (xvi) Not only was the County Council low funded, so were schools in the area and this had impacted their ability to support children with SEND. The Director of Children and Family Services emphasised that there was a clear will amongst schools to provide such support but given their own cost pressures, this had not always been possible. Through the TSIL Programme the Council would, in partnership with schools and engagement with parents, look at more creative ways to support children in local mainstream schools. Focus was now being given to funding need as opposed to funding 'things' and allowing schools to determine how best to use funding allocated for this purpose. Members noted that 10 schools were currently involved in a pilot to trial this change in approach.
- (xvii) Assurance was provided that conversations were held with neighbouring authorities regarding the location of children within schools in that area (which were sometimes also the closest) and in sharing costs, but it was noted that all authorities were sharing the same pressures. All were looking at sufficiency issues as there was not adequate capacity in the SEND system nationally.
- (xviii) Leicestershire was unique in that it had a higher number of independent special schools than other areas, but these could still not support all children with SEND

living in the area. Members noted that other local authorities also placed children in these schools.

- (xix) A Member commented that much hinged on the effectiveness of the special educational needs assessment (SENA) which it was suggested was not working based on the number of delays, errors and complaints received. It was noted that there were vacancies within the SENA service which combined with the high demand was one contributing factor. However, the ability to secure educational psychologists within the health system, to conduct the EHCP assessment was the primary issue.
- (xx) The Director provided assurance that investment in the SENA Service had secured additional capacity to work through the backlog. The recent Ofsted inspection had confirmed that this had improved the quality of assessments but that issues around timeliness remained. This continued to be addressed through the TSIL programme. Following the original inspection by Ofsted, members noted that an accelerated action plan had been put in place which the DfE was monitoring. Regular updates on progress were also presented to the Children and Families Overview and Scrutiny Committee.
- (xxi) Members commented on the huge difference in cost between placements in an academy or local authority maintained school and placements in a private special school. It was noted that whilst there was some negotiation on costs, this was difficult, and children were often placed in such schools due to parental choice. It was suggested that they were often better at marketing but not necessarily better at supporting children in getting better outcomes.
- (xxii) In response to questions raised, the Director of Environment and Transport confirmed that when entering into an agreement with a taxi firm, the Council was required to stipulate the pick up and drop off locations and costs were agreed on that basis. If a parent subsequently asked that a child be collected/dropped off with a child minder rather than at home, this could often not be accommodated as it generated additional travel and therefore cost. There were also security and safeguarding issues that needed to be addressed.
- (xxiii) The Council had contracts with taxi firms outside of Leicestershire and which were therefore licenced with other authorities (not just one of the seven district Councils).

RESVOLED:

- (a) That the report and further information now provided in respect of SEND Services, budget pressures and wider impacts on the SEND transport be noted and welcomed;
- (b) That it be noted that the Children and Families Overview and Scrutiny Committee and the Highways and Transport Overview and Scrutiny would continue to monitor performance across both these relevant service areas.

67. MTFS Monitoring

The Commission considered a report of the Director of Corporate Resources which provided an update on the 2022/23 revenue budget and capital programme monitoring

position as at the end of period 10 (the end of January). A copy of the report marked 'Agenda Item 9' is filed with these minutes.

Arising from discussion, the following points were made:

- (i) Members welcomed the reduction in the forecasted overspend from £8.5m to £2.5m during the period. Whilst significant challenges still lay ahead, the Council's financial position was now much better than predicted earlier in the year, at least for the short term.
- (ii) Staff vacancies continued to be an issue across all service areas. The reasons for this were wide ranging, with staff retiring early, public sector pay continuing to fall behind private sector pay, job pressures and a reduced wider workforce following the referendum and Covid pandemic. A Member commented that recruitment and retention of staff was a national problem within the public sector and a national solution was therefore needed. The Director of Corporate Resources assured Members that much was being done to manage this locally so far as possible, including improvements in publicising positions available, providing flexible working options, the simplification of the application process according to job roles, and in providing market supplements where appropriate.
- (iii) The Department of Transport had confirmed that funding to support bus services would continue into 2023/24. However, this provided only short term respite and the long term position remained difficult with a £1m plus deficit still needing to be addressed in future years.
- (iv) The statutory override for the Dedicated Schools Grant (DSG) had been extended for a further three years to 2025/28. This meant the Council did not need to account for the growing DSG deficit in its main revenue budget and so could continue to carry this forward during the period. However, it still had to set aside funds to balance against this for audit and risk purposes. A Member suggested that the Council should demonstrate the opportunities lost in not being able to use this funding to support other services to emphasise the need for national funding reform in this area. The Director undertook to consider how best to present this information in future reports.
- (v) In response to questions raised, the Director explained that bus subsidies and concessionary travel payments paid by the Council to commercial operators were managed separately for accounting purposes. Bus subsidies were discretionary whilst concessionary travel was a statutory responsibility which the Council had to quantify in isolation. Members noted that commercial operators were reclaiming less for concessionary travel as the number of passengers using the scheme had fallen during the pandemic. It remained to be seen whether numbers would return to pre-pandemic levels. It was acknowledged that this was having an impact on the viability of some services.

RESOLVED:

That the update on the 2022/23 revenue budget and capital programme monitoring position as at the end of period 10 (end of January) be noted.

68. Date of next meeting.

RESOLVED:

It was noted that the next meeting of the Commission would be held on 12th April 2023 at 10.00 am.

10.00 - 12.16pm
15 March 2023

CHAIRMAN