

# North Yorkshire County Council

## Chief Executive Decision Session Consultation with the Executive

Minutes of the virtual meeting held on Tuesday, 31 March 2020 commencing at 11.00 am.

County Councillors present via Skype and phone: Carl Les, David Chance, Gareth Dadd, Caroline Dickinson, Michael Harrison, Andrew Lee, Don Mackenzie, Patrick Mulligan, Janet Sanderson and Greg White.

Officers present via Skype: Richard Flinton, Stuart Carlton, Barry Khan, Richard Webb, Gary Fielding, Jane Le Sage, Daniel Harry, and Melanie Carr.

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**Copies of all documents considered are in the Minute Book**

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### 1. **Welcome by the Chair**

The session was chaired by County Councillor Gareth Dadd as the Chairman, County Councillor Carl Les, was unable to Skype into the meeting due to technical difficulties.

County Councillor Gareth Dadd said that items 6 to 10 were those that had previously been published as part of the papers for the meeting of the Executive that was due to meet on 24 March 2020. That meeting had been cancelled as on 23 March 2020 Government had issued fresh guidance relating to the suppression of the Coronavirus pandemic which meant that public meetings could not take place. Items 11 and 12 are new and urgent items for which the papers had been circulated this morning.

County Councillor Gareth Dadd said that, following the Government guidance, the Council had agreed to invoke the emergency decision making process that is identified in the Council's Constitution to allow the Chief Executive to make all appropriate decisions and to allow for appropriate consultation. He said that this would be reviewed should revised legislation on Local Government Decision making be issued that enables virtual meetings. At present, it is not possible to make legally binding decisions in meetings that are held virtually by Skype or telephone.

County Councillor Gareth Dadd said that the role of the Executive at this informal session was to consider the reports and give a view to the Chief Executive. It was noted that this was not a formal decision making meeting and that the Chief Executive would use his own discretion after considering the views of the Executive.

### 2. **Minutes**

#### **Resolved –**

That the public Minutes of the meeting held on 10 March 2020, having been printed and

circulated, be noted.

### **3. Declarations of Interest**

County Councillor Andrew Lee declared an interest in relation to item 9 and new powers to local authority Trading Standards, as he has a business that sells groceries and also has an off-licence.

### **4. Questions and Statements from members of the public**

There were no public questions or statements previously submitted relating to the discussion of those items that would have been considered at the meeting of the Executive on 24 March 2020, which was cancelled in light of Government guidance on public meetings and gatherings.

### **5. Local Government and Social Care Ombudsman Public Report**

Considered – a report of the Corporate Director for Health and Adult Services regarding a Public Report from the Local Government and Social Care Ombudsman in respect of Adult Social Care, and the actions taken to address the recommendations.

County Councillor Michael Harrison introduced the report and said that the Local Government and Social Care Ombudsman (LGSCO) has recently published a report that outlined their findings about a complaint about North Yorkshire County Council.

County Councillor Michael Harrison said that the Council had accepted the recommendations in the report of the Ombudsman and improvements had been made to the way in which the Customer Response Team works. The events that led to the complaint to the Ombudsman had occurred in 2018.

County Councillor Michael Harrison said that the Local Democracy Reporter had published a story about this report ahead of the meeting of the Executive that had been scheduled for 24 March 2020. This has not resulted in any further contact by members of the public.

#### **The members of the Executive recommended to the Chief Executive –**

That the findings and recommendations in the Local Government and Social Care Ombudsman Public Report, and the actions taken, be noted.

#### **Resolved –**

The Chief Executive considered the reports and the views of the Executive and decided to use his emergency powers to implement the recommendation of the Executive.

### **6. Clapham CE VC Primary School - Closure Proposal**

Considered – A report of the Corporate Director for Children and Young People's Service regarding the outcome of the public consultation carried out on a proposal to close Clapham Church of England Voluntary Controlled Primary School.

County Councillor Patrick Mulligan introduced the report and said that in February 2019 Executive Members gave approval to progress a consultation on the proposed closure of Clapham CE VC Primary School with effect from 31 August 2019. The consultation commenced on 14 February 2019 and closed on 4 April 2019. During the consultation the Governing Body put forward a recovery plan, which was supported by the local community. In

response to this, at the April 2019 meeting of the Executive it was agreed that the proposal to cease to maintain Clapham CE VC Primary School should be stopped. This would then allow the Governing Body to implement their recovery plan.

County Councillor Patrick Mulligan said that since then the school was inspected by OFSTED and placed in Special Measures. This has led to a number of children being taken out of the school by their parents and carers and being placed in neighbouring schools. In September 2019, there were 25 pupils on roll. At present, there are 7 on roll and it is anticipated that this will drop to 5 in the next academic year.

County Councillor Patrick Mulligan said that a consultation had been undertaken over the period 10 January 2020 to 28 February 2020. The proposal consulted on was that the local authority would cease maintaining the school from 31 August 2020 and that the catchment areas of both Austwick CE VA Primary School and Bentham Community Primary School would be extended to form a shared catchment area to serve the area currently covered by Clapham CE Primary School.

County Councillor Patrick Mulligan said that 27 individual consultation responses had been received, the bulk of which covered issues relating to the catchment area proposal. Three responses indicated support for the closure and three indicated opposition.

Stuart Carlton, Corporate Director for Children and Young People's Service, said that a great deal of work had been done by the local community to support the long term future of the school but that the falling number of pupils on roll meant that it was not sustainable.

Barry Khan, Assistant Chief Executive (Legal and Democratic Services), said that publication of statutory proposals could go ahead despite the current pandemic and limits on public gatherings and closures of schools. It was possible to find innovative ways in which the public could be informed and engaged.

County Councillor Carl Les said that it had previously been suggested in the media that a decision on this should be deferred until the findings of the Council's Rural Commission were known. He said that the work of the commission had been put on hold for at least 3 months and that people in Clapham and the surrounding area needed to know what was going to happen to their school as soon as possible.

County Councillor Gareth Dadd said that he agreed and that people needed certainty.

**The members of the Executive recommended to the Chief Executive that –**

- (i) Statutory proposals be published on 23 April 2020, proposing to cease to maintain Clapham CE VC Primary School with effect from 31 August 2020; and that the catchment areas of Austwick CE VC Primary School and Bentham CP School be extended from 1 September 2020 to jointly serve the area currently served by Clapham CE VC Primary School.
- (ii) A final decision on the proposal be taken on 9 June 2020.

**Resolved –**

The Chief Executive considered the reports and the views of the Executive and decided to use his emergency powers to implement the recommendation of the Executive.

## **7. Springhead School - Proposal for Satellite Specialist Sixth Form Provision**

Considered – a report of the Corporate Director for Children and Young People’s Service regarding the proposed establishment of satellite specialist Sixth Form provision for Springhead School on the former Graham Lower School site in Scarborough.

County Councillor Patrick Mulligan introduced the report and said that in January 2020 the Executive Members for the Children and Young People’s approved consultation on proposals for the establishment of satellite specialist sixth form provision for Springhead School on the former Graham Lower School site in Scarborough. The public consultation ran from 24 January 2020 to 6 March 2020. A total of six consultation responses were received. Whilst the majority of comments were about the future use of the site, as opposed to the specific proposal to formally establish the satellite site, consultees were unanimously supportive of the proposed change.

Stuart Carlton, Corporate Director for Children and Young People’s Service, said that the development of provision through the proposed establishment of a satellite site was a good thing and would have a positive effect locally.

County Councillor David Chance said that, as a Scarborough Councillor, he was supportive of the proposal.

### **The members of the Executive recommended to the Chief Executive that –**

- (i) Statutory proposals be published together with a statutory notice proposing to formally confirm the establishment of satellite specialist sixth form provision for Springhead School on the former Graham Lower School site in Scarborough, and thereby also confirming an increase in school places from approximately 75 to approximately 85 places.
- (ii) A final decision on the proposal be taken on 9 June 2020.

### **Resolved –**

The Chief Executive considered the reports and the views of the Executive and decided to use his emergency powers to implement the recommendation of the Executive.

## **8. Proposals to Add, Amend & Remove Provision for Special Educational Needs by Providing Targeted Mainstream Provisions in Nine Mainstream Schools from September 2020**

Considered – a report of the Corporate Director for Children and Young People’s Service regarding the proposals to change provision for Special Educational Needs by providing targeted mainstream provisions in nine mainstream schools from September 2020.

County Councillor Patrick Mulligan introduced the report and said that in September 2018, the Council had launched its SEND Strategy. This detailed how SEND provision would be transformed over a 5-year period to help ensure that children and young people with SEND can be educated locally in North Yorkshire. The strategy outlined the rationale for the proposed changes to the model of enhanced mainstream schools, which will start to be implemented from September 2020.

County Councillor Patrick Mulligan said it has been proposed that 31 targeted mainstream provisions would be in place once the programme has been fully established. With nine

schools taking part in the first wave of implementation. Formal consultation with schools and key stakeholders was undertaken from 6 February 2020 to 15 March 2020. 11 meetings were held in localities across the county for parents and carers and professionals. Specific meetings were also held for current staff.

Jane Le Sage, Assistant Director Children and Young People's Service said that there had been 74 respondents to the consultation. Overall there was disagreement expressed by respondents to three of the four questions. Analysis of the responses indicated that the disagreement was not with the model itself but related to concerns that at present there are not enough places or provisions. This will be addressed with the roll out of the model to achieve 31 provisions and 48 places.

County Councillor Patrick Mulligan said that there was nothing in responses to the consultation that would lead to a change in the approach that had been proposed.

Stuart Carlton, Corporate Director for Children and Young People's Service, said that the High Needs Budget was still under significant pressure that since the SEND Reforms in 2014 there has been a 59% increase in Education, Health and Care Plans in North Yorkshire. The proposed approach would create new school places and ensure that support was in place.

County Councillor Patrick Mulligan said that this approach would enable children to be placed locally, near to where they live. This would be better for children and their families and also help to save money.

County Councillor Greg White said that concerns had been raised by schools in north Ryedale about the proposals and how the transition from the existing to the new provision would be managed.

Stuart Carlton, Corporate Director for Children and Young People's Service, said that the new places provided under targeted provision were additional to existing provision. As such, there would be no transition period. He said that existing staff would be retained wherever possible, helping to ensure that skilled and experienced workers were not lost. He acknowledged that change created anxiety but said that the proposals would lead to expanded provision.

County Councillor Janet Sanderson said that the status quo was not sustainable, that schools needed support and children needed to access services in county. She referred to section 3.8 in the report that outlined the financial pressures.

County Councillor Gareth Dadd asked whether the process was time critical and whether the formal public consultation on proposals could be deferred to September 2020, when the pandemic should have abated and life should be back to normal.

Jane Le Sage, Assistant Director Children and Young People's Service said that the current timetable would mean that the new provision could commence in September 2020. If the timetable was extended, then this would mean an April 2021 start.

County Councillor Patrick Mulligan said that the proposals were good news for children and their families and that the timetable that had been outlined in the report should be stuck to.

Richard Flinton, Chief Executive, asked whether all members of the Executive were supportive of the proposals.

A vote was taken and there was unanimous support for the proposals by the members of the

Executive.

**The members of the Executive recommended to the Chief Executive that –**

- a) That public consultation take place on school organisation proposals to:
  - (i) Add provision for Special Educational Needs by providing Special Resourced provision in the form of Targeted Provisions at Mainstream Schools (as listed in Appendix 5).
  - (ii) Remove provision for Special Educational Needs at former Enhanced Mainstream Schools (as listed in Appendix 5).
  - (iii) Note the removal and establishment of Special provisions which the Local Authority will support at the relevant Academies within North Yorkshire (as listed in Appendix 5)
- b) That decision making authority be delegated to the Executive Member for Education & Skills and the Executive Member for Children's Services in regards to interim day 6 arrangements.

**Resolved –**

The Chief Executive considered the reports and the views of the Executive and decided to use his emergency powers to implement the recommendation of the Executive.

**9. Healthy Child Programme Targeted Service Procurement**

Considered – a report of the Corporate Director for Health and Adult Services regarding the proposed arrangements between North Yorkshire County Council (NYCC) and North Yorkshire CCGs (NYCCGs), with Tees Esk and Wear Valley NHS Foundation Trust (TEWV FT) as the lead provider to deliver a School Based Universal and Targeted Emotional Wellbeing Service.

County Councillor Caroline Dickinson introduced the report and said that a number of changes were proposed to the existing plan for procurement due to the Coronavirus pandemic. These changes were summarised as below:

- Extend both targeted prevention contracts (emotional health and substance misuse) until 31 March 2021, with the option to extend beyond that date, subject to a delegated decision by the Corporate Director Strategic Resources and the Corporate Director Health and Adult Services, in consultation with the Deputy Leader and the Executive Member for Public Health
- Defer the Healthy Child Programme universal services report scheduled for 21 April 2020 Executive and to similarly extend the contract for that service until 31 March 2021, with the option to extend beyond that date, subject to a delegated decision by the Corporate Director Strategic Resources and the Corporate Director Health and Adult Services, in consultation with the Deputy Leader and the Executive Member for Public Health
- Defer consultation on a section 75 agreement.

Richard Webb, Corporate Director for Health and Adult Services, said that a major procurement of health services was not appropriate at this time. As such, the proposal was that existing contracts be extended to 2021.

County Councillor Gareth Dadd expressed his support and said that the disruption caused by a re-procurement of a health service was not wanted at this time.

Barry Khan, Assistant Chief Executive (Legal and Democratic Services), said that the Council was considering extending a number of existing contracts during the Coronavirus pandemic.

County Councillor Greg White said that the Council needed to be sure that such extensions in existing contracts did not result in additional costs to the authority.

**The members of the Executive recommended to the Chief Executive that –**

- (i) Extend both targeted prevention contracts (emotional health and substance misuse) until 31 March 2021, with the option to extend beyond that date, subject to a delegated decision by the Corporate Director Strategic Resources and the Corporate Director Health and Adult Services, in consultation with the Deputy Leader and the Executive Member for Public Health
- (ii) Defer the Healthy Child Programme universal services report scheduled for 21 April 2020 Executive and to similarly extend the contract for that service until 31 March 2021, with the option to extend beyond that date, subject to a delegated decision by the Corporate Director Strategic Resources and the Corporate Director Health and Adult Services, in consultation with the Deputy Leader and the Executive Member for Public Health
- (iii) Defer consultation on a section 75 agreement.

**Resolved –**

The Chief Executive considered the reports and the views of the Executive and decided to use his emergency powers to implement the recommendation of the Executive.

**10. Forward Work Plan**

Considered - The Forward Plan for the period 28 February 2020 to 28 February 2021.

County Councillor Don Mackenzie raised an issue regarding the scheduling of the item on the A59 Kex Gill Diversion contract that was due to come to the meeting of the Executive on 21 April 2020.

**The members of the Executive recommended to the Chief Executive that –**

That the Forward Plan be noted.

**Resolved –**

The Chief Executive considered the reports and the views of the Executive and decided to use his emergency powers to implement the recommendation of the Executive.

**11. Changes required to the Constitution**

Considered – a report of the Assistant Chief Executive (Legal and Democratic Services) regarding changes to the Constitution in response to enforcement powers under the Health Protection (Coronavirus, Business Closure) (England) Regulations 2020.

Barry Khan, Assistant Chief Executive (Legal and Democratic Services) introduced the report

and said that the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 include provision for the County Council's Trading Standards Officers, along with environmental health service colleagues in district/borough councils and the Police, to take enforcement action against businesses that are contravening current Government regulations regarding operating during the pandemic. The Council's Constitution needed to be amended in line with these regulations.

County Councillor Andrew Lee asked how long the powers would be in place for and what businesses would they most likely to be used against.

Barry Khan, Assistant Chief Executive (Legal and Democratic Services) said that there was a sunset clause in the regulations and that Government was going to review all new duties and powers that had been introduced in response to the Coronavirus pandemic on a six monthly basis. He said that the businesses concerned would most likely be restaurants, bars, cafes and take ways. A definitive list was included in the regulations and could be circulated to members.

County Councillor Andrew Lee said that businesses needed to be supported during these extremely difficult trading times and that he hoped that the Council would exercise discretion in the use of its new powers.

County Councillor Gareth Dadd said that the primary focus was upon saving lives and supporting the NHS by preventing public gatherings and promoting social distancing. He said that he was confident that the Council's Trading Standards Service would work with businesses and only use their enforcement powers as a last resort.

**The members of the Executive recommended to the Chief Executive that –**

That the Chief Executive Officer amends the Officers' Delegation Scheme as set out in paragraph 3.4 of this report.

**Resolved –**

The Chief Executive considered the reports and the views of the Executive and decided to use his emergency powers to implement the recommendation of the Executive.

**12. Proposal for living allowance payment changes for eligible children under Leaving Care Act 2000**

Considered – a report of the Corporate Director for Children and Young People's Service regarding proposals to approve changes to living allowance payments for eligible children under the Leaving Care Act 2000.

Stuart Carlton, Corporate Director for Children and Young People's Service, introduced the report and said that the Council has a duty under the Leaving Care Act 2000 to ensure young people aged 16 and 17 who are looked after or relevant do not claim benefit from the DWP but are paid no less than the equivalent benefit amount. Since May 2015 the Council has paid the benefit amount of £57.90 plus an additional £5 a week making a total of £62.90. In the recent budgets, the Government has increased the benefit to £79.10. As such, the proposal was that the amount paid by the Council be set at £80.00.

**The members of the Executive recommended to the Chief Executive that –**

That the Chief Executive Officer approves the proposed increased amounts for implementation with effect from week commencing 6 April 2020.



**Resolved –**

The Chief Executive considered the reports and the views of the Executive and decided to use his emergency powers to implement the recommendation of the Executive.

**Please note that call-in has been exempted from this decision by the Chairman of the County Council under Overview and Scrutiny Procedure Rule 16(h).**

**13. Other business which the Chief Executive considered as a matter of urgency because of special circumstances**

There was none.

The meeting concluded at: 12:20pm