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Ask for:
Date: 22 July 2020

Dear Member

SCRUTINY COMMITTEE - FRIDAY, 24 JULY 2020

I am now able to enclose, for consideration at next Friday, 24 July 2020 meeting of the Scrutiny Committee, the following report that was unavailable when the agenda was printed.

Agenda Item No

A4 **Minutes of the meeting held on 23 June 2020 (to follow)** (Pages 1 - 8)

Yours sincerely

Benjamin Watts
General Counsel

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KENT COUNTY COUNCIL

SCRUTINY COMMITTEE

MINUTES of a meeting of the Scrutiny Committee held in the Online on Tuesday, 23 June 2020.

PRESENT: Mr A Booth (Chairman), Mr J Wright (Vice-Chairman), Mr M A C Balfour, Mr P V Barrington-King, Mrs P M Beresford, Mrs R Binks, Mr R H Bird, Mr G Cooke, Mrs T Dean, MBE, Mr D Farrell, Mr R C Love, OBE, Mr A M Ridgers and Dr L Sullivan

ALSO PRESENT: Miss S J Carey, Mrs S Chandler, Mr M D Payne and Mr M E Whybrow

IN ATTENDANCE: Mr S Collins (Director of Integrated Children's Services (West Kent and Early Help and Preventative Services Lead)), Ms H Cook (Senior Commissioner), Mr M Dunkley CBE (Corporate Director for Children Young People and Education), Nikola Floodgate (Schemes Planning & Delivery Manager), Mr T Godfrey (Scrutiny Research Officer), Ms C Holden (Lead Commissioning Manager), Mr S Jones (Director of Highways, Transportation and Waste), Ms C McKenzie (Sustainability and Climate Change Manager), Mr T Read (Head of Highway Transport) and Mrs A Taylor (Scrutiny Research Officer)

UNRESTRICTED ITEMS

28. Declarations of Interests by Members in items on the Agenda for this Meeting (Item A3)

1. Dr Sullivan declared an interest, as her husband was employed by the County Council in the Children, Young People and Education Directorate, in relation to Item B1.
2. Mr Love declared an interest on account of his wife's employment, in relation to Item B1. It was agreed that Mr Love would leave the meeting and log out before the discussion on item B1.

29. Minutes of the meeting held on 24 January 2020 (Item A4)

RESOLVED that the minutes of the meeting held on 24 January 2020 were an accurate record and that they be signed by the Chairman.

30. Call-in of Decision 20/00017 - Recommissioning of Early Help Services (Item B1)

Mrs Sue Chandler (Cabinet Member for Integrated Children's Services), Matt Dunkley (Corporate Director of Education and Young People's Services), Stuart Collins (Director of Integrated Children's Services) and Christy Holden (Lead Commissioning Manager) were in attendance for this item.

1. The Chairman welcomed the guests. After a discussion about the involvement of a representative of The Education People in the meeting without a representative from CXK, it was agreed that the officer from The Education People (TEP) would not participate in the meeting.

2. The Chairman invited Mr Cooke (as the Member who called-in the item) to introduce the item. Mr Cooke explained that there was a need for transparency over the decision made (to bring the NEET Support Service provided by CXK in-house to The Education People), and that KCC had a good working relationship with the CXK (previously called Connexions) service. He explained that the impression given was that a decision had been made to bring the NEET Support Service provided by CXK in-house to The Education People without any material consideration of the alternatives and without consultation. He also stated that the service provided by CXK had been effective in reducing the level of NEET (Not in Education, Employment or Training) in Kent, and was well-regarded. He therefore asked how and why the decision to end the NEET Support Service contract with CXK had come about. He also asked KCC officers to explain how the level of performance would be no less if the same service was provided by The Education People rather than that currently provided by CXK. Mr Cooke also referred to a commitment of KCC to the Government to support the sustainability of the voluntary sector, particularly during the pandemic.

3. Mrs Chandler explained that the decision had been taken after a considerable amount of consultation and that she had made the decision in the interest of young people in Kent. Regarding the consultation and tender process, Mrs Chandler explained that they were made under the Teckal procedure and that the tendering process would not be the usual process. Mrs Chandler explained that the current providers were consulted, and on the allocation of the last extension the providers were advised that the contract would be recommissioned.

4. In response to questions Mrs Chandler clarified that this was not a recommissioning of the same contract. She explained that, after the representations made in the Ofsted inspection with regard to those with SEND who were not included specifically in the original commissioning, it was not possible to extend the original contract and not possible to recommission on exactly the same basis. Mrs Chandler also clarified that the design of the service was about what was offered to young people, and that in this case the service that was offered had a much wider scope and took into account a much larger section of young people.

5. Mrs Chandler explained that, in terms of TEP and the strategic element, the idea was to provide a service that would *prevent* young people from becoming NEET. With particular reference to young people with SEND, she suggested that the overall strategic view that TEP had would be very beneficial for these young people. Stuart Collins explained that, when the contract was originally let in 2016, if TEP had existed, it would have been likely that they would have been part of the formal service arrangements, as given that NEET were a council priority the service would have been provided in-house. In reply to Mrs Binks' question about the relationship of TEP with schools, he explained that that relationship was key to prevent NEET. Stuart Collins clarified the process to explain why it was appropriate. In reply to questions about consultation, he clarified that conversations regarding the intention to cease the existing contract took place with the current providers in September 2019. That

was the point when the contract was extended, and it was outlined then that the contract was going to be extended until September 2020 – therefore one year's notice was given. In January 2020 the current provider was advised that KCC were proceeding towards the end of the contract extension. In terms of resources, he explained that it was likely that by undertaking Teckal there would be implications for the current staff, but that continuity would be maintained through the transition and that KCC would work with the current provider to ensure that there would be a clear transition. Finally he answered that, in terms of extending the contract, by bringing in children with SEND, a material change in the contract was necessary.

6. Matt Dunkley added that the Director of Children Services had two statutory duties to fulfil: the duty to reduce NEETs, and the duty in relation to young people with SEND. In September 2019, the point was reached where extending the contract was not an option if young people with SEND were to be included in a reframed contract. The provider was informed that the contract was going to be terminated. Mr Dunkley then explained that they had different options on what to do next: a full market procurement and invite a range of providers, including the current one, to bid; or adopt the Teckal process, which took advantage of the fact that KCC had, in the form of TEP, a company owned by KCC which was deliberately constructed with a governance that allowed for flexibility in the fulfilment of those statutory services. Therefore it was decided to choose the second option.

7. Christy Holden explained this was not a reflection on the service provided by CXK. She added that there would be greater control and accountability over the confidential data shared with TEP. She reassured that the commissioning cycle process was followed, leading to recommendations for the decision to be taken by the Cabinet Member.

8. Helen Cook explained that the monitoring of KPIs (performance indicators) would continue regardless of who was providing the service. TEP would be held to account in the same way as CXK.

9. In response to a question about consultation with the existing provider, Mrs Chandler was assured by the officers that that consultation and advice was in place.

10. Matt Dunkley explained that in September 2019 it was made clear that the contract would be terminated one year later, and it was clear that they had to widen the scope of the contract to integrate the work with young people with SEND. At that point the commissioning cycle started, where a series of options were available, and it was decided to take the Teckal route rather than an open market competition process, given the advantage of the existing relationship with TEP and their status being a company owned by KCC and their position with schools.

11. Christy Holden explain the series of decisions that took place during the commissioning cycle. She explained that it was made clear to CXK that the contract would be ending, but that, in the interests on fairness, they were not able to share with them what they were recommending to the Cabinet Member as this would have given an unfair advantage if alerted of a potential bid.

12. There were concerns from Members that KCC had not followed a fair and transparent process, and that the CXK service had not been treated fairly.

13. Stuart Collins confirmed that a letter advising CXK that KCC would not renew the contract was sent to CXK in September 2019. In relation to KPIs, he assured the Committee that KCC would hold the new provider to account in the same way that it did CXK. In terms of risk assessments, procurement rules and Teckal legislation were followed. Christy Holden confirmed that CXK were advised about the Teckal option in May 2020. In terms of the control of data, she was not aware of any breaches. Helen Cook clarified that, in terms of the referrals from TEP to CXK, the average percentage between November 2019 and May 2020 was about 41%.

14. Mr Cooke thanked the Chairman for a thorough investigation, and thanked Mrs Chandler and the officers present for answering the questions. He commented that there were still some issues that caused concern, that is that, although CXK were advised in September 2019 regarding the intention to cease the existing contracts and about the recommissioning, the timeframe between the notification about recommissioning in September 2019 and the notification in May 2020 about adopting the Teckal option and the move to TEP, could be construed as misleading a valuable partner.

15. He also added that, in terms of referrals, as CXK had stepped in to generate the extra referrals they needed to meet their KPIs because TEP was failing (in terms of their 40% referrals), it was unclear how, going forward, TEP would be expected to meet the same KPIs. He also felt that the issue of staff turnover that TEP was suffering from had not been looked at satisfactorily. Finally, he commented that in order to reduce the number of young people with NEETs, it was important to find ways to help young people re-engage with schools and colleges.

16. Mrs Chandler explained that, in relation to the fact that CXK were advised in September 2019 and had an expectation that recommissioning would take place, as mentioned by Christy Holden, the legal process undertaken would not allow KCC to advise CXK. She added that, while she took on board all the concerns raised, she advised the Committee that the postponement of the decision would make it extremely difficult to provide the comprehensive service needed – also in light of an expected increase in NEET demand - for September 2020, and to understand the consequences of such postponement.

17. Mr Dunkley reiterated that by postponing the decision and not meeting the June 2020 deadline it would not be possible to achieve the timescale for service provision for September. Christy Holden clarified that, in terms of the recommissioning process in September 2019, recommissioning did not mean re-procurement, and that KCC had been through a commissioning cycle that had led to the Teckal outcome, and that KCC was very clear in September 2019 about the recommissioning process that it was taking. In terms of KPI developments with TEP, these have not been developed yet on the basis that they could not be formalised until the decision was ratified.

18. Tristan Godfrey, Scrutiny Research Officer, explained that there were four options available to the Committee, and reminded Members of these. He read the relevant section of KCC's Constitution, and clarified that if option C (the motion by Mr Cooke) was agreed by the Committee, then the decision would be referred back to the Cabinet in the first instance, and Cabinet would confirm, rescind or amend the decision in light of the comments received. Tristan Godfrey advised therefore that the comments should be included in the motion, and that the comments should be

passed to Cabinet for consideration before Mrs Chandler make the final decision. Mrs Dean and Mr Bird seconded the motion. This was agreed by a majority vote.

19. Tristan Godfrey explained that the next step was for a report to go to the next meeting of Cabinet, and the comments made by the members of the Scrutiny Committee should be set out in summary form in that report. The Cabinet would then be asked to confirm, rescind or amend the decision in light of the comments. He also explained that at that stage the Cabinet would not make the final determination, but the Cabinet would express an opinion on what should be done. The final determination will be made by Mrs Chandler, as the decision-maker.

20. The Chairman thanked all the attendees for their contribution.

RESOLVED that the implementation of the decision to be postponed pending reconsideration of the matter by the decision-maker in light of the Committee's comments (Option C), and that the Committee's comments be appended to a report for consideration by Cabinet and by the decision-maker.

31. Update on Electric Vehicle Charging Points (to follow) *(Item C1)*

Miss Susan Carey, Cabinet member for Environment, Carolyn McKenzie, Head of Sustainable Business and Communities and Tim Middleton, Transport Innovations Programme Manager, were in attendance for this item.

Mr Love joined the meeting.

1. The Cabinet Member provided an introduction and a brief update. She explained that the government provided a small amount of money for this project, to be distributed in Kent. She referred to the Q&A document that had been produced for the parish councils that have been asked to take part in the initiative, which offered clear information about the project and the grant provided. Miss Carey emphasised that this was a small amount of money to meet a specific need so the offer had been targeted towards the areas that best met the criteria for the grant.

2. In response to a question Miss Carey explained that she had asked officers to select the parish councils which would be invited to bid for the funding rather than raise unnecessary expectations with over 300 town and parish councils in Kent that could not be fulfilled, given the relatively small scale of the scheme (to provide 10 to 15 electric vehicle charging points). The Cabinet Member explained that there were 15 County Councillors representing the 26 parishes selected and it was clear that there was a high level of enthusiasm as some of them had already contacted her about the scheme.

3. Carolyn McKenzie clarified that the criteria that were adopted for the selection were well discussed, planned and rigorous through an evidence-based exercise. She also explained that the views of the chief executive of KALC were sought, and that it was also his view to narrow down the number.

Tim Middleton reiterated that the process and methodology that were followed were robust.

4. In response to questions, Tim Middleton explained that there were broad maps to show power capacity, and that on the UKPN website there were maps showing local sub-stations, however he commented that these maps had limited information and that power capacity was one of the biggest issues that had to be addressed. He explained that an upgrade to the provision of rapid chargers would be significantly more expensive. He also clarified that the usage level of the charging points would be monitored. Finally, Mr Middleton explained that KCC was looking to adapt the questionnaire to ask the 26 selected parishes to express an interest in the scheme in order to aid the selection process.

The Chairman thanked all the attendees for their contribution.

RESOLVED that the Scrutiny Committee note the update report on Electric Vehicle Charging Points.

32. KCC's approach to the Government's Funding for Active Travel Schemes (to follow)
(Item C2)

Michael Payne (Cabinet Member for Planning, Environment, Transportation and Waste, KCC), Simon Jones (Director of Highways, Transportation and Waste, KCC), Tim Read (Head of Transportation) and Nikola Floodgate (Schemes Planning and Delivery Manager, KCC) were in attendance for this item.

1. The Chairman welcomed the Cabinet Member and the officers.
2. The Cabinet Member introduced the report and explained that it provided some background about the funding scheme, the existing situation and future steps. He also explained that the government funding had not been received yet.

RESOLVED that the Scrutiny Committee note the update report on the DfT's Emergency Active Travel Fund.

33. Short Focused Inquiries - Review Programme (to follow)
(Item C3)

1. The Chairman invited Anna Taylor and Tristan Godfrey to provide a brief outline of the procedure.
2. Anna Taylor explained that Members of the Scrutiny Committee were asked to agree the work programme and set out a priority order to undertake the Short Focused Inquiries as set out in the report. The inquiries listed in the report were:
 - a. The Visitor Economy in Kent (including Kent's leisure and hospitality industry)
 - b. NEETs (Not in Education, Employment or Training)
 - c. The impact of Coronavirus on care homes, and what mitigation might be required
3. Members suggested that an inquiry on the Farming Economy should also be included in the work programme.

4. The Committee agreed to include an inquiry into the Farming Economy as an additional option in the work programme before deciding the priority order.
5. The Chairman invited the Committee to vote on the first choices of Short Focused Inquiries.
6. The priority order decided by the Scrutiny Committee was, The Visitor Economy Inquiry, followed by an inquiry into the Farming Economy.

RESOLVED that the initial work programme for Short Focused inquiries was agreed and that the Visitor Economy be the first inquiry to be undertaken, followed by the inquiry into the Farming Economy, delegating to Officers the arrangements of the first inquiry.

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