

**EXECUTIVE
 6 MARCH 2018**

PRESENT: COUNCILLOR M J HILL OBE (LEADER OF THE COUNCIL)

Councillors Mrs P A Bradwell (Executive Councillor for Adult Care, Health and Children's Services) (Deputy Leader), C J Davie (Executive Councillor for Economy and Place), R G Davies (Executive Councillor for Highways, Transport and IT), E J Poll (Executive Councillor for Commercial and Environmental Management), Mrs S Woolley (Executive Councillor for NHS Liaison and Community Engagement) and B Young (Executive Councillor for Community Safety and People Management).

Councillors L A Cawrey (Executive Support Councillor for Culture and Emergency Services) and R B Parker (Chairman of the Overview and Scrutiny Management Board) were also in attendance.

Officers in attendance:-

Debbie Barnes (Executive Director, Children's Services), David Coleman (Chief Legal Officer), Glen Garrod (Executive Director of Adult Care and Community Wellbeing), Cheryl Hall (Democratic Services Officer), Kevin Kendall (County Property Officer), Pete Moore (Executive Director, Finance and Public Protection), Jasmine Sodhi (Performance and Equalities Manager), Nigel West (Head of Democratic Services and Statutory Scrutiny Officer) and Richard Wills (Head of Paid Service and Executive Director, Environment and Economy).

58 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor C N Worth (Executive Councillor for Culture and Emergency Services).

59 DECLARATIONS OF COUNCILLORS' INTERESTS

There were no declarations of interest at this point in the meeting.

60 ANNOUNCEMENTS BY THE LEADER, EXECUTIVE COUNCILLORS AND EXECUTIVE DIRECTORS

There were no announcements by the Leader, Executive Councillors or Executive Directors.

61 A FAIR DEAL FOR LINCOLNSHIRE

The Fair Funding Review for Local Government consultation document had been launched on 21 December 2017, with the consultation running until 12 March 2018. It was reported that the Council was currently in the process of drafting a response to

the consultation, bearing in mind the responses of the County Council Network and the Lincolnshire district councils.

There would be two further consultations issued by Government focusing on resources and transitional arrangements. It was still anticipated that the implementation of any potential changes to the funding formula would be from April 2020.

Future financial uncertainties and challenges were discussed, where it was highlighted that the future of the Better Care Fund (BCF) beyond 2019/20 was yet to be determined by the Government. It was highlighted that this was a cause for concern, as the current value of the BCF in Lincolnshire was circa £32m.

62 MINUTES OF THE MEETING OF THE EXECUTIVE HELD ON
6 FEBRUARY 2018

RESOLVED

That the minutes of the meeting of the Executive held on 6 February 2018 be signed by the Chairman as a correct record.

63 ESTABLISHMENT OF A HOLDING COMPANY

Consideration was given to a report from Pete Moore (Executive Director of Finance and Public Protection), which proposed that the County Council established a Holding Company limited by shares, and 100% owned by the County Council.

The County Property Officer presented the report and in doing so advised that the establishment of a Holding Company by the Council would create a flexible framework for the establishment of subsidiary companies to enable the Council to create a set of different companies depending on the need and purpose, which would support the Council in taking up opportunities to act more commercially.

It was proposed that a business case was developed for the first subsidiary company to be established to deliver specialist housing for alleviating budgetary pressures in respect of the provision of adult care.

It was advised that there was a requirement to name the Holding Company and the following names were currently available at Companies House:

- (a) Lincolnshire Grow Limited;
- (b) The New Lincolnshire Company;
- (c) Lincolnshire Future Limited; and
- (d) Lincolnshire First Limited.

The Chairman of the Overview and Scrutiny Management Board advised that the meeting of the Board scheduled for 1 March 2018 had been cancelled, owing to adverse weather conditions. However, members of the Board had been contacted

for their comments on the Executive's report on the *Establishment of a Holding Company*.

It was noted that a member had sought clarity on what the Holding Company would be used for; more detail had been requested on the reporting mechanisms within the County Council for the Holding Company; caution had been expressed on the potential financial risks to the Council if the Holding Company was to 'overstep its bounds'; and *Dynamic Lincolnshire* was suggested as another possible name for the Holding Company.

Members were provided with an opportunity to ask questions, where the following points were noted: -

- The establishment of any subsidiary companies would be approved by the Executive. Regular performance reports would be presented to the Overview and Scrutiny Management Board and the Executive. It was requested that reporting was undertaken on a quarterly basis;
- The benefit of establishing a Holding Company was that there would be a consistency in governance across all the companies, which would be established through the adoption of the Holding Company's Articles of Association and a common Shareholders' Agreement in most instances. This would streamline the establishment of future companies;
- It was confirmed that the Council's Teckal company (Transport Connect Ltd) could be transferred under the management of the Holding Company. However, this would result in the ownership of Transport Connect Ltd being transferred from the Council to the Holding Company. It was suggested that this could be explored further at a later date.

NOTE: At this stage in the proceedings, Richard Wills (Head of Paid Service) declared an interest as the Chairman of the County Council's Teckal company, Transport Connect Ltd.

- Future subsidiary companies of the Holding Company would be controlled by the Holding Company, which would in turn be controlled by the Council. As a result, the Council need only exercise its powers as a member in relation to the Holding Company, thereby reducing the bureaucracy that would be involved in directly managing a number of separate companies;
- The benefits of establishing a Holding Company were recognised and the formation of a business case for the delivery of specialist housing for alleviating budgetary pressures in respect of the provision of adult care was supported.

RESOLVED

- (1) That the establishment of a Holding Company limited by shares and 100% owned by the County Council be approved.
- (2) That the Holding Company be named *Lincolnshire Future Limited*.

- (3) That the Executive Director for Finance and Public Protection, in consultation with the Leader of the Council and Executive Councillor for Resources and Communications, be delegated authority to complete all legal matters to enable the company to be established, including approval of the final form of all necessary legal documentation and the appointment of Directors and the Council's member representative.
- (4) That approval be given to the development of a detailed business case to establish the first company beneath the Holding Company for the development of specialist housing in Lincolnshire to support adult care.

64 REPORT BY THE LOCAL GOVERNMENT AND SOCIAL CARE
OMBUDSMAN

A report from Glen Garrod (Executive Director for Adult Care and Community Wellbeing) and Richard Wills (Monitoring Officer) was considered, which presented the Report and outcome of an investigation by the Local Government and Social Care Ombudsman into allegations of maladministration and invited the Executive to receive the Ombudsman's Report on behalf of the Council and consider the recommendations of the Ombudsman and the actions taken and proposed to be taken by the Council under the Local Government Act 1974.

In addition, the Executive's report fulfilled the Monitoring Officer's statutory responsibility under section 5A of the Local Government and Housing Act 1989 to report to the full Executive instances of maladministration in the exercise of executive functions identified as a result of an Ombudsman's investigation.

It was advised that the Ombudsman had issued the Report, as attached at Appendix A to the report, following an allegation of maladministration on the part of the Council in the exercise of its adult social care function. The Ombudsman had concluded that the Council had been guilty of maladministration and that this had caused injustice to the complainant. The Ombudsman had issued a public report, which included recommendations that he considered would be necessary to remedy the injustice in this particular case and more widely. Page 60 of the Agenda pack detailed the Ombudsman's recommendations and the actions that the Council had either taken or proposed to take in addressing those recommendations.

It was noted that the Adults and Community Wellbeing Scrutiny Committee had considered a report on *Report by the Local Government and Social Care Ombudsman* at its meeting on 14 February 2018 and agreed to support the six recommendations to the Executive. The Committee had also requested that it should consider the full review of the legal, financial and operational implications of the recommendations in paragraph 60 of the Local Government and Social Care Ombudsman's Report.

The circumstances surrounding the complaint were discussed by the Executive and how the implementation of Mosaic had made improvements to the recording of information. The Executive was assured that the standard of care provided was not under question.

RESOLVED

- (1) That the Executive report and the Report of the Ombudsman, as detailed at Appendix A, be received.
- (2) That the actions already taken to address the concerns set out in the Ombudsman's Report, as set out in the Executive report, be affirmed and noted.
- (3) That the recommendations of the Ombudsman, as detailed at paragraph 59 of the Ombudsman's Report be accepted as set out in paragraph 1.38 of the Executive report.
- (4) That approval be given to the carrying out of a full review of the legal, financial and operational implications of the recommendations, as detailed at paragraph 60 of the Ombudsman's Report, with a view to a decision being taken on the Council's future approach to payment arrangements for residential care prior to the expiry of the 6 month period specified by the Ombudsman.
- (5) That the Executive Councillor for Adult Care, Health and Children's Services be delegated authority to the taking of the final decision in respect of the recommendations in paragraph 60 of the Ombudsman's Report.

65 COUNCIL BUSINESS PLAN 2017 - 2018 PERFORMANCE REPORT, QUARTER THREE

Consideration was given to a report from Pete Moore (Executive Director of Finance and Public Protection), which presented an overview of performance for quarter three (Q3) against the Council Business Plan. A summary of the measures that did not achieve the target in Q3 was detailed at Appendix A to the report.

The Performance and Equalities Manager advised that of the 14 commissioning strategies reported in Q3: nine had performed really well (all measures reported in Q3 had achieved the target); two had performed well (all measures except one reported in Q3 had achieved the target); and three had mixed performance (some measures had achieved and some measures did not achieve the target in Q3).

It was noted that performance overall had improved for *Carers* and *Readiness for Adult Life* commissioning strategies compared with Q2. Both had reported mixed performance in Q2. The performance indicator for *Carers* was now performing well and *Readiness for Adult Life* was performing very well.

The Chairman of the Overview and Scrutiny Management Board reiterated that the meeting of the Board scheduled for 1 March 2018 had been cancelled, owing to adverse weather conditions. However, Members of the Board had been contacted for their comments on the Executive report on the *Council Business Plan 2017 – 2018 Performance Report, Quarter Three*.

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It was recognised that it was not appropriate to compare certain measures with a target, for example the measures on: *Anti-social behaviour incidents reported to the police*; *Repeat referrals of domestic abuse to MARAC (Multi-Agency Risk Assessment Conference)*; and *People killed or seriously injured in road traffic incidents*.

It was also commented that there were some measures outside the direct responsibility of the County Council and therefore difficult to make improvements in performance, for example the measures on: *Alcohol related antisocial behaviour incidents*; and *Juvenile first time reoffenders*.

In response, it was highlighted that although the Council did not have direct responsibility for the above mentioned targets, it did work in collaboration with its partners and could influence positive change through strong partnership working.

The Chairman of the Board also suggested that recycling rates could be further influenced through greater advertisement to encourage the uptake of recycling across the county.

In response, the Executive Councillor for Commercial and Environmental Management provided an update on how the Lincolnshire Waste Partnership proposed to make kerbside collections more efficient, particularly through the introduction of the food waste pilot scheme within the district of South Kesteven, which should reduce the level of contaminated recycling.

RESOLVED

- (1) That the Quarter 3 performance 2017/2018 be noted.
- (2) That the proposed changes to reporting, as set out in the report, be approved.

The meeting closed at 11.35 am.