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**MINUTES OF A MEETING OF THE
INDIVIDUALS OVERVIEW & SCRUTINY COMMITTEE
Committee Room 3A - Town Hall
2 August 2012 (7.05 - 9.30 pm)**

Present:

Councillors Wendy Brice-Thompson (Chairman), June Alexander (Vice-Chair), Keith Wells, Clarence Barrett (In place of Linda Van den Hende), Georgina Galpin (In place of Pam Light) and Frederick Thompson (In place of Jeffrey Brace)

Apologies for absence were received from Councillor Jeffrey Brace, Councillor Pam Light and Councillor Linda Van den Hende

Also present were Councillor Linda Van den Hende and Councillor Paul McGeary as Observers and Councillor Keith Darvill. There were 30 members of the public present.

There were no pecuniary interests declared.

6 REQUISITION OF EXECUTIVE DECISION - REVIEW OF FAIRER CHARGING POLICY

The Committee were informed that at its meeting on 11 July 2012, Cabinet had considered a consultation process on the following proposed changes to the Council's Fairer Charging policy in order to generate additional income/savings of £250k as per the MTFs savings process agreed at Cabinet in July 2011. There were 3 proposed changes to the policy.

1. Removal of current maximum charge cap in place for users of domiciliary care services
2. Review of Proportion of disposable income chargeable in financial assessments
3. Review of Disability related expenses allowance

The decision was requisitioned for the following reasons:

1. In removing the current maximum charge cap for users of domiciliary care services:
 - a. What is the actual cost of services in excess of the cap?
 - b. Would users be required to sell their assets to pay for it?
 - c. How is the £138,000 saving made up?

2. In removing the 10% discretionary allowance for domiciliary care service:
 - a. How many people does this affect?
 - b. What are the levels of feed and
 - c. What level is the “basic living allowance” set at?
 - d. How is the saving £101,429 made up?

3. In reducing the cumulative weekly allowance for expenses linked to individuals’ personal and medical circumstances from £77.45 to £40:
 - a. How many users will this affect?
 - b. How is this saving of £26,398.39 made up?

Officers explained that the actual cost of the services in excess of the cap was £138,000 per annum. This was made up of the care packages in place, across 21 users who had a cap of £23,500 which equated to the £138,000 per annum. The highest cost of care was £652 a week, which would be an additional £330 a week.

A member stated it would have been useful to have the information on how the 21 users who are above the cap would be affected. Also raised was how a user could go from £323 to £600 worth of care. Officers explained that double handed care four times a day would add up, however, if a persons assets dropped below a certain point, then the cost of their contribution would be less. This was only in the consultation process and no final recommendations had been made. Only those with the capital or sufficient income would be charged.

In relation to selling assets, users would not have to sell their homes, only if they had a second home would this however be seen as an asset, relating to home care? Officers added that often users do not declare their assets but just pay for the care they receive.

Officers stated that the consultation would be with all service users, but specifically would ask how it would affect the 21 with the cap.

Officers explained how the 10% discretionary allowance was worked out, they explained that by removing the 10% it would change the way in which financial assessments were carried out. If the 10% was removed there would be 1211 users with no charge and 483 users who would be charged, with only 183 users having to pay in excess of £5. The other alternative would be to look at an option of 5%, the most that any user would pay would be £33.29.

The Committee asked if there were robust checks in place to ensure that customers were receiving the benefits they stated on their application form. Officers explained that the forms were filled in at the time of an officer visit. It was a holistic service so also identifies any gaps in benefits. All evidence

was taken at the time of application so there was no verification necessary at a later date. Financial Assessments followed the Social Work assessment so that financial assistance was in place for users.

A member asked where the figure of £40 had come from in relation to the cumulative weekly allowance for expenses linked to individual personal and medical circumstances.

Officers stated that this had come from a benchmarking exercise that had been carried out. Some authorities had a figure of £12 a week; therefore it was decided to take a figure between this and the current figure of £77.45 this seemed reasonable.

Officers explained that the consultation, if agreed, would commence in September for 90 days, and would be implemented in April. There would be information posted out in September, together with face-to-face communications at Day Centres, Drop-in sessions at the Town Hall and visits to the Housebound. Letters would be specific to the users identifying how the change would affect them. An easy-read version would also be produced and both HAVCO and HAVCARE were on board.

A member asked if work had been done on how users would afford this in six months time, as their financial circumstance could change. Officers explained that this had been taken into account, and estimates of when clients savings would drop off had been put in place. Monthly reports were run in-house to identify cost/ capital of clients and financial assessments were done proactively. The client make-up was changing all the time, however over a number of years the people have changed but not necessarily the figures.

After further discussions, the matter was put to a vote.

The proposal that the requisition be upheld (and therefore that the matter be referred back to Cabinet for further consideration) was LOST (by 4 votes to 2), and it was therefore **RESOLVED:**

That the requisition of the Cabinet decision held on 11 July 2012 not be upheld.

The voting was as follows:

Councillors Alexander and Barrett voted in favour of upholding the requisition

Councillors Brice-Thompson, Galpin, Thompson and Wells voted against upholding the requisition.

7 REQUISITION OF CABINET DECISION - APPROVAL FOR AWARD OF TENDER: REABLEMENT SERVICE

The Committee were informed that at its meeting on 11 July, approval was sought from Cabinet to approve the award of a five year contract, following a competitive tender process, for the provision of reablement services to adults, commencing 1 November 2012.

Tenders were received from two bidders referred to as Bidder A and Bidder B. However Bidder B withdrew from the tender process.

Cabinet agreed to award the contract to Bidder A for a period of five years. It would be for the delivery of a guaranteed block of 1000 hours per week, and up to an additional 250 hours per week as required.

All necessary action would be taken by the Council and by Bidder A, including all actions and communication in relation to the transfer of staff under TUPE, to enable the implementation of the contract from 1 November 2012.

The decision was requisitioned for the following reasons:

1. Insufficient consideration has been given to the options to retain an in-house service.
2. There has been no consultation with service users.
3. In view of the proposal to transfer under the Transfer of Undertakings Protection of Employment regulations (TUPE) to examine why similar savings could not be achieved with an in-house service.
4. To examine the "Tender" arrangements and processes used in identifying the preferred bidder.
5. To consider the outcomes arising from similar service externalisations in other Councils.

A member stated that the decision made by Cabinet affected both staff and the service. The Service had been initiated in 2007 and had been a benefit to all users and the Council, therefore it was important for the Committee to consider this requisition.

In a recent Department of Health publication entitled "Internal versus External (services) toolkit" it stated that officers should carry out analysis to ensure the service provided is efficient, and if it could be retained in-house. Concerns were raised that the original report did not demonstrate or give evidence that this had been considered.

A member asked if the current service could be reorganised to prevent the amount of down-time and therefore bring down the cost. Again concerns were raised that there was no evidence in the report of this being investigated. Within the report there was mention of the employment of a Contract Monitoring Manager, however there were no costing of this new

post, where they would be located and the cost of overheads for this new post.

Officers stated that a number of options were explored, and the option to retain and remodel the in-house service was considered in some detail, drawing on expert advice and national research in this area. However, this concluded that remodelling the service in-house would not achieve the MTFS savings required of the service.

A member asked about how the externalisation of the service would affect the outcomes of users and if they would they receive the same service, from the same staff at the same level they were used to. He also enquired whether existing staff would be asked to work within other boroughs if Bidder A had tenders elsewhere.

Officers stated that a lot of effort and consultation had been made to ensure the service was efficient. There had been a reduction in management through in-house staff and the analysis was done in conjunction with colleagues from the Department of Health, and this concluded that the in-house service was performing well but at a high cost. The intention was to continue to provide a Reablement service. He added that Havering provided approximately 900 contracted hours per week, however this needed to rise to between 1200 and 1500 per week to achieve customer needs and outcomes. The average age of service users was 80+ with the majority of them becoming independent following support from the service. The intention was to expand the service to more customers, however this was challenging in the current national financial context and the efficiency needed also to be linked to the Council's MTFS for medium and long term efficiency.

A member asked if staff had been approached regarding increasing their hours and therefore reducing the amount of down-time. Officers stated that this proposal was about reducing the costs of the business overall, not about reducing hours of support to individual customers. The proposal had been extensively market tested.

A member asked about the process for consultation and why a decision was taken not to consult the service users, since national guidelines state that service users should be consulted. Officers stated that since services users are only in the services for up to 6 weeks, they would have received a consultation on a change which they would not be engaged in. There would also be no change to the care packages received. The Council would be the commissioners of the service not the providers, much like the current Homecare service which is provided by the independent sector.

Officers stated that feedback and consultation is gathered from a variety of sources on an ongoing basis. This includes annual surveys of care customers, from the compliments and complaints the service receives and from people leaving the reablement service. The common theme from all this consultation is that the majority of users wish to become independent.

The average user was only in the service for an average of 4.1 weeks, where all of their needs are considered. By expanding the service the needs of more users could be met, with the increase of 900 contract hours to 1250 contract hours. It was important that the needs and wishes of customers who currently would benefit from the service but could not access it were taken into account as well as those who have previously accessed it.

A member asked why there was only one Bidder for the tender at the end of the process, and why the others had withdrawn. Officers stated that the early feedback of interested parties had raised concerns about the on-costs of Council staff. There was a full analysis done of two bidders, however Bidder B withdrew at the later stage, due to their own reasons. Therefore Bidder A was awarded the contract. They had been through the analysis and came out as the best in the end. Part of the analysis was looking at the experience they had in other places, which they met. The evaluation panel was robust and included a GP from the CCG.

The Committee asked how officers knew that the right company had been selected. Officers stated that although this was a developing market the evaluation process was a robust one. Bidder A were a well established company providing care and support to a large number of customers in a range of services from registered homes to floating care and support. Bidder A was also running a pilot in reablement elsewhere. Members raised concerns that the service was important to the users and therefore a good track record in TUPE and service outcomes was essential. Officers stated that reablement was a fairly new concept and therefore no one had 20 years experience. The interview and evaluation process showed that Bidder A had a good customer focus and were outcome focussed.

A member asked about the make up of the evaluation panel and why members of staff were not included on the panel. Officers stated that the panel operated within the standard evaluation framework for such panels, and included care management, commissioners, a health professional and other relevant staff. It is not Council's practice to include front line staff who may be the subject of a TUPE process arising from such an evaluation, to be included in the evaluation panel. The trade unions had participated in meetings within the short listed tenderers at an earlier stage in the process and would be involved in the formal TUPE consultation process.

The Committee asked about a "get-out" clause in the contract should anything go wrong. Officers were confident that the evaluation process was a rigorous one, but that of course all contracts had a degree of risk. They were confident that the Bidder had demonstrated they could move the service forward in order to expand the contract hours. Obviously if there were any issues then the organisation would have to look at alternatives. Monitoring would start from the time the contract starts, and monitoring of performance would be reported to the Individuals Overview and Scrutiny Committee.

A member raised concerns about Bidder A given that there had been incidents in the past where staff had been "TUPE'D" across and then their contracts were changed. This had resulted in Employment Tribunals. Officers stated that it was difficult to comment on these issues without further evidence. However, they would explore these matters further with Bidder A. The legal position however was that companies could not just simply change the terms and conditions of staff who were TUPE'D over without undertaking a formal consultation process with them. This would involve consultation with the relevant staff trade unions. The contract was for a five year term.

The Chairman allowed a spokesperson from the public present at the meeting to speak. The member of public stated that she, together with others present, was a member of staff in the service, she added that all service users are encouraged to fill in a survey about the service provided at the end of their reablement care. These compliment the service received. The staff did not want to take this change lightly hence the large turnout at this meeting. Staff build up a good relationship with clients, and have concerns about how the changes will affect them as well as the users of the service. Given the large cross-section of staff within the service there may come a time when they would need to use the services and would wish to see this kept in-house.

A member stated that they felt the decision to award the contract should be postponed until this can be looked at again given that the Government had indicated that Health money for reablement would be given to Social Services and so that any concerns raised by staff, or from this meeting could be investigated.

After further discussions, the matter was put to a vote.

The proposal that the requisition be upheld (and therefore the matter be referred back to Cabinet for further consideration) was LOST (by 3 votes to 2), and it was therefore **RESOLVED:**

That the requisition of the Cabinet decision held on 11 July 2012 not be upheld.

The voting was as follows:

Councillors Alexander and Barrett voted in favour of upholding the requisition
Councillors Brice-Thompson, Galpin and Thompson voted against upholding the requisition
Councillor Wells abstained

Individuals Overview & Scrutiny
Committee, 2 August 2012

Chairman