

OVERVIEW AND SCRUTINY MANAGEMENT BOARD
Wednesday 5 June 2024

Present:- Councillor Steele (in the Chair); Councillors Bacon, Baggaley, Blackham, Keenan, Marshall, McKiernan, Tinsley and Yasseen.

Apologies for absence:- Apologies were received from Councillors A. Carter and Knight.

The webcast of the Council Meeting can be viewed at:-

<https://rotherham.public-i.tv/core/portal/home>

1. MINUTES OF THE PREVIOUS MEETING HELD ON 13 MARCH 2024

No comments were raised regarding the accuracy of the minutes, however Councillor Yasseen asked that the minutes were written in a consistent manner going forward with comments being attributed to Members.

Resolved: That the Minutes of the meeting of the Overview and Scrutiny Management Board held on 13 March 2024 be approved as a true record.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. QUESTIONS FROM MEMBERS OF THE PUBLIC AND THE PRESS

The Chair explained that any questions must relate to items on the agenda. He understood that a number of people had attended to ask questions regarding the Palestine petition, unfortunately he had been advised to remove that item from the agenda because of its political nature, given the upcoming general election. The Chair did give his assurance that this item would be added to the first available agenda following the conclusion of the general election.

Councillor Tinsley felt that this had not been consistent in the run up to the local elections and queried if there was a difference was between local and national elections. The Monitoring Officer, Philip Horsfield, clarified that this topic had been excluded from any formal agendas before the local elections as well, so there had been consistency in the approach to formal meetings in both pre-election periods in relation to this topic. He noted that there were slight differences in the rules relating to national and local elections, explaining that he had emailed all members providing additional guidance on the rules regarding pre-election periods and he was happy to take questions from individual members either at the meeting or in writing.

A member of the public asked a question relating to the meeting linked to

the advice received prior to the meeting. He had received certain documentation prior to the meeting explaining that the Palestine questions should not be asked at this meeting due to it being controversial or politically sensitive. He noted that the Board were also discussing certain financial inducements on the agenda prior to an election occurring. His question was that the Monitoring Officer was advising that it was controversial then it should not be done but also other things happening that they were told in the guise that they were given prior to the meeting which the Council had to abide by, which was ultimately that it must always be guided by the principle of fairness. It was crucial that any decision taken would then be seen as fair and reasonable by the public and those standing for office.

They were promised during previous meetings that they would be able to ask questions about Palestine during this meeting and now they had been told they could not because of the general election. In the first Overview and Scrutiny Management Board (OSMB) meeting they held they were told by the Councillors attending and by the Monitoring Officer that the law must be followed, and the Council was in purdah and certain provisions were agreed to. During the second OSMB meeting they were told they were still in purdah as it was one day until the local elections and informed that the Chief Executive and Leader had both declined to raise the Palestinian flag. He tried to indicate that there was a gulf of inconsistencies.

The Chair explained he understood where the speaker was coming from however the Council still had to conduct its normal business, which was what was being considered at the meeting. He noted that at the time the Leader responded to them during the Council meeting on 22 May 2024, he was not aware that a general election had been called at that time. The situation had changed from the conversations held during the meeting as the election had been called that evening.

The Chair again provided assurance that this item would be added to the first available agenda following the conclusion of the general election. The speaker thanked the Chair for that assurance but felt it did not answer the fact that there was a vast gulf of inconsistencies of when purdah is convenient the rules are followed and when purdah is not convenient its ignored and continue with political, controversial actions and he considered that this related to the consideration of the Financial report prior to the election. The Chair explained that the Council's finances continued during the general election and the Council continued to operate. The items on the agenda were deemed non-political, the committee was a non-political committee. He confirmed that questions would be able to be asked at the next OSMB meeting during the 15-minute period set aside for public questions.

Another member of the public sought clarification about how OSMB operated procedurally. She queried how purdah was defined and the extent to which it was put in place and whether that extent was purely

legal, discretionary, whether it was based on advice. The reason she asked those questions was that they had been chasing the Council for months, again and again, coming along to lots of meetings. They had engaged in good faith repeatedly and she had some questions which had arisen as a result of their engagement with OSMB. She noted that the Monitoring Officer was present and was certain he would be able to answer the questions. She explained she had been sent some pre-election period guidance, which considered what could and could not be done by OSMB during the period. One of the points was that the Council was allowed to discharge normal Council business even it was controversial. She asked how the petition did not qualify as normal business when the review was already finished with only the recommendations to be considered, indicating similarities between the petition and the financial budget.

She felt that from a procedural perspective they had followed every process needed and should have culminated in the item being presented during the meeting. She queried how the item did not qualify as normal Council business. One aspect of the pre-election period guidance concerned her, which stated 'ultimately you must always be guided by the principle of fairness. It was crucial that any decision taken would be seen as fair and reasonable by the public and those standing in office.' She felt the decision not to consider the petition at the meeting did not qualify as fair and reasonable because they had been repeatedly promised that it would be considered at this meeting.

The Chair reiterated the statement made to the earlier speaker that at the time assurances were provided during the Council meeting a general election had not been called, as this was called later in the evening, which changed the situation. The Monitoring Officer stated that the guidance also said that the Council should not engage on any publicity on controversial issues or report issues or proposal in such a way that identify with groups of people. This issue was live and was live in many constituencies nationally. It was reasonable for the Council to assume that it was a live election issue. He indicated he was happy to engage with the speakers outside of the meeting to explain his reasoning in more detail. The speaker noted that the guidance indicated was regarding publicity, publicity was any communication, in whatever form addressed to the public at large or to a section of the public. The recommendations being passed through were not addressed to the public or a section of the public, they were addressed to the Council so sought clarification as to how it qualified as publicity.

Councillor Yasseen clarified, as a member of the sub-committee who considered the petition, that community representative group had wanted to understand the procedures throughout the process with regard to what happened next. She felt that there could be a wider debate for OSMB to consider the pre-election period guidance to ensure clarity in the guidance. The Chair indicated that this could be added to the work programme for consideration over the next three to four years however

this would need to be done through the agreement of all members on OSMB.

4. EXCLUSION OF THE PRESS AND PUBLIC

The Chair advised that there were no items of business on the agenda that would require the exclusion of the press or public from the meeting.

5. SPECIAL EDUCATIONAL NEEDS AND DISABILITIES (SEND) STRATEGY

The Chair invited Councillor Cusworth, the Cabinet Member for Children and Young People Services to introduce the report. She introduced Helen Sweaton, Joint Assistant Director, Commissioning and Performance and Niall Devlin, Assistant Director, Education and Inclusion.

The report being submitted to Cabinet on Monday 10 June was asking for approval to consult on a refresh of the Rotherham Special Educational Needs and Disabilities Strategy, which set out the priorities and vision for SEND services over the next four years. Following the Joint Local Area SEND inspection in July 2021, along with partners, the Council had worked to deliver the written statement of action to address significant areas of weakness in the local area's practice. In September 2023, the Improving Lives Select Commission noted feedback from advisers and successful achievement of the required improvements and the successful discharge of priority actions.

To provide additional context, the areas of improvement were quality of education, health and care plans, communication around the local offer, preparation for adulthood and the graduated response. Since that time, the Department for Education (DfE) White Paper on Special Educational Needs and Disabilities and also an alternative provision improvement was published in March 2023. The national SEND review set out government proposals for a system that offered children and young people the opportunity to thrive with access to the right support, in the right place and at the right time, enabling them to fulfil their potential to lead happy, healthy and productive adult lives.

It was known that, where possible, it was better for children to access education within mainstream with additional support, because children should be able to play in their communities with their friends that live close by. It had a tremendous effect on children and young people's sense of wellbeing when they were sent out of area for education, whether that was for alternative provision, which used to be called pupil referral units, or whether it is special educational needs. There would always be some children who needed to access specialist provisions.

It was important that a refreshed vision and a co-produced strategy for SEND services in the borough be developed to reflect the changing environment and the current priorities for children, young people, parents,

carers and families. The draft strategy had been developed with partners, including the Rotherham Parent Carer Forum, Special Educational Needs and Disability Information advice and support services, and both special and mainstream schools. The refresh strategy titled 'My Life, My Rights' reflected the changing environment and priorities for children and young people, parents and carers.

There were seven sections in the strategy, which were set out in the report. She highlighted the voice of children and young people was very important. The Children and Young People's Partnership Board had been reinvigorated recently and the young people, who were the guiding voices which was the children of the Parent Carers Forum and those children, themselves who had disabilities and additional needs attended those meetings. That Board was the main point for capturing the voice of the young people along with other representatives from other cohorts.

The seven outcome statements listed below, were produced following workshops and engagement with young people:

1. I have a voice, and this is listened to and respected.
2. I am as healthy as possible.
3. I feel safe.
4. I have help and support in a way that suits me.
5. I have adults in my life who are supported to help me.
6. I am supported to be as independent as possible and have a purposeful life.
7. I belong and feel valued.

She explained that local data highlighted three areas that had a significant impact on health, wellbeing and educational access for Rotherham's children and young people and these were areas of focus. The three areas were:

- the number of permanent exclusions or part-time timetables for children and young people with special educational needs.
- The number of disabled children and young people and those with special educational needs who were missing school due to health concerns.
- To have a clear process for engagement with children and young people so their views and voices and do what can be done to work with them.

One of her key themes was that all children could access an enjoyable learning environment and achieve their full potential success, whatever that may look like for them.

Cabinet was being asked to grant a period of consultation and further engagement to support this. The draft strategy would then be submitted to Improving Lives Select Commission on 29 October 2024. She believed that scrutiny was always asked to conduct some pre-decision scrutiny to feed into any strategies before it was re-submitted to Cabinet for

consideration including scrutiny's input.

Councillor Blackham felt the report was good and believed it was a child centred approach however he felt it needed a bit more emphasis on the role of parents. He understood it was going through various stages of consultation however parents were the people who would challenge the service on this. He felt the Council had to bring the parents along with them, which also led into the consultation period, which he felt was short and conducted over the summer. He accepted there may be reasons for that but expressed his concerns of the need to capture the needs and views of the parents.

He also sought clarification regarding the links with academies in Rotherham. The report mentions mainstream schools, but did this mean that the views and input of the academies was captured within the report and he felt this needed further clarification within the report.

Councillor Cusworth noted that the draft strategy had been co-produced with the. At the Local Area SEND inspection, where the Council did receive a written statement of action, which was based on progress since 2014, the Rotherham Parent Carers Forum were described as the jewel in the crown. The Council worked in that basis around those genuine partnerships in the four cornerstones of co-production, so that may be the reason, if the strategy had not been clear enough around parental views and input but this would be considered.

She provided assurance that the Council did not expect any less from the academy trusts in relation to how they worked with all Rotherham's children, including those with SEND. She noted the Rotherham Parent Carers forum held drop-in coffee sessions around the borough.

The Joint Assistant Director, Commissioning and Performance noted that in relation to parents and carers specifically that they could ensure that they did not just reach out to the Parent Carer Forum, that they did some proactive engagement using the Special Educational Needs and Disability Information advice and support service, the schools, the Child and Adolescent Mental Health Service (CAMHS) to conduct some surveys to raise awareness with other parents who were not engaged with that forum.

The Chair asked if it was felt there would be any changes to the DfE's White Paper on Special Educational Needs and Disabilities as a result of the election. The Assistant Director, Education and Inclusion explained the Government had done a Green Paper on the SEND and AD consultation and produced the SEND and AD improvement plan. At the start of September 2023, the government launched the SEND and AP trial and improvement programme. The intention was not to produce any legislation until that trial had concluded at the end of 2025.

Councillor Yasseen agreed that having a fully consulted upon SEND

strategy was much needed. One of the issues regarding access to these specialist services was that there were sometimes blockages due to a lack of knowledge about where to go and who to speak to and she was please to see that had been thought through.

She requested that the service check and clarify the data being used in the strategy, one area highlighted was regarding the number of young people eligible for free school meals, the Rotherham data was actually much lower than stated. She also mentioned around the need to be mindful of how ethnicity data was presented within the strategy. She noted that Rotherham had a disproportionately higher percentage of children and young people that should be able to access SEND provision, therefore it would have been interesting to see how Rotherham compared against its statistical neighbours. The documentation did not indicate what issues were making Rotherham disproportionately higher within the SEND access points.

The Joint Assistant Director, Commissioning and Performance explained they did have a challenge around the data as there was a lot of data published in relation to this area and each organisation used slightly different definitions. It was noted that a glossary could be included that would indicate what data was being used. She indicated some of the categories used were different depending on whether school population or postcode population was being used. Benchmarking data had not been included and this would be discussed with the Improving Lives Select Commission, however it is inclusion could make the data section of the strategy longer. The Council did very well at ensuring Rotherham's SEND children could access mainstream provision and the mainstream schools were good at identifying those individuals and providing support.

Councillor Marshall felt it was an excellent report. She queried if the consultation period was long enough given it was within school holidays. The report lists there were no direct financial implications from its approval and that any financial assessments of the priorities for supporting children and young people would be undertaken once the strategy was developed. Councillor Cusworth indicated that extending the consultation period could be investigated. She explained that the strategy was a legal requirement and set out the vision for the next four years, there were no additional financial pressures associated with the creation of the strategy.

The Joint Assistant Director, Commissioning and Performance explained that in the context of the strategy there were no direct financial implications, it did not cost the Council anything to have the strategy. Due to the costs associated with how children with SEND were educated, some of the associated actions as a result of the strategy may have financial implications on the Council in the future which would be considered once the strategy was ready to be submitted to Cabinet for approval.

Councillor Yasseen, a lot of the targets in the shared outcomes framework were missing, could further information be provided. The Assistant Director, Education and Inclusion explained that where information was provided it was because that information was statutorily required, and the Council did not have a choice about those targets. Where it indicated national, the reason the figure was not included was because the Council was waiting for that information to be published in July. The blank targets were because the Council wanted to agree those during the consultation with parents.

Councillor Keenan queried what being done to address the sleep issues identified within the report and could this be something for the Health Select Commission to consider under its work programme. Councillor Cusworth noted that sleep issues did affect the children and young people across the borough. She felt it was a much bigger issue but was of particular concern for those with additional needs and she would welcome scrutiny's involvement in this area. The Joint Assistant Director, Commissioning and Performance noted it was one of the priorities in the Place Plan. Joint work with Rotherham ICB, Rotherham Public Health to redevelop the Sleep pathway to bring everything together.

Councillor Yasseen requested that the paperwork for the initial equalities impact assessments be completed correctly. As these are mandatory documents these should be accurately completed.

Resolved: That the Overview and Scrutiny Management Board:

1. Agreed that Cabinet be advised that the recommendations be supported.
2. Recommended that a glossary be included within the report/strategy going forward to explain the data and information sources used.
3. Suggested that an item regarding the work being done regarding Sleep Pathways be referred to the Health Select Commission for consideration at a future point.

6. FINANCE UPDATE

At the Chair's invitation Rob Mahon, Assistant Director for Financial Services introduced the report, noting that the main purpose of the update was to give the headline outturn position for the 2023-2024 financial year. This was ahead of a more detailed outturn report that would be submitted to the July Cabinet meeting, which would detail the specifics around the directorate overspend and underspend and provide a more detailed update regarding the reserves position of the Council.

It was worth noting the reported overspend for the Council was at £1.2m at the position for December 2023's monitoring reported to February 2024's Cabinet as part of the budget and Council's report setting process for 2024-25. At that point it was indicated that the Council would try to reduce the overspend position by identifying any potential savings, cost

reductions, maximisation of grant funding that it would receive between December and March. Due to that work and to ongoing maximisation of grants, the final outturn position was reduced down to £0.1m. The report covered this by directorate.

Overall, some of the key messages was the directorate overspends were £8.8m across, in particular Children and Young People's Services (CYPS) and Regeneration and Environment (R&E) with the main pressures being CYPS placements, home to school transport and catering. These were offset by £8.7m savings in central services which was where the Council held the £5m budget contingency reserve and £3.7m savings from Treasury Management. That position was how the £0.1m overspend was reached.

The report covered saving progress, which was split into two key areas. The new savings that were agreed as part of the 2023-24 budget setting process. Those savings had been fully delivered and was a positive position to report in terms of savings delivery. He highlighted that they were over delivered by £54k. Where a savings programme had been identified, the Council would continue to try to over-deliver on those.

He then provided an update on the old savings that had been carried forward and re-profiled as part of the Council's budget for 2023-24 and 2024-25 and the Medium-Term Financial Strategy (MTFS) Update. Those savings were rolled forward into 2023-24. The updated reported the Council was still behind on some of the CYPS savings in placements, which had been discussed as part of the monitoring reports that had been presented to OSMB and Cabinet. There would be work to do in 2024-25 to continue the delivery of the savings but these were reported through the monitoring reports and the outturn report and through the Statement of Accounts as well to ensure the current position was as robust and clear as possible.

The report also included an update on progress on the local Council Tax support top-up scheme for 2024-25, which was agreed as part of the Council's budget. The scheme had been launched and residents were receiving that support. A progress updated on the Household Support Fund 2023-24 and the proposals for how the Council would use the 2024-25 Household Support Fund which would only run for six months to September 2024-25. The later part of the report listed a number of capital variations, which included minor adjustments to a couple of highways schemes.

Councillor Marshall asked that acronyms be explained in any tables within the report to provide clarity. The Assistant Director for Financial Services said the tables for future reports would be adjusted accordingly.

Councillor Yasseen queried why the Leader, the Chief Executive, or the Cabinet Member were not in attendance to present the report. She also expressed concerns that the repeated overspend in CYPS year on year

which were not being resolved or meeting the savings requirements which was undermining the whole. She noted that all of the other directorates could meet their savings targets, but the budget would still be overspent overall because CYPS was not achieving its savings. She noted that various measures were in place to address this, but these were not on target and asked when the savings put in place a number of years ago would be achieved.

The Chair clarified that the Cabinet Member, Councillor Alam had given his apologies to him personally, which was why he was not in attendance.

The Assistant Director for Financial Services understood the concern regarding CYPS not delivering the savings however in terms of CYPS placements he clarified that the number of placements were decreasing so the demand was reducing. From a finance perspective in terms of considering the budget and the MTFS it felt like things were heading in the right direction although this was slower than projected during budget planning. He indicated the challenge that CYPS faced was the placement mix along with the complexity of the placement. He explained that the number of children placed with external residents was still higher than projected so the key challenge for the Council was to move from the current placement mix of high-cost external residential placement to our in-house programme, which were more efficient placements. The in-house programme was a little behind due to challenges getting the right properties and once those were in place setting them up to be a live in-house residential property. Whilst the Council could move in the right direction to address demand and get the right placement mix, having one child with complex needs could adversely affect the budget position.

The Chair noted that every children's service in the country overspent, and it did have an effect on the Council's budget, and it was up to Cabinet to manage those impacts.

The Cabinet Member for Children and Young People Services provided some context around the profile and further direction of the budget, noting that it did not take into account unaccompanied asylum-seeking children. Whilst those children were welcome in Rotherham, it was not foreseen at the point the budget profile was set. If those numbers were removed the Council had safely reduced the number of children in care. She explained that creating residential properties for children was a difficult and slow process. She highlighted that the number of foster carers being recruited and retained had increased.

Councillor Yasseen asked why budgets were being set that were not achievable as this undermined the whole budget. She also queried why the Council was setting targets for directorates that were not achievable. The Chair clarified that officers only made the budget recommendations; it was the Councillors who set the budget. The Assistant Director for Financial Services reiterated that the report was broadly presenting a balanced outturn position. It was a £0.1m overspend position so he

acknowledged that CYPS was overspent but the budget for 2023-24 set out a clear strategy that would enable the Council, through the use of the budget contingency, to bring the budget back into line through assessments in the MTFS and treasury management planning where it was anticipated that the Council may be able to cover pressures it encountered through the year if the savings in CYPS were not delivered to time. He noted that the CYPS budget was moving in the right direction and the Council did not want to lose that by increasing the budget.

Councillor McKiernan noted that the report indicated that Central Services had delivered an underspend of £8.7m and asked for further information about this. The Assistant Director for Financial Services explained that when the budget for 2023-24 was set it acknowledge the challenges in CYPS around placements and home to school transport, which would be difficult to manage in terms of demand, cost due to inflation, placement mix and market pressures. As a result of those pressures the Council allocated £5m for those pressures that were expected to be incurred throughout the year without knowing the true cost of those pressures. A budget and contingency reserve was set aside in Central Services to held mitigate that pressure. He clarified that Central Services was the Corporate directorate where most of the IT was paid from.

The treasury management budget had performed well over the last few financial years. This was due to a strategy the Council adopted around using short term borrowing. He then explained that treasury management budgets were the Council's management of banking loans, investments and day to day cash flow. In 2021-22 the Council took out long-term borrowing from central government called the Public Works Loans Board (PWLB) to finance historic capital debt, in doing so it took a big loan out. Having cash in the bank the Council was then able to invest that up until the point it needed to be used to incur costs for services, which was the treasury management function. He went on to explain that over the course of 2023-24 interest rates had been high due to inflation and Bank of England base rates had been high meaning the Council was generating greater returns on its investment that previously.

Councillor Blackham sought clarification that the Council had borrowed long-term from the PWLB and had invested it short in the market to get higher interest rates which was generating income. The Assistant Director for Financial Services clarified that the Council had not borrowed ahead of need, it had borrowed to refinance historic debt. Every year the Council had debts from previous years, such as capital programmes that came up for refinancing and over the past three to four years the Council had not been refinancing them but had been dragging down it's cash balances. Previously the Council would not have received a return on its investments due to the low interest rate. Through this process the Council built up a bill that it needed to borrow for and when rates were historically low, it borrowed from the PWLB meaning the historical debt was secured and the Council had another cash balance that it could either keep and invest or reduce the cash over time. Due to the spike in inflation the

Council was about to make use of its position however the intention wasn't to invest at higher interest rates, it would have been to sort out the historical debt position and reduce the interest rate risk.

Councillor Yasseen noted that section 2.6.2 of the report discussed the wall at Bellows Road and the proposed reinvestment to alter the height of the wall, querying why the due diligence had not been right in the first place. The Assistant Director for Financial Services explained that the issue was caused by the removal of the subway rather than the wall, which had not been built recently. The subway had been removed and because people were used to crossing the road at that point, they were now doing so by straddling over the wall, which was not high enough to stop people doing this, creating a health and safety risk. The height of the wall would not have been a consideration originally as the subway was in place, therefore the reinvestment was to rectify an issue that could not have been foreseen at that point in time.

Councillor Yasseen then went on to ask about the Sheffield Road cycleway which was proposing to use levelling up funding for the project. She questioned why additional funding was being requested for the project and she did not feel it was a good use of levelling up funds to address the cosmetic look of the cycling scheme. The Assistant Director for Financial Services explained that the levelling up fund was not paying for the cycleway project, it was paying for the public realm uplift that was at the side of the cycleway project. They were trying to get the benefits of efficiency by completing the cycleway and public realm works at the same time.

Councillor Yasseen sought clarification regarding the payments for the Commissioner Support to Nottingham City Council. The Assistant Director for Financial Services noted this funding was received by RMBC as a recompense whilst this work is ongoing from Nottingham City Council.

The Vice-Chair reiterated comments made by other members who expressed a view that it would have been useful to have some representation from Cabinet at the meeting to enable further lines of questioning to be undertaken. He went on to ask the Assistant Director for Financial Services what he felt the greatest area of risk was for the budget. The Assistant Director for Financial Services explained that in terms of the revenue budget the biggest risks remained social care demand as detailed in the budget report for 2024-25 and whilst inflation was reducing, it was not reducing the costs which were significantly higher than previous years.

The Vice-Chair queried what advice was provided to the Cabinet prior to the budget setting, were they being advised to raise council tax further. The Assistant Director for Financial Services explained that the advice provided to all members regardless of political party during the budget setting process was confidential.

The Chair explained he would speak with the Leader regarding sending substitutes if a Cabinet Member was not able to attend however in most instances the substitute would not be appropriate as each has their own portfolio. He did suggest that members could submit questions to the Cabinet Member in writing after the meeting if the Cabinet Member was unable to attend.

Resolved:

1. That Cabinet be advised that the recommendations be supported.

7. CALL-IN ISSUES

There were no call-in issues.

8. URGENT BUSINESS

There were no urgent items.