



Report to the Finance, Performance and Resources Select Committee

Title: Assess the use of the urgency rule for a Cabinet Member Decision

Committee date: 5 September 2013

Author: Anne Davies

Purpose of Agenda Item

The purpose of the item is to assess the request submitted in relation to the Cabinet Member Decision relating to the Transfer of 5 County Council managed Children's Centres to the management of Barnardo's. Urgent decisions cannot be called-in as they need to be implemented immediately. This is not a 'call-in' of the decision itself but an assessment of the use of the urgency rule for a Cabinet Member Decision.

Background

- A consultation process began on 23rd November 2012 proposing to transfer five Centres from the management of BCC to the management of Barnardo's. This was due to the underperformance of in-house Centres, which meant that children and families of under fives, particularly those 'in greatest need of early intervention' were not getting the high quality support they need at the most critical point in their development.
- There was strong evidence from Ofsted results and contract monitoring that Barnardo's, which already ran 11 Centres in Buckinghamshire, would be able to turn around the performance of these Centres.
- The original timeline outlined in the consultation letter was that:
 - The consultation would run until 22nd January
 - If the transfer went ahead, it would take place at the beginning of March, following a one month handover period
 - The Council said that during the consultation period it would hold separate meetings with staff and parents/Advisory Boards in each of the 5 Centres.
- Children's Centres were all due to be re-commissioned for April 2014. This would give Barnardo's 13 months to turn around the performance of the 5 Centres.

- Meetings were then held at each of the 5 Centres, at which the Cabinet Member told parents and Advisory Boards that, when the consultation period ended, he would come back again to speak to them before making a final decision.
- Parents then submitted the following petitions on the following dates and these were accepted by the Council

- Wycombe East & Hampden Way	09/01/13 to 17/02/13
- Chalfonts	24/01/13 to 17/02/13
- Marlow	06/02/13 to 20/03/13
- Wooburn Green	07/02/13 to 20/03/13
- The Cabinet Member decided that, in order to properly consider the views of parents and to make this a meaningful consultation, the petitions should run their course before making a decision.
- The Cabinet Member went to meet with parents and Advisory Boards from all of the 5 Centres on Tuesday 26th March.
- The Cabinet Member then reviewed all the information that had been received and the Cabinet Member decision report was drafted. Consulting with Legal and Democratic Services, however, it was apparent that if the decision were called in, then with elections taking place on 2nd May it would not be possible for the scrutiny process to be completed before the election took place. After the election Executive members and committees would not be appointed until after the Council's Annual general meeting on 23rd May and it was therefore unlikely that an Overview and Scrutiny Committee would take place until June at the earliest.
- The Deputy Leader and the Chairman of the Overview and Scrutiny Commissioning Committee agreed that the decision should be taken under the urgency rule on Tuesday 16 April 2013.

Reasons for Urgency

The Cabinet Member for Education and Skills therefore decided that the decision needed to be taken as an urgent one. If the decision had not been taken as urgent then, if the decision had been called in, it would have been delayed by at least a further two months.

The consultation with staff and Advisory Boards to start the process began on 23rd November, with the intention being that a decision would be made in February and implementation of the proposed changes in March. Due to the petitions the decision had already been delayed by two months and a further two month delay would have meant that it would have taken more than six months from beginning the consultation until the decision was made.

- As above there was strong evidence that Barnardo's would be able to turn around the performance of these Centres. The uncertainty in this period impacted on delivery as well. Delaying that improvement for a further two months and extending that uncertainty would have meant that a significant number of children and families would not receive the high quality support needed at the most important stage of their development.

- With the one month handover the implementation of the decision would have taken place in July and this would have given the new provider only eight months to turn around the performance of the Centre. Part of the rationale for the change was to get the Centres' performance up to a level where providers would be prepared to bid for them when tendered. This might not have been possible in such a reduced timeframe.
- It would not have been fair to those affected, staff, Advisory Boards and parents, to have continued uncertainty regarding the outcome for what would be more than six months.
- This change represented a change in provider- it did not represent a change to the budget for the Children's Centres concerned or the framework and specification that they were working to.

Reasons for call in request

On the call in request form submitted by Julia Wassell and signed also by Avril Davies and Chaudhary Ditta they believe that the decision was not genuinely urgent because of the following reasons:-

"The decision is not urgent because the reason given is due to elections being held on 2 May. Had the decision been taken in a timely manner, it would have been easier for the Overview and Scrutiny (now Select Committee) to have heard the matter. However, it was still technically possible for the matter to have been heard.

It is said that the decision had to be urgent as it would not have been 'fair' on those affected. In fact, parents and staff and Local Members wanted it to be called in to scrutiny on a number of grounds.

We dispute that it was either urgent because of elections or 'unfair' to delay the decision. We feel that it is a very significant decision, where new information was brought forward, and that this decision may affect the future of all other County run Children's Centres. This decision has taken away the resident's and local member's rights to have a call in at all. It raises serious questions of the democratic process and what might happen if key decisions were not open to scrutiny due to elections, which could have far reaching consequences for the Council.

When Local Members sought additional information from the Cabinet Member and Officer prior to the decision, they did not respond, which has been acknowledged. Parents feel that Local members should call in the decision. One Local Member is the Cabinet Member so they are further disadvantaged."

Information from the Constitution on the Special Urgency Rule

If by virtue of the date by which a decision must be taken Standing Order 15 (general exception) cannot be followed and the five clear days notice of the decision cannot be given then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Leader and the Chairman of the relevant Select Committee that the taking of the decision cannot be reasonably deferred.

Notice in writing of the application to the Chairman of the appropriate Select Committee must be published on the Council's website and copies made available to the public at the offices of the Council.

If a decision needed to be taken that has not had the required notice on the Forward Plan but gives five clear days notice then the Select Committee needs to be informed.

If there is no Chairman of a relevant Select Committee, or if the Chairman of the relevant Select Committee is unable to act, then the agreement of the Chairman of the Council, or in their absence the Vice Chairman will suffice.

Next steps

The Committee now need to consider

- a) Whether to note the position as set out in the report and confirm that it understands the reason for the decision being taken as an urgent one, and does not wish to challenge this process**

- b) In any event whether there is any aspect of the process it would ask the Regulatory and Audit Committee – as the Committee responsible for the Council's Constitution, to consider further or change.**

Additional Paperwork

Call in request form
Written submissions
Cabinet Member decision