

# report



meeting      SOCIAL SERVICES SELECT COMMITTEE

date            11 November 2004                      agenda item number

## **REPORT OF THE HEAD OF SCRUTINY**

### **CALL-IN**

#### **PURPOSE OF REPORT**

1. To report details of a Call-In Request.
2. To suggest a procedure to be followed for determination of the Request.

#### **BACKGROUND**

At the Cabinet meeting on 13 October 2004, a decision was made about Balancing the Options in Social Care (Resolution 2004/154)

That decision was as follows:-

1. That the threshold of eligibility for social care services be raised so that the Social Services Department exclude needs that pose a “moderate” risk to a person’s independence and focus resources on those needs that pose a “critical” or “substantial” risk;
2. that the revised threshold above be taken into account when reviewing existing service users to achieve an equitable use of resource;
3. that the Social Services Department’s commitment to preventative services be maintained;
4. that the hourly rate for home care be increased from £5 to £8, with effect from 4<sup>th</sup> December 2004;
5. that the maximum charge for home care services be increased from £35 to £56 a week with effect from 4<sup>th</sup> December 2004;

6. that a new rate for people receiving "24 hour" available services such as extra care and some supported living settings be introduced;
7. that it be noted that further work is to be undertaken on the exact amount and date of introduction of (6) above, taking account of the links to Supporting People charging and feasibility of implementation and that the Cabinet Member for Social Services be authorised to approve the framework for these issues;
8. that the maximum payment level of £9 for new Direct Payments where agency staff are employed using Direct Payments be maintained and that this level be kept under review;
9. that further to (8) above it be noted that the Service Managers will continue to have discretion to authorise a higher level of payment in exception circumstances;
10. that tests and reviews be undertaken before the Director of Social Services decides whether to implement negotiations with providers who are delivering relatively high cost direct payments;
11. that a further report be submitted to Cabinet with recommendations for a programme aimed to increase future capacity for Direct Payments significantly and
12. that representations be made to Government urging the re-allocation of the Independent Living Fund to Local Authorities.

On 15 October 2004 the Head of Members' Services received a Call-In Request, signed by Councillors Joe Lonergan, Mrs K L Cutts, T A J Pettengell, David Taylor and K L O'Toole.

The reasons given for the Call-In Request were as follows:-

"We consider that:

- a) the consultation process was flawed.
- b) the report failed to set out a full range of options
- c) the report contains some issues which should have been considered as part of a separate report."

Following consideration and discussion with Legal Services, the Head of Members' Services confirmed that the Request was valid. In this regard, the Committee will be aware that the period allowed for a Call-In to be made is 5 days from the date of publication of a decision. Resolution 2004/154 of the Cabinet was published on Monday, 18 October, the next working day following receipt of Call-In. The Head of Members' Services took the view, following the discussions referred to above, that it was appropriate to accept delivery of the Request on the grounds that the decision itself had been taken during a Cabinet meeting held in public. Precise details of the decision were, therefore, already in the public domain.

To comply with the Constitution, the Call-In Request has to be considered and determined within 19 working days of its receipt. That period expires on 11 November 2004, which means that the Committee will need to hear and consider submissions by both the Members who have signed the request (the applicants) and the decision-maker, and make a decision on the matter, at this meeting.

In considering this matter, issues relating to the merits of the decision may not be considered.

## **INFORMATION, ADVICE AND MATTERS FOR CONSIDERATION**

### **(a) Paperwork**

To assist the Committee, the applicants and the decision-maker have been asked to prepare paperwork in accordance with the following format:-

**Section 1** – Contents/Index

**Section 2** – the case/response (cross-referenced to any appendices, witness statements or Exempt paperwork \*)

**Section 3** – Witness statements (if any)

**Section 4** – Appendices

**Section 5** – Any paperwork which contains Exempt Information \*

A copy of the paperwork received from the applicants and the decision-making has been circulated with the agenda for this meeting (\* - any papers which contain Exempt Information will have been sent only to Members of the Committee, the applicants, the decision-maker and appropriate officers).

### **(b) Persons giving account**

In addition, both the applicants and the decision-makers have submitted lists of the names of people who they think would be able to contribute information/evidence to help the Select Committee in its scrutiny of Resolution 2004/154 (Appendix A). Those people have all been invited to be present.

The Committee will need to determine whether to hear from these and appropriate information is included at (c) below.

### **(c) Procedure for the meeting**

The Committee will, initially, need to determine the validity of the Call-In Request in terms of the Constitution. Members will need to consider whether the decision is capable of being called-in, ie that it is not a decision which falls within the description shown in paragraph 16, 16.2 or 17 (Limitations on Call-In) of the Overview and Scrutiny Procedure Rules (copies will be available for the Select Committee during the meeting).

If the Committee decides to proceed, it is suggested, following consultation with your Chair, that the procedure for the meeting should be as shown in Appendix B.

**Lynn Senior**

## Head of Scrutiny

## Appendix A

### **Lists of Persons Nominated to Contribute Information/Evidence to Consideration of a Call-In Request**

#### **(a) Nominated by the Applicants**

##### **MEMBERS**

Councillor Mick Warner	Leader of the Council
Councillor Dick Anthony	Cabinet Member for Social Services
Councillor John Carter	Cabinet Member for Finance

##### **OFFICERS**

###### Corporate Management Board

Stuart Brook	Director of Social Services, Social Services Dept
Malcolm Dillon	Assistant Director Commission Adults (SSD)
Sarah Hampton	Partnerships and Business Development Officer (SSD)
Pat Carmody	Service Head Finance (SSD)
Lisa Swift	Committee Support Office (SSD)
Richard Scott	Public Affairs, Chief Executive's Department

##### **EXTERNAL**

Ann Gornall	Research Director, Bright Sparks Research, 31 Stanton Lane, Stanton on the Wolds, Nottingham, NG12 5BE
Mick Tinkler	Chief Executive, Age Concern, Bradbury House, 12 Shakespeare Street, Nottingham, NG1 4FQ

#### **(b) Nominated by the Decision-Maker**

Roger Latham	Chief Executive
Arthur Deakin	Director of Resources
Jordan Pitcher	Direct Payments Project Manager
Ian Hotchkiss	Temporary Assistant Director
Sarah Hampton	Partnership and Business Development Manager
Paul England	Senior Solicitor
David Spicer	Democratic & Legal Services
Paul Robinson	Democratic & Legal Services
Andy Muter	Assistant Chief Executive
Councillor Dick Anthony	Cabinet Member for Social Services
Mick Tinkler	Chief Executive, Age concern Nottingham & Notts
Liz Mandeville	Nottinghamshire OPAT
Pat Carmody	Service Head – Finance

Stuart Brook  
Malcolm Dillon  
John Hannam  
Lisa Swift  
Ann Gornall

Director of Social Services  
Assistant Director Adult Commissioning  
Project Officer  
Committee Support Officer  
Bright Sparks

## Appendix B

### **Suggested Procedure for Use During Consideration of a Call-In Request**

- Step 1** A representative from or on behalf of the applicants to present a summary of the application for call-in, referring as necessary to the paperwork previously circulated.
- Step 2** The decision-maker, or representative, to present a summary of their case, again referring as necessary to the paperwork previously circulated.
- Step 3** Select Committee to invite firstly the applicant and then the decision-maker, to describe why additional information or evidence from the people referred to in their lists should be heard.
- Step 4** Select Committee to decide whether to hear additional information and from whom.
- Step 5** Persons referred to in Step 4 above to be called in turn in the following order:-
1. Those nominated by the applicant, followed by
  2. Those nominated by the decision-maker.

In each case, the person called will be asked to introduce themselves and give a brief description of their job role or the role of their organisation.

Questions will then be put by a representative of those who made the nomination, following which there may be questions from Members of the Select Committee. There will be no opportunity for cross-examination by the other side, although the following paragraph should be noted.

(Some of those who may be called have been nominated by both the applicants and the decision-maker. In these cases, the individual concerned will be called twice.)

Questions must be confined to matters of fact or evidence clearly related to the Call-In Request before the Committee. Replies should be based on knowledge or evidence, not supposition.

Officers or Members of the Council called before the Committee must reply to questions, although a response that they do not know the answer is acceptable. External representatives cannot be required to respond.

- Step 6** There will be a brief adjournment to enable the Chair to review the notes he has taken/provided for him.

**Step 7** The Chair will summarise the additional information obtained through questioning and invite the Committee to debate the matters before them.

**Step 8** The Committee will form a view as to an appropriate decision. That decision can only be one of the following:-

- a) that the decision should not be challenged.
- b) that the decision-maker should be asked to reconsider the decision.
- c) that the matter is outside the policy and budget framework of the County Council and that it should therefore be referred to the full Council.

**Step 9** The Select Committee will vote on its decision.