

Minutes of a meeting of the Health and Social Care Overview and Scrutiny Committee held on Thursday, 23 March 2017 at Committee Room 1 - City Hall, Bradford

Commenced 4.35 pm
Concluded 7.25 pm

Present – Councillors

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT
Gibbons Poulsen	Greenwood A Ahmed Duffy Mullaney Sharp	Griffiths

NON VOTING CO-OPTED MEMBERS

Susan Crowe
Trevor Ramsay
G Sam Samociuk
Jenny Scott

Strategic Disability Partnership
Strategic Disability Partnership
Former Mental Health Nursing Lecturer
Older People's Partnership

Observers: Councillor Alex Ross-Shaw (Regeneration, Planning and Transport Portfolio Holder) (Minute 89), Councillor Val Slater (Health and Wellbeing Portfolio Holder) (Minute 87) and Councillor Cath Bacon (Minute 89)

Apologies: Councillor Nicola Pollard

Councillor Greenwood in the Chair

83. DISCLOSURES OF INTEREST

The following disclosures were made in the interest of transparency:

- (i) Councillor A Ahmed disclosed that she was employed by the Yorkshire Ambulance Service NHS Trust.
- (ii) Councillor Gibbons disclosed that he was a member of the NHS Foundation Trust Board and had previously taken a view in relation to the item on the 12 Month Trial Ban of Pavement Obstructions.
- (iii) Councillor Griffiths disclosed that he was a partner in a medical practice.

- (iv) Susan Crowe disclosed that she was a member of the Strategic Disability Partnership.

ACTION: *City Solicitor*

84. MINUTES

Resolved –

That the minutes of the meeting held on 8 December 2016 be signed as a correct record.

85. INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents.

86. REFERRALS TO THE OVERVIEW AND SCRUTINY COMMITTEE

There were no referrals made to the Committee.

87. CARE QUALITY COMMISSION UPDATE

The Inspection Manager, Adult Social Care, Care Quality Commission, presented a report (**Document “AH”**) which provided an update from each of the inspection directorate within the Care Quality Commission (CQC). It was noted that there were 213 active Social Care organisation locations in Bradford, 50 nursing homes that provided 2129 beds and 88 residential homes with 2336 beds. The Assistant Director, Operational Services, informed Members that the Council met with the CQC on a regular basis and contracts were monitored alongside safeguarding. It was noted that last year more providers had required improvement and work had been undertaken with the sector in order to reduce those on a warning down to ten.

Members then raised the following points:

- In 2016 changes around payments were made, was there any association in relation to the number of organisations that closed?
- 62% of the active locations ‘required improvement’. What percentage related to safety?
- What were the inspection timescales and were they linked to previous inspections?
- How were people informed of standards within homes? How did they find out if the location was just within the ‘requires improvement’ category?
- Was the standard based on points?



- Would the public understand why the rating had been given?
- Were there any statutory requirements for care workers and managers?
- What qualifications were required for managers and providers? Were there any minimum requirements? Did they have to be from the medical profession?
- A company could be established and owners had to be registered and prove that they could manage a home. They were not required to be a registered nurse, unless they were managing nurses. The majority of managers were qualified to NVQ Level 5 and it was very important to have good leadership in homes. The staff needed to have a care certificate and the CQC looked for this along with training and development. Clear pathways were required for carers in order for them to progress to higher levels. A key part of an inspection would be to identify the training provision and robust processes.
- Were the 65 locations that required improvement mentored?
- Were the compliance actions related to the overall ratings?
- Would the prioritisation process be used for all locations or just where serious incidents had taken place?
- How would a change in the rating from 'good' be identified?
- If a location was 'inadequate' how could it continue to operate? How long would it take before it was closed down?
- How would the judgement call be made?
- There was a general trend towards improvement.
- The information in relation to hospital inspections required further investigation.

In response it was confirmed that:

- Some organisations had closed as the new standards were higher and some providers could not afford to make the required changes. Other companies had changed owners and if a provider went out of business it caused problems for the Council.
- The locations were observed in terms of issues. There were varying levels of 'requiring improvement' and advice was provided on what action was required. The levels had been raised and standards were much harder to attain now. 'Experts by Experience' Inspectors were used and they spent a great deal of time with carers. As part of the inspection, documents would be requested and feedback provided. Evidence could be submitted following the inspection and the provider had ten days to submit feedback in relation to points of accuracy. Locations were immediately informed of areas of risk.
- Inspections would be scheduled within timescales, where possible, although the CQC could visit at any point.
- A report summary was provided and information was available on the CQC website.
- The standard was based on the overall rating for the location.
- It should state within the main body of the report why the location had been given the rating.



- All managers had to be registered with the CQC. Proof of qualifications had to be submitted and interviews were undertaken to ascertain their skills.
- Mentoring was not provided as such, however, Action Plans would be requested and there was a vast amount of information available on the CQC website.
- The CQC worked more closely with those locations that required improvement. The serious concerns procedure could be triggered and the Council would work with NHS partners to resolve issues.
- Incidents up to one year old could be investigated and it would depend on the rating given after the return visit whether the process would be undertaken. Locations were constantly being reviewed and the CQC could visit at anytime.
- The information submitted was reviewed and professional judgement was used to ascertain whether a location should be revisited. Management review systems were also in place.
- An embargo would be placed on the location and no new people would be admitted until the issues had been resolved. A serious concerns procedure would be put in place immediately.
- There were varying levels of inadequacy and the Council would make the judgement as to whether people were moved, which was a requirement of the Care Act. The action taken would be based upon the best interests of the residents. The CQC had closure and urgency powers that could be used if required and liaison would be undertaken with Local Authorities and Clinical Commissioning Groups prior to their implementation.
- The ratings had improved and there was a commitment within the Council to progress and drive quality upwards.
- A report on the hospital inspections would be presented to a future meeting.

Resolved –

That a further update report be presented to the Committee in 12 months.

Action: Inspection Manager, Adult Social Care, Care Quality Commission

88. HEALTH AND SOCIAL CARE OVERVIEW AND SCRUTINY COMMITTEE WORK PROGRAMME 2016/17

The City Solicitor submitted **Document “AI”** which presented the work programme 2016/17.

The Overview and Scrutiny Lead officer informed Members that:

- The report on the Council’s Contributions Policy, that had been scheduled to be considered at the meeting on 6 April 2017, had been delayed.
- Dentistry would be discussed at the West Yorkshire Joint Health Overview and Scrutiny Committee meeting to be held on 24 March 2017.



Resolved –

That the Work Programme 2016/17 be noted.

Action: Overview and Scrutiny Lead

89. CALLED-IN DECISION - REVIEW OF THE OPERATION AND EFFECTIVENESS OF THE 12 MONTH TRIAL BAN OF PAVEMENT OBSTRUCTIONS

The Highways Services Manager presented **Document “AJ”** and explained that the decision of the Executive in relation to the operation and effectiveness of the 12 month trial ban of pavement obstruction (Executive Document “BM”) had been called-in. He informed Members that the reasons cited were, amongst others, in regard to Equality Impact Assessment (EIA) concerns; insufficient evidence; information not provided to the public; inadequate costings; information submitted that had not been scrutinised; and the views of the Overview and Scrutiny Committee not being adequately reflected. It was noted that the responses to the issues raised were covered in the report. With regard to the associated cost, it was acknowledged that Year 1 had amounted to £61,400, however, a reduction would be expected in Year 2 and onwards and the projected total would be approximately £36,000. This was an unbudgeted cost for the Service. The Highways Services Manager outlined that if an extension of the ban into a larger area was undertaken then the costs would not be reduced until Year 3 and 4. He confirmed that the criteria for the location would be based on National Guidance from the Department of Transport. In conclusion he stated the differences in the reports submitted were due to consultation undertaken at the request of the Committee and a request from the Executive to include financial and licensing information.

The Regional Campaigns Officer, Royal National Institute of Blind People (RNIB) was present at the meeting and made the following points:

- The Local Authority had a responsibility to give due regard to decisions made under the Equality Act 2010. This applied to changes and new policies and it was believed that this had not been undertaken.
- Guidance stated that an EIA should be undertaken at the start of a process, however, it had been reported that it would not be undertaken until the Licensing Policy had been completed.
- The proposed Licensing Policy required an EIA and this would inform whether the policy should be implemented.
- Information and evidence gathering needed to be undertaken.
- Information from the trial ban and representations from groups should be included in the EIA.
- Due process had not been followed as the EIA had not been undertaken.
- The letter from the Ilkley Civic Society mentioned other obstructions. The RNIB had a ‘Street Charter’ and would encourage the Council to give it due



consideration.

- Details of other licensing schemes for comparison had not been provided within the report.

A letter from a member of the public, who was present at the meeting, was read out by the Overview and Scrutiny Lead officer and included the following comments:

- The trial ban had been introduced due to the Council's lack of control over A-boards.
- A ban was still required due to the failure of businesses to take notice of the Code.
- A survey of A-boards had been undertaken in Ilkley during January 2015 and only 6 out of 33 had been cited in accordance with the policy, however, no prosecutions had been undertaken.
- Under the ban pavements were clear and safe.
- The notion that the Council would undertake an EIA on every application for an A-board was ludicrous and would be prohibitive.
- An EIA was required before a policy was compiled and accepted.
- The practice would not be workable.
- It would be cheaper and simpler to make the trial ban permanent.

A representative of the Bradford Association of Visually Impaired People was present at the meeting and stated that:

- Its members travelled elsewhere to do their shopping.
- People wanted to shop in Bradford and had done so during the trial ban.
- Bradford should adopt the RNIB's 'Street Charter'.

Members of the public present at the meeting made the following comments:

- Leeds had undertaken a zero tolerance to A-boards for 15 years and it was a more pleasurable shopping experience.
- Liability had not been mentioned in any of the reports and the Council would be liable if it proceeded.
- Wheelchair users had to take detours around A-boards. If a wheelchair user had an accident due to an A-board it could mean they would be housebound.
- The Council's treatment of the disability groups was disappointing.
- The recommendation had changed in the report to the Executive.
- It had been assumed that the Council believed in consultation.
- Consultation regarding A-boards had been on going for many years.
- Disabled groups and traders did not want a licensing policy to be introduced and had stated this at every meeting.
- A licensing policy would cost more than the revenue gained.
- The actual costs were not known.
- The licensing policy idea had come from nowhere and the people of Bradford had been ignored.



A Councillor was present at the meeting and stated that:

- There was anger at the decision to licence rather than ban A-boards.
- There was an issue with the costings and it was believed that they were not accurate.
- Volunteers would help enforce the ban.
- There were hidden costs in introducing a licensing policy.
- It was disappointing that the businesses had not taken part in the Council's consultation.
- The Council had a chance to be proactive and take a stance.
- The acceptance of the 'Street Charter' should be encouraged.

A representative of the Ilkley Business Forum was present at the meeting and commented that:

- Various arguments had been raised.
- There was not a general ignorance in relation to the siting of A-boards.
- Complaints had been made about the bad practice of siting A-boards, but the majority of business complied with the policy.
- The main issue was in relation to pavement obstructions.
- It was disputed that many questionnaires had been circulated.
- A-boards provided a cost effective way to change a message.
- There had been fewer complaints in Ilkley.
- There was little appetite for Instaplanters.

A representative of the Saltaire Shopkeepers was also at the meeting and reported that:

- The reason for the trial ban had come from disabled and blind groups and their frustrations were understood.
- In the Bradford District there had been 20 complaints and no accidents in the majority of places. None had occurred in Saltaire but five had taken place in Keighley where there wasn't a ban.
- It was unfair that businesses outside the trial area could continue as normal. There was no level playing field.
- The common sense approach would be to have free permits and instructions for the safe placement of the A-boards. If the rules were not complied with, then the A-boards should be removed.
- By introducing a licensing policy, the A-boards that had been a nuisance would not be if a licence was purchased.

Members then raised the following points and queries:

- The figures in relation to the administration of the licence scheme submitted to the Executive had been requested, but no information had been provided.
- What would an appeal cost?



- There was an opportunity for the Council to stand with disabled people. It was insulting to say that an obstruction would be allowed if a licence was purchased. Why did the Council think it was acceptable to licence an obstruction and why had the proposal been submitted to the Executive?
- Were A-boards not a hazard if they were licensed?
- What were the costs to implement the licensing scheme, as nothing had been provided? Had liability costs been included?
- Was an EIA undertaken for the scheme regarding skips?
- Businesses were not complying with the existing legislation, so why would a licensing policy alter this?
- A great deal was publicised about the Council's strategy for people to be independent, but why weren't disabled groups being listened to? Increasing the isolation of people was also contrary to what the Council was supposed to be doing.
- There was no evidence to state that A-boards would be reduced if licenced.
- Had the Council undertaken an EIA prior to the consultation?

In response Members were informed that:

- Exact figures were not available, but it had been envisaged that the same scheme operated for skips and scaffold would be used. The cost of the administration of an application was £50 each.
- The figures in relation to the cost of an appeal were not available.
- The Committee had made a recommendation, however, the Executive was not obliged to give it consideration. The Executive had requested that a licensing policy be included, as they were aware that the ban had incurred costs and it was important that a licensing policy was considered. It was acknowledged that A-boards needed to be located safely in order not to be considered as a menace and licensing systems operated across the country.
- The approach taken was that if the width of the pavement was suitable for an A-board then it should be placed in an appropriate location to ensure a 'free passage'. An assessment of whether there was a 'free passage' for pedestrians should be undertaken when an A-board was sited and it must be adjacent to the relevant business.
- The current system would be modified for the licensing scheme.
- Assessments were undertaken for other processes. An answer in respect of liability could not be provided, however, any business would have to have public liability insurance. The policy had not been developed as yet, so an EIA had not been undertaken. There were no figures available in relation to accidents.
- Information on the licensing system would be available on the website. Approximate calculations had been undertaken in relation to the number of A-boards that could be licensed.
- It was acknowledged that the Council was not doing as much as it could, however, the licensing scheme would provide a better situation than the current or previous ones.
- A-boards would be seen even if they were banned and whether the



decision to implement a fee or not, there would still be a cost to enforce any type of scheme. If A-boards were licensed there would be fewer and they would be better enforcement.

- An EIA must be completed before a policy was implemented and legal advice had been followed.

A Member indicated that the Committee had made recommendations to the Executive, who had chosen to make a different decision and this was now being scrutinised. He stated that there were a number of options that could be taken, but he did not believe, in light of the responses, that the Executive would make a different decision. He therefore recommended that the Executive's decision was referred to full Council for consideration. In response the Chair suggested a counter proposal that the details of the consultation exercise with businesses be released and that the information in relation to the resource and financial implications of the trial ban along with the details of the anticipated cost of expanding the ban be referred back to the Executive with a recommendation that further work on the costs be included.

Resolved –

That the decision of the Executive be referred to full Council for consideration.

Action: Strategic Director, Place

Chair

Note: These minutes are subject to approval as a correct record at the next meeting of the Health and Social Care Overview and Scrutiny Committee.

THESE MINUTES HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER

