

KENT COUNTY COUNCIL

CABINET SCRUTINY COMMITTEE

MINUTES of a meeting of the Cabinet Scrutiny Committee held in the Darent Room, Sessions House, County Hall, Maidstone on Wednesday, 8 April 2009.

PRESENT: Dr M R Eddy (Chairman), Mr D Smyth (Vice-Chairman), Ms S J Carey, Mr A R Chell, Mr B R Cope, Mr G Cowan, Mrs T Dean, Mr R W Gough, Mr C Hart, Mrs S V Hohler, Mr G A Horne MBE, Mr E E C Hotson, Mrs J Law, Mr M J Northey, Mr J D Simmonds, Mr R Tolputt (Substitute for Mr R E King) and Mr R Truelove

ALSO PRESENT: Mr M C Dance and Mr K A Ferrin, MBE

IN ATTENDANCE: Mr I Clark (Group Leader), Mrs A Gamby (Head of Early Years & Childcare), Ms J Smith (Children's Centre Project Manager), Mr G Tipping (Head of Capital Projects), Mr D Hall (Head of Transport & Development), Mr P Sass (Head of Democratic Services and Local Leadership) and Mrs A Taylor (Research Officer to Cabinet Scrutiny Committee)

UNRESTRICTED ITEMS

133. Declarations of Interests by Members in Items on the Agenda for this Meeting
(Item. A2)

Mr Simmonds declared a personal interest in item C1 of the agenda as he was involved in the decision-making process for Phase Two of the Children's Centres as a former Cabinet Member.

Mrs Dean declared a personal interest in item C1 of the agenda as she was a trustee of St James' Centre which would incorporate one of the Children's Centres in Round Two.

Mr Chell declared a personal interest in item C1 of the agenda as he was a Chair of Governors (Local Authority Governor) at Greenfield School.

134. Minutes - 10 February 2009
(Item. A3)

The minutes of the meeting on 10 February 2009 were approved as a correct record.

135. Follow-up Items from Cabinet Scrutiny Committee
(Item. A4)

Mr Cowan referred to the Committee's previous request for figures on the Chief Officers' bonus scheme and asked that these figures be provided to the Committee in both percentage and cash terms. Mrs Dean referred to an email sent the previous Monday on the Chief Executive's salary and information on the Tax Payers Alliance website and requests of the Information Commissioner. Mrs Dean stated that figures provided to the Tax Payers Alliance and the Information

Commissioner differed to the figures in KCC's Statement of Accounts. It was understood that in light of the pressure from the Information Commissioner the County Council had signalled that it intended to reveal those salaries. Mrs Dean requested that the Committee invite Ms Beer to the meeting to clarify the difference in figures and that this should be taken as an urgent item.

Mrs Dean also referred to the note circulated on page 21 of the agenda in which it stated that 'consultation on the Treasury Strategy and Treasury Management in general will, with the agreement of the Chairman, be added to the terms of reference of the Budget IMG'. Mr Smyth confirmed that he regarded the document in question as a suggestion rather than a 'done deal' and discussions would be held about the role of the Budget IMG in Treasury Management.

The Chairman referred to Mrs Dean's request to take an urgent item on the discrepancies in published figures for the Chief Executive's salary under Part E of the agenda, and agreed that it should be declared urgent due to the importance of correcting the figures which had appeared in the national press on the two previous days and the extramail which had been circulated. Mr Simmonds explained that not all Members had received a copy of the email in question and stated that he would be reluctant to discuss the issue without any background information. The Chairman announced that he was minded to take it as an urgent item and requested that copies of the information be circulated to the Committee. Ms Carey requested that, although she would prefer to see the item at a future meeting, if the Committee were to look at it the background information was made available. Mrs Dean confirmed that the background information was available and the Chairman agreed that this be circulated under item E of the agenda.

136. Informal Member Group on Budgetary Issues - 25 March 2009
(Item. A5)

The Chairman explained that Members had received a restricted minute on the IMG on Budgetary Issues discussion about developer contributions. Mr Smyth explained that the full detail on the minute regarding Member's concerns about the level of capital finding for Special Schools and SEN Units was contained on page 17 of the Cabinet Scrutiny agenda. Mr Smyth also referred to item 5 of the Budget IMG notes, Sustainable Communities Act 2007: Local Spending Report, he explained that it was an act which required the Secretary of State to make arrangements for the production of spending reports.

The Committee approved the notes of the IMG on Budgetary Issues held on 25 March 2009.

137. Informal Member Group on Southern Water Draft Business Plan 2010-15 - 2 March 2009
(Item. A6)

Mr Horne explained to the Committee that the Informal Member Group had had a very interesting opportunity to talk to the representative from Southern Water; the group had heard that the water companies were able to invest their assets in other activities, such as leisure activities but Southern Water were reluctant because it was not commercially viable. Mr Horne queried whether it should be open to other companies who would be prepared to maximise the opportunity of public assets. Mr Horne also commented on the availability of maps showing where sewers and

water supplies and electricity ran, he questioned who should hold the map showing where these services were provided.

Ms Carey confirmed that the group was still awaiting confirmation of the location of the definitive map of the sewer system. The group had had concerns about Southern Water's investment plan which had a high expenditure and there was a concern about the effect on residents' bills, Ms Carey reiterated that it had been a very useful IMG which would be worthwhile to follow up in a couple of years.

Mrs Law stated that she would be interested to join any future IMG on Southern Water.

The Committee approved the notes of the IMG on Southern Water's Draft Business Plan held on 2 March 2009.

138. Children's Centres *(Item. C1)*

Mr Dance, Mrs Gamby, Ms Smith and Mr Tipping were present for this item.

In relation to Round Three Children's Centres, Mr Northey asked for information on the Canterbury Centre and the progress as he had not been consulted. Ms Smith confirmed that a proposal regarding Littlebourne School would be coming forward which Mr Northey would be consulted on. Mr Smyth asked for clarification on the percentage figures provided for the deprivation levels in each ward where a Children's Centre was being considered. Mrs Gamby confirmed that the figures were the level of deprivation in the super output areas in each ward. The Chairman asked whether there was a general deprivation figure for each ward so that it was possible to compare the lowest deprived super output area with the ward in general which might be relatively affluent. Mrs Gamby explained that those figures were available but the average deprivation for a ward could hide the pockets of deprivation within it. Mrs Gamby confirmed that the closer the figure was to 100% the less deprived the area was.

Mr Hart expressed his concern about the way the figures for deprivation levels were presented and he asked for information on the average level of deprivation for the whole ward, Mrs Gamby agreed to request that information and it would be supplied to Committee Members.

The Chairman stated that he had received a letter explaining the reasons behind the delays to the Round Two Children's Centres, he asked for further information on the concerns that Officers had had in relation to the framework consultants and the cost of moving from one framework consultant to another. Mr Dance explained that regarding the original contractor, there was a series of warnings which were addressed, the contracted amount was not paid in full and this had generated a saving. Mr Tipping explained that the original appointment was for the delivery of the complete programme, there were three different elements of work; refurbishment, new build and modular. Regarding the new build and modular element, concerns were raised about the administration of the contract and the work being undertaken, the Council was becoming less confident that the agent was delivering value for money services, the Council and the agent eventually came to an agreement where the work ceased and the Council engaged with

another employer's agent in August 2008. The new employer's agent needed time to get up to speed with the programme which resulted in delays to the projects.

The Chairman asked Mr Tipping to confirm what the concerns were that KCC had with the agent. Mr Tipping explained that the contract for the modular build should have been straight forward but the agent took an unusual route to take on the design element role from the contractor which caused confusion for the contractor and for the employer's agent. Mr Gough referred to the decision to re-tender the new build sites and he asked what level of savings the Council was expecting to achieve due to the change in market conditions? Mr Tipping explained that all the sites had been re-tendered, Tranche A had come back within budget and the Council was expecting significant savings, Tranche B was out to tender and the Council was assuming that Tranche B would also come back within budget. Mr Tipping confirmed that the Council was looking at savings of around £0.5million in excess of the savings made by changing the employer's agent which was around £300k. Mr Dance added that another consequence of the re-tendering was that more business went to Kent based companies.

Mr Hart stated that his understanding was that deprived areas would be dealt with first but what happened in Kent was that some of the children's centres in the most deprived areas were not completed. Mrs Gamby explained that Round One had to cover the 20% most disadvantaged areas, which it did. Round Two had to cover at least the 30% most disadvantaged areas when added to Round One, which it did. There were two milestones of a Children's Centre, the first was when it was designated (the building did not have to be operational; the services had to be in place). The second milestone could be up to two years later where the building did have to be operational, there were designated centres and the services were being delivered into those areas. In response to a question from Mr Dance, Mrs Gamby confirmed that the DCSF had frequently changed the ground rules on Children's Centres and gave some examples of where this had been the case. The Chairman queried whether the ground rules had been published, Ms Smith explained that government guidelines were produced and the interpretation of those guidelines shifted in line with national experience. Mr Hart requested a list of dates on which the Children's Centres were designated as opposed to the date of construction.

Mr Dance stated that in relation to Round Two, KCC had had to contribute £7million to add to the scheme, this was not funded by the Government. The Council had to roll out 102 Children's Centres, considerably more than budgeted for and there would be problems, including planning difficulties. Mr Truelove stated that the delay to the programme was extremely regrettable and that the delays were caused by the decision to engage the employer's agent, Mr Truelove also asked Mr Dance what lessons had been learnt. Mr Dance explained that Corporate Property undertook the build of these projects, the relationship between the two teams had improved tremendously and Mr Dance could not see this problem occurring again in the future. Mr Truelove asked again what the problems were with the build contractor; Mr Tipping explained that the problems with the contractor were around the ability to deliver the programme within the timeline stipulated.

Mrs Dean agreed that the goalposts had changed on a number of occasions, the £7million which had been put into the scheme was money well spent but it also reflected the fact that Kent was light on provision for under 5 year olds. Mrs Dean expressed concern that local Members were not being consulted and this needed to be tightened up. There was a growing mismatch between areas of deprivation

and the Children's Centres, Mrs Dean asked whether there was any movement on the ability to ensure that the centres catered for the children they were intended for there was a failure in prescribing the process. Mrs Gamby responded by stating that for 3 and 4 year olds there was more than enough provision in the county, there were gaps for children under 3 years old. Round One and Two provided a broader range of services than Round Three which provided a lighter touch provision in the form of signposting and information. Outreach work was also key to contact the out of reach groups to draw families in; it was not possible to require childcare providers to reserve places.

In response to a question from Mr Chell about the changes in the rules by DCSF, Mrs Gamby explained that the Local Authority had a duty to ensure a sustainable childcare market, irrespective of Children's Centres the Council had to ensure that over time there was enough provision for children up to 14 years to ensure that parents were able to work or study and that the lack of childcare wouldn't prevent that. Round One required new childcare irrespective of whether there was a need for it, Round Two: new childcare was only required where an assessment of the existing childcare in the area showed that there was a need. Ms Smith agreed to provide Mr Chell with the information he requested regarding Greenfield School.

Mr Smyth explained that he would expect the goalposts to change, Round One Centres were located in the most deprived areas, so it would be logical that the specification would be tighter and that the goalposts would change as the process progressed. Mr Smyth asked how much time had been lost due to the problems with the contract and the change of the employer's agent as well as whether the contract difficulties were on those centres which were in the most deprived areas. Mr Tipping had referred earlier to using multiple contractors and Mr Smyth asked whether this caused problems in supervising the contractors. Mr Tipping explained that the original contract would have run until September 2008. There was no common theme in relation to where the problem centres were located; the problems were with the whole programme. Multiple sites could be difficult to manage but three consultants had been engaged for the Round Three centres instead of one for Rounds One and Two.

The Chairman explained that he was aware of the situation because he was written to as a local Member, he enquired whether other Members were informed and what constituted a 'local Member', how many centres in Round Two were delayed and should the whole Council not have been informed about the problems to the contract as this would have a knock on effect to other contracts. Mrs Gamby explained that the letter was sent to local members for the wards falling within the reach areas of the Children's Centres affected. The Chairman asked again why the information was not sent to all Members of the Council, it was agreed that the Members Information Bulletin could be used for future relevant information.

Resolved that:

1. The Committee thanked Mr Dance, Mrs Gamby, Ms Smith and Mr Tipping for attending the meeting and answering Members' questions;
2. The Committee noted the explanation of the delays to the Round 2 Children's Centres and understood the reasons behind the termination of the contracts;
3. The Committee requested that local Members were kept better informed of developments with the Children's Centres and details regarding the progress

- or delays to developing Children's Centres should be included in the Members' Information Bulletin;
4. The Committee requested that a copy of the original and the revised contract for the Round 2 Children's Centres be made available to Members;
 5. Members requested figures on the average deprivation for each ward to be served by a Children's Centre;
 6. Members requested the dates on which the Children's Centres were designated as opposed to the date of construction.

139. Freedom Pass
(Item. D1)

Mr Ferrin, Mr Hall and Mr Clark were present for this item.

The Chairman explained that the Committee's concerns were that some of those whose families were paying tax in Kent might not be able to access the Freedom Pass service because it was administered through schools.

Mr Ferrin stated that from the start there had been two criteria for eligibility to the Freedom Pass, 1) the child had to live in Kent, 2) the child had to go to school in Kent and he emphasised that that had been clear from the beginning. Mr Ferrin was not aware that the scheme had been seriously questioned, no legal advice had been received which suggested that the criteria were illegal or, in a legal sense, unfair or that the arrangements that had been made for the Freedom Pass were unlawful. Mr Ferrin did state that Officers had been instructed to review the scheme in light of experience, it was the intention to review the scheme in September and the review would take into account Member's views on the scheme and the Cabinet Scrutiny Committee might wish to indicate the areas that it wants reviewing. Mr Clark explained that the legislation gave the local authority the discretion to set up a scheme on the basis it chose either for people living in, and going to school in an area, or not, as the Council decided, the discretion was entirely with the local authority, there was no obligation on them to provide free transport to those who live in the county and go to school outside it.

Ms Carey stated that the Committee had invited the witnesses because the Freedom Pass was a brilliant scheme the Committee welcomed the review and enquired whether it was practical to extend the scheme to the 16 – 18 year old age group. In response Mr Ferrin explained that it was not within his power to decide to extend the scheme to 16 – 18 year olds and there would be major budget implications to doing that. The review would look at the day to day issues of the current scheme, involving all the relevant groups of people including the views of the bus operators. Mr Chell explained that in his experience young people who lived in Kent but went to school outside of Kent felt disadvantaged because they did not receive the freedom pass. Mr Ferrin was aware of these issues and they had been discussed at great length when the scheme was originally implemented. Mr Chell responded by saying that the Freedom Pass was also intended for leisure and social activities within Kent, Mr Ferrin pointed out that it was difficult to separate a pass for social activities and a pass for transport to school. The issue of low income families with multiple children of school age also needed to be addressed and Mr Ferrin hoped that the Kent Credit Union would be able to assist in these cases.

Mr Truelove concurred that it was a brilliant scheme for young people and it also helped to tackle congestion problems, the Cabinet Scrutiny Committee had raised its concerns as soon as it had become aware of the anomalies. The discussion was focussing on the Freedom Pass as a bus pass whereas in fact it was marketed as a recreational pass for leisure use and the Committee should bear that in mind. Mr Truelove stated that a substantial amount of money was available in the Freedom Pass scheme because the railway element had not been taken up. Mr Ferrin explained that there were between 1300 – 1400 children in the county who were in the position of not receiving the Freedom Pass. He stated that there was not money available in the Freedom Pass budget, the budget for the current year was expected to be fully spent.

Mr Horne stated that if the Government looked to support public transport then a scheme such as the Freedom Pass might qualify for some funding and the review should take this into account. Mr Horne also congratulated the Romney, Hythe and Dymchurch railway for being part of the Freedom Pass scheme, it was disappointing that Southeastern Rail hadn't become involved in the scheme and they should be again encouraged to participate. Mr Ferrin agreed with the points made by Mr Horne, many Freedom Pass holders used to travel to school on the train, efforts were made to involve Southeastern Rail as it would be extremely beneficial to young people. A bid was made under the Government's pathfinder programme for support for the Freedom Pass scheme but the bid was not successful. In response to a question from Mr Horne Mr Hall confirmed that the bid was to enable the scheme to be extended to 16 – 18 year olds, there was currently no Government funding mechanism for the scheme but Officers would continue to explore any possibilities.

Mr Northey praised the Freedom Pass scheme and asked:

- What the latest figures on the number of children using the scheme were?
- What percentage was that of the eligible school population?
- What could be done to encourage young people to take up the Pass if they had not already?
- What effect had the Freedom Pass had on local school runs and congestion?

Mr Hall confirmed that the latest figures were over 13,000 (excluding the June tranche but including Swale and Thanet) it was expected that the original estimate of around 23,000 passes would be about right. Mr Hall agreed to provide the percentage of the eligible school children after the meeting and would cover the point about what could be done to encourage young people to join the scheme later on in the agenda item. The Pass seemed to be making a difference of around 2 – 3% on traffic congestion at schools but the figures would be confirmed after the meeting.

Mrs Dean reiterated the discussions of the Select Committee from which the Freedom Pass originated that the Pass was of great value socially as well as for school. Mr Cowan stated that the scheme was not purely for travel to school, it had great value out of school hours for recreational activities and he considered that it was unfair to blame the Government for not providing sufficient funding for the scheme. Mr Cowan strongly disagreed with the anomalies within the scheme that disadvantaged children who lived in Kent but attended school outside of Kent's administrative area. The issue of affordability for less well off families and

extending the scheme to 16 – 18 year olds was also raised. Mr Ferrin stated that he would be delighted if the scheme could be extended to 16 – 18 year olds, but there were major budget implications and it had to be considered as a part of Kent County Council's overall budget. The Freedom Pass scheme was complicated to administer, there were many issues to consider and the scheme would be reviewed in September and input from Members on issues for the review to cover would be welcomed.

Mrs Hohler welcomed the review of the fantastic scheme, savings would have been made in transport appeals, road safety issue and congestion and these all needed to be taken into account within the review, and perhaps the Government should be lobbied to bring in a free school transport scheme particularly for 16 – 18 year olds for whom education would soon become compulsory.

The Chairman suggested that the Committee set up an Informal Member Group to which all Members of the Committee and other Members could contribute to look at the way in which the scheme worked and to produce a basic list for Mr Ferrin to consider within his review in September. Mr Simmonds suggested that that might be a function of the original Select Committee, and that the issue of assisting those families who might not be able to afford the Freedom Pass and the involvement of the credit union was a good suggestion. Mr Hall offered to Members of the Committee a mosaic analysis of the freedom take-up so far which indicated that better off families were the more prevalent. Mr Smyth asked Mr Ferrin whether it was likely that Southeast trains had concerns over the journey into London and how to administer travel over the border of Kent, Mr Ferrin stated that this was an issue they raised along with the issue of behaviour although only 20 Freedom Passes had been withdrawn across the whole county.

Resolved that:

1. The Committee thanked Mr Ferrin, Mr Hall and Mr Clark for attending the meeting and answering Members' questions;
2. The Committee welcomed the fact that there would be a review of the Freedom Pass in September 2009 and agreed to set up an IMG after the elections to feed into the review. (The IMG should seek the views of all Cabinet Scrutiny Members before going on to seek the views of all Members of the Council). Items for the IMG to consider included:
 - a. The link between the Freedom Pass and Home to School Transport;
 - b. Extending the Freedom Pass to include 16 – 18 year olds (particularly with the introduction of compulsory education for that age group);
 - c. Encouraging the involvement of Southeastern Rail in the Freedom Pass scheme;
 - d. Options for those families unable to afford the Freedom Pass;
 - e. The use of the card for leisure use for Kent residents attending school outside of Kent;
 - f. Promotion of the scheme;
3. Members requested that the Mosaic report on the Freedom Pass be circulated to the Committee;
4. Members requested further information on the percentage of eligible school population who have a Freedom Pass;
5. Members requested that representation be made to the Government for financial assistance with providing free transport for young people.

140. Annual Unit Business Plans 2009/10
(Item. D2)

The Chairman explained that the report on the Business Plans was to alert Members to the plans and that at the next meeting Members of the Committee would be asked to put forward initial proposals for the first meeting of the Committee after the election.

The Committee agreed that proposals on which business plans to scrutinise would be put forward at the next meeting.

141. Officer and Council Committee Decisions
(Item. E)

The Chairman raised Mrs Dean's earlier request to take an urgent item on the discrepancies in published figures for the Chief Executive's salary under Part E of the agenda. Mr Sass confirmed that Ms Beer had been out of Maidstone during the morning but was able to attend the Cabinet Scrutiny meeting at 2pm if Members required. Mrs Dean confirmed that she didn't want to keep Members of the Committee waiting until 2pm but it was to be put on record that she had concerns over the articles so that Ms Beer would know the questions that were being raised.

Mrs Dean had concerns over the discrepancies within published figures for the Chief Executive's salary. The Telegraph quoted £255,000; the Council's Statement of Accounts £240,000 - £249,999; the Tax Payers Alliance and the Information Commissioner had the figures £240,000 – £249,999; the Mail online quoted £255,000 and also referred to an increase of 6%; The Independent quoted £225,000 and in the same article £255,000 excluding bonuses or expenses. The figures provided to the Tax Payers Alliance and the Information Commissioner did not accord with the Council's Statement of Accounts. The Chairman suggested that this come forward as a substantive item on the Committee's next agenda for 29 April, the Committee agreed with this suggestion.

Mr Simmonds asked the Chairman to clarify what the objectives of having this item on a future agenda were. Mrs Dean confirmed that there were two questions; the Committee requested figures of the salaries of the Chief Executive and the Chief Officer Group and a reconciliation of the figures in the Statement of Accounts and those which had been supplied to the Tax Payers Alliance and the Information Commissioner.

Members requested that:

1. Information regarding the Chief Officers' salary be supplied as a matter of urgency;
2. Ms Beer be asked to explain the discrepancies between a) those figures which had been supplied to the TaxPayers' Alliance and the Information Commissioner, and which had appeared in the national press, and b) those which appeared in the County Council Annual Statement of Accounts;
3. This issue be placed on the next Cabinet Scrutiny agenda.