

## Overview & Scrutiny Commissioning Committee 10 November 2009 Additional Documents

| Agenda Item  | Page No       |
|--|---------------|
| <b>8 BUS CONSULTATION</b><br><b>Contributors</b><br>Val Letheren, Cabinet Member for Transportation  | <b>1 - 2</b>  |
| <b>Purpose</b><br>To provide a paper and answer members' questions in relation to how the county council consults on changes in bus routes, how bus contracts function and how this work fits in with the locality strategy.   |               |
| <b>Context</b><br>A Councillor Call for Action (CCfA) was raised at the commissioning committee meeting of 6 October in relation to bus route 459, Iver to Uxbridge. During discussions with the Cabinet Member for Transport members of the committee indicated that they had concerns about the process the county council uses to consult with the public and stakeholders when changes in bus routes are proposed.   |               |
| <b>12 STATUTORY/MANDATORY AND DISCRETIONARY SERVICES REVIEW</b><br><b>- PHASE 1</b><br><b>Contributors</b><br>All  | <b>3 - 10</b> |
| <b>Purpose</b><br>To receive, for information and comment, the draft report from Phase 1 of the Statutory/Mandatory and Discretionary Services Review.   |               |
| <b>Context</b><br>At its initial meeting, the OSCC agreed to undertake a review into statutory/mandatory and discretionary services at Buckinghamshire County Council. Members agreed to carry out the review in two stages. Phase 1 has involved an information gathering exercise where four Working Groups, made of members of the OSCC, have interviewed Heads of Service to determine minimum levels of service provision and to identify other, discretionary activities. Members are asked to consider the draft report |               |

resulting from Phase 1 of the review.

**13 Exclusion of the Press and Public**

To resolve to exclude the press and public as the following item is exempt by virtue of Paragraph 2 of Part 1 of Schedule 12a of the Local Government Act 1972 because it contains information which is likely to reveal the identity of an individual (Item 14, Item 15 and Item 16).

**AND**

To resolve to exclude the press and public as the following item is exempt by virtue of Paragraph 3 of Part 1 of Schedule 12a of the Local Government Act 1972 because it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) (Item 16).

**16 STATUTORY/MANDATORY AND DISCRETIONARY SERVICES REVIEW 11 - 138  
- PHASE 1 - CONFIDENTIAL**

**Contributors**

All

**Purpose**

To receive, for information and comment, the draft report from Phase 1 of the Statutory/Mandatory and Discretionary Services Review.

**Context**

At its initial meeting, the OSCC agreed to undertake a review into statutory/mandatory and discretionary services at Buckinghamshire County Council. Members agreed to carry out the review in two stages. Phase 1 has involved an information gathering exercise where four Working Groups, made of members of the OSCC, have interviewed Heads of Service to determine minimum levels of service provision and to identify other, discretionary activities. Members are asked to consider the draft report resulting from Phase 1 of the review.

**Overview and Scrutiny Commissioning Committee 10 November 2010**

The overview and scrutiny commissioning committee asked the following questions regarding bus contracts:

- How does BCC consult with local residents & members on changes to the delivery of bus routes?
- An explanation of the nature of bus contracts?
- How does the consultation process on bus services fit in with the locality strategy? E.g. do you consult with LAFs
- How are the results of consultations used and publicised?
- How does the consultation process used by Transportation relate to the corporate consultation guidelines and strategy?

Bus contracts

The 1985 Transport Act deregulated the bus industry outside of London. Bus operators were then able to provide services on a commercial basis, competing freely and not cross subsidising one route with profits from another. At the same time Local Authorities were given powers to contract additional services where no commercial route existed or to enhance routes where appropriate, in accordance with their policies.

All local bus services must have their routes and timetables registered with the appropriate Traffic Commissioner's Office (now a branch of VOSA). In most cases bus operators must give the Traffic Commissioner 56 days notice of any route or timetable changes they decide to make. In the case of service withdrawals this allows the Local Authority just 8 weeks to assess the impact of proposed changes and seek to procure alternative services where appropriate.

Subsidised services can be procured either through tendering for a route or journey(s) or through a mechanism known as "de minimus". The latter allows a local authority to negotiate directly with the operator of a service to procure minor enhancements to a commercial route where tendering on the open market would undermine the viability of the route in question. Local Authorities are not permitted to operate subsidised routes in competition with a commercial service.

Local bus contracts can be let for a maximum of 5 years after which they need to be re tendered. BCC conditions of contract require 120 days notice to be given by either party to terminate a contract, even if the contract is to be re-tendered.

## Consultation and engagement

Transportation follows the corporate consultation guidelines and strategy for policy documents. The County Council's Bus Strategy outlines the criteria against which revenue funding on public transport is to be prioritised. It is set out as an appendix to the 2<sup>nd</sup> Local Transport Plan, LTP2 and as such was subject to the full LTP2 consultation process. Transportation will be commencing consultation on the 3<sup>rd</sup> Local Transport Plan in 2010 and this will also follow the consultation strategy.

Changes to individual bus timetables are not policy changes and do not follow the full consultation process. Often we are reacting to changes made to the commercial network for which we are given 56 days notice, during which we have to assess the impact of a change, cost alternatives, seek views and procure replacement services if appropriate.

Where reviews of subsidised bus services are carried out by Transportation, elected members, parishes and other interest groups will be contacted in writing, outlining the intended changes and seeking views on the proposals. Locality forums are also contacted and if required an officer will attend a Locality meeting or submit a briefing paper. In these cases we will give at least 6 weeks for a response, following the guidelines in the "New Deal". When revised timetables are agreed, we will write to those originally contacted to explain the decision made and confirming details.

We receive well over one hundred notifications of changes to bus services each year, some of these are relatively minor changes to timetables or small route amendments although others will have a wider impact. Even a seemingly minor change to a single journey may well have a considerable adverse impact on individual passengers.

In the case of the recent review of bus services to implement the MTP budget reduction, members, parishes, Locality Forums (where in operation) and other interested groups were written to with details of our proposals and given around 8 weeks to respond. As the decision that financial cuts were being made, and the level of these cuts, had already taken place through the MTP process, our aim was to explain how the service reductions could be implemented and to seek views on how best to make use of a reduced level of resource. In many cases our original proposals have been amended to take account of these views. Over 50 subsidised bus routes across the county are being reviewed this autumn in order to reduce costs and manage the MTP budget reduction.

# **Overview and Scrutiny Commissioning Committee Interim Report**

## **A Review into Statutory, Mandatory and Discretionary Services at Buckinghamshire County Council - Phase 1**



**November 2009**



**Overview and Scrutiny Commissioning Committee - Review into Statutory,  
Mandatory and Discretionary Services Phase 1  
Draft Interim Report**

**Chairman: Trevor Egleton  
Contact Officer: Claire Street**

**Introduction**

1. The Council is facing growing pressure to reduce spend yet improve and increase its service provision at the same time. Against this background, it is estimated that the Council will face a budget deficit of £27 million by the end of the financial year 2011/12 unless action is taken.
2. In order for the organisation to meet the challenges ahead and remain fit for purpose, a cost cutting programme of change has already been introduced across all service areas. However, the harsh reality is that, in future, this may not be enough. There is an ever increasing need for prudent financial management and the development of alternative policy options should further efficiencies be required.
3. In light of the above plus the national economic context and greater squeeze on the public purse, the Overview and Scrutiny Commissioning Committee has taken on a piece of work to review which Council services are statutory or mandatory, and which services are discretionary. This interim report marks the end of Phase 1 of the review.

**Recommendations**

**Cabinet is asked to:**

1. **Note the work carried out in Phase 1 of the review**
2. **Comment on the key questions outlined in paragraph 21 of the report**
3. **Note that Phase 2 of the review will:**
  - **Examine two service areas in more detail**
  - **Investigate if services can be provided differently, and**
  - **Assess the risk and impact of certain services being reduced.**

**Background**

4. At its meeting in September 2009, the newly formed Overview and Scrutiny Commissioning Committee (OSCC) agreed to carry out a review into statutory / discretionary services at the County Council. Research carried out early on in the review identified that very little information is currently available about the statutory duties of Councils. A number of organisations were contacted for more information (including the Communities and Local Government department) but it appears that a conclusive list of statutory functions does not currently exist.
5. With this in mind and as the size of the task became apparent, the OSCC decided to carry out the review in two phases: an information gathering

exercise in Phase 1 to establish, as far as is possible, statutory and discretionary functions, and Phase 2 to look at the risk and impact of services being reduced or provided differently.

## Methodology

6. The methodology for Phase 1 was as follows:

- Desk based research
- Data collection using a bespoke matrix
- Working Group meetings with Heads of Service
- Feedback from Working Group Chairmen and whole Committee discussion.

## Review Aims – Phase 1

7. The first phase of the review involved the formation of four Working Groups, made up of members of the OSCC, who were each assigned one of the following portfolio areas to review:

- Adults & Family Wellbeing - Chairman: Peter Hardy
- Business & Customer Transformation - Chairman: Trevor Egleton
- Children & Young People – Chairman: Roy Davey
- Communities & Built Environment – Chairman: Peter Cartwright

8. The remit of the Working Groups was to meet with the various Heads of Service from the portfolios listed above to try and identify a minimum level of service provision for each of their areas, and to discuss provision that could be considered as discretionary.

9. To this end, a total of fifteen two-hour meetings took place with the Heads of Service over a four week period in September / October 2009, as follows:

| Service Area:                                | Head of Service (or delegate): | Date:    |
|--|--------------------------------|----------|
| Finance & Procurement                        | Jackie Yates                   | 21.09.09 |
| Customer Contact                             | Amanda Brooke-Webb             | 22.09.09 |
| Policy, Performance & Communications         | Sarah Ashmead                  | 23.09.09 |
| Legal & Democratic Services                  | Anne Davies                    | 29.09.09 |
| Service Transformation                       | Caroline Cooper                | 29.09.09 |
| Planning Environment & Development           | Graham Winwright               | 29.09.09 |
| Adults: Service Provision                    | Kerry Stevens                  | 30.09.09 |
| Transport                                    | Jim Stevens                    | 06.10.09 |
| Human Resources                              | Ann Cobban                     | 06.10.09 |
| Localities & Safer Communities               | Phil Dart                      | 07.10.09 |
| Culture & Learning                           | Paula Buck                     | 08.10.09 |
| CYP: Achievement & Learning                  | Louise Goll                    | 13.10.09 |
| Adults: Commissioning & Business Improvement | Trevor Boyd                    | 13.10.09 |
| Safeguarding                                 | Alan Dinning                   | 15.10.09 |
| CYP: Commissioning & Business Improvement    | Chris Munday                   | 15.10.09 |



10. Members learnt early on in the review that the Council's budgets are not aligned on a mandatory / discretionary basis. So, to help specify these two areas for the review, a matrix was designed for the Heads of Service to complete where they were asked to identify minimum levels of service provision for their areas, and show other, discretionary activities. The Heads of Service were also asked to demonstrate through the matrix where the need for the service is expressed i.e. in statute, the County Council's Constitution or the Local Area Agreement (LAA).
11. All 15 of the Heads of Service provided completed matrixes, some at extremely short notice, and we are very grateful for their efforts. It should be noted though that the *level* of detail provided varies significantly between areas and not everyone has included costs. However, the information does provide at least a starting point for further discussion.

### Early findings

12. In the initial stages of the review, the term 'statutory' (in statute) was used to define what it is the authority has to do. However this proved to be unhelpful as much of what the Council does is 'mandatory' rather than statutory. By this we mean that if the Council did not perform certain functions, it would leave itself open to legal challenge – whether the function is laid down in statute or not. An example of this is some of the functions carried out by Human Resources. They may not be statutory activities, but their removal could have significant legal implications for the authority.
13. It also became apparent that although there may be a statutory requirement for the Council to provide a function, such as the scrutiny or library function, the Council often has discretion over **what level of service** it provides. This is a key point and one which will be taken forward into Phase 2 of the review.
14. Alongside the work being carried out by scrutiny, members became increasingly aware of the number of programmes already taking place throughout the Council which are aimed at making efficiency savings and / or providing services differently.
15. Briefly, these are:

- **Transformation**

Aimed at helping reduce the £27million deficit by improving the way the council works and delivers its services and by changing structures within the organisation.

- **Pathfinder**

Aimed at finding new ways of joining up or sharing services to deliver improvements and efficiencies through enhanced, two-tier working.

- **Shared Services**

A strand of Pathfinder which aimed at joining up back office services through the procurement of a private sector company.

- **Medium Term Planning (MTP) Process**

The Council's three-year Medium Term Planning process, which is reviewed on an annual basis.

- **Member Challenge Panel**

A yearly challenge panel made up of members of the majority group who question and give a view on proposals developed through the MTP process.

- **Overview and Scrutiny Examination in Public**

A select committee style two-day event where Cabinet Members are questioned by scrutiny on their portfolio budgets.

- **Devolved Decision Making**

Aimed at devolving some decision making and services to Local Area Forums / Local Community Partnerships.

16. Scrutiny members have commented that it would have been more prudent to have one, overarching programme of change in place to help determine efficiency savings, rather than the number there are at present. Members feel that there is a real danger of duplicating work by having multiple programmes running, and are concerned about the amount of resources being used both to plan and implement each one.

### **Other Authorities**

17. Desktop research has indicated that, whilst there is little information generally available about statutory / discretionary functions, some authorities are beginning to think about this approach when planning future services. Barnet Council, for example, is planning to operate a budget airline 'no frills' approach to services. In effect, this means residents would only get a basic level of service, but could pay to upgrade if they wanted more expensive and more extensive provision. Barnet describes this as a three-pronged approach: 'a new relationship with citizens, a one public sector approach and a relentless drive for efficiency'<sup>1</sup>. The implications of taking this forward for Barnet are the loss of some staff posts and the potential privatisation of some areas of the Council.
18. Norwich City Council has tasked the consultants Deloitte to look at what it provides in terms of statutory services. Early indications are that they could save nearly £26.2m (33.9%) if they provided only the services necessary by law for a City Council, such as those relating to land searches, cemeteries and planning. However, this means that they would have to abandon 'discretionary' services which could include community centres, parks and events.
19. Kent County Council has taken a different approach and has carried out a piece of work to establish how discretionary powers have been used in that authority, following comments that councils are lobbying for new powers whilst not making use of all the powers that are currently available to them. The work at Kent has not focused on determining what is mandatory, but it does provide a useful resource bank of the discretionary powers available to some councils.

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<sup>1</sup> 'The Future Shape of the Council' Barnet Council, 21 October 2009, <http://committeepapers.barnet.gov.uk/democracy/reports/reportdetail.asp?ReportID=8580>

## Key questions raised during Phase 1

20. During members' discussions with the Heads of Service, a number of key questions were raised, which should help inform discussions about future service provision.
21. These are summarised below for Cabinet to comment on:

### Key Questions:

**What type of authority does the Council want to be in future – does it want to continue to be top performing and what are the cost implications of this?**

**What level of service does the Council want to provide? For example:**

**Can (and should) services, operate at 'bronze level', rather than at silver or gold?**

**Who decides what the level of provision should be now, and in the future?**

**To what extent does the Council want to continue to operate to National Indicator (NI) standards? For example:**

**Should the Council switch from achieving NIs to achieving greater customer satisfaction?**

**Can the Council find better ways of providing what it already delivers?**

**Should the Council charge for services above the minimum provision?**

### Meetings with Heads of Service

22. Whilst discretionary elements were identified through the discussions with Heads of Service, members are not advocating that these activities be removed from services. A much more detailed look at these areas, alongside the level of provision of services assumed to be statutory or mandatory, would be needed before any such recommendations could be made. This would have to be accompanied by an analysis of the risk and impact of removing or reducing activities.
23. A key point made by the Heads of Service is that the removal of preventative (discretionary) services could result in the authority incurring more costs as people might need to enter care services earlier than if they had received a level of preventative support. A good example of this is carers in the community (often unpaid) who prevent, or delay, people with sometimes complex needs entering the costly residential care system.

### Conclusion and Phase 2

24. Phase 1 of the review has involved an information gathering exercise which has sought to obtain an initial view of what a minimum level of service

provision might look like, and what else it is that we do in services which could be considered discretionary.

25. The information obtained from discussions with the Heads of Service, alongside the completed matrices, will help inform further discussion in Phase 2. The information also forms a useful resource for the Council as it considers how to be more efficient whilst providing important services for Buckinghamshire residents.
26. Phase 1 has not taken into account the risks associated with reducing or removing discretionary services or of reducing levels of statutory/mandatory services, and the impact this could have on our residents, employees and partners. This will form the basis of the work in Phase 2 with a report to Cabinet expected in April / May 2010.
27. Members of the OSCC have decided that Phase 2 of the review will involve the formation of two Task and Finish Groups from the wider membership who will look at two service areas: Achievement and Learning and Transport, with a view to fulfilling the following outcomes, in the context of the key questions posed earlier in the document:
  - Consider what level of provision is required
  - Consider if the service could be provided differently
  - Consider the impact of reductions in service on, for instance:
    - o Residents
    - o Partners
    - o Employees
  - Consider the risks associated with reductions in service
  - Consider if alternative funding could be found or services charged for
  - Highlight policy options for Cabinet to debate.
28. We would like to thank all the officers who made themselves available at short notice to take part in the Heads of Service meetings, and are particularly grateful to those who went to great lengths to ensure the matrices contained detailed and clear information.

### **Background Papers**

- Devolution Briefing Paper January 2009 (Localities Team)
- Meeting notes with Heads of Service (exempt)
- Matrices completed by Heads of Service (exempt)

**Agenda Item 16**

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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