

## **CABINET MEMBER FOR HOUSING AND NEIGHBOURHOODS**

**Venue: Town Hall, Moorgate  
Street, Rotherham**

**Date: Monday, 16th November, 2009**

**Time: 10.00 a.m.**

### **A G E N D A**

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972 (as amended March 2006).
2. To determine any item which the Chairman is of the opinion should be considered later in the agenda as a matter of urgency.
3. Local Authority Duty to Support Vulnerable 16 and 17 Year Olds (Pages 1 - 5)
4. Neighbourhoods General Fund Revenue Budget Monitoring to 30th September 2009 (Pages 6 - 11)

**ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS**

<b>1.</b>	<b>Meeting:</b>	<b>Cabinet Member for Housing and Neighbourhoods</b>
<b>2.</b>	<b>Date:</b>	<b>Monday 16<sup>th</sup> November 2009</b>
<b>3.</b>	<b>Title:</b>	<b>Local Authority duty to support vulnerable 16 and 17 year olds.</b>
<b>4.</b>	<b>Directorate:</b>	<b>Children and Young People's Services</b>

## **5. Summary**

This report reviews a recent (May 2009) Law Lords judgement (G vs Southwark), which considered how local authorities support homeless 16 and 17 year olds. The case tested the circumstances in which local authorities should provide accommodation for this age group and the legislation that should apply. The judgement concluded that the duties of local authorities to accommodate children in need cannot be circumvented by referring the young person to the housing authority. The case has profound implications for local authority children's services.

The report further considers the position of unaccompanied asylum seeking young people, including support arrangements, accommodation support, support in relation to their status as looked after children and financial arrangements, as informed by a 2003 High Court judgement, (R v London Borough of Hillingdon and the Secretary of State for Education and Skills).

## **6. Recommendations**

- **That the contents of this report are noted.**

## 7. Proposals and Details

### House of Lords judgement:

G in this case is a young man born in Somalia in 1990 who came to the UK with his family in 1998 and was granted indefinite leave to remain. In June 2008 he became homeless following the deterioration in the relationship with his mother and 'sofa surfed' until September 2008. Following referral by his solicitor G was assessed by Southwark children's services department and identified as a 'child in need' under section 17 of the Children's Act (1989). The assessment concluded that accommodation could be provided by referring him to a homeless persons unit, and his other needs met by referral to support agencies, including social services. G was therefore placed in bed and breakfast accommodation with support from other agencies.

The case was appealed on 28<sup>th</sup> September 2008 with G's legal team arguing that the assessment by children's services should have concluded that G was entitled to provision under section 20 of the Children's Act 1989 (the provision of accommodation for children) and therefore that G should have been accommodated by Children's Services rather than them discharging their duties under section 17.

The appeal was upheld in favour of the local authority. The Court of Appeal concluded that *"the local authority was entitled to conclude that he (G) required only 'help with accommodation' under section 17"*.

The case then progressed to the Law Lords in May 2009 who determined that for 16 and 17 year olds it is *"the clear intention of the legislation that these children need more than a roof over their heads and that local children's authorities cannot avoid their responsibilities by passing them over to the local housing authorities"*. (Baroness Hale, May 2009).

For the local authority this means that all lone 16 and 17 year olds presenting as homeless will be assessed with the presumption that core services should be provided under section 20 of the Children Act 1989, effectively making them "looked after".

Whilst the ruling notes exceptions to a conclusion following assessment of section 20 services, most notably in cases where the young person does not wish to be accommodated under section 20 or where a young person had been living independently prior to being homeless, it is likely that the majority of young people will require accommodation under section 20. Baroness Hale notes *"authorities should be slow to conclude that a child was no longer 'in need' because he did not need that help or because it could be provided in other ways"*.

The defence of Southwark against the appeal was in part predicated on the Homeless (Priority Need) Order 2002. This order specifically includes 16 and 17 year olds who have a priority need for housing under Part VII of the 1996 Housing Act, consequently Southwark Children's Services argued as the local authority had a duty to house him, the children's services could perform its duty under section 20 of the 1989 Act by making arrangements to ensure G was provided with housing.

In Rotherham, and in most local authorities since 2002, housing authorities have assumed greater responsibility for housing 16 to 17 year olds and in conjunction with Supporting People have made provision for this vulnerable group and developed preventative services to avoid the need to accommodate.

However, this judgement rules that the 2002 Order specifically excludes from priority those to whom a local authority owes a duty under section 20 of the 1989 Act. This judgement therefore reverses the trend of responsibility since 2002 from Housing Authorities to Children and Young People's Services and has profound implications for the local authority.

### **Unaccompanied asylum seeking young people:**

Currently there are 14 unaccompanied asylum seeking children in Rotherham aged 16 to 18 years old. Only 7 are classified as looked after children and are given full looked after support including statutory medical assessments and looked after reviews. These young people are currently provided with accommodation in shared houses 3-4 young unaccompanied minors per property. As per the report above, the 7 remaining unaccompanied young people should also be considered as looked after children. There is one full time social worker for unaccompanied asylum seeking children who monitors and supervises the young people in their independent living situation. The social worker also provides support to young people claiming asylum who live with family members and also to families with children who are claiming asylum.

The post involves undertaking Merton compliant age assessments of young people who claim to be under 18 when claiming asylum. In the event of the worker determining that the young person is likely to be over 17 and a half their claim for asylum is likely to be refused. There are a growing number of appeals against age assessments and threats of judicial review from solicitors. The social worker provides support for young people attending appointments with the Home Office and legal appointments. The position requires a high level of skill and understanding of the complex immigration issues and support requirements for young people who are claiming asylum from various countries and backgrounds, often with traumatic life histories and experiences. There are particular risks associated with a lone female worker visiting properties where 4 young men reside (their histories and ages are often uncertain) having to deal with sometimes challenging situations and support is often required. Additionally there are safeguarding issues in relation to the young people being placed in independent living situations without adequate support. There have been concerns about the conditions of some of the properties which the young people have been living in. The new social worker has developed a health and safety checklist in order to check that the properties used meet basic safety requirements, however the current standard of properties is not always adequate, e.g. no smoke alarms, no fire safety equipment, electrical equipment not PAT tested and placed in areas where they may be vulnerable to victimisation.

There is a need to review the current service requirements to support the social worker in their role and also to look at more appropriate supported living arrangements, such as that provided through either foster care, or more comprehensive supported living packages.

## **8. Finance**

Rotherham in keeping with other authorities has in the main accommodated 16 to 17 year olds via the Housing Authority, or by referral to voluntary sector providers (Rush House, Action Housing etc). Whether placed in council or voluntary provision, funding is derived from housing benefit or, for particularly vulnerable young people, a combination of housing benefit and supporting people funding.

An immediate implication for Children and Young People's Services assuming responsibility for accommodation under section 20 of the 1989 Act, is that these young people would be deemed to be "looked after" and therefore ineligible for benefits.

Benefit payments are derived from the Department of Work and Pensions (DWP) and provision for looked after children is in the main derived from the Department for Children,

Schools and Families (DCSF). Correspondence from the DCSF in response to the Local Government Association enquiries about this ruling makes clear that there are no plans to realign funding from the DWP to DCSF, neither is there an intention to consider changing the law in respect of benefit payments to looked after children or to provide additional resources as a result of the financial implications of this judgement. The DCSF's view concurs with that of the Law Lords and they consider that they have provided sufficient funds to support the current legislative framework and that this ruling has not changed that framework.

A further financial implication is that those that are looked after for more than 13 weeks will become eligible for leaving care support until at least 21.

It is difficult to ascertain the exact number of homeless 16 to 17 year olds in Rotherham as it appears no one agency collates this information. Homeless section report during 2008/9, 26 young people were categorised as homeless. However this is likely to be an underestimate as social care and health service will often refer such young people to voluntary sector providers without resource to the housing department. These providers will also accept self referrals from young people.

A slightly more accurate figure is likely to be that reported by Supporting People who in 2008/9 recorded 122 'new starts' – that is to say young people from the age bracket accessing accommodation. Taking these figures as initial estimates and the average cost of voluntary sector provision as £100 per week, (currently funded by a combination of housing and other benefits which looked after young people would be ineligible for), the cost of 122 young people being assessed as requiring accommodation under section 20 would be in the region of £634,400 in a full year.

This cost estimate is by no means an accurate depiction of the true costs that would be incurred as a result of full implementation of the ruling. It does not account for associated costs such as social worker assessments, statutory duties associated with looked after status (eg reviews, health assessments, pathway plans, independent reviewing officers etc), and leaving care costs. However the figure is indicative of the "highly significant costs pressure" (LGA) anticipated by the Local Government Association.

There is an urgent need to obtain accurate data for homeless 16 to 17 year olds and conduct a full cost analysis.

As far as unaccompanied asylum seeking young people are concerned, grants are applicable to Local Authorities providing services, and are claimed retrospectively. The amounts are £108.18p per day for under 16's and £48.45p for 16/17 year olds. The total figure received in Rotherham for 2008-09 was £84,437. The rates remain the same for the current year and projected expenditure to be claimed back for 2009-10 is £107,392.

### **9. Risks and Uncertainties**

The judgement of the Law Lords leaves little room for ambiguity, and it is clear there is an obligation for Children and Young People's Services to assume responsibility for the accommodation of 16 to 17 year olds. However the judgement also makes it clear that there is a need for joint co-operation between Housing and Children's Services, as referred to in Preventing Homelessness (Department for Communities and Local Government DCFS 2008), whilst children's services have the power to ask other authorities, including housing for "help in the exercise of any of their functions", the ruling specifically states that children's services cannot avoid their responsibilities by "passing the buck". Nevertheless the need for joint co-operation signals a need to improve joint working and to develop strategies,

protocols and procedures for both departments to work with single homeless young people, for example, a joint prevention strategy.

Additionally, as noted above there are specific risks associated with the service provided to unaccompanied asylum seeking young people, both for the staff involved and potentially for the provision offered the young people.

### **10. Policy and Performance Agenda Implications**

As a consequence of the judgements it is likely that Rotherham will experience an increase in the number of looked after children. This is likely to impact on a number of performance indicators in relation to looked after children, as well as having an adverse effect on capacity within social care in terms of statutory duties such as reviews. In turn this has the potential to impact on CAA outcomes and inspections.

### **11. Background Papers and Consultation**

- Opinions of the Lords Appeal for Judgement in the Cause R (on the application of G) (FC) Appellant V London Borough of Southwark (Respondents).
- Correspondence; Local Government Association and Department of Childrens Schools and Families
- Local Government Association Briefing
- Hillingdon case - R ex parte Berhe Kidane Munir and Ncube v London Borough of Hillingdon and the Secretary of State for Education and Skills, High Court, 29 August 2003, [2003] EWHC 2075 (Admin)
- Merton - The Queen on the application of B v London Borough of Merton [2003] EWHC 1689 (Admin) (14 July 2003)

Referred by the Cabinet Member for Children and Young People's Services on 4<sup>th</sup> November, 2009 (Minute No. 69 refers).

#### **Contact Names:**

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**Simon Perry, Director of Community Services**

<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	<b>Cabinet Member for Neighbourhoods</b>
<b>2.</b>	<b>Date:</b>	<b>Monday 16<sup>th</sup> November 2009</b>
<b>3.</b>	<b>Title:</b>	<b>Neighbourhoods General Fund Revenue Budget Monitoring to 30<sup>th</sup> September 2009</b>
<b>4.</b>	<b>Directorate:</b>	<b>Neighbourhoods and Adult Social Services</b>

### **5. Summary**

This report details the income, expenditure and net position for the Neighbourhoods department within the Neighbourhoods & Adult Services Directorate compared to the profiled budgets for the period ending 30<sup>th</sup> September 2009. It also includes the projected year end outturn position which currently shows a forecast overspend of £814k (19.2%) by the end of March 2010, prior to any management actions which may be implemented following the current review of the Independent Support Service.

### **6. Recommendations**

**THAT THE CABINET MEMBER RECEIVES AND NOTES THE REPORT.**

## 7. Proposals and Details

The table below shows the summary forecast outturn position for the Directorate. Appendix 1 shows more detailed analysis.

SERVICE	Annual Budget (Net)	Projected Outturn to 31 <sup>st</sup> March 2010	Variance from Budget Deficit/(Surplus)	Overall
	£000's	£000's	£000's	%
Asylum	0	0	0	
Housing Access	447	468	21	
Housing Choices	207	207	0	
Older People's Housing Services	(136)	491	627	
Safer Neighbourhoods	2,603	2,742	139	
Business Regulation	579	574	(5)	
Neighbourhood Partnerships	483	514	31	
Neighbourhood Investment	53	54	1	
<b>TOTAL</b>	<b>4,236</b>	<b>5050</b>	<b>814</b>	<b>19.2%</b>

### Key Pressures

#### 7.1 Independent Support Service (Wardens) (£627k overspend)

The Independent Support Service (Wardens) or Older People's Housing Service, is currently subject to a full management review, with the potential to integrate this area with Domiciliary Care within Adult Services being explored. At the beginning of the year it was recognised that there would be a potential overspend at year end in the region of £490k unless short term measures could be identified to reduce the expenditure or increase income. The forecast to the end of September 2009 estimates that continuation of the Service in its present format, without Management Actions, will result in a minimum projected overspend of £627k in 2009/10 as cover must be provided to maintain the service despite high levels of sickness.

The position will be closely monitored and any financial implications arising from the review will be included in future budget monitoring reports.

#### 7.2 Safer Neighbourhoods (£139k overspend)



Current budget pressures within this area relate to estimated Flare system maintenance and licensing costs £30k and estimated Service Quality recharges £10k which are above the available budget and an estimated pressure against Supplies and Services of £18k. Ongoing essential routine maintenance work to comply with Health and Safety regulations at Old Landfill Sites £20k continues. Additional staff costs relating to a disestablished post £9k, redundancy costs £29k difficulties in meeting the vacancy factor £13.5k, pressures on the Supplies and Services budget of £17k and a small projected overspend on Transport £1.5k are causing pressures within the Anti-Social Behaviour team. The Neighbourhood Wardens Service has a £20k pressure relating to difficulties in meeting the vacancy factor. The Enviro-Crime Service is forecasting a (£29k) saving, mainly against the Special Project budget relating to Motor Cycle Nuisance. The wider Neighbourhoods service is optimising opportunities to save staff costs through tight vacancy management and have implemented a moratorium on non-essential expenditure with the aim of delivering a balanced position by the end of March 2010. This will remain under close scrutiny and progress will be reported in future budget monitoring reports.

### **7.3 Business Regulation (£5k underspend)**

An estimated pressure of £25k relating to the purchase of bespoke computer equipment and additional software costs around the implementation of the worksmart project exists within the Food and Drugs team whilst pressures of £5k relating to staffing costs exists within the Animal Health team due to non-achievement of the vacancy factor. A shortfall in the income received, maintenance costs relating to disused chapels and the payment of grants to Parochial Church Councils is creating a pressure of £49k within Bereavement Services. (NB This pressure has been addressed in the MTFs from 2010/11). Again the wider Business Regulation service is optimising opportunities to save staff costs through tight vacancy management which is currently estimated at (£84k) and have implemented a moratorium on non-essential expenditure with the aim of delivering a balanced position by the end of March 2010. This will remain under close scrutiny and progress will be reported in future budget monitoring reports.

### **7.4 Neighbourhood Partnerships (£31k overspend)**

A review of the current establishment within Neighbourhood Partnerships has revealed that the service will not be able to meet the vacancy factor allowed for in the staffing budgets and is unlikely to make compensating savings from other available budgets, causing a projected overspend of £31k.

### **7.5 Housing Access (£21k overspend)**

The Budget Manager within the Management and Admin team has identified that the vacancy factor will be unachievable and is causing a £10k pressure, however this will be offset by a reduction in establishment costs due to maternity leave, estimated at (£9k). The Private Sector Adaptations Service is reporting a net overspend (after vacancy savings are offset against it) of £20k,

which is as a result of an estimated shortfall in the income that is likely to be generated from the management fee.

## 7.6 Housing Choices (Balanced forecast)

The existing funding to Rush House Homeless Centre has been discontinued from May 2009, with the funding now being provided from Supporting People. As a result there is a budget saving of (£21k) in this area.

A pressure of approximately £21k has been identified within staffing in Key Choices Property Management and to enable the service to function at current staffing levels, the budget from Rush House has been earmarked to support Key Choices to the end of the current financial year, and is to be reviewed for 2010/11. Key Choices is a new service that is required to be self funding, however in the initial period it is unlikely that enough income will be generated to achieve this although it is anticipated that from 2010/11 this should be resolved.

## 7.7 Neighbourhood Investments

There is a small anticipated overspend within the Neighbourhood Advice team £1k which relates to difficulties in meeting the vacancy factor.

## 7.8 Agency & Consultancy

To date Neighbourhoods have spent £20,181 on agency staff that is broken down as follows:

Area	Service	Amount (£)
Business Regulation	Food & Drugs	3,998
Business Regulation	Licensing	785
Safer Neighbourhoods	Community Safety Unit	9,241
Safer Neighbourhoods	Community Protection	6,157
<b>Total</b>		<b>20,181</b>

These costs are included in the forecasts included in 7.1-7.6 above.

**Consultancy:** There has been no spend to date on consultancy.

## 8. Finance

The financial implications for each service area have been outlined in section 7 above.

## 9. Risks and Uncertainties

These forecasts are based on financial performance to the end of September 2009. The forecast outturn is dependent on the planned management actions being achieved and thus effective budget monitoring remains essential. Monthly budget clinics are held with the Service Director to facilitate this.

#### **10. Policy and Performance Agenda Implications**

The delivery of the Council's Revenue Budget within the limits determined in March 2009 is vital to achieving the Council's Policy agenda. Financial performance is a key element within the assessment of the Council's overall performance.

#### **11. Background Papers and Consultation**

- Cabinet February 2009 – Proposed Revenue Budget & Council Tax 2009/10
- The Council's Medium Term Financial Strategy (MTFS) 2007 – 2010.

The content of this report has been discussed with the Strategic Director (Neighbourhoods & Adults) and the Strategic Director of Finance.

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Appendix 1																	
Neighbourhoods	INCOME/EXPENDITURE REPORT As at 30th September 2009									PROJECTED OUT-TURN							
	Expenditure			Income			Net			Net							
	Profiled Budget	Actual Spend to date	Variance (Over (+) / Under (-) Spend)	Profiled Budget	Actual Income to date	Variance (Over (+) / Under (-) Recovered)	Profiled Budget	Actual Net Expenditure to date	Variance (Over (+) / Under (-) Spend)	Annual Budget	Proj'd out turn	Variance (Over (+) / Under (-) Spend)	Current Financial RAG Status	Financial Impact of Management Action	Revised Projected Year end Variance Over(+)/Under(-) spend	Revised Financial RAG Status	* Note
	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000		
<b>a) Director of Independent Living</b>																	
Asylum	695	679	(16)	(489)	(366)	123	207	313	106	0	0	0		0	0		
Housing Access	262	217	(45)	(82)	(20)	62	180	197	17	447	468	21		0	21	Amber	
Housing Choices	612	732	120	(580)	(804)	(224)	33	(72)	(105)	207	207	0		0	0		
Older People's Housing Services	678	749	71	(747)	(516)	231	(69)	233	302	(136)	491	627	Amber	0	627	Amber	
<b>Total</b>	<b>2,247</b>	<b>2,377</b>	<b>130</b>	<b>(1,898)</b>	<b>(1,706)</b>	<b>192</b>	<b>351</b>	<b>671</b>	<b>320</b>	<b>518</b>	<b>1,166</b>	<b>648</b>	<b>Amber</b>	<b>0</b>	<b>648</b>	<b>Amber</b>	
<b>b) Director of Housing &amp; Neighbourhood Services</b>																	
Safer Neighbourhoods	1,795	1,826	31	(511)	(526)	(15)	1,285	1,300	15	2,603	2,875	272	Amber	(133)	139		
Business Regulation	748	675	(73)	(446)	(489)	(43)	301	186	(115)	579	574	(5)	Amber	0	(5)		
Neighbourhood Partnerships	437	485	48	(203)	(215)	(12)	234	270	36	483	514	31		0	31	Amber	
Neighbourhood Investment	382	336	(46)	(27)	0	27	355	336	(19)	53	54	1		0	1		
<b>Total</b>	<b>3,362</b>	<b>3,322</b>	<b>(40)</b>	<b>(1,187)</b>	<b>(1,230)</b>	<b>(43)</b>	<b>2,175</b>	<b>2,092</b>	<b>(83)</b>	<b>3,718</b>	<b>4,017</b>	<b>299</b>		<b>(133)</b>	<b>166</b>		
<b>Total for Service</b>	<b>5,609</b>	<b>5,699</b>	<b>90</b>	<b>(3,085)</b>	<b>(2,936)</b>	<b>149</b>	<b>2,526</b>	<b>2,763</b>	<b>237</b>	<b>4,236</b>	<b>5,183</b>	<b>947</b>	<b>Amber</b>	<b>(133)</b>	<b>814</b>	<b>Amber</b>	

**Reason for Variance(s), Actions Proposed and Intended Impact on Performance**

**NOTES Reasons for Variance(s) and Proposed Actions**

Indicate reasons for variance (e.g. increased costs or client numbers or under performance against income targets) and actions proposed to address the variance which produce the revised RAG status

**Reasons for Variance**

- The ISS Wardens service has an anticipated overspend on salary expenditure and is expected to under recover against income as detailed in proposed actions below.
- Housing and Neighbourhood services as a whole are currently running with a number of vacancies as a result of vacancy management in 08/9 to reduce overspends in that year. A number of pressures have already been identified and management actions, including a moratorium on non-essential expenditure, are in place to reduce the effect of these pressures.

**Proposed Actions to Address Variance**

- The ISS Wardens service is currently subject to a large scale review, supported by the Cabinet Member. This review remains ongoing and is not likely to produce management actions that would reduce the overspend before April 2010. There is an anticipated overspend on fixed expenditure (largely salaries) against the income received for the service. Due to high permanent vacancy rates, as no recruitment is taking place to cover vacant sheltered sites, essential overtime costs are being incurred to cover sickness and enable the service to paying customers to continue to be delivered. Management Actions to contain the use of overtime include making use of "casual" staff paid at normal hourly rates and negotiating staffing resources from the in house domiciliary care service where capacity allows it.
- Efficiencies throughout the service will be used to reduce potential projected overspends.

**Performance**

(List key targets and RAG status- highlight impact of actions intended to address budget variances on Key Performance Indicators)

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