

Time ended:4.16pm

**COUNCIL CABINET**  
**5 August 2020**

Present                    Councillor Poulter (Chair)  
                                 Councillors M Holmes, Roulstone, Smale, Webb, Williams and  
                                 Wood

In attendance      Councillors AW Graves, Repton, Shanker and Skelton  
Paul Simpson – Chief Executive  
Rachel North – Strategic Director of Communities and Place  
Andy Smith – Strategic Director of People  
Alison Parkin – Head of Finance (Children and Young People)  
Emily Feenan – Director of Legal, Procurement and  
Democratic Services  
Gurmail Nizzer – Director of Commissioning  
Laura Bandell – Communications Officer

This record of decisions was published on 7 August 2020. The key decisions set out in this record will come into force and may be implemented on the expiry of five clear days unless a key decision is called in.

## 16/20 Apologies

Apologies for absence were received from Cllr Barker, Andy Smith, Director Peoples Services and Simon Riley, Director of Finance.

17/20 Late Items

There were no late items

## 18/20      Receipt of Petitions

There were no petitions

19/20 Identification of Urgent Items to which Call In will not apply

There were no items

## 20/20      Declarations of Interest

There were no declarations of Interest.

## 21/20 Minutes of the Meeting Held on 15 July 2020

The minutes of the meeting held on 15 July 2020 were agreed as a correct record.

### Matters Referred

#### 22/20 Recommendations from the Executive Scrutiny Board

The Council Cabinet considered a report on Recommendations from the Executive Scrutiny Board. The Executive Scrutiny Board met and discussed items contained within the Council Cabinet Agenda. The report enabled the views and recommendations resulting from these discussions to be formally shared with Council Cabinet. These were submitted to Council Cabinet as Appendix 1, prior to commencement of the meeting.

#### Decision

To receive the report and consider the recommendations alongside the relevant report.

### Key Decisions

#### 23/20 Overnight Short Breaks / Respite for Adults

The Council Cabinet considered a report which sought approval to commence procurement activity in respect of services for adults, and young people aged 16+ in transition to adults' services, for overnight short breaks / respite provision, to meet local Care Act 2014 duties.

This procurement followed on from the Adults Commissioning Transformation Programme as an identified gap in our Frameworks required to move beyond reliance on Direct Payment arranged provision. The procurement would take the form of a Dynamic Purchasing System (DPS). This procurement 'tool' would allow the Council to create a list of pre-qualified service providers for the Service requirement (if they met the selection criteria). The 'light touch regime' meant the Council could be flexible in the use of this process and it could be adapted to suit the Council's requirements. Once on the list, the pre-qualified providers could then bid on contract opportunities that become available. This was a useful tool as it had the flexibility to allow new providers onto the list during the term of the DPS, helping the Council build and shape the market, whilst ensuring Service Providers were signed up to pre-agreed terms and conditions. The DPS would open on a regular basis for new service providers to apply.

There was no current mechanism for commissioning this provision; therefore the market was primarily reliant on customers using Direct Payments to purchase support.

The DPS would allow the Council to enter into contracts with Providers, therefore assuring customers, carers and the Local Authority of contract compliance and quality monitoring. This would also help control costs as within the tendering ceiling prices may be proposed within each mini competition.

**The Executive Scrutiny Board resolved to recommend to Council Cabinet that the tender paperwork includes an acknowledgement of the balance between choice on behalf of the service user and risk being shared between the provider and any casual employees.**

### **Options Considered**

1. Continue with the current system which was a risk in terms of market oversight and inability to stimulate the market.
2. Enter into a block contract with one Service Provider to deliver provision, however this would not provide the choice and control for customers, and was a risk in terms of business continuity should there be a Provider failure.

### **Decision**

1. To approve the procurement of a Short Breaks/ Respite framework, using a tool known as a Dynamic Purchasing System.
2. To delegate authority to the Strategic Director of People Services to approve entering into contracts at the conclusion of the procurement with service providers successful in their applications to join the DPS, which will be a 10 year arrangement.
- 3. To accept the recommendation from Executive Scrutiny Board**

### **Reasons**

The commissioning of these services was a current gap and therefore was risking the Council's ability to fully understand and manage the care market for respite and short breaks in accordance with duties defined in the Care Act 2014 regarding market shaping. Without this, the Council was relying on customers to arrange respite care themselves using a Direct Payment which did not offer resilience or choice for all individuals, especially those with complex needs.

## **24/20 Appointment of Academy Sponsor for New Primary School at Castleward**

The Council Cabinet considered a report which stated that an exciting regeneration project was underway at Castleward, along with a major new housing development proposed on the adjacent former Derby Royal Infirmary (DRI) site, both of which were close to the city centre. Following careful consideration, a new primary school was proposed on the Castleward site to serve the new housing at both the Castleward and the former DRI sites.

The current proposal was for the new primary school to open in September 2021, on a phased basis. The capital project remained on track and the Council would continue to monitor the potential impact of Covid-19 on the delivery of the new school. An indicative timeline for the proposed new primary school was attached as Appendix 1 to the report.

The Education Act 2011 changed the arrangements for establishing new schools and introduced section 6A (the free school presumption) to the Education and Inspections Act 2006. Where a Local Authority (LA) thought there was a need for a new school in its area, it must seek bids from potential sponsors to establish an academy (free) school.

Following Council Cabinet approval on 12 February 2020, the competition process for Castleward primary school launched on 20 February 2020, with a six-week period for potential sponsors to submit bids. The deadline for bids was subsequently extended by three weeks from 2 April 2020 to 23 April 2020, in order to help support potential sponsors, given the challenges posed by Covid-19.

The Council had held a competition process, in line with Department for Education (DfE) guidance, to identify a sponsor to open the new school at Castleward. Following a detailed evaluation of bids, the report sought approval to recommend to the Secretary of State the highest scoring bidder as the Council's preferred sponsor. It should be noted that the Secretary of State would take the Council's preferred sponsor into consideration, but had the option to decide to appoint an alternative sponsor.

The DfE asks that preferred sponsors are not made public until the Secretary of State has taken the final decision to appoint a sponsor. The report did not, therefore, name the Council's suggested preferred sponsor. Additional confidential information, based on the detailed evaluation and scoring of bids, was provided to Council Cabinet to enable a decision to be taken on the approval of the Council's preferred sponsor.

The Executive Scrutiny Board resolved to note the report.

### **Options Considered**

The Council has a statutory duty to plan sufficient school places for the City. The option of creating no additional provision was discounted as there was very limited surplus capacity available in primary schools close to the sites. It was not considered possible to expand existing primary schools to the extent needed to accommodate estimated pupil numbers.

### **Decision**

1. To approve the Council's preferred sponsor for Castleward primary school for recommendation to the Secretary of State.

### **Reasons**

A new primary school was required to accommodate pupils from housing developments at Castleward and the former DRI sites. Where a Local Authority (LA) thought there was a need for a new school in its area, it must seek proposals from potential sponsors to establish a free school.

The Council was able to make a recommendation to the Secretary of State on its preferred sponsor, following an evaluation of proposals. The decision on which sponsor is appointed to open the new school is then taken by the Secretary of State.

## 25/20      Exclusion of the Press and Public

**Resolved that under Section 100(A) of the Local Government Act 1972, the press and public be excluded from the meeting during discussion of the following items on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.**

## Key Decisions

### 26/20      Appointment of Academy Sponsor for New Primary School at Castleward

The Council Cabinet considered exempt information in relation to the appointment of academy sponsor for new primary school at Castleward.

The Executive Scrutiny Board resolved to note the report.

### **Decision**

To approve the recommendation set out in paragraph 2.1 of the report.

**MINUTES END**