

SCRUTINY COMMITTEE

Minutes of the Meeting held on 26 October 2017 at 3.30 pm

Present:

Councillor P H MurphyChairman

Councillor R LillisVice-Chairman

Councillor I Aldridge
Councillor G S Dowding
Councillor J Parbrook

Councillor P Pilkington
Councillor R Woods

Members in Attendance:

Councillor M Chilcott
Councillor A Hadley

Councillor M Dewdney
Councillor A Trollope-Bellew

Officers in Attendance:

Assistant Director for Planning and Environment (T Burton)
Area Planning Manager (B Kitching)
Revenues and Benefits Service Manager (H Tiso)
Democratic Services Officer - Scrutiny (M Prouse)
Democratic Services Officer (C Rendell)

Others:

Head of Operations, East Division, South Western Ambulance Service NHS Foundation Trust (J Dyer)

SC 23 Apologies for Absence

Apologies were received from Councillors R Clifford, B Maitland-Walker and N Thwaites.
Councillor R Lillis substituted for Councillor B Maitland-Walker.

SC 24 Minutes

(Minutes of the Meeting of the Scrutiny Committee held on 3 August 2017 – circulated with the Agenda.)

RESOLVED that the Minutes of the Scrutiny Committee held on 3 August 2017, be confirmed as a correct record.

SC 25 Declarations of Interest

Members present at the meeting declared the following personal interests in their capacity as a Member of a County, Parish or Town Council:-

WEST SOMERSET COUNCIL
Scrutiny Committee 26.10.17

Name	Minute No.	Description of Interest	Personal or Prejudicial or Disclosable Pecuniary	Action Taken
Cllr I Aldridge	All items	Williton	Personal	Spoke and voted
Cllr P Murphy	All items	Watchet	Personal	Spoke and voted
Cllr J Parbrook	All items	Minehead	Personal	Spoke and voted
Cllr P Pilkington	All items	Timberscombe	Personal	Spoke and voted
Cllr A Trollope-Bellew	All items	Crowcombe	Personal	Spoke
Cllr M Chilcott	All items	SCC	Personal	Spoke

Councillor Aldridge further declared a personal interest as an Elected Governor on the Health Trust Board.

SC 26 Public Participation

Dr T Bridgeman, spoke on Agenda Item 9. She had requested that the item was raised at Scrutiny and was very pleased to see it on the agenda. It was a subject she had raised at a previous Planning Committee, but it was a subject that went beyond the remit of the Planning Department. She had requested that it came to Scrutiny because Members had a responsibility to oversee all departments of the Council. Two concerns that she had was how could Members of Planning make their conditions effective and how could Building Control pay due attention to the planning conditions. Members of the Planning Committee were aware that her request came about from a blatant disregard to planning permission, which exposed the weakness in a strong planning condition and exposed the silo operation between Planning and Building Control, which in this outcome had led to a dangerous breach to building regulations because the inspectors had not checked the correct usage of the building that had been granted by Planning. There was no oversight mechanism in place to prevent this from happening. This was a very useful report and it was helpful to investigate a better fit between intentions and outcomes, also the relationship between Planning and Building Control. She requested officers sought to improve the process and that Members had a responsibility to regulate and monitor the enforcement service.

Mr. P Gannon, spoke on Agenda Item 9. Adherence to planning policy and discretionary enforcement procedures alone did not ensure a sound or wholly built environment. Planning applications and conditions did not enforce what was ultimately built or the future use of the building. Whilst conditions were important in some cases, too many conditions meant that it was a poorly designed concept or processed application. Previously this had meant that there were conditions that contradicted each other and led to non-compliance. In other Authorities, the Planning, Building Control, Environmental Health and the Fire departments worked closely together to ensure compliance and shared knowledge. Recently the divide between Planning and Building Control had widened. Whilst there was a duty for all to comply, this was not always the case. There was no duty for Building Control to carry out enforcement work. This function laid solely with the local Planning Authority and any breaches should be referred to them. A simple mechanism should be put in place to ensure that the Council discharged its duty in a coordinated manner and avoided necessary enforcement and costs.

SC 27 Cabinet Key Decisions and Actions

(Copy of the Cabinet Key Decisions from the meeting held on 6 September 2017, circulated at the meeting)

RESOLVED that the Cabinet Key Decisions from the meeting held on 6 September 2017, be noted.

SC 28 **Cabinet Forward Plan**

(Copy of the Cabinet Forward Plan published 28 September 2017, circulated at the meeting)

RESOLVED that the Cabinet Forward Plan published on 28 September 2017, be noted.

SC 29 **Chairman's Announcements**

The Chairman raised three items. These were:-

- Tabled at the meeting was an email response from Gill Downy, the Patient, Public and Care Involvement Manager from the Somerset Clinical Commissioning Group (SCCG), which was a response to an invitation to attend the Committee meeting with regards to the closure of some health forums. This was commended to the Health Task and Finish Group.
- The reports from the Scrutiny for Policies, Adults and Health Committee held at Somerset County Council (SCC) on 11 October 2017 were highlighted to Members. This report was also commended to the Health Task and Finish Group, especially the sections on the NHS 111 calls and doctors out of hours service, which were mentioned in the results of the inspection carried out by the Care Quality Commission (CQC).
- An update was given on the Somerset Rivers Authority (SRA) Scrutiny meeting held on 8 August 2017. This was the second time the Committee had met and they discussed options for their constitution, how often their officers stayed in post and whether it needed an independent Chair. The SRA End of Year report for 2016-2017 was also discussed at the Committee.

SC 30 **Health and Wellbeing in West Somerset**

The Head of Operations, East Division, South Western Ambulance Service NHS Foundation Trust, John Dyer, attended the meeting and gave a presentation to the Committee on the current position of the Ambulance Service.

The Ambulance Service was carrying out a clinically led fundamental review of the way the Ambulance Service responded to 999 calls, this was the Ambulance Response Programme (ARP). This aimed to:-

- Improve the quality of care (effectiveness, safety, experience) for patients, their relatives and carers;
- Focus on the clinical need to maintain a very rapid response to the most seriously ill patients;
- Reduce operational inefficiencies; and

- Reduce overall clinical risk in the ambulance system.
- The rationale was 'getting the right resource to the patient, first time, every time and within time'.

The drivers for change were:-

- Growth in demand for Ambulance Services;
- Calls for the modernization of the service
- Existing targets recognised it was not fit for purpose and was not driving the appropriate operational behaviours;
- Recognition that 60 seconds to triage a call was not enough;
- To improve patient outcomes;
- To improve patient experience; and
- Reduce mortality by prioritizing those patients with the greatest need.

A change in focus and style involved reporting against the mean. This meant that every incident would count towards the performance as opposed to previous national measures. There would also be a renewed focus on 'tail breaches' by reporting on the 90th centile. This was viewed by the Ambulance Commissioners as a potential enabler to support new models of care.

The phases of ARP were as follows:-

Phase one – Dispatch on Disposition (DoD) was introduced in February 2015. This provided Ambulance Services with additional time to triage calls (up to 180 seconds) which would enable the dispatch of the right clinical resource, first time to the patient.

Phase two – ARP Call Category Review was a new set of response codes piloted and were based on the principle of the patient receiving the right response, first time, according to their clinical condition. It focused on the clinical prioritisation of the reasons for the 999 calls and introduced a new clinically derived set of categories and associated response standards.

Phase three – ARP Performance Indicator Review. Ambulance operations were largely driven by performance indicators. ARP moved away from 'time measures' and towards 'clinical outcome measures', which directly affected the patient outcome.

The benefits to patients were as follows:-

- The time to send the right resource, first time;
- The most time critical life threatening incidents would get the fastest response whilst other 999 incidents got the right response first time;
- Enabled prioritisation and earlier recognition of life threatening conditions which included cardiac arrests;
- New standards freed up more vehicles and staff to respond to emergencies;
- Stroke patients would get to hospital or a specialist stroke unit quicker because the most appropriate vehicle could be sent first time;
- All incidents would count, under the old standards 25% of patients fell outside the 8 minutes response time target;
- Reduction in multiple vehicle dispatches;
- Reduction in the diversion of resources;
- Increased ability to support patients through 'hear and treat' and 'see and treat'; and

- Transport resource which was available for patients who required conveyance to a definitive place of care.

Factors that supported the ARP implementation were:-

- Enabled to review the operational model of the Trust;
- Implemented new rotas across the whole Trust;
- Amended fleet mix with more double crewed ambulances (DCA) and less rapid response vehicles (RRV);
- 60 RRVs had been converted to DCAs; and
- Significant capital investment in fleet.

The implementation was as follows:-

- New ambulance quality indicators to be phased in as each Ambulance Service adopted the new system on a trajectory agreed with NHS England ARP team and local commissioners;
- The aim was to have all services reporting by end of November 2017;
- There would be a three month dual collection period for the old and new standards;
- New clinical quality indicators would move to quarterly reporting with full publication in April 2018;
- The timeline was linked to the new stroke indicator; and
- By January 2018 the national variation was expected to make in-year changes to the 2017-2019 contracts with compliance from April 2018.

During discussion, the following points were raised:-

- Members requested clarification on who monitored the Ambulance Service.
The CQC monitored the Ambulance Service along with the Trust.
- Members requested clarification on the statistics presented in the agenda.
Clarification on the times included in the statistics was given, the response times began when the phone rang and ended when a resource (this could be any resource) was face to face with the patient. It used to be when any level of response was issued.
- Members had visited the Exeter call centre two years ago where they had operated a 'traffic light' triage system and obtaining details was problematic. How had the new system been improved?
DoD was used and the operator asked about the patient first rather than contact details on the old triage system. There was also an increased number of staff in the call centres to allow for the increased time for triage.
- Members queried the Strategic Transformation Plan (STP) and what input the Ambulance Service had.
The Ambulance Service was involved in three of the seven STPs covered, so had significant input.
- Concern was raised that there appeared to be private vehicles that operated in the area, were they used for transport only?
Yes the private vehicles were for transport only. The contract would have been sent out to tender for companies to apply for.
- Members queried how many paramedics were recruited from outside the United Kingdom (UK).

Figures were not available on how many were recruited from outside the UK, however, the trust had recruited staff from the European Union.

- Members queried how the Somerset and Dorset Air Ambulance interfaced with the Ambulance Service.
The Air Ambulances were charities and were funded by donations. The Trust provided the paramedics, who were trained at degree level and had a vast amount of experience.
- Members queried the map that was issued in the agenda which appeared to miss off Minehead. Did the figures reflect this too?
The Head of Operations apologised and would send updated figures to the Committee Members.
- Members queried at which point was an ambulance dispatched?
An ambulance was dispatched once the destination and the patient's need was known.
- Members queried the future plans for the Ambulance and Fire Services to work together in shared premises.
The Head of Operations could not update the Committee on any future plans. Currently the Ambulance Service had a good relationship with the community fire responders in rural communities. He was aware that in the future there would be requirement to work with other Blue Light Services. However, the Police and Fire Services worked within the Home Office parameters, so were politically led.
- Concern was raised on the response times and whether there were enough resources to make it achievable with an aging population within West Somerset. Members believed the figures were misleading.
The Head of Operations shared the concern and believed the service was still understaffed within West Somerset.
- Members pleaded with the Head of Operations to ensure that the residents of West Somerset were represented when services were planned.
- The Chairman thanked the Head of Operations for his attendance.

SC 31 Role of Planning Enforcement in West Somerset

The report WSC 115/17 was presented by Councillor M Dewdney.

The purpose of the report was to set out the legislative background for Planning Enforcement and how it was applied across the West Somerset Planning Area.

A breach of planning control was defined in section 171a of the Town and Country Planning Act 1990 as:-

- Carrying out a development without the required planning permission; or
- Failure to comply with any condition or limitation subject to which planning permission had been granted.

Local Planning Authorities had a responsibility to ensure that enforcement action be taken that might be necessary and in the public interest.

There was a range of ways that alleged breaches of planning control could be tackled and national guidance required Local Planning Authorities to act in a proportionate way.

Councils had the discretion to take enforcement action when they regarded it expedient to do and whilst they had regard to the development plan and any other material considerations. It was important to stress that enforcement action was discretionary and should only be taken when demonstrable harm was caused by the breach.

Enforcement action should not be taken simply because planning permission was required and an application had not been submitted.

Enforcement action could be taken through the following:-

- Breach of condition notice.
- Enforcement notice.
- Stop notice.
- Injunction.

The notices required the provision of information or required works to be carried out or an activity to be ceased in order to remedy a breach of planning control.

Once a notice was served the requirements must be complied with or when appropriate an appeal made against the notice.

There were then instances which constituted an offence triable in the Courts:-

- Non-compliance with a formal notice.
- Unauthorized works to a listed building.
- Display of an unauthorised sign.
- Unauthorised works to a protected tree.
- Unauthorised works to a tree in a Conservation Area.

The purpose of the Planning Enforcement service was to protect and enhance the environment in which we lived and worked and the aim was to resolve breaches of planning control without the need for formal enforcement proceedings. However, the Council had an equal duty to both a complainant and the alleged offender and sought to address any issues fairly and without bias.

When a decision was made whether to take enforcement action, the Council should have regard to the potential impact on health, housing needs and welfare of those affected by the proposed action and those affected by the breach of planning control.

Developments became immune from enforcement if no action was taken:-

- Within four years of substantial completion for a breach of planning control that consisted of operational development;
- Within four years for an unauthorised change of use to a single dwelling house; or
- Within ten years for any breach of planning control (essentially this was other changes of use).

Normal practice was to request the submission of a retrospective application in the first instance. If the application was approved, no further action would be taken.

The Council dealt with planning enforcement on a complaint based process rather than by development or condition monitoring. This was normal practice for most Local Planning Authorities due to limited budgets for the work.

The level of dedicated Planning Enforcement resource provided by the One Team across the Taunton Deane and West Somerset Planning areas was two full time equivalent posts. The split was 80% Taunton Deane and 20% West Somerset.

During discussion, the following points were raised:-

- Members requested clarification on the four year rule and if a property was built without permission and enforcement action was not taken within a four year period, then the property became legal.
Yes that was correct. If it was a change of use, then the time allowed was ten years.
- Concern was raised that the Council imposed planning permission as a result of legislation but that it was not always enforced.
- Concern was raised that the difficulties faced by Planning Enforcement were due to lack of resources, outsourced Building Control inspectors and lack of regulation.
Planning enforcement was discretionary and action should not be taken just because a person had not complied with a condition. It was not a punishment. It was an expedient and proportionate decision to take action. Resources were an issue and this was an issue countrywide. Staff could not check every single condition granted. West Somerset operated a complaint based system which took up all the time allocated for enforcement and the majority of cases were reported in this way. Planning was a different function to Building Control. The Council was due to go through the transformation process and this would break down the silos between departments. It was not an offence to carry out action without permission but it was an offence not to comply with an enforcement notice.
- Members requested that officers were mindful of the needs of West Somerset when the transformation project looked at the new Planning Framework.
- Members reminded officers that Parish and Town Councillors offered good resources and were knowledgeable on their own areas and reported when they knew of any unpermitted work that was being carried out in their areas.
- Members requested that planning enforcement cases should be included on the Planning agenda.
Officers were trying to implement this and would include it as a confidential item on the agenda.
- Members queried the link between Planning and Building Control. At previous meetings of the Planning Committee there had been concerns raised about structural aspects of the planning conditions. Were Building Control notified when planning permission had been granted on structures that could cause concern?
When there was a concern, the Planners should discuss this with Building Control, but there was no formal process. The Planning

Committee could add a request to contact Building Control on the Planning application if there was a concern.

- Clarification was requested on the legal and illegal terms used for enforcement.

An example was given to clarify the terms, non-compliance with planning conditions was not illegal. However, non-compliance with a planning enforcement notice was illegal.

RESOLVED that the Scrutiny Committee noted the report.

SC 32 Review of the Council Tax Rebate Scheme for 2018-2019

The report WSC 116/17 was presented by Councillor M Chilcott.

The purpose of the report was to provide information on the Council Tax Rebate (CTR) scheme and to set the background and context for the review of our CTR scheme for Working Age applicants from 2018-2019.

The Council was legally required to give annual consideration on whether to revise its local CTR scheme and to consult with interested parties if it wished to change the scheme.

Approaches to the design of local CTR schemes by individual Councils had varied greatly. In designing their local schemes, a few Authorities had absorbed the funding reduction passed by Government without passing on the cut to residents eligible for CTR. Other Councils had asked households to make a contribution to their annual Council Tax bill for the first time and in some cases as much as 45% of their total bill. In 2017-2018, 264 Local Authorities (81%) required everyone to pay at least some Council Tax regardless of income, 35 more than in 2013-2014. From April 2017, just 37 Councils (11%) continued to provide support at the level paid under the former Council Tax Benefit (CTB) scheme.

The Department of Work and Pensions (DWP) subsidized the cost of the administration of Housing Benefit (HB), whilst the Department for Communities and Local Government (DCLG) provided an annual grant towards the cost for CTR administration. However, the funds had steadily decreased and was likely to be removed entirely with the move to 100% Business Rate retention in 2020.

Until recently, the administration of our localized CTR scheme had been both cost effective and efficient, due to the information already supplied by claimants for a HB claim or directly from the DWP. However, CTR administration had become increasingly difficult since the roll out of the 'full service for Universal Credit (UC) in October 2016, with the number of working age customers claiming UC significantly increasing.

The Council received information from the DWP on any variations to the customer's income and for many customers such changes occurred every month. Because the CTR scheme did not contain any 'de-minimus' for income variances, we needed to reassess the amount of CTR entitlement. In changing the CTR award, an amended Council Tax bill would need to be issued and any direct debit arrangements be adjusted to reflect the revised instalments. Changing payment arrangements could result in the cancellation of the next

direct debit, with instalments effectively delayed by one month. When such changes took place every month, it was possible for direct debits to be continually set back so the customer then needed to pay one lump sum at the end of the financial year.

For the reasons outlined above, administration of the CTR scheme could become progressively financially burdensome as well as increasingly complex for customers. In addition, because working age customers needed to submit claims for UC online, we needed to be mindful that in simplifying the CTR scheme we supported people in adapting to the digital agenda.

In designing the CTR scheme the customer's ability to pay and the collectability of the resultant Council Tax liability was considered. For people of working age, the scheme included the following key elements:-

- Maximum support was 85% of Council Tax;
- Increased non-dependant deductions;
- No second adult rebate;
- Earned income disregards were at increased levels than those offered under CTB; and
- Hardship fund of £22,500 for short-term help.

CTR was unchanged until 2016-2017 when, due to a consequence of significant cuts to funding, the Council decided to amend the CTR scheme for working age applicants in 2016-2017 by:-

- The removal of entitlement to applicants with capital over £6000;
- The applied minimum income for self-employed applicants;
- Entitlement to CTR awarded at a level that would be no more than for a Band C property; and
- Disregarded maintenance received for children.

When the scheme was agreed for 2017-2018, the Council decided to align the CTR scheme with some changes made by the Government to other welfare benefits. The CTR for working age applicants from April 2017 was amended as follows:-

- Maximum CTR reduced from 85% to 80%;
- Maximum backdated CTR reduced from six months to one month;
- Family premium not included in the applicable amount for new applicants, or existing recipients who would otherwise had a new entitlement to the premium;
- Work Related Activity component not included in the applicable amount for new claimants of Employment and Support Allowance;
- Removal of child allowance in applicable amount for third and any subsequent children born after 1 April 2017 with protection for some customers; and
- Reduction in the allowable period of temporary absence outside GB from thirteen weeks to four weeks.

Before the new scheme was made for 2018-2019, the Local Government Finance Act 2012 stated that the Council must consult with any such persons who were likely to have an interest in the operation of such a scheme. There were three options given to the customers in the consultation:-

- Option One – Change CTR so entitlement was based on bands of income;
- Option Two – Reduce maximum CTR offered to working age recipients from 80%; and
- Option Three – Introduce entitlement limits.

Option One was the preferred scheme in the results of the consultation. This option involved setting bands of awards based on an applicant's net income. Whilst this was the least complex option, it would be simpler to administer. This could be an important factor when a fall in the central government administration grant was anticipated.

Maximum support available to all working age applicants could be increased from 80% to 85% for those applicants that were on a particularly low income. The bands were likely to give more help to those in low paid work or limited income from benefits.

As an alternative to the various deductions the Council currently applied to CTR based on a non-dependant's income, the Council could apply a 'flat-rate' deduction of £5.00 for each non-dependant from the weekly CTR entitlement for working age recipients.

Income from earnings would be after the deduction of tax, national insurance and 50% of any contribution to a pension scheme. To incentivize employment or self-employment, the Council would continue to ignore (disregard) some income.

In common with UC rules, no blanket protection would be provided to households that received disability benefits, but income from Disability Living Allowance and Personal Independence Payments would not count as household income. Similarly the Council would continue to ignore (disregard) child benefit and maintenance received for children. If the Council were to include disregarded income for children or customers with disabilities in any future CTR scheme, it could be seen as having a negative effect on provisions contained within the Child Poverty Act and the Equality Act 2010.

An income banded assessment scheme for working age applicants would reduce the volume of changes in circumstances and thereby reduce the potential for further increased administration costs. The information held on a person's UC claim would be used to decide the income band they fell into and the amount of CTR they would be entitled to. The DWP provided the Council with the information so a UC recipient would not need to make a separate claim for CTR. In the future it was expected that data for UC recipients would be automatically populated into the CTR processing software and so reduce the administrative burden.

During discussion, the following points were raised:-

- The Chairman reminded the Committee that pensioners were protected from CTR, so were still eligible for full CTB. This meant that the help available for working age residents was restricted.
- Concern was raised that the Council had inadvertently discriminated against the under 25 year olds who were not care leavers.

The under 25 age group would be the biggest group to benefit from the banded income CTR scheme.

- Members queried whether permitted work was included in the income figures used for the calculation of banded income.
The figures used for banded income were net figures, so this meant it was after earned income disregards, income tax and national insurance contributions were deducted.
- Members requested clarification on the disregarded figure used for pensions.
Clarification was given that 50% of any pension contribution would be disregarded when the claimant's income band was calculated.
- Members queried was the same CTR scheme approved by Taunton Deane Borough Council for 2018-2019.
Yes, the same scheme had been approved for both Councils.
- Members thanked the Revenues and Benefits Service Manager and her team for their hard work and praised the proposed scheme for 2018-2019. The Chairman stated that it was refreshing to see a scheme that was simpler to administer.

RESOLVED that the Scrutiny Committee, with regard to the consultation responses and the EIA appendix 3, recommended the Council:-

- a) Amended the current CTR scheme to that illustrated in the report at appendix 2, forecast D. This would award entitlement to working age recipients based on bands of income and would:-
 - Increase the maximum support available to working age recipients to 85% of their Council Tax liability;
 - Apply a flat rate deduction of £5.00 a week for each non-dependant; and
 - Disregard carers' allowance from the income used to work out CTR.
- b) Provided extra assistance for young people who had left local authority care, by increasing maximum support to 100% of the Council Tax liability for single applicants up to the age of 25 where their weekly income was less than £75.00.
- c) Mitigated the effects in moving to a Banded Income CTR scheme for working age applicants by inviting applicants with protected characteristics who would receive reduced CTR from 1 April 2018 to submit a claim for discretionary reduction.

SC 33 Scrutiny Committee Work Plan

The Committee Members requested that the following items be added to the Forward Plan:-

- An update on the Heath Task and Finish Group.
- An update on the new data protection legislation. This was due to go to Audit Committee in December.

RESOLVED that the content of the Work Plan was noted.

The meeting closed at 6.15pm.