



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**IMPROVEMENT AND SCRUTINY COMMITTEE - PEOPLE**

**20 May 2024**

**Report of the Director - Legal and Democratic Services**

**Call in: Early Help and Children's Centres in Derbyshire**

**1. Purpose**

- 1.1 To consider a call-in in respect of the decision taken by Cabinet to approve the disestablishment of the current Early Help Service and the introduction of a new service model for Family Help.

**2. Information and Analysis**

- 2.1 The Council's Constitution provides for decisions to be called-in where Members consider that the decision-making principles set out in Article 7 (Decision-Making), which are set out at Appendix 2 to this report, have been breached. The Improvement and Scrutiny Procedure Rules set out in the Constitution require a call in to be requested by at least 4 councillors, from a minimum of 2 political groups
- 2.2 On 29 April 2024 the Cabinet considered a report of the Executive Director Childrens' Services and agreed to:
- a) Approve the disestablishment of the Council's existing Early Help teams and Children's Centres;
  - b) Confirm that further funding for the Early Help Development Service should not be provided; and

- c) Approve the implementation of a new service model for Family Help in Derbyshire, the retention of 12 Children's Centre buildings, and the closure of 10 Children's Centre buildings.

2.3 In accordance with the provisions of the County Council's Constitution, Councillors George, Burfoot, Christine Dale and Fordham have asked that the decision be called-in and considered by this Committee.

2.4 The call in has been requested on the basis that the decision breaches Articles:

- 7.2 (a) due regard to all relevant and material considerations and without regard to any irrelevant considerations;
- 7.2 (c) proportionality (i.e. the action must be proportionate to the desired outcome);
- 7.2 (g) clarity of aims and desired outcomes.

2.5 The principal objections, as given in the call-in notice, were stated as follows:

*“The purpose of the report is to ensure the Council saves money and reduces ongoing revenue expenditure in response to the dire financial position of the Authority by:*

- *seeking permission for the disestablishment of the current Early Help Service, including Children's Centres, and*
- *implementing a new service model whilst attempting to maintain an early help offer which supports children of all ages and which improves family's resilience and outcomes or reduces the chance of a problem getting worse and which prevents children and families requiring crisis intervention services.*

*The actions are disproportionate to the desired outcomes and there is a lack clarity of aims and desired outcomes because:*

1. ***The nett savings of the decision are not sufficiently detailed in the report and take no account of any increase in expenditure resulting from the decision.***

*The report is unclear as to how much money the decision will actually save and, therefore lacks clarity as to whether it will achieve the stated sum. Indeed, the report says that the decision may amount to a false economy when it comes to achieving savings because it involves a risk of causing a growth in demand for other, more expensive, services. Crisis intervention services are significantly more expensive than early help intervention and those additional costs should be modelled and*

*taken into consideration when estimating the total budget savings arising from this decision. Yet the report includes no such modelling of the likely increase in demand for other services and, consequently, of any financial risks resulting from, for example, more cases approaching Starting Point for crisis intervention measures. The Council's ongoing financial situation and need to save money means that a decision that runs a substantial risk of resulting in an immediate budget pressure should provide an analysis as to what that pressure might cost if it is able to demonstrate a clarity of desired aims and outcomes. As such the decision is unable to demonstrate that it is proportionate to the desired outcomes. Furthermore, by failing to analyse the likely additional costs that result from the decision the report fails to have due regard to all relevant and material considerations.*

- 2. The decision will have a detrimental effect on some of the most vulnerable children and young people in Derbyshire, risking an increase in use of crisis intervention services and in children getting no service, but fails to adequately demonstrate that it sufficiently mitigates against any adverse impact it will have for children and young people.***

*The report recognises that the decision results in a reduction in the Authority's capacity to improve a family's resilience and outcomes or reduce the chance of problems getting worse and the decision, therefore, risks increasing the number of children and families needing crisis support or getting no support, something partner agencies express particular concern about, but purports to mitigate that risk. However, the report fails to provide any analysis or quantify the number of children or families that may be adversely affected by the decision. In failing to do so the report lacks clarity as to whether the Authority will fulfil its stated aims or whether the purported headline savings are proportionate to the adverse impact on the lives of children and families.*

- 3. The decision fails to adequately demonstrate how it complies with the Sure Start children's centres statutory guidance 2013.***

*The statutory guidance states that the council should not close an existing children's centre site in any reorganisation unless it can demonstrate that, where they decide to close a children's centre site, the outcome for children, particularly the most disadvantaged, would not be adversely affected and will not compromise the duty to meet local need. The report states that the decision carries a level of risk which includes the decision having a detrimental knock-on effect on the most vulnerable children and young people and that there is uncertainty as to whether there is capacity in the system to mitigate or address this consequence. The report fails to effectively detail how, given that risk, it complies with this statutory requirement and, therefore, also fails to give adequate reassurance that it achieves its stated aims and desired outcomes."*

- 2.6 The procedure to be adopted when a decision is called in is set out in the Call-in procedure set out in the Improvement and Scrutiny Procedure Rules at Appendix 5 to the Constitution. This is attached at Appendix 4 to this report.
- 2.7 The Committee will need to determine whether or not the decision-making principles set out in Article 7.2 (a), (c) and (g) have been breached in relation to the decision of Cabinet set out in paragraph 2.2 above.
- 2.8 If, having considered the matter, the Committee is satisfied that the principles have been followed, the decision of Cabinet can be implemented. If, however, the Committee concludes that the decision making principles have been breached, it may:
- refer the decision back to Cabinet for reconsideration; or
  - refer the matter to Full Council.

The Committee must state in writing the nature of the concerns regarding the decision.

- 2.9 As with all Improvement and Scrutiny Committee meetings, the call-in process should be inquisitorial not adversarial.

### **3. Consultation**

- 3.1 Not applicable.

### **4. Alternative Options Considered**

- 4.1 To not consider the call-in request, however this would result in the Council failing to comply with the Constitution.

### **5. Implications**

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

### **6. Background Papers**

- 6.1 None identified.

### **7. Appendices**

- 7.1 Appendix 1 – Implications

- 7.2 Appendix 2 – Extract from Article 7 of the Constitution
- 7.3 Appendix 3 – Call in procedure set out in the Improvement and Scrutiny Procedure Rules
- 7.4 Appendix 4 – Report to Cabinet dated 29 April 2024

## **8. Recommendation**

That the Committee consider the call-in of the decision made by Cabinet on 29 April 2024 and determine whether or not the decision-making principles set out in Article 7.2 (a), (c) and (g) have been breached.

## **9. Reasons for Recommendation**

- 9.1 To comply with the Council's Constitution.

**Report Author:** Alec Dubberley      **Contact details:** [alec.dubberley@derbyshire.gov.uk](mailto:alec.dubberley@derbyshire.gov.uk)

**Implications**

**Financial**

1.1 None directly arising from the report.

**Legal**

2.1 The Council's Constitution sets out the procedures for 'call in' which must be followed and is based upon relevant paragraphs of the Local Government Act 2000 as follows:

- a) s9F(2) provides the general power for overview and scrutiny committees to review or scrutinise executive decisions;
- b) s9F(4) provides a specific power to review or scrutinise a decision made, but not implemented.

**Human Resources**

3.1 None directly arising from the report.

**Information Technology**

4.1 None directly arising from the report.

**Equalities Impact**

5.1 None directly arising from the report.

**Corporate objectives and priorities for change**

6.1 None directly arising from the report.

**Other (for example, Health and Safety, Environmental, Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 None directly arising from the report.

## **7.2 Principles of decision-making**

All decisions of the Council will be made in accordance with the following principles:

- (a) due regard to all relevant and material considerations and without regard to any irrelevant considerations;
- (b) where appropriate, the realistic evaluation of alternatives;
- (c) proportionality (i.e. the action must be proportionate to the desired outcome);
- (d) due consultation and the taking of professional advice from officers;
- (e) respect for human rights and equalities;
- (f) a presumption in favour of openness;
- (g) clarity of aims and desired outcomes; and
- (h) reasons being given for the decision, as appropriate.

## **CALL-IN PROCEDURES**

### **Procedure to be Adopted when a Decision is Called-In**

1. The Director of Legal & Democratic Services on receiving a request for the call-in will check that the call-in notice is signed by the requisite number of Members. The call-in notice must identify which principle(s) of decision making in Article 7 of the constitution have allegedly been breached and give reasons. This requirement will be checked by the Director of Legal & Democratic Services.
2. The Director of Legal & Democratic Services will arrange a meeting of the appropriate Committee, in consultation with the Chairman of that committee.
3. The Director of Legal & Democratic Services will acknowledge the call-in notice and notify the appropriate Cabinet member.
4. The Scrutiny Officer will invite the signatories to the call-in notice, the relevant Council Cabinet member(s) and the relevant Strategic Director to attend the call-in meeting. The call-in signatories and the relevant Council Cabinet member or a Cabinet member nominee would be expected to attend. The relevant Strategic Director may nominate a second or third tier officer to attend in his/her place. If none of the call-in signatories attend, the Committee will decide whether to proceed. If the Committee decides not to proceed, then the call-in will be decided on the basis that the Committee does not have any concerns it wishes to refer to the Council Cabinet, and the Council Cabinet will not be required to reconsider the decision.
5. The Scrutiny Officer will send copies of the call-in notice, minute of Cabinet/record of the Cabinet Member decision and any associated reports to members of the Committee with the agenda for the meeting.
6. The Scrutiny Officer will liaise with the Chairman and the Vice Chairman of the Committee over any other appropriate arrangements for the call-in, e.g. additional information, witnesses etc. If the Chairman or Vice Chairman have signed the call-in notice, the SO will liaise with another member of the Committee nominated by the Chairman or Vice Chairmen.
7. The aim of the Committee meeting when the call-in is considered should be inquisitorial not adversarial. The Meeting Procedure for a call-in of a Council Cabinet decision will be adopted.



## **Meeting Procedure for a Call-in of a Council Cabinet Decision The role of the Chair**

1. This procedure shall be implemented at the meeting by the Chairman and any deviation from this procedure will be at the discretion of the Chairman. The Chairman will advise attendees at a Call-in meeting of any reasonable intention to deviate from the procedure at the start of the meeting where possible.

2. In the absence of the Chairman, the meeting will be led by the Vice Chairman. In the absence of both, the Monitoring Officer or their representative shall facilitate a vote of Members so that a Chairman shall be appointed. The appointed Member will chair for the duration of the meeting or until the Chairman or Vice Chairman is present.

3. Where the Chairman is in attendance, the Vice Chairman shall be treated in the same way as every other Member of the Board.

### **Role of signatories to the Call-in notice and the Council Cabinet member**

4. Signatories to the Call-in notice and the Council Cabinet Member will be invited to provide evidence to the Committee, both in terms of a presentation and by answering questions put to them by the Committee.

5. There is no provision for either the signatories to the Call-in or the Cabinet Member to question each other, either directly or through the Chairman.

### **Role of officers in attendance**

6. Supporting Officers will be present from Democratic Services (providing procedural advice to the Chairman and Committee as required and recording decisions) and Improvement and Scrutiny (advising the Chairman and the Committee as required on relevant scrutiny of the decision under consideration). The Monitoring Officer or their representative may also be present and may undertake any of these duties in addition to providing any legal advice if required.

7. The Managing Director, Executive Directors or Assistant Directors or Heads of Service may provide support to the Council Cabinet Member and contribute to the meeting as required by advising the Committee on the strategic, technical or operational basis of decisions taken or considerations given relevant to the Call-in, or by responding to questions referred by the Council Cabinet Member to them.

## **Procedure at the meeting**

8. The signatories to the Call-in notice will be invited to address the Committee on the Call-in and will be required to focus on justifying why they considered the council's decision-making principles to have been breached as raised in the signed Call-in Notice lodged with the Monitoring Officer. The order in which signatories are invited to speak will be at the discretion of the Chair. Signatories shall limit their contributions to the reasons for the call-in

9. After all signatories have made their contributions, members of the Committee will be invited to put questions to the signatories and receive responses to those questions.

10. The Council Cabinet Member will then be invited to address the Committee on the call-in by the Chairman and will be required to respond to the assertions relating to the council's decision-making principles as set out in the Call-in notice.

11. Members of the Committee to make any contributions they may wish prior to the vote being taken. Each member of the Committee shall be permitted to make one speech lasting no more than ten minutes.

## **Voting on whether decision-making principles have or have not been breached**

12. The Chairman shall then ask each Member in turn to state whether they consider the decision-making principles identified in the Call-in Notice were, or were not, breached giving reasons. Where a Member considers that a principle has been breached, they will be required, at this stage, to state which principles they consider to have been breached. This information shall be recorded by the Monitoring Officer or their representatives.

13. The Chairman may, at their discretion, state whether they believe the decision-making principles identified in the Call-in Notice were or were not breached, giving reasons.

## **Finding of no breach**

14. In the event that a majority of Members consider that there was not a breach, the Chairman will state that the Committee has resolved that the Council Cabinet Decision identified in the Call-in Notice did not breach the decision-making principles and close the meeting.

## **Finding of a breach**

15. In the event that a majority of Members consider that there was a breach in the decision-making procedure, the Chairman will invite the Monitoring Officer or their representative to address the Committee. The Monitoring Officer or their representative will state which decision-making principles were individually identified by Committee members as having been breached, and which of those principles were identified by a majority of Members present as having been breached.

16. The Chairman will declare the outcome of the vote and the resultant resolution and close the meeting referring the decision back to the next meeting of the Council Cabinet.

## **Consideration of multiple Call-in notices in relation to the one decision of Council Cabinet**

17. In the event that more than one Call-in notice is received in relation to a single matter, the Chairman will use their discretion to vary the procedure accordingly to afford signatories to all Call-in notices equal opportunity to state their case.