

# OVERVIEW AND SCRUTINY COMMITTEE MINUTES

## 20 JULY 2011

<b>Chairman:</b>	* Councillor Jerry Miles	
<b>Councillors:</b>	* Nana Asante (1) * Tony Ferrari (2) * Ann Gate * Barry Macleod-Cullinane	* Paul Osborn * Sachin Shah * Victoria Silver * Stephen Wright
<b>Voting Co-opted:</b>	(Voluntary Aided) † Mrs J Rammelt † Reverend P Reece	(Parent Governors) Vacancy Vacancy
<b>In attendance: (Councillors)</b>	Graham Henson Thaya Idaikkadar Bill Stephenson	Minute 169 Minute 170 Minute 168 and 169

- \* Denotes Member present
- (1) and (2) Denote category of Reserve Members
- † Denotes apologies received

### 163. Welcome

The Chair welcomed the Portfolio Holder for Property and Major Contracts, the Corporate Director of Place Shaping and the Head of Legal Practice to the meeting. He advised that the Leader of the Council and Interim Director of Finance would be in attendance during the meeting for the item referred by Council on 7 July 2011 and had submitted apologies for lateness due to another meeting.

The Chair indicated that the agenda would be re-arranged to take the agenda items in the following order – 1-6, 9, 7, 8, 11, 12 and 10/14.

#### **164. Attendance by Reserve Members**

A Member expressed concern at the attendance levels of the co-opted Members of the Committee and questioned at what stage their membership would be reviewed due this. Officers undertook to look into this.

**RESOLVED:** To note the attendance at this meeting of the following duly appointed Reserve Members:-

##### Ordinary Member

Councillor Susan Anderson  
Councillor Kam Chana

##### Reserve Member

Councillor Nana Asante  
Councillor Tony Ferrari

#### **165. Declarations of Interest**

**RESOLVED:** To note that the following interests were declared:

##### Agenda Item 7 – Reference from Council – Petition submitted to Council on 7 July 2011 – Department of Health Funding

Councillor Graham Henson, who was not a member of the Committee, declared a personal interest in that he was the Portfolio Holder for Performance, Customer Services and Corporate Services. He would remain in the room whilst the matter was considered and voted upon.

Councillor Paul Osborn declared a personal interest in that he had previously been the Portfolio Holder for Performance. He would remain in the room whilst the matter was considered and voted upon.

Councillor Barry Macleod-Cullinane declared a personal interest in that he had previously been the Portfolio Holder for Adults and Housing. He would remain in the room whilst the matter was considered and voted upon.

##### Agenda Item 10 and 14 – Implications of the Harrow Association of Voluntary Service (HAVS) Investigation – Challenge Panel Report

Councillor Brian Gate, who was not a member of the Committee, declared a personal interest during the course of the meeting in that he was a trustee of HAVS. He would remain in the room whilst the matter was considered and voted upon.

#### **166. Minutes**

**RESOLVED:** That the minutes of the meeting held on 5 July 2011, be taken as read and signed as a correct record, subject to the first bullet point on page 8 of the second supplemental agenda being amended to reflect the point that bringing together multiple single pathways would inevitably identify gaps in provision.

## **167. Public Questions, Petitions and Deputations**

**RESOLVED:** To note that no public questions were put, or petitions or deputations received at this meeting under the provisions of Committee Procedure Rules 17, 15 and 16 (Part 4B of the Constitution) respectively.

## **RESOLVED ITEMS**

## **168. Implications of the Birmingham Judgement**

The Committee received a report of the Director of Legal and Governance Services which provided a summary of recent case law which explained the legislation in relation to the public sector and equality duty. An officer outlined the content of her report and advised that there had recently been a number of cases on equalities issues and that the public sector equality duty had come into effect on 5 April 2011.

The officer reported that the Council must have due regard to the public sector equality duty and that it should not merely be a tick box exercise. It was necessary for Members to apply their minds to the equality duty as it was they, not officers, who must have due regard. Referring to the Rahman case, she emphasised that report writers must have access to all relevant information and must consider the degree of disadvantage that might be caused. The officer advised that the Courts would not interfere with the decision makers weighing up of countervailing factors unless they viewed a decision as being completely irrational.

In considering the report and officer presentation, Members made a number of comments and asked questions which were duly responded to. These included:

- Referring to the concept of non-delegable duty, a Member stated that he had expressed concern at the lack of Equality Impact Assessment (EIA) for Section 256 money. The officer advised that the decision maker must understand the impact and have due regard to the equalities duty and that this had been done in relation to the budget.
- In response to a Member's question, the officer advised that the equality duty applied to all Council functions and reiterated that Members must have due regard.
- A report submitted to Planning Committee on Lee Valley Park had not referred to an EIA and a Member questioned whether equalities were being properly considered in planning decisions. He added that Haringey Council had had a planning decision quashed having not given consideration to the impact on the community. The officer advised that it was a question of weighing up the factors in the case. Disability issues had been a material consideration for a long time but that she would like to give that issue some further thought. EIAs were considered during the preparation of the Local Development Framework.

- Responding to a question on North Harrow Assembly Hall and the associated community relations issue, the officer advised that if equality was not mentioned in a report there would have to be other evidence that it was considered by the decision maker.
- Referring to paragraph 8.3.2 in the appendix to the report, a Member questioned whether Members were embracing this issue and having due regard. The officer advised that there was no legislation stating that it was a statutory duty to do an EIA but many authorities were. The decision maker should also take into account other information such as issues being raised in the press. The Council had a Corporate Equalities Group and leads within each directorate which checked EIAs and had representatives from the community on it. The legal team checked all reports to Council and Cabinet to ensure that EIAs had been completed in relation to decisions to be made.
- A Member questioned what mechanisms were in place to ensure that Executive Members were making the correct decisions. The officer advised that it would be a test of the decision and it was the Member's responsibility.
- A Member referred to a report on Birmingham Council's proposal to introduce budget cuts and stated that it was important to address adequate assessment in project documents. He stated that this was an important document and emphasised the need for stronger recommendations and guidance on how to put business cases together. The officer advised that she was working with the Council's Equalities officer to ensure that all the guidance was addressed.
- In response to a Member's question on the Rahman case, the officer advised that the judge had said that officers had been too optimistic about the impact on the community but from the press coverage it was clear that there would be a negative impact on the community by removing funding from the law centre. She emphasised the need for consultation as it was not always possible for officers to understand the impact without speaking to users of a service. The judge in the Birmingham critical care case had questioned whether it would have been possible to remove funding from elsewhere with a less negative impact. The officer agreed with the Member's view that the EIA should be done early in the process and, if necessary, reviewed.
- A Member questioned whether all Cabinet Members had completed EIA training and was advised by another Member 7 out of 10 had. The officer undertook to find out take up of training by other Members.
- Following on from the previous comments, a Member stated that the Birmingham case made it clear that generalised training was not sufficient. It was clear from the cases that papers put before a judge had to show that equalities had been considered and the Member stated that there was a general problem with over optimistic reports.

As a result, reports may be challengeable. In terms of specific training, the officer responded that briefings or training before particular decisions were taken were important but that, in terms of the culture of overly positive reports, she did not agree. At the Member's request, she undertook to review the reports on the 2 previous Cabinet agendas in order to identify examples of good EIAs.

The Chair thanked the officer for her attendance and responses.

**RESOLVED:** That the report and the key messages for the Council be noted.

**169. References from Council/Cabinet - Petition - Department of Health Funding**

The Chair welcomed the Leader of the Council, the Portfolio Holder for Performance, Customer Services and Corporate Services, the Interim Director of Finance and the lead petitioner to the meeting. He reminded Members that the transfer of £2.1m funding to the transformation budget had been debated and voted upon at Council on 7 July but as the petition contained in excess of 1,000 signatures, in accordance with the Petition Scheme, it was referred to the Overview and Scrutiny Committee for consideration. He emphasised that debate could not be re-opened on this issue but that perhaps lessons could be learned from the Committee's debate.

The Chair outlined the procedure for the meeting. The Committee agreed that the petition was valid but some Members did not agree to the proposed time limit of 30 minutes for debate. These Members indicated that whilst they accepted that the Council had made a decision they wished to have the questions submitted by the public answered.

The Interim Director of Finance gave a detailed explanation of the background to the transfer of the Primary Care Trust (PCT) funding and suggested that there had been some misunderstanding which she hoped would be clarified by her presentation. The content of her presentation is included at Appendix I to these minutes. During the course of her presentation, the Interim Director of Finance advised the following:

- The Government had set a 28-30% reduction in funding for local government over a 4 year period. This was against a backdrop of changing demography and inflationary pressures.
- The reductions in budget were front loaded and therefore would be most significant in the first two years of the four year period.
- To deliver the same services and operate in the same way as before, the Council would have had a shortfall of £19 million in 2011/12. The Comprehensive Spending Review (CSR) meant that the Council would need to find approximately £60 million per annum of savings by the 4<sup>th</sup> year of the CSR period, which meant that there was a need for major change.

- The Government had directed PCTs to transfer money to Councils under Section 256 Agreements to help cover the costs of “existing social care provision”. For Harrow, this amounted to £2.6 million for 2011/12.
- The Council had not included this money in the 2011/12 budget due to concerns over the financial situation of the PCT, but it funded the costs of existing social care provision by using Council monies. This use of the Council’s base budget was preferable to relying on time-limited funding.
- The 2011/12 budget for adult social care included no cuts to front line services, although there were savings covered by a consultation that were fully covered by a contingency budget in the event they were not agreed. The budget did include an extra £1.5 million for demography pressures and a substantial share of a £1 million contingency.
- The Primary Care Trust (PCT) had transferred funds to Harrow as directed by Government. There was no bidding process.
- The section 256 agreement had been signed on 29/30 March and the Council had received £2.6 million on 3 May 2011. £0.5 million was returned to the PCT to assist with some of their pressures which impacted on adult social care.
- As well as the revenue spend on adult social care, the Council had agreed to put an extra £1 million into adaptations to help more people stay in their own homes.
- The level of Council Reserves was now £7m but in the context of the scale of change these were still on the low side. Members had agreed to add funds to the Transformation and Priority Initiatives Fund to give resilience across the Council.
- In terms of EIA, no change was being made to spending, no service was cut or citizen affected.
- The petition was flawed in that it suggested that the section 256 funds were not to be used for the purpose intended. This was not true. They were to be used for the purpose intended, but the funds previously budgeted by the Council when it was not confident of receiving the PCT monies, were being transferred out.

A Member expressed concern at the length of the Interim Director of Finance’s presentation and then a range of Members between them asked each of the seventeen questions submitted to the Chair by the lead petitioner in advance of the meeting and in accordance with the petition scheme. The responses to the questions are detailed at Appendix 2 to these minutes.

Other Members made comments and asked questions which were duly responded to as follows:

- A Member expressed concern at the Interim Director's comment that there was no equality impact of the decision, particularly given the previous presentation on the Birmingham judgement. The Interim Director sought to reassure the Member in that although there was no formal EIA, all that had been done was the moving of funds. The Portfolio Holder added that an EIA had been done on the original budget round. Responding to another Member's question as to whether additional work on EIA would be done in the future, the Interim Director advised that she would like to think that this work was always done.
- A Member questioned how the officer would analyse the social and community impacts of the decision, how the discontent in the community could be addressed and the learning points. The Interim Director of Finance stated that she was concerned that this position had been reached, in particular in terms of communication, but she hoped that her presentation had explained the detail behind the formulation of the recommendation and the subsequent decision. The Leader added that he had been advised by both the previous Corporate Director of Finance and the interim post holder and stated that perhaps if it had been more transparent as to what was happening with the DoH funding, the Council would not have found itself in the current position.
- A Member sought clarification on the advice in relation to the section 256 agreement as there appeared to be concern that the Council had not complied with the rules. The Leader stated that all Cabinet and Council reports were formally agreed by Legal Services and that he was specifically advised that the agreement was in order.
- A Member stated that he had raised an issue in relation to the legal advice in the Cabinet report and had questioned whether section 256 had been complied with. As a result of his query, the recommendation to Council in the Cabinet report had been amended.
- A Member suggested that it would be helpful for Members to engage with NHS Harrow as it was not clear what their view of the funding situation was. It would be helpful to raise it with their Chief Executive. He would also be interested in the view of the PCT and whether it was the same as NHS Harrow's.

The Chair thanked the Leader, Portfolio Holder and Interim Director of Finance for their attendance and their responses. He also thanked the petitioner for their questions.

**RESOLVED:** That

- (1) the petition was valid for consideration and be duly received;

- (2) the Health and Social Care Scrutiny Sub-Committee be advised of the views of NHS Harrow and the PCT on the Council's decision on the PCT funding.

## **170. Development of Council Property Assets**

The Corporate Director of Place Shaping introduced the report which provided an overview of the Transformation Programme – Development of Council Property Assets Project. He advised that the current progress would be reported to the Major Developments Panel on 27 July 2011 and that it was planned to submit a report to Cabinet in the Autumn.

The Corporate Director outlined the content of his report stating that a key issue was that the requirements of the Area Action Plan (AAP) would apply equally as a land owner. The Council's four strategic sites (Civic Centre site, Byron Park, Greenhill Way car park and Gayton Road Site) represented 30% of the Area Action Plan. In terms of the commercial master planning work relating to these four sites, it was intended to report to Cabinet in early 2012. The market appeared to be easing and planning applications from Dandara, Land Securities and Wichford were expected. Drawing attention to the objectives of the Transformation Programme, he emphasised that officers wished to ensure that a significant revenue benefit was delivered.

The Corporate Director reported that following the approval by Cabinet of the disposals programme in May, the first property had been sold at auction the previous week for just above the expected price. There was now a forty day completion period for the sale.

Members made a number of comments and asked questions which were duly responded to as follows:

- A Member questioned how many facilities outside the Civic 1 site would be eliminated and how Members would know when this process had been completed. The Corporate Director responded that only stand alone office buildings, other than the Depot and Teachers' Centre, were being consolidated but that he would advise the Member separately in terms of numbers. High level planning assumptions had been used and the master plan would enable officers to bring forward plans for the best approach. The Corporate Director added that, in terms of capital, £2.5m was available in the budget over the next three years to complete the necessary work to the civic site, including fire escapes and IT moves.
- In response to a Member's question as to whether the third sector would be able to make use of some buildings, the Portfolio Holder advised that it was not yet known which option would be chosen. The Corporate Director advised that the Civic site as a whole underperformed in commercial terms. The overall infrastructure was being considered in terms of supporting the existing and growing community.



- A Member expressed some concern that alternative locations for the Civic Site would be removed by demolishing some buildings. The Corporate Director reassured the Committee that the Council would not end up in a 'beached' position.
- In terms of deliverability on Civic 1, the Corporate Director advised staff would be given smaller desks and less space around their desks. There was to be a move away from the concept of 'my desk'. There was capacity for this when you took into account annual leave and other factors. The Member questioned whether this was a good use of taxpayers' money and was advised that it was a good use and particular mention was made of the Children's Transformation Programme which would result in the staff being located together.
- A Member sought clarification on the position in terms of the driving centre site where it appeared that there had been no progress since 2006. The Corporate Director advised that a considerable amount of time had been spent on planning for the development of the site and also the Leisure Centre site. The Council had been due to exchange contracts on an excellent deal in March 2008 but due to the world wide recession it had fallen through.
- A Member questioned the capacity of Civic 1 in terms of the staircases and the number of people who could be safely evacuated. There were also issues in terms of the changing headcount and the impact of mobile and flexible working. The Corporate Director confirmed that this was a valid point and central to officer thinking. Considerable work was required and also building control approval. There were design solutions and changes to the way the evacuation plan was delivered for the building. Congestion on the stairs had been an issue for years and a likely solution was phased loading floor by floor using the full potential of the existing fire alarm system.
- There had been a commitment not to reduce the size or capacity of the skate park and there were restrictions in relation to Byron Hall and a Member questioned how these issues would be addressed in terms of proposed development on the Byron Park site. The Corporate Director responded that a key outcome was modern, fit for purpose, accessible facilities and that a key component of the AAP was planning for essential social infrastructure. The site allocation report due for consideration in the Autumn would give Members the opportunity to take a more focused look at this issue. The Portfolio Holder emphasised the importance of Byron Hall in terms of Asian functions as the only other possible venue in the borough with the required capacity was the Zoroastrian Centre. He confirmed that, at this stage, there were no plans to replace the Leisure Centre but that there was a commitment to improve sports facilities.
- A Member sought reassurance that there was no double counting in terms of the £2.5m in relation to IT and mobile and flexible working.

The Corporate Director advised that it was a standalone consolidation project and to his knowledge there was no double counting.

- A Member challenged the Corporate Director in terms of the timescale for moving to a new Civic Centre as it was not included in the report and stated that there would be no financial gain to do this unless it was after 2020 and this might then lead to the double counting another Member had referred to. The Member indicated that he could not endorse the paper without a timescale. The Corporate Director responded that there were no plans to relocate the Civic Centre but that it was one of the four strategic sites included in the commercial master planning exercise. Referring to page 4 of his report, he advised that a paper would be submitted to Cabinet in early 2012 and would set out options around the phasing of development but that the overarching constraint would be the market. In order to allay Members' concerns, the Corporate Director added that there would be an estimated £480,000 savings per annum which would more than pay for the proposed investment. The Portfolio Holder advised that he would advise the Member in terms of timescale outside of the meeting but indicated that there may be an issue in terms of commercial confidentiality.
- A Member suggested that, with additional staff being moved into the Civic Centre and new furniture being purchased, there was an opportunity to increase home working and hot desking. The Corporate Director confirmed that the mobile/flexible working project would enable additional options.
- In terms of car parking at the four sites, a Member questioned what was being done to ensure that cars did not park on side roads and was advised that each of the sites had different requirements. The objective was to reduce the use of the private car and, in particular, those with just one person. Members would be consulted on their requirements. The Corporate Director added that this issue would be reported back to the Committee through the Development Plan Documents (DPDs).
- The performance data, whilst detailed, was not as current as it should have been. Members were advised that the indicators would be submitted to the Performance Board the following week.

The Chair thanked the Portfolio Holder and Corporate Director for their attendance and responses.

**RESOLVED:** That the report be noted.

### **171. Project Scope - Snow Clearance**

Members received the draft scope for the Snow Clearance Challenge Panel and noted that the scoping meeting had been held on 11 July 2011.

A Member advised that the London Borough of Sutton were providing residents with free grit and that it might worth contacting them about the scheme.

**RESOLVED:** That the scope for the Snow Clearance Challenge Panel be agreed.

### **172. Debt Recovery Process Challenge Panel Scope**

Members received the draft scope for the Debt Recovery Process Challenge Panel and noted that the scoping meeting was held on 5 July 2011.

The Chair of the Challenge Panel advised that the Panel were going to specifically examine test cases and requested that any appropriate cases be notified to the Panel.

**RESOLVED:** That the scope for the Debt Recovery Process Challenge Panel be agreed.

### **173. Implications of Harrow Association of Voluntary Service (HAVS) investigation - Challenge Panel Report**

The Committee received the report from the Harrow Association of Voluntary Service (HAVS) challenge panel which considered the implications of the HAVS investigation. Members noted that a Part II appendix containing the Audit report appeared elsewhere on the agenda.

The Chair of the Challenge Panel expressed thanks to the scrutiny officers for their valued work and also colleagues who had taken part in the review. She stated that the review was a good example of cross party working but that the review had been incorrectly titled as it was forward looking. Referring to the panel's recommendations, she drew particular attention to numbers 17 and 20. She was pleased to report that the recommendation that appeals should be held before any grants were finalised had been taken on board. In terms of recommendation 20, she emphasised the importance of this moving forward, particularly in light of the discussion earlier in the meeting relating to Adult Social Care and the PCT funding.

A Member echoed the sentiments expressed and also thanked the Chair of the Panel and the Internal Audit Team. He stated that the review was a good example of scrutiny and audit working together but that he was mindful of the CIPFA guidance that there needed to be separation. He added that he was slightly disappointed that the internal audit report could not be released but that he was respectful of the position taken on this.

**RESOLVED:** That the report from the HAVS Challenge Panel be agreed and referred to Cabinet in September for consideration.

#### **174. Termination of Meeting**

In accordance with the provisions of Committee Procedure Rule 14 (Part 4B of the Constitution) it was

**RESOLVED:** At

- (1) 9.55 pm to continue until 10.15 pm;
- (2) 10.12 pm to continue until 10.30 pm.

(Note: The meeting, having commenced at 7.34 pm, closed at 10.23 pm).

(Signed) COUNCILLOR JERRY MILES  
Chairman

**Statement made by Interim Director of Finance  
at the Overview & Scrutiny Committee Meeting on 20<sup>th</sup> July 2011**

Thank you Chairman for allowing me to speak as I think it is important to clarify the truth behind some of the myths and mis-information flying around.

I would first like to discuss the background and context of this issue. I think Members are all aware of the Government's intention to reduce by some 28% - 30% over a 4 year period the amount of funding it provides to local government. This is hugely complex to unpick as it involves not just Formula Grant but also lots of specific grants that are now rolled up into it. This is also against a backdrop of rising demography, various inflationary pressures, etc. Local government is reputed to have been the worst hit, in terms of funding cuts, of all the public services. And this was also front-end loaded, giving us little time to plan for and make some of the changes. Even the most astute accountant struggles to get to grips with all the details.

But the headlines are that to carry on delivering exactly what we used to, given the reductions in available cash funding, meant we would have been about £19m short for 2011/12 in Harrow and by the end of the 4 year life of the Comprehensive Spending Review period, over £60m per year needs to be saved from our overall budget. That had to mean major change.

When the government announced its funding settlement, they brought in an additional element of funding for 2 years only by directing PCTs to hand some money over to Councils to cover the costs of "existing social care provision". This was to effectively soften the blow of the Government's cuts and formed part of what they called Council "spending power". But the financial situation of our local PCT meant that we couldn't have total confidence that money would come in, so for prudence reasons it was excluded from the Council's budget.

This Council has been proactive, saw the cuts coming and embarked upon the Transformation Programme, so it has already got initiatives underway to address about half of the savings required. And, in the main, this is without significantly impacting on front-line service delivery.

In common with virtually all other Councils, this Council is looking not just at cutting costs but also at re-examining opportunities for those who can contribute to specific services to do so, and thus protect services for those in greatest need – for example the current consultation on Adults Services and Concessionary fares.

Irrespective of the issues around the PCT monies that seem to have fuelled so much misunderstanding and concern, all Councils have to look very hard at their cost base and at the services they are providing and make some really tough decisions. It is always better to plan and consider such matters carefully and this Council has indicated its commitment to talking to its community and consulting thoroughly on proposed changes.

Another key theme is that we need to be working together across the Public Sector and indeed across the voluntary sector to do the best that we can for our Community with the limited resources that are available. I know the Council has had improving relationships in recent times with the PCT, for example, and as I understand it, this is why this Council was able to reach an amicable agreement with the PCT to hand over the funds to the Council, which for some other London Boroughs, as I understand it, this is not yet the case. It is also why, as part of the deal, £500,000 was given back to the PCT to help them deal with some of their pressures in relation to adult care.

The Council's 2011/12 budget for Adult Social Care involved no cuts to front-line services and indeed included an additional £1.5 million for demography pressures and a substantial share of a £1 million contingency. Again, this was not the case in many authorities. There are however considerable savings and efficiencies within the budget and all testament to the service for this. But importantly, the Council effectively did fund the costs of existing social care provision within its base budget, which ironically is better than propping it up with time limited funding. So it fulfilled the purposes of the Government's direction in relation to the PCT monies without actually including the PCT monies in the budget.

In addition, there are other sources of funding for adult social care that the Council has influenced, for example LAA Reward Grant monies to fund reablement, and other bids have also been made for these LAA Reward Grant monies. And can I also remind you of the improved overall performance of the service, as confirmed by external inspectors in recent years.

It should be noted that I have only discussed revenue expenditure here. The Council has just agreed to put an extra £1 million of Capital into adaptations which help people stay in their own home.

Coming to the details of the specific PCT monies, it was not a bidding process. PCTs were directed to enter into S256 agreements with Councils on how the money would be used and to pay the funds to Councils. We received the £2.6 million from the PCT on 3<sup>rd</sup> May 2011 and as part of the agreement reached when the S256 agreement was signed on the 29<sup>th</sup> and 30<sup>th</sup> March, we have recently handed back an agreed £0.5 million. The agreement also covers just under £2.5 million due to be received from the PCT for 2012/13 and I expect that will be appropriately included in the budget for that year, since we now have more certainty over its receipt.

Having reached that agreement and given that the monies weren't in the budget we therefore needed to consider how it was treated and I, as S151 officer, advised that we considered this in the round alongside the reporting on the 2010/11 out-turn position. Under this Council's constitution this also needed to come back to full Council. For most London Boroughs I understand that is not the case and I would advise that I believe that most of the London Boroughs who did not originally include the PCT monies in their budgets either, are treating these monies, where received, in a very similar way to this Council.

With respect to the out-turn, yes we had an underspend and yes we've been able to build general reserves up to £7m and establish a small Transformation and Priority Initiatives fund, but in the context of the scale of change and savings needed in the future, these are not significant sums.

Therefore, my advice, which leading Members have accepted, was that we should apply the Council's funds that could be released by receipt of the PCT Monies, to enhance the Transformation and Priority Initiatives Fund, giving the Council more resilience to plan for and implement the changes that will be needed across the Council in the future. I would expect that, as the Service utilising over a third, almost 40% of the Council's revenue budget, the Adults and Housing Service is likely to receive the benefit of a reasonable proportion of that Fund.

With respect to the questions about Equalities Impact Assessments, the Cabinet and subsequent Council decision were to add to a specific reserve, and not to spend additional monies. No service was cut or customer or citizen impacted as a result of that decision. Clearly, as ever, any future spending or saving decisions will need to pay due regard to equalities implications and I know the Council is totally committed to doing this properly and fairly.

I apologise if this has come across as something of a lecture or speech, but I thought it was important to clarify because it gets to the heart of the Petition that Council has referred to you tonight.

My response to the petition is that it is flawed in suggesting the PCT funds are not to be used for the purpose intended. They are. But I do understand and accept how the petitioners may have formed a different view. I think it would be premature to pump all of the extra Council money released through receipt of the money from the PCT, into adult social care at present as that might not be sustainable. It is, in my view, better to put it into this Fund and subsequently make carefully thought through decisions as to how it can get the maximum impact.

However, I do support the sentiments about the Council working in partnership with the voluntary and community sector to do the best they can for Harrow's people and I hope we can move on from this "disagreement" and the perception that the Council is "misusing" these funds to one where we all work together to ensure those who really need adult or indeed any social care, do receive it.

I hope I've answered a lot of the petitioners questions as part of this statement but I will be happy, along with the Leader, to answer any further questions. And, I would hope that we could reach closure on this issue following tonight's meeting.

**Questions asked by Members and associated responses  
provided by the Leader of the Council  
and Interim Director of Finance**

- 1.1 **When was the 2011 – 2012 budget set?** At the meeting of Council in March 2011.
  - 1.2 **When was a balanced Council budget agreed?** At the meeting of Council in March 2011.
  - 1.3 **Why was this information not provided as part of the Consultation process for Adults?** It was in the public domain as it was included in the Council agenda papers.
  - 1.4 **What date was the bid made for this funding to the Department of Health? If this bid was made after the Adult Care budget had been agreed, was it made clear to the Department of Health that Harrow Council believed they already had sufficient funding to meet social care needs in Harrow?** It was not a bid, it was an allocation.
  - 1.5 **What date did the Department of Health and the Council confirm / sign an agreement, and were there any changes at this point to the original use of the funding?** The Section 256 Agreement was signed by the respective parties on 29 and 30 March 2011 and it was fully in accordance with the relevant legislation.
2. **Questions about the decision making processes used.**
- 2.1 **Did any consultation take place with NHS Harrow regarding the changed use of funding – was any other statutory body or individual resident in Harrow consulted?** There was no consultation as there was no change in the use of funding. An agreement had been reached on prescriptive legislation.
  - 2.2 **Can you confirm that the Council has sought, and received, agreement from Dept of Health for the transfer of Section 256 monies from the Adult Social Care Budget to this newly created fund?** The Council did not need to seek such a decision as the funds were being properly used and permission was not required.
  - 2.3 **Which council officers in which roles made the recommendation that this funding be vired from its intended use?** There was no virement recommendation. There was a recommendation from Cabinet to Council that the net £2.1m received from the PCT be transferred to the Adult Social Care Budget.



- 2.4 **Can you confirm that those who are responsible for the Adult Social Care budget (in particular Margaret Davine and Paul Najsarek, were supportive of the virement as a result of being convinced that this money could be taken from that budget without repercussions to their service users?** The proposal had the unanimous agreement of Cabinet.
- 2.5 **Why was the budget not consulted on when these decisions were being considered? We used to have something called an Open Budget process which the administration at the time said was essential. Is it no longer essential?** The budget was consulted on when it was set. It was being considered whether it could be done on a similar scale to participatory budgets.
- 2.6 **Why was it not seen to be of any importance to conduct an Equality Impact Assessment on this transfer of funds when we know that planned cuts to the Social Care Budget will impact on 'protected groups' under the Equalities Act. This is of particular importance because Adult Social Care are running a consultation based on the fact that the Adults Social Care budget is no longer robust enough to meet the growing needs in Harrow, and savings must be identified. The Steering group supporting consultation with Adult social care users have identified multiple concerns which would have to be addressed to avoid creating adverse equality impacts on many protected groups, and yet this Section 256 decision did not even seem to merit an Equality Impact Assessment. This had been covered during the presentation to the Committee. No service was cut or customer or citizen impacted as a result of the decision. This was an accounting entry only.**
3. **Questions regarding the planned use of the funding:**
- 3.1 **What specifically does the application say what the funds must be spent on? Can we see it?** There was no application.
- 3.2 **When the decision was made to put the funds into the Transformation budget did they firstly consider any social care spending out of the funds at all and if so what rationale was used to make the decision not to use it for those services? If it was not even considered, why not?** There were private discussions as to what to do with the under spend and the decision was to move this to the transformation fund. Adults and Social Care could make bids to this fund.
- 3.3 **Why was all of the money (£2.1m) put into the Transformation budget rather than putting at least £600k into social care to make up the difference between the £1.5m which Bill said they put in and the £2.1m they got? £2.1m from the PCT had been put in the social care budget. This Council money previously put in the budget was then moved to the transformation fund.**

- 3.4 **Is it not true that the budget was only balanced by cutting some essential services and this money was supposed to be used to reduce such cuts? If so why have the cuts not been reversed?** All services had to make efficiencies and savings. The PCT money was to enable us to continue to fund existing social care and this is what we have done.
- 3.5 **It has been stated that the council want to use the Transformation fund to invest to save – was any thought given to using this for invest to save projects specific to Adult Social Care?** Yes – Adult Social Care had been encouraged. In addition, the Council was always looking at other opportunities to secure services. Use of LAA reward grant money had been considered.
- 3.6 **How do you reconcile the fact that cuts have been made to services for Adult social care users, and people are being consulted on contributing to the costs of a wide variety of care and support needs, with the statement that there was sufficient money in the social care budget to meet people’s needs?** This was covered during the presentation but the advice was that services were not cut in Adult Social Care. The consultation was about the longer term future. The Leader had been reassured of the position at the Challenge Panel by the relevant Portfolio Holder and Corporate Director. All parts of the Council had been required to make savings.