

	AGENDA ITEM 5
	PAF/02/19
Committee:	People and Families Policy and Scrutiny Committee
Date:	10 January 2019
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Essex Education Services

On 14 June 2018 the Committee considered a call-in of the Cabinet Decision FP/102/03/18 - Review of Essex Education Services. After discussion, the Committee supported the decision by majority vote. A copy of the minutes recording the discussion at that meeting is attached as **Appendix A**.

With contract negotiations are still underway, it has not been possible to determine with certainty when a detailed follow-up discussion with the Committee could be scheduled. Consequently, it has been agreed with the Chairman, in the interim, to have a short status update which may indicate when a substantive discussion item can be scheduled into the Committee's work programme.

The status update (which will constitute **Appendix B** of this report) is expected to follow a few days after publication of the agenda and prior to the meeting date.

Extract of the Minutes of the meeting of the People and Families Policy and Scrutiny Committee, held at 10am in Committee Room 1 County Hall, Chelmsford, CM1 1QH on Thursday, 14 June 2018

4. Essex Education Services – call-in

The Committee considered report (PAF/13/18) comprising papers connected to a call-in of a decision made by Cabinet on 22 May 2018 to conduct a sale of Essex Education Services (EES), a traded part of the County Council which provided certain services to schools.

(a) Summary of decision being reviewed:

- EES was a profitable traded business of Essex County Council with its own recognisable brand in the market place.
- A key product of EES was Target Tracker which held a 25% market share in primary school assessment software.
- It was proposed that the following consultancy services were also disposed of as part of the transaction: Education Finance Support, Support for Governors, Clerking Agency, Schools HR.
- Whilst Joint venture arrangements had been considered, it had been decided to proceed with the complete disposal of EES with the exception of Essex Outdoors and Initial Teacher Training.

(b) The reasons for the call-in

On 25 May 2018 the decision was called-in by Councillor Baker with the support of Councillor's Deakin, Mackrory and Robinson. At the invitation of the Chairman, Councillor Baker presented his case for the call-in:

- Selling EES to a private company would undermine democratic accountability and was not in the interest of the public, schools, families and pupils.
- Schools that remained in local education authority control (rather than converting to academies) had made a decision at their governing body meetings to stay as such partly as a result of the general and professional support they get from Essex County Council. The disposal of EES would deny those schools being able to stay part of Essex County Council.
- The services provided by EES were very important to schools and

were profitable and brought revenue to the County Council which should not be discarded.

- Disposal of other educational support services with Target Tracker was premised on a vague market view that it was more attractive to sell EES in totality (with the support services) but he queried whether this was consistent with the views of the commissioned management consultant who had reviewed options for EES.
- He had concerns that EES could be further sold-on by a purchaser.
- The focus on maximising the sale value of EES could overshadow proper consideration of the impact on families and pupils.
- The decision should be put on hold so that further thought could be given to the impact on key stakeholders.

(c) Cabinet Member response to the call-in

Thereafter, at the request of the Chairman, Councillor Ray Gooding, Cabinet Member for Education and Skills, responded to each of the issues raised in the call-in notice with support from the following officers:

- Jason Kitcat, Executive Director for Corporate Development.
- Richard Boughey, Director for EES for Schools.

The following key points were made in response to the call-in:

- The purpose of the Cabinet paper was essentially to explore the market for a sale.
- Organisationally, EES operated independently from the statutory Education services provided by the County Council. It was confirmed that EES did not have any special access to other areas of ECC education services. EES had no financial support from ECC.
- Statutory services were ones delivered pursuant to a legal duty. Non-statutory services were discretionary under statute but services that a Local Authority could choose to offer. None of the services in the proposed package for sale were statutory but were discretionary non-statutory services.
- Various functions of EES had been traded long before the academisation process had started. Since that time all schools (whether local education authority controlled or not) had been free to decide whether to purchase any of the EES services. The EES services in future would still be offered for purchase just as they are now and all schools (including academies) would still be free to make that purchase choice.
- The Cabinet Member contested that the issue of academisation had any bearing on the sale process. Decisions by schools whether to stay as a County Council maintained school or not were completely

separate decisions to that of deciding whether to purchase EES services.

- It was considered that EES had reached a point where it now needed significant investment in order to continue to grow and meet the demands of its customers. In the case of Target Tracker, which was a significant part of the sale, specialist investment was needed to avoid losing ground to competitors and to further adapt the software for use on other appliances such as i-pads. The Cabinet Member viewed that Target Tracker was at peak of its revenue curve and ECC would see income from it declining in future without further significant investment.
- Similarly, the consultancy services needed investment and he believed that another owner would also be better placed to offer this investment.
- Retaining a shareholding would be problematic in determining an appropriate level that was acceptable to the market and would continue to involve the County Council in contributing financially towards product and service development.

(d) Issues raised by the Committee

During subsequent discussion the following clarification was given and/or issues were raised:

- Retaining EES had been considered as an option by the County Council. Investing in the development, renewal and improvement of the Target Tracker software had been estimated to cost between £4-£7 million - this was considered unviable for the Council and did not produce sufficient return at an acceptable risk;
- The Cabinet Member and officers considered that the sale disposal option was the most likely to deliver good and sustainable outcomes for the EES service and products.
- Most schools in Essex bought at least one service from EES.
- A broad range of up to 40 companies had shown informal interest in the proposed sale. A handful of those were direct competitors for Target Tracker and some were private equity companies who could look to develop the Target Tracker software, in particular, and sell it on. Members suggested that the private equity option may be something that should be resisted.
- Members queried whether the main strategic driver for the sale was solely to maximise best value highlighting that the Cabinet decision paper referred to 'maximising the return to the Council'. Yet members questioned whether there should also be a priority objective for EES to retain a strategic presence in Essex and remain as an employer in the county. Members were keen that the bid assessment process was a combination of both maximising value

- and ensuring an ongoing strategic presence in Essex.
- Members were keen that a future purchaser be encouraged to retain the location of the EES business within Essex. It was stressed that although it was not possible to constrain a future purchaser indefinitely the County Council had been clear during informal discussions that there was an expectation that bidders should take this into consideration.
 - The Cabinet Member reported that, perhaps, inevitably there had been some mixed initial views about the proposal when he spoke to Head Teachers after the publication of the Cabinet agenda papers. He added that the schools acknowledged that Target Tracker needed further significant development but that they did have some concerns around the disposal of some of the consultancy services.
 - The Education representative present at the meeting reported that the specific areas of concern for schools had been the proposed disposal of HR services and educational visits and that they had only been given 5 days to comment prior to the Cabinet decision being taken. It was acknowledged that the need for commercial confidentiality and ensuring that staff impacted by the proposal had been informed first had constrained the time available to consult schools in advance of the decision.
 - Members queried whether the County Council could justify losing the income being generated by EES if it was sold. In addition, members queried whether the commercial decision to sell EES would be undermined when incurring significant legal and consultancy fees and being charged £3m for the pension bond. It was stressed that the funds for the pension bond was not an additional cost as it would be recovered from the purchaser after sale completion.

(e) Motions proposed and the decision of the Committee

The Chairman then reminded the Committee that, in considering the call-in, the Committee had the following courses of action open to it.

- Refer the decision back to the Cabinet Member for Education;
- Refer the matter to Full Council;
- Support the decision being implemented;

Councillor Deakin moved the following motion, which was seconded by Councillor Baker:

That Decision FP/102/03/18 – Review of Essex Education Services be referred back to the Cabinet Member to further explore the opportunities to retain the service as the County Council had an

obligation to retain the income and profit from the service for the betterment of the Essex population.

Upon being put to the meeting the Motion was lost by 7 votes to 4 with one declared abstention.

Then, in proposing the Committee's support for the proposed decision to be implemented, Councillor Butland stressed that the discussion had raised a number of issues for the Cabinet Member to consider further during the procurement process and on which the Committee would need further information and reassurance after the sale had completed.

Councillor Butler moved a Motion to the effect detailed in the resolution below, which was seconded by Councillor Chandler.

Upon being put to the meeting the Motion was carried by 8 votes to 3 with one declared abstention. Accordingly it was:

Resolved:

- (i) That, the Committee supports Decision FP/102/03/18 – Review of Essex Education Services and that it should be implemented at the conclusion of the meeting;
- (ii) That after the sale transaction had been completed, a further update be provided by the Cabinet Member to illustrate how the strategic objectives stated in the decision paper had been met, provide more information on the financial payback period, and that there was a clear understanding with the purchaser to encourage EES maintaining a strategic presence in the county.