

BRIGHTON & HOVE CITY COUNCIL

HEALTH & WELLBEING BOARD

10.00am 6 FEBRUARY 2020

THE RONUK HALL, PORTSLADE TOWN HALL - PORTSLADE TOWN HALL

MINUTES

Present : Councillors Moonan (Chair), Appich (Deputy Chair), Shanks (Opposition Spokesperson), Bagaeen (Group Spokesperson) and Nield

CCG Members: Malcolm Dennett, Ashley Scarff and Katie Jackson

Non-Voting Co-Optees: Rob Persey, (Statutory Director of Adult Social Care) and Dr Lester Coleman (Healthwatch)

PART ONE

51 DECLARATIONS OF SUBSTITUTES AND INTERESTS AND EXCLUSIONS

51(a) Apologies

51.1 Councillor Bagaeen sent his apologies. Apologies were also received from Dr Andrew Hodson, Chair of the CCG and Co-Deputy Chair of the Board; Lola Banjoko (CCG); Dr Jim Graham (CCG); Geoff Raw, Chief Executive (BHCC); Deb Austin, Acting Statutory Director, Children's Services (BHCC); Alistair Hill, Director of Public Health (BHCC); Graham Bartlett, Local Safeguarding Adults Board; Chris Robson; Local Safeguarding Children Board and David Liley; Healthwatch.

51(b) Declarations of Substitutes, Interests and Exclusions

52.2 Katie Jackson (CCG) was in attendance in substitution for Dr Andrew Hodson and Dr Lester Coleman was in attendance in substitution for David Liley of Healthwatch.

51(c) Exclusion of Press and Public

- 52.3 In accordance with Section 100A of the Local Government Act 1972 (“the Act”), the Health and Wellbeing Board considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.
- 52.4 The Chair, Councillor Moonan, referred to the additional information contained in the report at Item 56 on the agenda. This report had been circulated to solely to members and was exempt under category 3 of Section 100A of the Local Government Act 1972. If Board Members wished to discuss any of the information contained therein any press and public who were present would need to be excluded from the meeting. Consideration of those matters would then take place in closed session.
- 52.5 **RESOLVED** - That the public be not excluded from any item of business on the agenda, unless discussion is to take place in respect of information contained in Item 56 which was exempt under category 3, at which point any press and public who were present would be required to leave the meeting.
- 52.6 **Note:** Ultimately, all matters were discussed and determined whilst the press and public were present and it was unnecessary for them to be excluded from the meeting.

Webcasting

- 52.7 The Chair explained that on this occasion it had not been possible to webcast the meeting and would not therefore be available for future viewing.

52 CHAIR'S COMMUNICATIONS

Corona Virus Update

- 52.1 The Chair, Councillor Moonan explained that whilst there would not usually be any Chair's Communications for a special meeting of the Board she wanted to take the opportunity to confirm that Public Health England were taking the lead on this matter. The current risk remained low and the latest information which was updated at 2pm daily could be accessed at www.gov.uk/coronavirus.
- 52.2 **RESOLVED** - That the position be noted.

53 FORMAL PUBLIC INVOLVEMENT

53a Petitions

- 53.1 There were none.

53b Written Questions

- 53.2 There were none.

53c Deputations

53.3 There were none.

54 FORMAL MEMBER INVOLVEMENT**54a Petitions**

54.1 There were none.

54b Written Questions

54.2 There were none.

54c Letters

54.3 There were none.

55 COMMISSIONING OF SUPPORTED LIVING SERVICE FOR PEOPLE WITH COGNITIVE IMPAIRMENT (ACQUIRED BRAIN INJURY)

By reason of the special circumstances, and in accordance with section 100B(4)(b) of the 1972 Act, the Chair of the meeting has been consulted and is of the opinion that this item should be considered at the meeting as a matter of urgency for the following reason that a decision to award the contract was required.

Note: The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not to be considered unless the agenda is open to inspection at least five days in advance of the meeting) were that the end of the procurement exercise could not be completed prior to the deadline for publication of the agenda. The item's report was published in advance of the previous Health and Wellbeing Board meeting on 28 January 2020 and that meeting resolved to consider the item at a special meeting that date and time of which was to be confirmed.

55.1 The Board considered a report of the Executive Director of Health and Adult Social Care which provided an update on the procurement of a supported living service for adults with cognitive impairments in Brighton and Hove which recommended that an external provider be procured due to the specialist nature of the provision required. It was noted that a part two confidential report containing more detailed information in respect of the preferred bid and the directly provided service had been circulated to members of the Board separately.

55.2 The following Labour/Green Group amendment was put forward:

To add new recommendation 1.3 as shown below in ***bold italics*** proposed by Councillor Appich and seconded by Councillor Nield:

1.3 That the contract be reviewed at the end of its second year to help build capacity to develop a potential in-house model of delivery for such services in the

future and the review be reported to the Health and Wellbeing Board prior to any extension or re-tender.

- 55.3 The Chair, Councillor Moonan, stated that she had accepted the late amendment put forward as she was of the view that doing so would facilitate the Board's discussion and decision making in respect of this matter. This was important as it was necessary to make a timely decision and there were special circumstances why the report had not been available within the usual timeframe due to the complex procurement process.
- 55.4 Councillor Appich spoke in support of her amendment stating that whilst she understood the necessity to make a decision regarding provision of this service at the present time, she was also firmly of the view that the proposed amendment was necessary to enable that to be reviewed at an appropriate point in the future. To do so provided the capacity for the decision taken to be reviewed when it was timely to do so, particularly as it would enable potential capacity for an in-house model to be developed. Councillor Nield stated that she concurred in that view and therefore supported the amendment.
- 55.4 The Head of Commissioning, Andrew Witham and the Commissioning and Performance Manager, Anne Richardson-Locke, updated in respect of the process which had been undertaken and the rationale for the report recommendations. Following service of notice by the current service provider in July 2019 alternative arrangements had needed to be made for the 3 existing tenants who no longer had need of the accommodation and had provided the opportunity for these flats to be used to provide supported living options for adults with cognitive impairments. It had not been possible to find alternative accommodation for one resident who would continue to live there until an alternative support provider had been found. The Supported Living Service would provide 24 hour support to 4 people with cognitive impairments which included learning disabilities, autism and cognitive impairments due to brain injury or other neurological conditions. It was intended that the support services would be shared across all four flats.
- 55.5 Unfortunately, the report had come forward as a late item as the period between the end of the procurement exercise and the date of the nearest Board meeting had not allowed for the usual pre-Board timescales. It was necessary for a decision to be made in order to ensure that delays in starting the service were kept to a minimum as the service was needed urgently and there would be a financial cost to the Council of delays. The Commissioning and Performance Manager, Anne Richardson-Locke, explained that although there had been 8 expressions of interest, only 3 tenders had been submitted ultimately which indicated the complexity needs to be supported and the very small number of specialist providers who were able to provide that level of care. The timescales to be met were very tight and the tender process had been conducted in compliance with the provisions of the Public Contract Regulations 2015. There would be no saving if the Council provided support directly at this time and could result in a delay in service provision.
- 55.6 Councillor Shanks stated that she fully supported the amendment. Whilst recognising the need to make a decision in order to avoid any hiatus in service delivery to vulnerable individuals she was also concerned that the ability existed to revisit it. She was concerned that pay scales had not been specified although the preferred bidder had indicated that they would set attractive pay rates. In her view the fact that the Council was committed to paying the living wage could set it at a disadvantage and that it was

not therefore an entirely like for like comparison. Councillor Shanks asked whether an external provider could be compelled to pay the living wage as requirement of their acceptance of their bid and it was confirmed that could not be done. Over time if in-house capacity could be developed there could be cost savings and other advantages which were not currently apparent.

- 55.7 Councillor Nield was in agreement with Councillor Shanks stating that if the Council paid staff properly arguably it could never be competitive. It was also important to focus of what values you wished to apply and what you wanted to achieve, that needed to be factored in too.
- 55.8 Councillor Appich stated that she was disappointed that it had not been possible to let this contract in-house, at the present. She recognised the need for an urgent decision to be made which represented a good compromise for clients who were in desperate need reiterating however, that it was important to have the capacity to look at that afresh in the future.
- 55.9 There was no further discussion and in consequence, the Chair, Councillor Moonan, put the proposed amendment to the Board and on a vote of 4 with 3 abstentions it was accepted. The Chair then moved to a second vote which included the amendment in the substantive report recommendations. The substantive report recommendations were agreed on a vote of 4 with 3 abstentions.

NB: The Resolutions set out below incorporate the amended recommendations as agreed at the meeting and include a new recommendation 3 as shown below:

- 55.10 **RESOLVED** - (1) That Board agrees to award a three-year contract to the Service Provider that has been evaluated as providing the most economically advantageous tender;
- (2) To grant delegated authority to the Executive Director of Health and Adult Social Care (HASC) to extend the contract at the end of the three-year term for a further period or periods of up to two years in total subject to satisfactory performance and available budget; and
- (3) That the contract be reviewed at the end of its second year to help build capacity to develop a potential in-house model of delivery for such services in the future and the review to be reported to the Health and Wellbeing Board prior to any extension or re-tender.

56 COMMISSIONING OF SUPPORTED LIVING SERVICE FOR PEOPLE WITH COGNITIVE IMPAIRMENT (ACQUIRED BRAIN INJURY) - EXEMPT CATEGORY 3

- 56.1 The Board considered and determined the report recommendations without the need to go into closed session, discussion and determination took place whilst the press and public were present.

57 PART TWO PROCEEDINGS

57.1 The Board considered and determined the report recommendations without the need to go into closed session, discussion and determination took place whilst the press and public were present. Therefore, it was decided that none of the business of the meeting would remain exempt from disclosure to the press and public.

The meeting concluded at 10.30am

Signed

Chair

Dated this

day of