

Minutes of a meeting of the Cabinet held in Committee Room 1, County Hall, Chelmsford, CM1 1QH on Tuesday 17 July 2018

Present:

Councillor	Cabinet Member Responsibility
D Finch	Leader of the Council (Chairman)
K Bentley	Deputy Leader and Infrastructure
S Barker	Customer and Corporate
R Gooding	Education and Skills
D Madden	Children and Families
G Mohindra	Economic Development
J Spence	Adults and Health
S Walsh	Environment and Waste

Councillors J Aldridge, C Pond, M Durham, I Henderson, M Mackrory, L Wagland and J Young were also present.

1. Membership, Apologies, Substitutions and Declarations of Interest.

The report of Membership, Apologies and Declarations was received and the following were noted:

1. There had been no changes in membership since the last meeting;
2. Apologies for absence had been received from Councillors Sue Lissimore, Cabinet Member for Culture and Communities and Councillor Louise McKinlay, Cabinet Member for Finance, Commercial and Traded Services.
3. No declarations of interest were made:

2. Minutes: 19 June 2018

The minutes of the meeting held on 19 June 2018 were agreed as a correct record and signed by the Chairman.

Arising from consideration of minute 4 (Annual Report 2017-18), the Leader of the Council apologised to Councillor Mackrory that he had not received responses to his questions as recorded. He undertook to arrange for them to be provided within 48 hours of the meeting.

3. Questions from the public

None.

4. 2018/19 Financial Overview as at the First Quarter Stage (FP/086/02/18)

The Cabinet's attention was drawn to the second sentence of paragraph 5.1.1 i. of the report, in which the word 'offset' should be replaced by 'exacerbated' such that it would read:

'The gross forecast reflects an over spend of **£2.5m** on expenditure *exacerbated* by a pressure on income of **£1.3m.**'

The Cabinet received the forecast financial position of Essex County Council's (ECC) revenue and capital budgets as at the first quarter of the 2018/19 financial year, noting a forecast over spend on revenue of £7.1m (0.8%) against a net budget of £916.3m. This compared to a £4.9m (0.5%) over spend at Quarter 1 last year.

This assumed full commitment of the Emergency Contingency (£4m) which, if not required, would result in a full year forecast over spend of £3.1m.

The Cabinet also noted an under spend of £8.2m on capital against the current budget of £298.6m. After taking account of budget change requests within the report, there would be an under spend of £4.2m.

The following information was provided in response to questions by Councillors Mackrory, Young, Henderson and Pond:

- The current budgetary position was in line with that at the same period last year, demonstrating a level of movement to be expected within a large and complex organisation.
- The draw down of £2.5m from the Transformation Reserve to the Infrastructure portfolio related to implementation of a Local Highways Panel decision. The funds had been held in the Reserve as a temporary measure.
- Commenting on paragraph 5.1.1 (ii), the Cabinet Member for Adults and Health stated that he was satisfied that the operational difficulties being experienced by one of the contractors related to issues other than pricing. Measures were in place to ensure that service-users were protected from any impact. Monitoring was also being undertaken to verify that the service was being delivered effectively in both urban and rural areas.
- The Cabinet Member for Children and Families commented on the measures in place to mitigate the impact of families being moved to Essex by London boroughs, without support or help with either housing or social needs. He also undertook to meet with Councillors Mackrory and Pond to discuss the Bright Futures project.

- The Children and Families budget was currently stable and on target. The risk of overspend was being managed through early intervention work aimed at keeping families together, thereby minimising the number of Looked After Children.
- The Cabinet Member for Environment and Waste undertook to advise Councillor Mackrory of the timescales for completion for the Notley Zip Wire and Belhus Woods play area projects.
- Savings of £1m on the Beaulieu Park Schools project would be diverted to other projects where savings were less likely to be achievable. The sum could not be made available for the installation of solar panels.
- Changes to the policy for Home to School Transport had delivered savings. However, there were challenges arising from the significant increase in demand for Special Educational Needs Home to School transport, delivery of which was a statutory responsibility (as well as a moral one). Work was ongoing to identify ways in which commercial operators could be supported and the Cabinet Member for Education and Skills would welcome scrutiny involvement in this if appropriate, as well as involvement in a review of the policy.
- Infrastructure would be given priority in development of the Garden Communities project.
- Proposed initiatives relating to creation of a Greener Essex would involve commitment of the funds held within the Carbon Reduction Reserve by the end of the financial year.
- The Cabinet Member for Children and Families commented on the ongoing work both nationally and locally to begin to address gang-related activity, which the Government had acknowledged as an issue of national importance. He offered to provide a briefing outside the meeting.
- The replacement of the Transformation Support Unit by the Delivery and Assurance Team reflected a remodelling of the service to ensure that it met current requirements and could offer the necessary portfolio of skills.
- The increase in the Waste Reserve reflected prudent planning in response to the proposed levels of home construction across the County, and the associated increase in waste volumes.
- The Leader of the Council undertook to provide a written response to Councillor Henderson regarding the level of the income target for Traded Services.

Resolved:

1. That funds be drawn down from reserves as follows:
 - i. £2.5m from the Transformation Reserve to the Infrastructure portfolio for pothole repairs;
 - ii. **£1.2m** from the Transformation reserve to the Reserve for Future Capital Funding (via the Infrastructure portfolio) for Local Highway Panels (LHP) to allow more schemes to be delivered where district councils are also willing to contribute;
 - iii. **£1m** from the Transformation reserve to the Infrastructure portfolio to support our aspiration for devolving works to as local a level as possible, building on the work of the Place Scrutiny Task and Finish Group;
 - iv. **£200,000** from the Transformation reserve to the Infrastructure portfolio for keeping Essex tidy, improving the appearance of highways and verges;
 - v. **£1m** from the Insurance Reserve to the Finance, Commercial and Traded Services Recharged Support Services portfolio following successful recovery from the insurers of MITIE in relation to the John Ray School fire of 2013 (5.1.13ii);
 - vi. **£842,000** from the Private Finance Initiatives (PFI) Equalisation reserves to the Education and Skills portfolio in relation to Debden School PFI (**£502,000**) and Clacton Secondary schools' PFI (**£340,000**);
 - vii. **£338,000** from the Community Initiatives Fund Reserve to the Reserve for Future Capital Funding (via the Culture and Communities portfolio), to match expenditure incurred to date in 2018/19 in relation to the Community Initiatives project
 - viii. **£64,000** from the Community Initiatives Fund Reserve to the Culture and Communities portfolio to support expenditure incurred to date, in relation to grants to third parties for community improvements;
 - ix. **£35,000** from the Transformation Reserve to the Infrastructure portfolio for Traffic Control Centre extended opening hours (evening and weekends);
 - x. **£20,000** from the Transformation Reserve to the Economic Development portfolio for Hillhouse within Essex Housing

2. That funds be appropriated to reserves as follows:
 - i. **£2.9m** to Reserve for Future Capital Funding from the Education and Skills portfolio for the contribution to Special Education Needs and Disabilities (SEND) capital project;
 - ii. **£315,000** to the Private Finance Initiative (PFI) Equalisation reserve from the Education and Skills portfolio in relation to Building Schools for the Future PFI.
3. That the following be approved:
 - i. Amendment of the capital budget as shown in Appendices C(i) and C(ii) which allows for capital slippage of **£3.7m**, capital budget additions of **£338,000**, capital budget reductions of **£1m** and advanced works of **£442,000**.
 - ii. Virement of **£115,000** to the Finance, Commercial and Traded Services portfolio from Other Operating Costs portfolio to establish the Commercial Team.
 - iii. Transfer of **£655,000** to the Community Initiatives Fund reserve from the Innovation reserve to continue to fund the small grants scheme for Essex communities
 - iv. Virement of **£1.053m** to the Finance, Commercial and Traded Services Recharged Support Services portfolio from Customer and Corporate (**£779,000**), Education and Skills Non DSG (**£39,000**), Health and Adult Social Care (**£161,000**), Customer and Corporate Recharged Support Services (**£74,000**) portfolios, to allocate existing Organisation Design savings targets across the services within the Corporate and Customer Services function.

5. Recommissioning a Framework Agreement for External Fostering Providers (FP/086/05/18)

The Cabinet's agreement was sought to the procurement of a multi-provider framework agreement to be used to purchase external foster care placements, where the Council's in-house foster carers do not have capacity. The ten year plan for in-house foster care will see capacity increase.

The Cabinet Member for Children and Families responded as follows to questions by Councillors Mackrory and Young:

- With reference to the 70:30 price:quality weighting to be applied during evaluation of the tenders, the Cabinet Member was satisfied that sufficient controls were in place to guarantee quality of provision. Not only had the Council specified its own standards, but, in order to be accepted as a

provider within the Framework, all agencies must be registered with Ofsted and rated by them as either 'good' or 'outstanding'.

- The needs of individual young people were being taken into account, with a strong emphasis on placing children near to their homes and families (within 20 miles) where appropriate, making it possible for them to continue their schooling, placing siblings together and meeting the needs of those with disabilities. Efforts were made to enable children to remain with their families wherever possible, and Essex had one of the lowest numbers in the country of children in care.

Resolved:

1. That a competitive procurement be undertaken for a multi-provider framework agreement for external foster care placements which:
 - Is procured using a competitive single stage process;
 - Lasts for a maximum period of four years;
 - Is anticipated to be re-opened after two years or when required at the Council's discretion; and
 - Is procured using evaluation criteria based on a price:quality split of 70:30.
 2. That the Director for Commissioning: Children and Families may award the framework agreements to the successful bidders under the framework.
 3. That the Director of Strategic Commissioning and Policy, Children and Families, in consultation with the Cabinet Member for Children and Families, be authorised to make decisions about any refresh of the framework.
- 6. Future of the Tendring PPP Contract for Schools (FP/170/06/18)**
(Information contained within a confidential appendix was taken into account in reaching a decision on this issue – minute 10 below refers.)

The Cabinet's agreement was sought to end the Public Private Partnership (PPP) agreement relating to 12 primary schools in Tendring entered into by the Council in 2001 under the Private Finance. A review of the contract had shown that the Council and the schools concerned could save money by ending the current contract and refinancing it.

The Leader of the Council and the Cabinet Member for Education and Skills provided the following information in response to questions by Councillors Mackrory, Young and Pond:

- The 12 primary schools concerned are not academies.
- The schools are generally in agreement with the proposal, with any concerns relating to uncertainty about facilities management provision once the contract has ended.

- The funds from school reserves (£8.7m) referenced in paragraph 5.3 of the report will be met from the Schools PFI Reserve.
- The Council will continue to consider funding projects via PFI or PPP where this offers a financial advantage.
- Loans obtained from the Public Works Loan Board continue to offer good value for money.

Resolved:

1. That notice be given to terminate the Tendring PPP Contract which relates to 12 primary schools in Tendring, subject to the schools concerned entering into a binding commitment to pay the Council their share of the costs of termination (including future finance costs and half the savings on finance costs from their budget share).
2. That the timing of the issue of the notice be agreed by the Executive Director for Corporate and Customer Services after consulting with the Cabinet Members for Finance, Commercial and Traded Services and Education and Skills.
3. That authority be delegated to the Cabinet Member for Finance, Commercial and Traded Services (in consultation with the Cabinet Member for Education and Skills, Executive Director for Corporate and Customer Services (S151 Officer), the Director of Education and the Director, Legal and Assurance) to approve:
 - The recommended option for the replacement facilities management plans and individual schools budgets agreed with the affected schools;
 - The final validation of the financial assumptions by Essex County Council's specialist advisor, Local Partnerships;
 - The final termination sum payable under the contract up to a maximum value as set in paragraph 1.8 of the confidential appendix to report FP/170/06/18;
 - Any relevant documentation required to give effect to the termination of the Tendring PPP Contract including any loan documentation, agreements with the schools, PPP Contractor and its funder or any other relevant parties; and
 - The issue of any necessary certificates under section 3 of the Local Government (Contracts) Act 1997 in respect of the Termination Agreement and any other certificate(s) which may be required.
4. That the forward financing of the necessary financial and legal advisory fees up to a maximum limit as set out in paragraph 1.9 of the confidential appendix to report FP/170/06/18 be agreed, to be reimbursed from the schools' PFI reserves upon termination.

**7. Decisions taken by or in consultation with Cabinet Members
(FP/175/06/18)**

The report of decisions taken by or in consultation with Cabinet Members since the last meeting of the Cabinet was noted.

8. Date of Next Meeting

It was noted that the next meeting of the Cabinet would take place on Tuesday 18 September 2018 at 10.00am.

9. Exclusion of the Press and Public

Resolved:

That the press and public be excluded from the meeting during consideration of the remaining item of business on the grounds that it involves the likely disclosure of exempt information as specified in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (information relating to the financial or business affairs of any particular person).

**10. Confidential Appendix: Future of the Tendring PPP Contract for Schools
(FP/170/06/18)**

(Press and Public excluded)

The Cabinet noted the Confidential Appendix to report FP/170/06/18 which contained information exempt from publication referred to in that report and in decisions taken earlier in the meeting (minute 6 above refers).

The meeting closed at 10.49am.

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Chairman

18 September 2018