

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**

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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'¹. 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.

¹ '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)