

AGENDA ITEM NO 5

REPORT NO 119/16

ANGUS COUNCIL – 24 MARCH 2016

TAYSIDE AREA SUPPORT TEAM - UPDATE

REPORT BY SHEONA HUNTER, HEAD OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

This report updates members on the developments subsequent to consideration of Report Nos. 66/15 and 135/15 in relation to the Tayside Area Support Team.

1. RECOMMENDATIONS

It is recommended that Council:-

- (i) agrees to note the current position as outlined in this report;
- (ii) notes with regret the decision by the Ombudsman not to accept the complaint by Angus Council regarding the perceived shortcomings in the manner in which Children's Hearings Scotland (CHS) implemented its own complaints procedure;
- (iii) notes with regret the decision of the National Convener of CHS to refuse the request by Angus Council to establish an Angus Area Support Team;
- (iv) notes that discussions are planned to take place between Angus Council, Perth and Kinross Council and Dundee City Council on a new Tayside Area Support Team Agreement with CHS; and
- (v) notes that as part of that Agreement, new arrangements will be sought for the efficient and effective provision of administrative services to the members of the national Children's Panel who serve in the three Tayside local authority areas.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/COPORATE PLAN

This report contributes to the following Angus Community Plan Outcomes:-

- (i) Our children and young people are confident individuals, effective contributors, successful learners and responsible citizens; and
- (ii) Individuals are involved in their communities and contribute to a number of the priority areas within the Children's and Learning Partnership, including the priorities of Getting it Right in Early Years; Getting it Right for Children and Young People; and Getting it Right for Children with Additional Needs.

3. BACKGROUND

- 3.1 Reference is made to Report Nos 66/15 and 135/15 considered by the Council on 12 February 2015 and 26 March 2015 respectively. Following a verbal update by The Head of Legal and Democratic Services in relation to the formal determination of the complaint an emergency motion in terms of Standing Order 11(1) (Vii) was considered by Angus Council on 14 May 2015 instructing the Chief Executive to submit the matter to the Scottish Public Services Ombudsman to consider the complaint and instructing the Head of Legal and Democratic Services to explore the possibility of a "stand alone "Angus Support Team.
- 3.2 Members will recall that a formal complaint was submitted to CHS on 6 March 2015 and after investigation, CHS issued its determination on 24 April 2015.

- 3.3 The determination by CHS of the formal complaint was perceived by the complainers to have been seriously flawed and therefore on the advice of CHS as to the next step in its Complaints Procedure, a formal complaint was submitted to the Scottish Public Services Ombudsman.
- 3.4 A further verbal update from The Head of Legal and Democratic Services to the meeting of Angus Council on 18 June 2015 indicated that the National Convener of Children's Hearings Scotland had been written to on 21 May 2015 seeking to revoke the Tayside AST and to designate Angus as a stand-alone AST. The Chief Executive had also submitted the matter to the Scottish Public Services Ombudsman which had both been acknowledged.

4. CURRENT POSITION

- 4.1 As previously advised the formal complaint to CHS was determined on 24 April 2015 with some aspects being found in favour of Angus Council and some acknowledging that certain elements could have been dealt with better by the Area Convener.
- 4.2 Following receipt of a letter dated 25 June 2015 from Fiona McLeod MSP Acting Minister for Children and Learning, letters of concern were received by the two local MSP's and updates were given to them.
- 4.3 The complaint to the Scottish Public Services Ombudsman was unfortunately not accepted as competent. The Ombudsman determined that neither the Council nor the Volunteers as individuals were competent complainers as they were both in effect in the public sector. This has had the regrettable effect of leaving unresolved the grievances held in Angus regarding the perceived shortcomings and failures of CHS in complying with their own complaints procedure.
- 4.4 The National Convener formally refused the request to establish an Angus Area Support Team by letter dated Friday 29 January 2016., It was unfortunate that before this letter had been seen by myself as named recipient of the letter, on Monday 1 February, the Area Convener had already contacted all Tayside members of the AST to inform them of the outcome. This was a regrettable breach of protocol which has typified the manner in which CHS has dealt with the Council since the inception of the original complaint.
- 4.5 A number of AST members and panel members, who have been very experienced volunteers in Angus for many years have resigned over the unsatisfactory solution to these issues and it is with much regret that their valuable experience will be sorely missed.
- 4.6 Deep reservations remain about the manner in which CHS has supported the Area Convener in ignoring both the spirit and the terms of the Minute of Agreement entered into between it and the three Tayside local authorities. Members will recall their desire to retain strong local links, and this was sought as an integral part of the final agreement as discussions took place with CHS during 2012. Eventually, a meeting was convened by the Minister for Children and Young People on 25 September 2012 with elected members and officers from the three Tayside Councils to facilitate progress. This was followed the next day by a meeting between the then Project Manager, CHS, and officers from Angus, Dundee City and Perth & Kinross Councils. That meeting agreed the following:
- To establish a Tayside AST to have responsibility for overseeing the three local areas in Angus, Dundee City and Perth & Kinross to ensure adherence and consistency to the national standards and guidance;
 - The membership of these Teams would be similar to that of the outgoing Children's Panel Advisory Committees, but would, in addition, include representatives from the Children's Panel;
 - The National Convener would recruit and appoint an Area Convener for the Tayside AST and three Depute Conveners, one for each local area;
 - The three local areas would report via their Deputes to the Area Convener of the Tayside AST; and
 - The operational structure and administrative support provided to each local area would be determined by (1) each local authority in consultation with the Area Convener; and (2) the respective local Depute Conveners. It was anticipated that depending where the Area Convener lived that authority would be the lead Clerk to

the Tayside AST and the other two Councils would provide support to their respective area.

This structure was underpinned by the four year Minute of Agreement, successfully implemented under the first Tayside AST Area Convener. When she unfortunately resigned, the arrangement remained in place and operated successfully, pending the appointment of the present Area Convener, who took up her post late 2013.

Subsequently, the arrangement has been largely disregarded by CHS and the Area Convener, who, with the support of CHS, have put in place new arrangements despite the Minute of Agreement which have included the non replacement of all three Depute Area Conveners. It should be noted that the Minute of Agreement is still in place and is not due to expire until 30 June 2017. It is only recently that a single Depute has been appointed covering the whole of Tayside. CHS is now seeking a review of the terms of the Minute of Agreement and it is considered unlikely that they will agree to a structure which includes reference to local authority areas.

- 4.7 Discussions are also being sought with relevant officers in Perth and Kinross and Dundee City Councils to establish a satisfactory, efficient and clear administrative support mechanism for the Clerk. The obligations on the Council to support the Clerk are contained in the CHS document *Area Support Teams: Functions, Roles and Responsibilities (June 2013)*, Section 6.7. The Minute of Agreement provided for the sharing of support which was provided by officers in Angus assisting and supporting the Area Convener. These arrangements have, to a degree, now been adopted by Perth & Kinross Council. The results of the discussions between the three Councils will require to be set out in a new Minute of Agreement between them and CHS, approved by each individual Council and by the national body. A further report will be submitted to Council outlining the terms of the new Minute of Agreement and seeking final approval, prior to the Agreement being implemented.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications in relation to this Report. However there may be financial implications to the Council depending on the outcome of officer discussions with the other two local authorities. This will be reported to members.

6. CONCLUSION

- 6.1 It has to be recognised that the method which CHS has chosen to implement the Children's Hearings (Scotland) Act 2011 provides for a very centralised approach and regrettably Angus has made very little inroad in persuading CHS to retain the level of local involvement as provided for in the current Minute of Agreement. Officers of Angus Council have offered support and guidance in implementing the above legislation in a manner which both complied with that legislation but also retained the local nature of supporting the three Children's Panels in Tayside. It is with regret that the good advice and support has been rejected. The reality is however, that it is essential to move on for the good of those local children and young people who require the Panel's protection and assistance. Officers shall therefore seek to achieve a sound basis of support for the Children's Panel in the three local authority areas across Tayside, albeit that that support will be provided centrally and the likelihood is that the AST will be organised on a pan-Tayside basis.
- 6.2 It will be necessary for each Council to approve the terms of a revised Agreement with CHS, and this will be brought before the Council in due course for approval, along with any financial implications.

REPORT AUTHOR: Sheona C Hunter, Head of Legal and Democratic Services

EMAIL DETAILS: LEGDEM@angus.gov.uk

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.