



LONDON BOROUGH OF BRENT

MINUTES OF THE FORWARD PLAN SELECT COMMITTEE Wednesday, 2 December 2009 at 7.30 pm

PRESENT: Councillor Long (Chair), Councillor Castle (Vice-Chair) and Councillors V Brown, HB Patel, Powney and Tancred

Also Present: Councillors John and R Moher

Apologies were received from: Councillors Coughlin, Mistry and Colwill (Lead Member for Adults, Health and Social Care)

1. **Declarations of Personal and Prejudicial interests**

None.

2. **Minutes of the Previous Meeting held on Tuesday, 3rd November 2009**

RESOLVED:-

that the minutes of the previous meeting held on 3rd November 2009 be approved as an accurate record of the meeting, subject to the following amendments:-

Page 1, under PRESENT: insert Councillor Kansagra (alternate for Councillor H B Patel), Councillor Motley (alternate for Councillor Tancred)

Page 1, under Apologies were received from: insert Councillor H B Patel.

3. **Matters Arising (if any)**

None.

4. **Call-in of Executive Decisions from the Meeting of the Executive on Monday, 16th November 2009**

Decisions made by the Executive on the 16th November 2009 in respect of the report below was called-in for consideration by the Forward Plan Select Committee in accordance with Standing Order 18.

Authority to Award the Residential and Respite Care Contract for People with Learning Difficulties

The reasons for the call-in were:-

- (i) Concern about the security of staff on TUPE transfer;
- (ii) The implications of the new contract on the terms of the Local Government Pension Scheme;
- (iii) The security of current residents in the new establishments given that the preferred provider is anticipating a proportion of them being in a semi self supporting regime;
- (iv) The lack of consideration of proposals put forward by our own employees.

With the agreement of the Chair, Ken Knight addressed the Select Committee. Ken Knight explained that his sister was a resident at Melrose House and that he and a number of relatives of other residents had been liaising with the Council concerning the future of the residents. He asserted that there were a number of inaccuracies in the report and stated that all relatives had expressed concern about the residents' profiles underestimating the extent of residents' disabilities. Although it had been agreed to re-assess the profiles, Ken Knight said he was not confident that the tenderers had received the revised profiles incorporating relatives' comments and he was certain that some revised profiles had not been submitted. He sought clarification that all tenderers had received identical information concerning the level of disabilities of residents and costings, including the offer of pension indemnity as had been agreed with The Camden Society who had won the contract. Ken Knight added that in his view, The Camden Society were the only organisation that had no experience of providing the type of service required.

In reply to queries from Members, Ken Knight commented that no confirmation had been made verifying that the revised residents' profiles incorporating the relatives' comments had been sent to all tenderers. He suggested that it was possible that the profiles may have underestimated the residents' disabilities in order to reduce costings in the tenderers briefings. Although revised profiles had been undertaken, he suggested that these were different to the ones that were submitted to the tenderers which raised concerns about whether the profiles had been assessed independently, whilst it had also not been explained why the revised profiles had not been sent. Ken Knight felt that this could potentially harm the future of all residents, none of whom were in employment and all, in his view, functionally illiterate and innumerate. The Committee noted that the age range of the residents was from 43 years to in their 60s. Ken Knight added that although he had been convinced of the need to move the residents to new accommodation, a change in location and in how the service would be delivered was a big upheaval to residents. Although the tenderers had written to all the residents and provided presentations, in his view Ken Knight did not think that the residents would have much understanding of what they had been told. Ken Knight stated that his concerns had been raised through a formal complaint in accordance with Council procedures, however he had been pressurised to give proof that he was representing the relatives rather than the Council concentrating on the needs of residents. He suggested that visits to Melrose House be undertaken to observe the conditions of the residents and to check that this matched with the profiles that had been submitted.

With the agreement of the Chair, George Fraser, representing the GMB and Unison unions addressed the Committee. He began by stating that he backed the reasons for the call-in and that he was yet to receive answers concerning queries about the costings of the existing service managed by the Council and the external bids. It was queried how The Camden Society could achieve the significant savings

indicated over the next five years in view of arrangements under TUPE, which suggested that redundancies would be inevitable. George Fraser stated that because job evaluations had not yet been undertaken, neither could grade assessments be accurately undertaken. He queried whether in-house staff costs had been calculated on projected grades, as opposed to the tenderers based on current grades, as there would be significant cost differences between the two. Similarly, if the tenderers were based on there being an element of supported living costs, the in-house costs based solely on residential care would be greater. Members noted that pension arrangements could be subject to legal challenge. George Fraser concluded by stating that the preferred bidder was not welcomed as it had a demoralising effect on staff and neither residents nor their relatives wanted it.

In reply to queries from Members, George Fraser commented that in his view, none of the residents would be capable of supported living and he confirmed that TUPE also applied to pensions, adding that they should be broadly similar to existing pension arrangements.

Martin Cheeseman (Director of Housing and Community Care) addressed the Select Committee to respond to the reasons for call-in. Members heard that the Executive had agreed in December 2008 to seek external tenders for the residential and respite care service for people with learning difficulties. There had never been any intention of an internal bid, however in order to assess value for money of the tenderers' bids, they were compared with the current costs of the service that was provided in-house. Had the tenderers costs been significantly higher than the existing costs, then external bids would not have been accepted. In-house costs had been based on proposed service provision at the new location in Tudor Gardens. Martin Cheeseman advised that there could be circumstances where deregistration of residents from residential care to supported living for a certain block of the building may be possible and the model of residential care was moving towards a more supported living approach for future new admissions. It was acknowledged that there were a large number of people in residential care where the possibility of supported living was much reduced. However, Martin Cheeseman advised that under the terms of the transfer of service, the residential care of residents was guaranteed unless their own circumstances changed. Martin Cheeseman agreed that there had been some inaccuracies in the original profile assessments of residents, so these profiles were re-assessed and provided to all tenderers. A stage one investigation under the Council's complaints process had concluded that there was no evidence that there had been any falsification of the profiles, however the issue was now being investigated externally at stage two. Martin Cheeseman confirmed that to his knowledge all tenders had received identical information. The Select Committee heard that if the profiles of the residents had changed, the costs submitted by tenderers would also change accordingly. All tenderers who had been selected to submit bids had experience in delivering residential care and supported living and the evaluation of their bids was based on value for money, quality of service and safety of residents. The evidence supported the view that The Camden Society was very capable of delivery of service with far larger resources at their disposal than the Council's. In addition, The Camden Society had good experience of transferral of services from local authorities.

With the agreement of the Chair, Councillor R Moher addressed the Select Committee. Councillor R Moher expressed surprise that the preferred bidder had been able to offer best value for money and best quality of service. She queried why the preferred bidder had factored in a supported living element when the Select Committee had heard that this would not be possible for the current residents in Melrose House. She sought details of what type of organisation The Camden Society were and how could there be any guarantee to the risks posed by transferring services to them.

With the agreement of the Chair, Councillor John addressed the Select Committee. Councillor John began by expressing regret that the Lead Member for Adults, Health and Social Care was not present to respond to questions from Members. She stated that whilst it was acknowledged that better conditions were needed than the ones at Melrose House, residents and their relatives were yet to be convinced that The Camden Society could meet their requirements. Councillor John stressed the need to listen to the views of the relatives who knew the residents better than anyone else. Members heard that the relatives wanted a longer lead-in before the transfer to Tudor Gardens with the present staff and there were concerns that key staff may leave. Councillor John enquired what the consequences would be should the lead-in time for transfer be extended. With regard to the residents' profiles, she felt that it was appropriate that these be re-assessed following concerns expressed by Ken Knight and she queried whether there could be any certainty that other relatives were happy with the profiles provided. Clarification was also sought as to whether residents and their relatives were happy with the proposals to transfer to Tudor Gardens and that every effort should be made that there was a satisfactory outcome for the 14 residents of Melrose House. It was asked whether other local authorities had experienced such resistance when transferrals to The Camden Society had been made. Councillor John suggested that relatives of the carers of the residents should be offered the opportunity to view an example of a service operated by The Camden Society. A further suggestion she made was that all staff from Melrose House be transferred to Tudor Gardens and be retained for as long as possible to ensure the well-being and security of residents.

Members then discussed the issue at length. Councillor Castle requested that the results of the stage two investigation be known to both Members and officers. He expressed concern that deregistration from residential care to supported living for some residents would allow The Camden Society to make changes to the staff structure and thus avoid TUPE arrangements and he sought further views with regard to this scenario. Clarification was sought as to whether the re-assessed profiles that were sent to the tenderers incorporated relatives' comments. Councillor Tancred sought further details with regard to the Care Quality Commission's (CQC) star rating system and what was the present rating for Melrose House. Councillor H B Patel, in acknowledging that the residents needed one-to-one care, enquired why the bid winner also appeared to be the most economically beneficial. He enquired what assurances could be given that The Camden Society would be able to provide the higher standards required by the CQC, and that if they were unable to achieve this, could they attempt to justify continuing to provide the service by explaining they had plans in place to improve the service.

Councillor V Brown sought assurances that the final tender costings provided by The Camden Society had taken into account the changes made to the profiles of

residents. Councillor Powney asked for details of other homes that were operated by The Camden Society and an explanation as to how they were able to offer both the highest quality of service and lower costings compared to the other tenderers.

The Chair enquired about the CQC's rating of homes operated by The Camden Society. She commented that there were many people with severe learning disabilities in Brent and asked whether such people would be offered vacant places in Tudor Gardens or would it be offered to people with milder learning disabilities. She enquired whether The Camden Society had factored in a degree of deregistration on the basis that the level of care they would provide would improve residents' abilities. Officers were asked whether any staff had indicated that they did not wish to transfer to Tudor Gardens. Further clarification with regard to the pension arrangements, what was meant by comparable pension arrangements and the implications if these resulted in higher costs than had been agreed was sought. The Chair stressed the importance of the continuation of care to ensure the needs of residents was met and that every effort should be made to ensure all staff were transferred from Melrose House to Tudor Gardens.

In reply to the issues raised, Martin Cheeseman advised that all tenderers had factored in a degree of deregistration to varying extents according to their own assessments. In the event of deregistration, it was possible that The Camden Society would wish to restructure its staffing and this would also have applied if the service remained in-house. Consultation with staff would be dependent on the organisation's own processes, however it was understood that The Camden Society had a good relationship with its employees. Martin Cheeseman confirmed that if the service remained the same then so would staffing under TUPE arrangements. He confirmed that all tenderers costs were greater than the existing provision due to the need to provide increased service and to accommodate changes to service provision. Under the statutory regulations care homes had to be registered and approved by the CQC and a home could not operate unless the CQC's standards were met and maintained. The CQC was also about to announce that no local authority was expected to accept any tenders from providers who had a zero or one star CQC rating. Melrose House had already been assessed as not sufficient by the CQC, mainly due to design constraints. However, service provision was able to continue because of the quality of care provided by staff. However, it was widely acknowledged that there was a need to move out of Melrose House and better quality accommodation that was to CQC standards would be provided at Tudor Gardens. Martin Cheeseman advised that any undue delay of residents to Tudor Gardens was also undesirable. It was proposed that Tudor Gardens would be ready by the end of January 2010, with a view to moving residents and staff under the new contract to this building in March 2010. If the transfer of service to The Camden Society was not completed in time, then the present service would still move to Tudor Gardens under in-house management.

With regard to assessment of the tenders, Martin Cheeseman advised that under the qualifying criteria, The Camden Society was the best both in terms of quality of service and in value for money, adding that if it did not meet the quality standards, which were considerably higher than what was currently provided, it would not have been chosen regardless of any cost considerations. Members heard that because The Camden Society was such an established organisation, this could explain why it had scored so highly in all criterion and he acknowledged that the costs had assumed some deregistrations over a number of years. A separate contract would

address issues concerning service provision expectations and options if performance dropped below required levels. Martin Cheeseman advised that all The Camden Society's homes were rated at three stars (excellent) or two stars (good) and were therefore a proven provider.

Turning to staffing, Martin Cheeseman felt that the unions needed to acknowledge that the service could not remain in-house and that they should be looking more closely at what The Camden Society could provide. With regard to extending the transfer period, Martin Cheeseman suggested that it would be preferable to transfer staff over to The Camden Society as soon as the final contract was agreed and prior to moving to Tudor Gardens, in order that both staff and The Camden Society were able to build upon their relationship and understanding and ensure a smoother transition once the move to Tudor Gardens took place. Tudor Gardens was not a large distance from Melrose House and there had been no indication that any staff wanted to leave due to change of location. Any staff who did not wish to transfer and did not accept TUPE arrangements would effectively become redundant. Martin Cheeseman advised that no formal contract would be signed until pension arrangements had been agreed. Martin Cheeseman confirmed that the undertaking to secure a comparable pension scheme was defined as any scheme operated by an admitted body within the Council's pension scheme. If pension costs were significantly higher than the existing one then this item would need to be referred back to the Executive.

Keith Skerman (Interim Assistant Director of Community Care, Housing and Community Care) added that under TUPE arrangements, the same terms and conditions for staff would continue until the end of their contract and could only be broken by a mutually agreed change to the contract or because of redundancy. The Camden Society had a good record in training and retaining its staff and that under the proposals, there would be more staff in Tudor Garden than there presently was in Melrose House as it was a larger building. He stressed the need for continuous care for vulnerable adults and there was no intention to reduce staff. Members heard that The Camden Society had transferred services from a local authority as recently as within the last 12 months, which had involved the transfer of all residents and staff. Keith Skerman felt that The Camden Society's management of change was of high quality and better than other providers in the field. In addition, The Camden Society ran a range of other care services such as supported living and day centres and had a holistic approach and a broad understanding of care needs. Such a range of experience would be of benefit to both present and future residents. Positive references had been received from the London Boroughs of Camden and Southwark and it was noted that The Camden Society was a not for profit organisation. The transfers had included initial resistance by residents who had understandably not liked the idea of change and the impact upon residents and staff was not to be underestimated. Keith Skerman confirmed that the re-assessed profiles of residents were due to be sent to relatives in the next few days and would be finalised following checks with relatives before Christmas.

Keith Skerman advised that those with severe learning disabilities would be highest priority when considering vacant residential places and it was acknowledged that there was not presently sufficient provision for such people. However, it was not just the intention to contain such people and that the level of care required could be reduced by providing a higher level quality of care through enhanced training of staff. The Select Committee heard that by caring for residents in smaller groups,

this often reduced friction and provided opportunity for better quality care. Such measures were used by The Camden Society and this could result in the level of care being reduced, which in some cases could mean that de-registration would be appropriate. There was also a need to provide respite care for families who cared for relatives and such provision was offered by The Camden Society. Keith Skerman added that it was intended to provide some respite care at a later stage at Tudor House.

The Select Committee then agreed to the Chair's suggestion that all staff from Melrose House be transferred to Tudor Gardens and be retained for as long as possible to ensure the well-being and security of the residents, that the contract not be agreed with the Camden Society until the trade unions and their advisors were satisfied with the pension arrangements and that Members regret the non-attendance of the Lead Member for Adults, Health and Social Care to respond to their questions.

Exclusion of Press and Public – Appendices 3, 4 and 5

Appendices to the report were discussed that were not for publication as they contained the following category of exempt information as specified in Paragraph Three, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)."

Accordingly, all members of the public were asked to leave the meeting whilst these items were discussed.

Members were advised that any unsuccessful tenderer had the right to object to the decision to award the tender. The objection could be on the grounds that the unsuccessful tenderer had felt they had been treated unfairly or given incorrect information. The Select Committee heard that pension arrangements could also take several weeks to resolve. Members noted the confidential legal advice that was given.

RESOLVED:-

- (i) that upon considering the report from the Director of Housing and Community Care, the decisions made by the Executive be noted;
- (ii) that the Executive be requested to agree that all staff from Melrose House be transferred to Tudor Gardens and be retained for as long as possible to ensure the well-being and security of the residents;
- (iii) that the Executive be requested to not agree the contract with The Camden Society until the trade unions and their advisors are satisfied with the pension arrangements; and
- (iv) that the Select Committee notes with regret the non-attendance of the Lead Member for Adults, Health and Social Care to respond to Members' questions.

5. **The Executive List of Decisions for the Meeting that took place on Monday, 16th November 2009**

The Chair noted that the decisions from the minutes of the Executive in relation to *Development of Contracts with Voluntary Organisations* had been slightly amended to those in the Executive List of Decisions.

RESOLVED:-

That the Executive List of Decisions for the meeting that took place on Monday, 16th November 2009 be noted.

6. **Briefing Notes/Information Updates requested by the Select Committee following consideration of Issue 7 (2009/10) of the Forward Plan**

Termination of Middlesex House and Lancelot Housing Scheme

RESOLVED:-

that the briefing note on the Termination of Middlesex and Lancelot Housing Scheme be noted.

7. **Briefing Notes/Information Updates requested by the Select Committee from earlier versions of the Forward Plan**

7.1 **Cultural Strategy for Brent 2010-2015**

RESOLVED:-

that the briefing note on the Cultural Strategy for Brent 2010-2015 be noted.

7.2 **Petition for Changes to the Consultation Process**

The Chair requested that a further briefing note be provided at the next meeting of the Select Committee clarifying what the procedure is when identical responses to Transportation consultations are received from the same household and are these responses weighted.

RESOLVED:-

- (i) that the briefing note on the Petition for Changes to the Consultation Processes be noted; and
- (ii) that a further briefing note be provided at the next meeting of the Select Committee on the 6th January 2010 to clarify what the procedure is when identical responses to Transportation consultations are received from the same household and are these responses weighted.

8. **The Forward Plan - Issue 8**

Issue 8 of the Forward Plan (07.12.09 to 04.04.10) was before members of the Select Committee. Following consideration of Issue 8 of the Forward Plan, the Select Committee made the following requests:-

(i) ***2009 Residents Attitude Survey***

The Select Committee requested a briefing note on this item explaining the reasons why it is proposed to have the survey undertaken biennially and would this result in savings or additional costs. The request was made by Councillor Powney.

(ii) ***Building Schools for the Future Project Initiation Document***

The Select Committee requested a briefing note on this item detailing what schools would be affected. The request was made by Councillor Powney

(iii) ***Early Years Single Funding Formula and Policy for the Allocation of Full Time Places***

The Select Committee requested a briefing note on this item detailing the results of the consultation. The request was made by the Chair.

(iv) ***2012 Action Plan***

The Select Committee requested a briefing note on this item providing details on what action was being taken to upgrade town centres and the costs of the Action Plan.

Lead Member and lead officer attendance was also requested to respond to Members' questions. The request was made by the Chair and Councillor Powney.

(v) ***Controlled Parking Zones Progress Report***

The Select Committee requested a briefing note on this item providing the nature of the decisions to be made in respect of Preston Road, Northwick Park, Kenton, Alperton, Kingsbury and the Controlled Parking Zones review. The request was made by Councillor H B Patel.

(vi) ***Telecoms Aerials on Residential Buildings***

The Select Committee requested a briefing note on this item outlining what the income generated was spent on and was any used to improve the security of the buildings. The request was made by the Chair.

9. **Items considered by the Executive that were not included in the Forward Plan (if any)**

None.

10. **Date of Next Meeting**

It was noted that the next meeting of the Forward Plan Select Committee was scheduled for Wednesday, 6th January 2009 at 7.30 pm.

11. **Any Other Urgent Business**

None.

The meeting closed at 10.05 pm

J LONG
Chair