

Meeting of the Cabinet

Thursday 26th July, 2018 at 6.00pm
In Committee Room 2 at the Council House, Priory Road, Dudley

Agenda - Public Session

(Meeting open to the public and press)

1. Apologies for absence.
2. To report any changes in representation of opposition group members.
3. To receive any declarations of interest under the Members' Code of Conduct.
4. [To confirm and sign the minutes of the meeting held on 27th June, 2018 as a correct record.](#)
5. [Dudley Multi-Specialty Community Provider – Identification of a Preferred Bidder](#)
(Pages 1 – 6)
6. To report on any issues arising from Scrutiny Committees.

Distribution:

Members of the Cabinet:

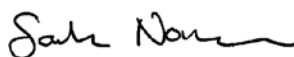
Councillor P Harley (Leader – Chair)

Councillor D Vickers (Deputy Leader – Vice-Chair)

Councillors N Barlow, R Buttery, S Clark, I Kettle, A Lees, S Phipps, K Shakespeare and L Taylor

Opposition Group Members nominated to attend meetings of the Cabinet:

All Shadow Cabinet Members are invited to attend Cabinet meetings (to speak but not vote)



Chief Executive

Dated: 18th July, 2018



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Minutes of the Meeting of the Cabinet
Wednesday 27th June, 2018 at 6.30 pm
In Committee Room 2 at The Council House, Dudley

Present:

Cabinet Members

Councillor P Harley (Leader – Chair)
Councillor D Vickers (Deputy Leader – Vice-Chair)
Councillors N Barlow, R Buttery, S Clark, I Kettle, A Lees, S Phipps, K Shakespeare and L Taylor

Opposition Group Members Nominated to attend the Cabinet

Councillors P Lowe, C Bayton, K Casey, J Martin and Q Zada

Officers

A Lunt – Deputy Chief Executive (Strategic Director Place), M Samuels (Strategic Director People), I Newman – Chief Officer Finance and Legal Services, M Williams (Chief Officer Environmental Services), D Harkins (Chief Officer Health and Wellbeing), M Farooq (Lead for Law and Governance), N Powell (Head of Environmental Health and Trading Standards), P Mountford – Head of Planning and Regeneration, S Cooper (Head of Corporate Landlord Services) and M Johal – Senior Democratic Services Officer

1 Declarations of Interest

No Member made a declaration of interest in accordance with the Members' Code of Conduct in respect of any matter to be considered at this meeting.

2 Minutes

Resolved

That the minutes of the meeting of the Cabinet held on 21st March, 2018, be approved as a correct record and signed.

3 Capital Programme Monitoring

A joint report of the Chief Executive and Chief Officer Finance and Legal Services was submitted on progress with the implementation of the Capital Programme, including the 2017/18 outturn position and on a number of proposed amendments.

Reference was made to the Healthy Schools Capital Fund Allocation and given this was new income generated by the sugar tax levy it was queried why the money was to be allocated to remedy existing priorities. Further detailed information to include which schools and the types of schools that would benefit from the funding was requested. The Strategic Director People undertook to respond in writing.

Resolved

That the Council be recommended:-

- (1) That the outturn position for 2017/18, as set out in paragraph 3 and Appendix A, be noted;
- (2) That current progress with the most significant capital schemes, as set out in Appendix B, be noted.
- (3) That the Strategic Director Place be authorised to submit bids to Heritage Lottery Fund (HLF) in respect of the Sedgley Beacon improvements, and subject to full funding being secured, the project be approved and included in the Capital Programme, as set out in paragraph 6 of the report;
- (4) That the Capital Programme be amended to reflect the updated estimated cost of the Lister Road Depot redevelopment, as set out in paragraph 7 of the report;
- (5) That the Highways Incentive Fund 2018/19 allocation be noted and the associated expenditure be included in the Capital Programme; and that expenditure which can be funded from future allocations of this nature also be included in the Capital Programme in due course, as set out in paragraph 8 of the report;
- (6) That the project to extend the Corbyn Road building be approved and included in the Capital Programme, as set out in paragraph 9 of the report;
- (7) That the One Public Estate capital budget be increased by £40,000, as set out in paragraph 10 of the report;
- (8) That the Schools Condition allocation 2018/19 of £2,511,000 be noted and the associated expenditure included in the Capital Programme, as set out in paragraph 11 of the report.
- (9) That the Healthy Schools Capital Fund allocation 2018/19 of £226,000 be noted and the associated expenditure included in the Capital Programme, as set out in paragraph 12 of the report;
- (10) That the expenditure of £190,000 on Library Self Service Kiosks be approved and included in the Capital Programme, as set out in paragraph 13 of the report.

- (11) That the urgent amendments to the Capital Programme, as set out in paragraph 14 and 15 of the report, be noted.
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4 **Revenue Outturn 2017/18 and Medium Term Financial Strategy**

A report of the Chief Executive and Chief Officer Finance and Legal Services was submitted on the provisional revenue outturn position for 2017/18.

Arising from some debate it was agreed that the Strategic Director and Group Leaders would meet to discuss concerns raised about the reduction in spending on adult social care together with potential Multi-Specialty Community Provider and Sustainability Transformation Plan funding issues.

Resolved

- (1) That the draft General Fund and Housing Revenue Account outturns for 2017/18, be noted;
 - (2) That the effect of the General Fund outturn on General Balances at 31st March, 2018, be noted;
 - (3) That the position on General Fund earmarked reserves at 31st March 2018, be noted.
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5 **Black Country Core Strategy Review Update**

A report of the Strategic Director Place was submitted providing an analysis and initial response to representations made during the Issues and Options consultation for the Black Country Core Strategy and to seek approval to move on to the next stages of plan production including the commissioning of any necessary evidence in conjunction with neighbouring Black Country Authorities.

Resolved

- (1) That the report highlighting the matters raised during the Public Consultation on the Issues and Options report for the Core Strategy Review, be noted.
- (2) That the Core Strategy process requires Council's to ensure that all possible opportunities to meet the objectively assessed need for new housing and employment land within the existing urban area are fully utilised in order to protect Green Belt, be noted.
- (3) That progress by officers onto the next stage in the production of the Black Country Core Strategy including the commissioning of any evidence to support the development of the Strategy in conjunction with neighbouring Black Country Authorities, be confirmed.

6 **Tree Strategy**

The Cabinet considered a report of the Strategic Director Place on the Council's Tree Management Strategy in respect of nuisance trees and the options available for taking account of local need.

Resolved

- (1) That the contents of the report regarding management of the Council's trees, be noted;
- (2) That a refresh of the Council's Tree Strategy, be supported;
- (3) That the principles of the tree risk management approach currently in place for consideration of works on Council trees, be noted;
- (4) That feasibility work currently taking place with Housing to seek to further enhance tree works on Council Housing land, be supported;
- (5) That better use of educational and tree works information to Community Forums, be supported.
- (6) That the use of the Tree Decision Sheet process for Nuisance Trees and the promotion of the Public Pays Policy, where appropriate, be confirmed.

7 **Corporate Energy Strategy 2018-2021**

A report of the Strategic Director Place was submitted on the draft Corporate Energy Strategy.

Resolved

- (1) That the contents of the report be noted.
- (2) That the Corporate Energy Strategy be endorsed for onward communication and implementation.

8 **Stourbridge Business Improvement District (BID)**

A joint report of the Strategic Director Place and the Chief Officer Finance and Legal Services was submitted on the Stourbridge Business Improvement District (BID) proposal and timeline.

Resolved

That the Stourbridge Business Improvement District proposal and timeline, be approved.

9 **Food and Feed Service Plan 2018/19**

A report of the Strategic Director People was submitted on the Food and Feed Service Plan 2018/19.

Resolved

That the Food and Feed Service Plan 2018/19 be endorsed and referred to Council for approval.

10 **Children's Services Ofsted Update**

A report of the Strategic Director People was submitted on the actions and progress made to date with regard to the Children's Services Improvement Programme, setting out the next steps in terms of preparation for the full Ofsted inspection expected in October 2015.

Reference was made to national challenges faced in the recruitment and retention of social work staff and it was queried what benefits Dudley offered over and above other Local Authorities to attract and retain staff. The Strategic Director People undertook to respond in writing.

Resolved

- (1) That the contents of the report be endorsed.
 - (2) That the Children's Services Improvement Programme be supported.
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11 **Appointment of Council Representatives to Other Bodies**

A report of the Lead for Law and Governance was submitted on the appointment of Council representatives to other bodies.

Resolved

That the appointment of Council representatives to other bodies be noted.

12 **West Midlands Combined Authority – The Second Devolution Deal and Action Plan**

The Cabinet considered a report of the Chief Executive on the Second Devolution Deal between the West Midlands Combined Authority (WMCA) and the Government. The report outlines the proposed approach to the implementation of the Deal and further devolution discussions with Government together with details on the proposed Devolution Action plan and “phase three” of devolution and information on the ways in which the WMCA intends to build on the commitments made in the Devolution Deal.

The Leader undertook to ensure a full briefing note was provided to the Opposition Group Leader to include details on Dudley being one of the first pilots.

Resolved

- (1) To approve the second Devolution Deal agreement and the proposed approach to implementation, as set out in Appendix 1 of the report submitted;
- (2) To approve the high level Action Plan and further work with the Government on devolution with the coverage and portfolio leadership, as set out in Appendix 2 of the report submitted.

The meeting ended at 7.25 p.m.

LEADER OF THE COUNCIL

Meeting of the Cabinet – 26th July 2018

Report of the Strategic Director People

Dudley Multi Specialty Community Provider – Identification of a Preferred Bidder

Purpose

1. To provide Cabinet with an update on the procurement of a Multi-Specialty Community Provider (MCP) to deliver health and wellbeing outcomes for the population of Dudley
2. To consider the evaluation of the bid submitted in response to the joint Clinical Commissioning Group and Council proposal to commission and enter into a contract for the provision of integrated health and care services to be delivered by a Multi-Specialty Community Provider (MCP) through the proposed National Health Service (NHS) Accountable Care Organisation (ACO) contract.
3. To identify further issues to be addressed prior to entering into the ACO contract with the MCP Provider, should both the CCG and the Council approve the appointment of a preferred bidder subject to the conditions set out in this report

Recommendations

4. It is recommended that;
 - Cabinet note the procurement process that has been undertaken
 - Council enter into a Section 75 Agreement between the Council and Dudley CCG, for the co-commissioning of the MCP which will be overseen by an Integrated Commissioning Board
 - Cabinet to decide whether to identify a preferred bidder for the provision of integrated health and care services, subject to:
 - Approval by the CCG Governing Body of a preferred bidder
 - Specific conditions identified through the evaluation process
 - Successful completion of the NHS Integrated Support and Assurance Process (ISAP)
 - Successful outcome of the Council's Scrutiny process
 - The availability of a suitable contracting mechanism and required derogations

Background

5. The 'multi-specialty community provider' (MCP) is intended to integrate primary care, community health services, mental health and some public health services into a single organisation led by primary care on a 10 year contract ("the ACO contract") with the option to extend to a total of 15 years. The MCP will be able to

operate under a new outcomes based contractual framework, which does not apply to other NHS providers, which are generally paid for units of activity, rather than for the difference they make to people's health and wellbeing.

6. The key features of the MCP are:

- Primary care will be at the heart of the model of care and will lead its development
- The MCP will be contracted to achieve population health outcomes through a new ACO contract which allows an alternative to payment of standard NHS tariff, which pays for activity rather than outcome
- The MCP will be incentivised to prevent avoidable admissions to hospital and deliver preventative approaches
- The MCP will have a 10-15 year ACO contract in order to encourage investment in 'upstream' interventions designed to support prevention and demand management
- The Council will jointly commission the MCP through a Section 75 agreement with the CCG

Dudley Council Services in the Scope of the MCP

7. At its meeting in September 2016, Cabinet approved the inclusion in the MCP scope of a number of commissioned public health services to an annual value of £12 million. These services are:

- Adult Substance Misuse Service and inpatient Detox Beds
- Health Visiting and Family Nurse Partnership Services
- School Nursing service
- Integrated Adult Wellness Service – Let's Get Healthy
- Young People's Wellness Services (Brook and Switch)
- NHS Health Checks
- Sexual Health and contraception services
- Emotional Health and Wellbeing Services

8. It was also decided at this time that Adult Social Care (ASC) would not be included in the initial MCP scope, however elements of ASC may be identified for inclusion and phased in over the contract period. Children's Social Care is not within the scope of the MCP.

9. Cabinet agreed that before any additional commissioned services are transferred into the MCP, the following tests must be met:

- i) Can the service be transferred at decreased cost to the Council?
- ii) Can the services be transferred within both the existing regulatory and statutory requirements (without unnecessary increase in regulation of adult social care, undermining the diversity of the local adult social care market)?
- iii) Has modelling been undertaken to clearly describe improved outcomes for the people of Dudley?
- iv) Are services anticipated to be able to adapt to taper or decreasing resources throughout the contract period?
- v) Will the transfer avoid any decrease income to the Council or increase in costs in the form of either VAT and/or client contributions?

10. The Council will need to apply these tests to adult social care services at regular intervals throughout the duration of the contract, to assess whether these should be phased into the scope of the MCP.
11. The procurement process has been led by Dudley CCG and governed by a Project Board consisting of CCG and Council representatives and supported by appropriate staff and external advisers.

Benefits of involvement in the MCP

12. Council involvement in the MCP provides a number of opportunities for the people of Dudley and for the Council. These include:
 - The ACO contract incentivises care to be provided in general practice and the community, thereby enabling services responsive to the different needs of local communities
 - The public health services in scope for the MCP deliver return on investment which impacts on the NHS first, and therefore their integration into an organisation that is incentivised to achieve prevention has the potential to increase their effectiveness
 - The integrated approach of the MCP will enable partners to deliver new approaches to challenging issues such as frailty and social isolation
 - The transfer of some public health commissioned services into the MCP will allow the Council to retain the public health programmes with synergies to other council services, giving us the capacity to focus on determinants of health and wellbeing
 - The service specification for the MCP includes a prevention framework, which ensures that prevention is embedded in all pathways and requires that front line staff make every contact count and connect patients to local community assets. The MCP provider will also be expected to implement healthy working practices
 - The MCP is also required to contribute to improving Dudley as a place, supporting the local economy and the social and physical environment
 - Increase local democratic accountability of the local NHS services, through elected members being involved in the governance of the co-commissioning of the MCP

Update on the procurement of the MCP

13. Dudley CCG ("The CCG") has led a procurement process using a dialogue approach, overseen by a Procurement Board with representation from senior officers of the Council. Council officers have contributed to the development of a service specification and the invitation to tender documents.
14. In the commissioning of the MCP, the CCG is subject to a rigorous approval process by NHS regulators called the Integrated Support and Assurance Process (ISAP). The first stages of this process were completed in November 2016. Further stages include Checkpoint 2, which will assess whether the procurement has been conducted properly, and Checkpoint 3, which will assess whether the contract is ready to commence.

15. Prior to the publication of the contract notice, a market engagement event took place in January 2017, involving 69 interested potential prime providers and potential subcontractors. This was followed by a period during which potential bidders had the opportunity to engage with primary care. The contract notice was published on 9th June 2017, with potential bidders invited to complete a pre-qualification questionnaire (PQQ).
16. A single bidder, which was a consortium of local GPs, Birmingham Healthcare NHS Foundation Trust, Dudley Group of Hospitals NHS Foundation Trust, Dudley and Walsall Mental Health Partnership NHS Trust and Black Country Partnership NHS Foundation Trust, was invited to dialogue and the dialogue process began in September 2017. Dialogue took place until end of March 2018 and the bidder was invited to submit its final tender.
17. The NHS nationally requires that the MCP provider be a single purpose vehicle, whose only purpose is the provision of MCP services. As the bidder is currently a partnership of organisations, a new organisation will need to be established to hold the ACO contract. The current intention is that Dudley Group of Hospitals NHS Foundation Trust will split, creating two new NHS Foundation Trusts, one of which will provide acute hospital based services and the other of which will provide and sub contract services in scope of the MCP.
18. The governance of the co-commissioning of the MCP will be provided through a Section 75 agreement between the Council and the CCG, which will be overseen by an Integrated Commissioning Board.

The Evaluation of the bid

19. The evaluation of the bid began on 9th May 2018 and continued until 25th May 2018. A range of Council Officers from Public Health, Adult Social Care, Commissioning, Finance, ICT and Human Resources participated in the evaluation process, with external expert advisers.
20. The submitted bid obtained the support of 40 of Dudley's 45 practices, indicating through a letter of intent, their willingness to enter into an Integration Agreement with the MCP. This represents a population coverage of 294,745 patients registered with a Dudley GP, or 92.4% of the total population registered with a Dudley General Practitioner.
21. Cabinet and Shadow Cabinet have been briefed on the detail of the evaluation.

Conditions

22. Having considered the evaluation report, should the CCG Governing Body and the Cabinet decide to identify a preferred bidder, there are a number of issues to be resolved prior to contract signature. These are identified below.

23. Actions to be undertaken by the bidder
- Appointment of a Chair of the new MCP organisation
 - All requirements for ISAP Checkpoint 2
 - Production of a consolidated financial strategy
 - Production of a Foundation Trust Constitution for agreement with commissioners
 - Provision of assurance for commissioners in relation to issues arising from the bid evaluation
 - Quantification of the costs of the split of the Foundation Trust into two
 - Agreement of the form of sub-contracts to be entered into with material sub-contractors for commissioners approval
24. Actions to be undertaken by the CCG
- All requirements for ISAP Checkpoint 2
25. Actions to be undertaken by the CCG and Council
- Scrutiny undertaken by Health and Adult Social Care Scrutiny Committee
 - Approval of Commissioner Requested Services
 - Approval of the form of sub-contracts to be entered into with material sub-contractors
26. Actions to be undertaken jointly by the bidder, CCG and Council
- Agreed system wide financial model, including assessment/plan for stranded costs and any gain/loss share
 - Appropriate due diligence to meet ISAP requirements
 - Combined risk analysis and register supported by external advice
 - Populated contract

Next steps

27. As well as regular progress reports from the Project Board which will address outstanding issues, Cabinet will receive reports on:
- The outcome of scrutiny undertaken by the Health and Adult Social Care Scrutiny Committee
 - The constitution of the MCP Foundation Trust – particularly in relation to public involvement mechanisms
 - Commissioner Requested Services
 - Final Contract/sub-contract form

Finance

28. The Council has agreed that just under £12 million of public health services are included in the scope of the MCP. The Public Health Grant that the Council receives from the Government is reduced by 2% each year and this proportion reduction will be passed to the MCP. Detailed financial projections were produced for the invitation to tender documents in early 2017, which will require updating.

Subject to the identification of a preferred bidder, these projections will be reviewed by the CCG, the Council and the bidder in the mobilisation phase.

29. To safeguard the Council's financial position it has been agreed that:

- The Better Care Fund payments to the Council continue to be paid directly from the CCG, rather than via the MCP
- The Council's liability in the case of any challenge to the procurement process is limited to 4% of the total value and this is reflected in the Section 75 agreement
- The new organisation which provides MCP services will be set up to be VAT efficient to avoid irrecoverable VAT costs.

Law

30. The procurement has been conducted under the Public Contract Regulations 2015 and the NHS (Procurement, Patient Choice, and Competition No.2) Regulations 2013. The Section 75 Agreement will be made under the provisions of the NHS Act 2006. The separation of Dudley Group NHS Foundation Trust will be made under the provisions of Section 56B of the NHS Act 2006
31. Specialist legal advice has been obtained throughout this Project and has been set out in detail to Corporate Board on two occasions and discussed with Cabinet and Shadow Cabinet members.
32. An essential recommendation of that advice is to ensure that the Section 75 agreement is completed before the approval of any preferred bidder may be given.

Equality Impact

33. The MCP evaluation process includes assessment of the bidder's plans to ensure that services provided and subcontracted contribute to equality and diversity and reduce health inequalities.

Human Resources/Transformation

34. Dudley Council HR staff have participated in the evaluation of the MCP bid
35. Due diligence includes assessment of the current contract provisions where the Council is the commissioner of the services in relation to TUPE. Whether TUPE is applicable is a matter of law and there is a need to ensure that notice periods and provisions take account of any potential TUPE liabilities.



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Martin Samuels - Strategic Director People

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Background Documents

None