

Cabinet

10 August 2015

Present: N Redfearn (Elected Mayor) (in the Chair)
Councillors EN Darke, JLL Harrison, CB Pickard, L Spillard,
JJ Stirling and A Waggott-Fairley.

In Attendance: A Armstrong (Young Mayor)
R Layton (North Tyneside JTUC)
D Hodgson (Business Sector)

CAB25/08/15 Apologies

Apologies were received from Councillors CA Burdis, R Glindon and I Grayson and M Almond (Voluntary and Community Sector), A Caldwell (Age UK North Tyneside) and M Cushlow (North Tyneside Clinical Commissioning Group)

CAB26/08/15 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations reported.

CAB27/08/15 Minutes

Resolved that the Minutes of the meeting held on 13 July 2015 be confirmed and signed by the Chair.

CAB28/08/15 Report of the Young Mayor

The Young Mayor reported on the following activities in which she and/or Young Cabinet Members had been involved:

- Judging the children and young people's section of the North Tyneside in Bloom awards.
- Attendance at the Safer North Tyneside meeting.
- The Member of Youth Parliament Rebecca Moore had attended the UK Youth Parliament Annual Sitting in Exeter.
- Rebecca had also attended the Soup Dragons Den at Wallsend Mem (People's Centre and Memorial Hall)
- Some youth councillors had been working closely with the Street Pastors to create posters with the aim of promoting the work of the Street Pastors.
- Some youth councillors had also been helping with the statutory notices app consultation.

The Young Mayor was pleased to report that the Young People's Health and Wellbeing Group's lesson plans were progressing well.

She also reported that both a new Junior Children in Care Council for children aged 7 to 11 years and a Care Leavers Forum had been formed. This would link well with the new MOMO app which enabled children and young people in care to send an electronic message directly to their social worker or advocate.

The Young Mayor was thanked for her report. The Young Mayor and Youth Councillors were commended for the work they were doing and their involvement in various initiatives.

CAB29/08/15 Medium Term Financial Plan Update Following Summer Budget 2015 (All Wards)

Cabinet considered a report which provided an update on the Authority's Medium Term Financial Plan position following two recent developments:

1. The Government's National Summer Budget of 8 July 2015.
2. The Government announcements of 21 July 2015, which set out:
 - (a) the date of the forthcoming Spending Review.
 - (b) that the Chief Secretary to the Treasury would write to government departments asking them to draw up plans to deliver the remaining required fiscal consolidation of £20 billion required by 2019/20.

Since the Coalition Government's four year Spending Review of 2010, and as a result of the one year Spending Review for 2015/16, North Tyneside Council had been required to make a significant level of efficiency savings each financial year. The savings that had been required over this period had been a combination of Government funding reductions and unavoidable spending pressures. Since the financial year 2013/14, efficiency savings of approximately £43 million had been made.

The report demonstrated that the Authority had consistently delivered substantial efficiency savings driven by the continued reduction in core funding and increasing demand for services. This financial climate continued into the current planning process for 2016-2019 with the continuing need for improved services to be delivered within a more challenging environment of reduced funding and the consequent requirement for further efficiency savings.

The Authority was currently developing a 3 year Financial Plan covering 2016-2019. Whilst there was still considerable uncertainty around the detailed financial implications of the forthcoming Spending Review, the 3 year planning assumption prior to the Summer Budget and subsequent announcements had been that the estimated savings required to be found for 2016-2019 were in the region of £44 million.

Following Budget 2015 of 18 March 2015, a second National Budget "Summer Budget 2015" took place on 8 July 2015. This Budget included a number of detailed announcements with implications for the financial position of the Authority.

The Summer Budget 2015 set out a number of housing and welfare related changes, which were part of the Welfare Reform and Work Bill. The key aspects of these changes, together with the implications for the Authority were detailed in the report. These covered:

- Reduction in Social Housing Rents 2016-2020
- Extension of Right To Buy and Sale of 'High Value' Council Housing
- Pay to Stay Policy
- Annual up-rating of working age benefits frozen for four years
- Reduction to Tax credits earnings disregards and taper
- Universal Credit – changes to various work allowances
- Housing Benefit – various changes
- Work Related Activity Group element of Employment Support Allowance – changes
- Reduction to overall Benefit Cap
- Child allowance changes
- Tax Credits and Universal Credit – family element
- Universal Credit and Housing Benefit – 18 – 21 year olds not automatically entitled

The report explained that to help mitigate the impact of the changes £800 million of national funding to local authorities for discretionary housing payments would be made available over the next five years.

The report also explained the implications relating to the National Living Wage increase and Public Sector Pay Awards.

The Spending Review would take place on 25 November 2015. The report also detailed that savings that each Government department would be asked to achieve were the same as those requested ahead of the Spending Review of 2010.

The Summer Budget had set out £17 billion of savings to be achieved nationally over the next 4 years, with £12 billion savings from welfare and £5 billion from addressing avoidance, evasion and imbalances in the tax system. Total savings required over the current Parliament were currently expected to be £37 billion. This meant that the reductions still to be met by Government Departments were £20 billion for the next four financial years from 2016/17 to 2019/20.

The announcement of Departmental Spending Reductions did not as yet provide detailed information on the potential financial impact for Local Government over the medium term. At this stage, therefore, it had been assumed that the current financial planning assumptions around the savings required for the next 3 years as a result of Government funding reductions was unchanged. This would be kept under constant review as more information became available.

Having considered the potential financial impact of the various Government announcements from the Summer Budget, the revised General Fund Financial position for North Tyneside Council for 2016-2019 would require an increase in estimated savings from £44 million to between £53 and £56 million.

In addition to the impact on the General Fund, the main impact in relation to Housing was a result of the Reduction in Social Housing Rents. At this stage, it was estimated that this would have a financial impact of over £400 million lost income from the Housing Revenue Account (HRA) Business Plan over 30 years. There were likely to be further financial implications as a result of other policies including Extension of Right to Buy and Sale of "High Value" Council Housing and "Pay to Stay" as well as an impact from the various Welfare Reform changes.

Cabinet considered the following decision option: to approve the recommendations as detailed in paragraph 1.2 of the report.

Resolved that the report be noted and further reports be submitted as part of the 2016-2019 Financial Planning and Budget Process as more detailed information becomes available.

(Reason for decision – it will ensure Cabinet is kept updated on the impact of the Government Departments' spending reductions on the Authority as further information becomes available.)

CAB30/08/15 Objections received in response to a Public Open Space advert for Land at Brookland Terrace, New York and at Zetland Drive, Whitley Bay (Collingwood and Monkseaton South Wards)

Cabinet considered a report which detailed representations made in relation to a statutory advertisement to dispose of public open space at two sites - at the rear of Brookland Terrace, New York, and at Zetland Drive, Whitley Bay - in order to facilitate the development of affordable housing schemes.

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A supplementary report detailing two further objections relating to Brookland Terrace, New York, received after the agenda was published but before the objection deadline, was also considered.

The two areas of land detailed on the plans attached as Appendix 1 and 2 to the report were Authority owned and currently accessible by members of the public. They were therefore deemed to be areas of public open space.

Planning permission had been submitted for both sites but not yet granted for the development of affordable homes for rent. Terms and conditions were currently being provisionally negotiated for their proposed disposal to a Registered Provider.

As both areas of land were considered to be public open space they were subject to the relevant provisions of the Local Government Act 1972. As a result, the Authority had advertised its intention to dispose of the areas of land in accordance with Section 123 of the Act and was required to formally consider any representations made.

Accordingly, notices had been advertised in the Journal on 24 June 2015 and 1 July 2015 and in the local weekly News Guardian on 25 June 2015, and 2 July 2015. The closing date for the receipt of representations had been 16 July 2015.

Prior to expiry of the closing date, six representations had been received regarding Brookland Terrace, New York, with one including a 150 name petition and one in relation to Zetland Drive, Whitley Bay. The report set out the main points from each representation, together with responses to them.

Cabinet considered the following decision options:

Option 1 – set aside the objections received in relation to the disposal of public open space at Brookland Terrace, New York, and Zetland Drive, Whitley Bay and allow the disposals to proceed;

Option 2 – set aside the objections received in relation to Brookland Terrace, New York and allow that disposal to proceed, but uphold the objection in relation to Zetland Drive, Whitley Bay, in which case the disposal cannot proceed;

Option 3 – set aside the objection received in relation to Zetland Drive, Whitley Bay and allow that disposal to proceed, but uphold the objections in relation to Brookland Terrace, New York, in which case the disposal cannot proceed.

Option 4 – uphold the objections received in relation to the disposal of public open space at Brookland Terrace, New York and at Zetland Drive, Whitley Bay in which case neither disposal can proceed.

Resolved that the objections received in relation to the disposal of public open space at Brookland Terrace, New York, and at Zetland Drive, Whitley Bay, be set aside and the disposal of the land in both cases, be approved.

(Reason for decision – it will enable disposal of the land to be actioned and the proposed development of affordable homes for rent to proceed.)

CAB31/08/15 Charging Policy for Care and Support Services (All Wards)

Cabinet considered a report which requested approval of the revised North Tyneside Contributions Policy for adult care and support services, the implementation of changes to existing charges and the introduction of new charges. The proposals formed part of the Creating a Brighter Future budget savings for 2015/16.

The Care Act 2014 which had come into force on 1 April 2015 set out new requirements for how councils charged for adult social care and support services.

As a result the Authority's current approach to charging for adult social care and support services needed to be updated to reflect this change in legislation.

The Care Act 2014 (Sections 14 and 17) provided a single legal framework for charging for care and support. The Act provided local authorities with the power to charge adults and carers in receipt of care and support services, where the Authority was permitted to charge for the service/s being provided, and where the Authority had agreed to apply charges.

The rules around means-testing, i.e. deciding how much an individual was eligible to pay were set out in the Care and Support (Charging and Assessment of Resources) Regulations 2014 and the accompanying Statutory Guidance. They were broadly the same as the previous regulations.

The overarching principle of the new framework was that individuals should only be required to pay what they could afford. Individuals would be entitled to funding from their local authority based on a means-test, which would mean that some people would have to pay the full cost of their care and support service; some people would make a contribution towards the cost; and some would be entitled to free care.

Under the Care Act, local authorities would no longer have a duty to charge for residential and nursing care, but would have the power to charge instead. Therefore charging for residential and nursing care was now discretionary, rather than mandatory.

Under previous regulations, the Authority had been empowered to charge for residential and nursing care from the date of entry into the care home. However for non-residential care the previous regulations prevented the Authority from doing this and only permitted charges to be applied from the date the financial assessment was completed and the customer had been notified of their charging liability. The Care Act addressed this anomaly and permitted the Authority to charge for all services from the date that they were first provided.

The Authority was required to ensure there was sufficient information and advice available in a suitable format for the person's needs to ensure that they or their representatives were able to understand any contributions they were asked to make. The Authority should also make the person or their representative aware of the availability of independent financial information and advice.

A summary of the key changes to the existing charging arrangements was provided in the report and covered:

- Charging Carers
- Replacement Care
- Arrangement Fee for people who fund their own care
- Changes to existing charges for domiciliary care support
- Increasing the maximum charge for care and support
- Respite Care

The Authority had undertaken extensive consultation between 28 January and 25 March 2015 in relation to the financial charging system and the Care Act 2014. The proposals for consultation had been developed in the context of the Care Act Statutory Guidance, the need for the Authority to use its resources effectively and the aim of ensuring that all people were treated equitably. Details of the consultation undertaken and responses to it were set out in the report.

Cabinet considered the following decision options: to approve the recommendations as detailed in paragraph 1.2 of the report, or alternatively, not approve them and request that further work be carried out.

Resolved that (1) the revised North Tyneside Contributions Policy be approved;

(2) the changes to existing charges be approved as follows:

- (i) Charging Carers - continue with the existing arrangements which exempt Carers receiving services in their own right from charges and this decision be reviewed before the end of March 2016;
- (ii) Replacement Care – in order to address the current anomaly relating to sitting services, under the new Contributions Policy charges be applied for all replacement care services, including sitting services and the adult receiving the services be asked to make a contribution based on their ability to pay;
- (iii) Domiciliary Care Support Charges – the charge to customers receiving domiciliary care support be increased to £14 per hour, to align it with the cost of commissioning the service;
- (iv) Maximum Charge for Care and Support - the maximum charge for care and support services be increased to £400 in 2015/16 and this amount be reviewed in 2016/17 with the proposal that North Tyneside moves to a position of having no maximum charge;
- (v) Respite Care – respite care be charged on the same basis as community based support; and

(3) the following charge be introduced :

- (i) Arrangement Fee for people who fund their own care – an arrangement fee of £260 per annum be introduced to cover costs to the Authority.

(Reason for decision – The Care Act 2014 has repealed previous guidance and therefore the previous policy is no longer fit for purpose. The Authority will be at risk of legal challenge if it does not have a Care Act compliant contributions policy in place. The Authority will be at risk of losing income from charging and also the opportunity to generate income.)

CAB32/08/15 Stairlift, Through Floor Lift and Ceiling Track Term Contract 2016-19 (All Wards)

Cabinet considered a report which requested approval to undertake a procurement exercise in order to appoint a preferred provider to install and maintain stairlifts, through floor lifts and ceiling track hoists in domestic properties.

The Chronically Sick and Disabled Persons Act 1970, by virtue of Section 2 provided local authorities with a statutory duty to assist disabled people (as defined by Section 29 of the National Assistance Act 1948) with amongst other things assistance in arranging adaptations or provision of additional facilities to promote safety, comfort or convenience. There was also a duty to assess disabled people enshrined within the National Health Service and Community Care Act 1990.

In order to fulfil this duty, the Authority had a contract with a private company for the installation and maintenance of stairlifts, through floor lifts and ceiling track hoists in domestic properties. This contract had been awarded on 1 April 2012 and would expire on 31 March 2016.

The contract was not tenure specific meaning that it covered installations for council housing tenants and, through the Disabled Facilities Grant process, included non-council tenants and owner occupiers.

The Authority maximised resources by removing and re-cycling installations when they were no longer required. All of the installations were serviced in accordance with statutory requirements and breakdowns were responded to in accordance with agreed timescales.

Cabinet considered the following decision options: to approve the recommendations as detailed in paragraph 1.2 of the report, or alternatively, not approve them.

Resolved that the Head of Adult Social Care, in consultation with the Head of Law and Governance, the Strategic Manager Finance and the Cabinet Member for Adult Social Care, be authorised to:

- (a) undertake a procurement exercise compliant with the Public Contract Regulations 2015 in order to identify a preferred provider for the installation and maintenance of stairlifts, through floor lifts and ceiling track hoists in domestic properties; and
- (b) if considered economically advantageous for the Council, award a contract for the installation and maintenance of stairlifts, through floor lifts and ceiling track hoists in domestic properties for a period of 3 years, commencing April 2016 with an option to extend for one year.

(Reason for decision – The procurement exercise is aimed at ensuring continuity of service provision so that the Authority is in a position to award a contract when the current one ceases on 31 March 2016. This will ensure continuity of statutory provision and will take advantage of achieving the best value for money option for the Authority.)

CAB33/08/15 School Term and Holiday Dates 2016/17 (All Wards)

Cabinet considered a report which requested consideration of proposed school term and holiday dates for 2016/17. Proposals for consideration were attached as appendices 1 and 2 of the report.

Regulations required that 190 school term days be provided for pupils in each school year. Also, five teacher training days had to be identified in the school year, the dates to be set at the discretion of the school.

A questionnaire circulated to 280 parent governors in 2008 had indicated that the view of most parents was that no holiday should be longer than six weeks, no period of term time be longer than seven weeks, and that school holidays should take account of bank holidays, particularly those around Christmas and Easter.

Consultation with headteacher representatives and professional associations indicated that a major consideration for schools and school staff was consistency with neighbouring authorities, particularly Newcastle and Northumberland. Where there were differences between these authorities, the preference was for the best possible match with other authorities in the region.

The proposed School Term and Holiday dates for North Tyneside schools 2016/17 were set out at Appendix 1. It was likely that most neighbouring authorities would use this pattern of term dates. Northumberland and Gateshead had published calendars based on this model, and most other authorities in the region had indicated that they would be following a similar pattern.

Newcastle had confirmed and published a calendar which was broadly similar, but had a Christmas holiday that started and ended a few days later. This calendar formed the basis of Option 2 and was detailed at Appendix 2 of the report.

The Deregulation Act 2015, when fully implemented would provide for all maintained schools to set term dates independently of the local authority, however the relevant provisions were not yet in force. Many schools in North Tyneside were already able to set term dates independently, e.g. due to Trust or Voluntary Aided status, but most schools had indicated that their preference was for a consistent calendar, co-ordinated by the Local Authority.

Consultation on the 2016-17 calendar had indicated some differences between schools on the preferred model. All schools had been given a number of opportunities to comment on the recommendations. 22 had expressed a strong preference, with 10 schools preferring Option 1, and 12 preferring Option 2. Professional associations were unanimously in favour of Option 1.

The Elected Mayor referred to concerns raised by parents relating to school term and holiday dates. Many parents felt that a six and a half week period was too long for children to be out of school and that the cost of purchasing holidays and going away at times when the majority of schools had broken up, was expensive. The Mayor requested that in future years, consultation on term times and holidays should consider any viable alternative options for the residents of North Tyneside, including those put forward by parents which could address the concerns raised. A full and meaningful conversation with interested parties was required and all proposals thoroughly considered.

Cabinet considered the following decision options:

Option 1 – approve the calendar detailed in Appendix 1 of the report.

Option 2 – approve the calendar detailed in Appendix 2 of the report.

Resolved that (1) the school term and holiday dates for 2016/17, as set out in Appendix 1 to the report, be approved; and
(2) in future years consultation on holidays and term times considers all viable options put forward.

(Reason for decision – The calendar at Appendix 1 includes more of the factors that parent governors see as important. It matches the pattern in most neighbouring authorities, and is therefore likely to be the most acceptable to families and the majority of schools.

Professional associations have been consulted and were unanimously in favour of Option 1 because of the alignment with neighbouring authorities.

Of schools that responded to consultation, there is a slight balance in favour of Option 2, however the majority of schools did not respond to the recommendations. This suggests that they are content with the recommended option, or that they do not have any strong preference.

The calendar at Appendix 2 also meets many of the important factors, and is preferred by 12 schools, but would put the Authority out of step with neighbouring authorities with regard to the timing of the Christmas holidays. This calendar also includes a split week before Christmas, which could give rise to attendance concerns.)

CAB34/08/15 Report of the Local Government Ombudsman (All Wards)

Cabinet considered a report of the report of the Local Government Ombudsman (LGO) dated 8 June 2015, which had found maladministration causing injustice as a result of the Authority failing to keep proper records relating to work being carried out on a resident's property after the grant of an improvement loan and set out the recommendations made by the LGO investigator. The actions proposed by the Authority to address those recommendations were set out in the report.

The details of the complaint and the findings of the LGO investigator were set out in detail in Appendix 1 to the report.

The findings of the LGO were as follows:

- “Under the terms of the loan agreement Ms X is responsible for managing contractors carrying out work at her property. The Council’s role is to release money once it is satisfied work has been completed satisfactorily and to plan. However the Council’s letter to Ms X on 9 July 2013 does not make this clear.
- The relationship between Ms X, the Council and the contractor has become confused. Whilst this is in part due to the Council wishing to resolve disputes between Ms X and the contractor it has also caused confusion about each party’s responsibilities.
- The contractor contacted the Council regarding amended plans to the kitchen. The Council agreed to these without checking whether Ms X agreed. This was fault. Furthermore this conversation between the Council and the contractor was never recorded. The Council says Ms X chose to keep her own appliances but there is no evidence to support this.
- There is uncertainty around the piece of paper Ms X signed on 24 October 2013. The form of wording used combined with the lack of detail on the contractor’s invoice leaves uncertainty as to what Ms X was being asked to agree to. It is not clear whether it even relates to the invoice of 20 August.
- The failure to use the Council’s standard form and the decision to use a handwritten note places the Ombudsman in a difficult position in reaching a view on whether Ms X understood what she was signing. At the very least it seems likely that Ms X did not understand what she was signing and believed more work would be carried out based on the fact she complained shortly after.
- The Council has also failed to get a proper breakdown of costs from the contractor regarding the costs of the kitchen. The information provided by the contractors does not show a full breakdown of costs for the kitchen. Furthermore, there is a discrepancy between the amount set out in the invoice dated 20 August 2013 (£4800) and the breakdown of cost provided in December 2013 (£4448).
- As a result there is uncertainty as to the actual cost of Ms X’s kitchen and this has a knock on effect on the amount of loan that was available to complete the work.
- The Council has made efforts to resolve the issues Ms X has complained about and offered to pay for some work out of its own budget. In order to remedy the fault the Council should pay Ms X an amount that will allow her to have the work completed.
- I must also take account of the fact that the contractor is ultimately responsible for the quality and standard of work carried out even if this was not made clear to Ms X. Therefore I cannot hold the Council responsible for delays or advise the contractor may have given Ms X about the kitchen appliances.”

The LGO investigator had found maladministration and injustice against the Authority and had made five recommendations, as follows, that the Authority:

1. should pay Ms X £750. The investigator has assessed that this should be sufficient to cover the cost of the outstanding work in the kitchen. The Authority should pay this to Ms X and she should arrange for her own contractor to complete the work. This should be paid within two months of the final decision; and
2. should also take the following action to improve its processes, these changes should be completed within three months of the LGO final decision:
 - a. Consider the wording of documents sent to homeowners making it clear that the Authority is not acting as a clerk of works;
 - b. Remind staff that they must use correct paperwork when getting homeowners to approve payment for works;

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- c. Improve record keeping within the department to clearly record conversations with homeowners and contractors; and
- d. Ensure contractors provide a detailed breakdown of costs showing materials and labour charges.

The following actions had been taken in response to the LGO's recommendations:

1. The wording in letters to clients had been changed emphasising that the Authority did not act as a clerk of works;
2. Officers had been instructed to only use the appropriate form when seeking confirmation that works were completed. The contractors' invoice number was recorded on the form and the homeowners were required to sign the form to release payment;
3. Officers had been instructed to record all conversations with clients and contractors in the appropriate file; and
4. Contractors would be asked to provide a breakdown of the costs of materials and labour wherever possible.
5. A payment of £750 had been issued to Ms X to cover the outstanding works.

The Authority had tried to work with Ms X to resolve all of the issues regarding her complaint. Although the outcome of the LGO investigations was accepted, several opportunities had been provided to Ms X to resolve the complaint prior to referral to the LGO. In particular these included:

- The offer to carry out snagging and remedial works.
- A financial facility for Ms X to pay for new kitchen flooring using the loan contingency fund available.

Officers considered that throughout the course of the complaint they had tried to mediate in relation to disputes arising between Ms X and the contractors working on her home. In retrospect, doing so had raised expectation and clouded responsibilities, which had given rise to the issues detailed in the Ombudsman's findings.

Cabinet considered the following decision option: to note the findings of the report, its recommendations and agree the actions taken to address the LGO's recommendations.

Resolved that (1) the findings and recommendations of the Local Government Ombudsman (LGO), as described in the report and as set out in the LGO's report at Appendix 1, be noted; and
(2) the actions taken to comply with the recommendations of the LGO's report be noted and agreed.

(Reason for decision - Cabinet is required to consider the findings of the LGO within 3 months. The recommended option addresses the findings and provides a resolution to this complaint.)

CAB35/08/15 Exclusion Resolution

Resolved that under Section 100A (4) of the Local Government Act 1972 (as amended) and having applied a public interest test as defined in Part 3 of Schedule 12A of the Act, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act.

CAB36/08/15 Update on Recycling Contract and Procurement (All Wards)

Cabinet considered a report which provided an update on the current recycling market conditions and associated impact on invoices and debt accruing to the Authority, the current recycling contract provider and progress on the procurement of an alternative recycling contractor.

Cabinet considered the following decision option: to note the report.

Resolved that the update with regard to the current recycling market and contract as detailed in the report and the process to procure an alternative recycling contractor, be noted.

(Reason for decision – It is important that Cabinet are kept up to date on the recycling contract and procurement.)

CAB37/08//15 Date and Time of Next Meeting

6.00pm on Monday 14 September 2015.

Minutes published on Thursday 13 August 2015.

The decisions contained within these Minutes may be implemented (unless called in by 3 Non-Executive Members for consideration by the Overview, Scrutiny and Policy Development Committee) immediately following the expiry of the call-in period; i.e. 5.00pm on 20 August 2015.