

HAMPSHIRE COUNTY COUNCIL

Report

Committee:	Children and Young People Select Committee
Date:	30 January 2018
Title:	Proposals to close two overnight residential respite homes for children with disabilities as the County Council moves towards a wider range of overnight respite services - Consideration of Request to Exercise Call-in Powers
Report From:	Director of Transformation and Governance

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1. Recommendation(s)

1.1. That Members of the Children and Young People Select (Overview and Scrutiny) Committee (C&YP Committee) determine whether or not they consider that the Executive Lead Member for Children's Services (Executive Lead Member) should re-consider his decisions as set out in the Decision Record attached at Annex A.

2. Purpose of Report

2.1. The purpose of the meeting to which this Report relates is for the C&YP Committee to consider whether or not it should exercise its powers under Section 9F of Part 1A of the Local Government Act 2000 ('the 2000 Act'), referred to in the County Council's Constitution as 'Call-in'.

3. Contextual information

3.1. As part of the Transformation to 2017 programme, the Executive Lead Member approved on 16 September 2015 for submission to Cabinet the proposed savings options for the Department, which included savings of £3.2m for Children with Disabilities remodelling, relating in part to reduced reliance on residential care, particularly for overnight respite. These savings proposals were approved by Cabinet on 5 October 2015 and recommended to County Council, where on 22 October 2015 the overall Transformation to 2017 savings were approved.

- 3.2. The Executive Lead Member on 17 July 2017 gave permission for a staff and public consultation to be commenced on proposals to close two overnight respite homes for children with disabilities as the Council moves towards a wider range of overnight respite services. The decision report is attached as Annex B and the decision record can be found at Annex C.
- 3.3. On 15 January 2018 the C&YP Committee met at 10am and as part of their agenda pre-scrutinised the 'Proposals to close two overnight residential respite homes for children with disabilities as the County Council moves towards a wider range of overnight respite services' report prior to its consideration by the Executive Lead Member at the Decision Day that afternoon. A copy of the report to the C&YP Committee is attached at Annex D.
- 3.4. The C&YP Committee resolved to 'support the recommendations being proposed to the Executive Lead Member in section 1, paragraph 1.1 of the report' and made no further recommendations to the Executive Lead Member.
- 3.5. On 15 January 2018 at 2pm the Executive Lead Member received the report presented to the C&YP Committee and approved the recommendation in the report to close Merrydale and Sunbeams residential respite homes for disabled children in Spring 2018. The Executive Lead Member added an additional recommendation at his Decision Day which requested that a regular report be produced showing whether children currently receiving respite care at Merrydale and Sunbeams had been found suitable alternative arrangements for their care, including travel provision between their homes, their school and the care location. The decision record dated 15 January 2018 is attached at Annex A.
- 3.6. Following the decision of the Executive Lead Member on 15 January 2018, a Call-in request was made by a quorum of Members of the C&YP Committee on 16 January 2018 for a meeting of the Committee to be held in order for it to consider whether or not it should exercise its Call-in powers. The reasons given for the Call-in request are attached at Annex E to this Report.

4. Legal and Constitutional Position

- 4.1. Legal provisions in respect of Call-in are set out at Section 9F of Part 1A of the 2000 Act and reflected at Part 3, Chapter 3, Paragraph 1.17 of the County Council's Constitution. A copy of Part 3, Chapter 3, Paragraph 1.17 of the Constitution is attached at Annex F for ease of reference. It should be noted however that discussion of the Executive decision subject of the Call-in request is not limited to the points raised in the request.

- 4.2. When a Scrutiny Committee meets in order to consider whether or not it should exercise its Call-in powers in respect of an Executive Decision, a Select Committee is required to consider whether or not to recommend:
- a) that the decision be reconsidered by the relevant decision maker; or
 - b) that its function in respect of review or scrutiny of the decision should be exercised by the County Council.
- 4.3. It should however be noted that the recommendation as referred to at 4.2 b) is not available where the Executive decision in question is in line with the Budget or Policy Framework. Neither does the exercise of Call-in powers prevent implementation of a decision within the Budget and Policy Framework. As indicated at Section 3 of this Report, the decision of the Executive Lead Member relates to proposals regarding implementation of the County Council's Decision in respect of savings option proposals approved by the County Council in respect to Overnight Respite Services, following the outcome of the Spending Review Consultation on the Transformation to 2017 Programme, agreed by the Executive Lead Member on 16 September 2015, prior to consideration by the County Council at its meeting on 22 October 2015. Therefore, should the C&YP Committee determine it appropriate to exercise its Call-in powers, the recommendation open to the Committee is as set out in paragraph 4.2 a).

5. Scrutiny

- 5.1. The role of a Scrutiny Committee includes both developing and reviewing policy and holding the Executive to account. A Scrutiny Committee may not however discharge any functions other than those conferred on it, and whilst it is perfectly proper for a Scrutiny Committee to offer advice and recommendations to an Executive decision maker, in law responsibility for an Executive decision is that of the Executive.
- 5.2. Statutory Guidance confirms that pre-scrutiny of a proposed Executive decision might consist of (inter-alia) seeking the views of local stakeholders and interested parties, and advises that the Executive should take into account any views expressed by an Overview and Scrutiny Committee when determining their final decision. The Executive is not however limited to consideration only of the views of a Scrutiny Committee, and may take into account other factors in its decision making process and make other determinations as it thinks fit.
- 5.3. It should be noted that after a recorded vote of the C&YP Committee on the 15 January 2018, the Committee voted to support the recommendation in the report. The outcome of the vote is available in the published minute.

5.4. Statutory guidance advises that when operated effectively, call-in provisions should ensure that there is an appropriate balance between effectively holding the Executive to account, being able to question decisions before they are recommended, and allowing effective and efficient decision making by the Executive within the policy framework and budget agreed by the full Council. Whilst neither the law nor the County Council's Constitution prevent call-in of an Executive Decision, it is clear in the statutory guidance that a decision maker should only be asked to reconsider a decision once. As indicated above in this Report, the decision of the Executive Lead Member of 15 January 2018 was pre-scrutinised by the C&YP Committee prior to the Executive Member decision, when the decision of the C&YP Committee was to support the decision.

CORPORATE OR LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	no
People in Hampshire enjoy being part of strong, inclusive communities	yes

Other Significant Links

Links to previous Member decisions:	
<u>Title</u>	<u>Date</u>
<u>Executive Lead Member for Children’s Services – Transformation to 2017 – Revenue Savings Proposals</u>	16/09/2015
<u>Cabinet - Medium Term Financial Strategy Update and Transformation to 2017 Proposals</u>	5/10/2015
<u>County Council - Medium Term Financial Strategy Update and Transformation to 2017 Proposals</u>	22/10/2015
<u>Executive Lead Member for Children’s Services – Permission to consult on proposals to close two overnight respite residential homes for children with disabilities as the Council moves towards a wider range of overnight respite services.</u>	17/07/2017
<u>Executive Lead Member for Children’s Services – Proposals to close two overnight residential respite homes for children with disabilities as the County Council moves towards a wider range of overnight respite services.</u>	15/01/2018

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

IMPACT ASSESSMENTS:

Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

Equalities Impact Assessment:

An Equalities Impact Assessment has been completed. A summary statement is available at section 9 of the decision report. The full assessment is available at: www.hants.gov.uk/childrens-services/about-cs/cs-equality-diversity.htm.

Impact on Crime and Disorder and Climate Change:

As per the decision report attached at Annex B, there are not considered to be impacts on crime and disorder and climate change.