

From: Marjorie Toward
Sent: 09 November 2023 09:14
To: Councillor Francis Purdue-Horan
Subject: School Catering Prices

Dear Councillor Purdue-Horan,

I write further to my email dated 26th October in relation to the pre call-in discussion which took place on 9th October with Councillors Cottee and Barnfather, and the relevant Corporate and Service Directors, to discuss the questions and issues you had raised in relation to the decision on the price of school meals for schools who purchase the Council's meals service.

In my email I summarised what I thought appeared to be the remaining outstanding issues from your original pre-call-in request in light of your email dated 23 October and asked you to clarify if I had misunderstood anything. Since that time, I understand that you have received further information, being the notes of the meeting on 9th October, but as you have not come back to me with any further response to my email of 26 October I assume that my summary of the outstanding issues was accurate.

On that basis I have now been able to give the outstanding points consideration to determine whether the residual issues meet the requirements set out in the Constitution for a Call-in to be considered by Overview Committee.

- **Consultation**

It is my understanding from speaking to those concerned that officers and the Cabinet Member making the decision were clear that statutory consultation was not required in these circumstances. The approach to engagement and dialogue with the schools is set out in the decision making report, including describing discussions with schools about actions to mitigate the impact of the price increase. The report itself is clear and goes into some detail about the dialogue and engagement which took place over a significant period. This was reflected in the discussions with the Cabinet Member, Communities, Councillor Barnfather and senior officers.

The decision is for the Council's discretionary commercial operation to determine an appropriate charging regime for any school which wishes to buy meals from its service. You have been provided with information about dialogue and engagement which took place with schools and the report confirms that there was consultation with the Cabinet member for Children and Families.

I am satisfied that there was no further obligation to enter into formal consultation in setting these charges. The duty to provide school meals falls on Schools and it is then a matter for them whether to purchase the commercial school meals service from the Council.

- **Equality impact assessment**

The decision report referred specifically in paragraphs 23 and 24 to the public sector equality duty and set out a summary of the relevant points which were discussed with and considered by the Cabinet Member in reaching a decision. This matter is covered in some detail in the notes from the pre call-in discussion. The Equality Impact Assessment was available for inspection on request from 5th September and its existence and contents are clearly and transparently referenced in the decision making report. You have been provided with a copy of the EqIA and furthermore, the Cabinet Member and officers have provided a detailed account of how the equality impacts were considered by the Cabinet Member in some detail on more than one occasion before and when making the decision.

My understanding of the law and obligations under the public sector equality duty are that discussion and consideration is required of the potential equality impacts for those with protected characteristics, as defined by legislation, so that due regard can be had to those impacts in making a decision. I believe that most Councils use an Equality Impact Assessment or similar tool to facilitate and record this process but the completion of an Equality Impact Assessment Proforma it is not a specific legal requirement. In this case, these factors and the potential impact on vulnerable children if schools chose to pass the price increase onto parents were discussed and given consideration by officers and the decision maker before a decision on the price increase to schools was made. The report and Equality Impact Assessment clearly identify that the cohort of most vulnerable children, namely those in receipt of free school meals, are not financially affected by the increase in prices to schools and are protected from this.

In light of the above, I am satisfied that the decision maker had due regard to the impacts which had been identified in the EqIA when reaching his decision.

- **The approach to calculation of the price increase**

Although you may disagree with the proposed price increase, there is information within the report to explain how the balance was made between the need to seek recovery of costs when providing the commercial school meals service and the impact of seeking a higher level of cost recovery given the current economic climate. There was information in paragraph 6 about how the price was arrived at, driven primarily by inflationary impacts of both food costs and staff wage increases. Paragraphs 8 to 15 explained the way in which the Guaranteed Forecast Price had been arrived at. In paragraph 19 of the report there is information about how price reviews of input costs were reasonably taken into account in reaching the proposed pricing point and other options were considered in paragraph 20. The reasons for the decision section of the report at paragraph 20 summarised the overall approach to seek a careful balance between the competing factors when recommending the proposed pricing to the decision maker. You have also been given further information as part of the dialogue with the decision maker and senior officers.

- **The comparator set out in the report to “benchmark” the Council’s position**

The information about Derbyshire County Council is provided and referred to as “context” to the decision the Cabinet Member was considering. The notes of the meeting on 9th October also explain how different factors such as geographical footprint of an area and the amount of subsidy can affect the price charged by any authority and why the Derbyshire price was used for context. It is relevant that this was a decision in respect of the price charged to schools who purchase school meals from the Council as a discretionary traded service. The duty sits with schools to provide school meals not the Council. Schools are at liberty to choose how they provide school meals and how much they charge parents who are not in receipt of free school meals and could choose not to pass the costs onto parents in full or in part. Whilst the Council has engaged and had discussions with schools, there is no statutory requirement to formally consult schools as customers of a traded service about the price for meals charged to schools. Families can choose whether to purchase meals from schools, or make alternative arrangements, and do not purchase meals directly from the Council.

Having considered all of the above information I am of view that these residual matters do not meet the requirements as set out in the Constitution for a Call-in to be considered by Overview Committee.

Regards,
Marje

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