

Email: harold.bodmer@norfolk.gov.uk

Mr Mark Harrison
Chief Executive
Norfolk Coalition of Disabled People
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7 December 2010

Dear Mark

FREEDOM OF INFORMATION ACT 2000 - INFORMATION REQUEST

I am writing in response to your letter to the Chief Executive of 11th November 2010 concerning the consultation on the proposed budget reductions in Adult Social Care in Norfolk.

These proposals are set out as part of the County Council's Big Conversation Consultation and, as that document sets out, are proposals on which we are actively seeking people's views. No decision has been taken yet and as the document again makes clear, no decision will be made until the Council Meeting of 14 February 2011 by which time Members will have been able to see and consider views received.

This means that people who wish to give their views can do so through a variety of well publicised means and can highlight and identify areas of concern, risk, or indeed, legal issues, if any. The suggestion of legal challenge at this stage is therefore pre-emptive. In terms of your request under the Freedom of Information Act 2000 ("the Act") for a copy of the legal advice given to the County Council:

1. on raising the eligibility criteria from substantial and critical to 'critical' only and;
2. to cut nearly 50% out of the prevention budget over the next three years,

I confirm that the County Council holds information in relation to 1 above but not in relation to 2.

In accordance with section 17 of the Act, this letter acts as a notice of refusal in relation to this information.

The exemption upon which the County Council relies to refuse access to the information is section 42(1) of the Act. The exemption and reasons for applying this exemption are set out below.

Exemption Applied

Section 42(1) of the Freedom of Information Act 2000 provides a qualified exemption for release of information in respect of which a claim to legal professional privilege to confidentiality of communications could be maintained in legal proceedings.

Reason why the exemption applies

Written legal advice has been provided to the County Council by its lawyers, nplaw. The communications between nplaw and the County Council are confidential and written for the purpose of obtaining legal advice and assistance in relation to the Council's rights and obligations. Legal professional privilege therefore attaches to these communications which could be maintained in legal proceedings.

Public Interest Test Reasons

There is a clear public interest in public authorities being able to consult their lawyers in confidence. If the council fears that communications relating to its confidential discussions and requests for advice may be made public, it may not feel able to be open with its advisors and seek full and frank advice. In addition, legal advisors may not feel able to speak openly and freely with clients if the information is going to be placed in the public domain. This could result in decisions not being taken on a fully informed basis.

It is acknowledged, however, that there is also a public interest in public authorities being accountable for the quality of its decision making but, guidance from the Information Commissioner states that "there will need to be strong public interest in disclosure to offset the inevitable strong public interest in favour of the exemption" and one of the public interest factors presented by the Information Commissioner to consider is whether the advice is still recent or live. The Information Commissioner has confirmed that "The public interest against disclosure will be particularly strong if the advice is recent or still live

Having weighed up the public interests as set out above, the County Council has

decided that the interest in maintaining the exemption outweighs the public interest in releasing the information.

In response to your specific questions,

- The proposals in respect of the sensory support service are for a reduction in the scale and capacity of this service, not the 'decommissioning' of the service. If the proposed reductions are implemented following the consultation, the service will be for people who meet the FACS eligibility for service and will be provided in a different way. The current team would cease to function.

Norfolk's Sensory Support Team currently provide a range of services to people who do not meet the eligibility criteria for social care services and the proposed reduction in the preventative aspects of this work is consistent with the roles for the council set out in the Big Conversation document, i.e. To provide a safety net for most vulnerable people in the county while signposting people to the services they need.

- The proposals do not include a reduction in any statutory services for people with a learning difficulty. They do include a reduction of £410k out of a budget of £660k of services funded by the Learning Difficulty Development Fund. It has not been confirmed whether this grant will continue and it therefore seemed prudent to plan on the assumption that it would cease. This reduction is less than 1% of the council's learning disability budget.

The proposed reduction in funding for mental health services is more significant. Included in the budget is the mental health purchase of care budget for adults of working age, the social work budget managed as part of the council's agreement with the Norfolk and Waveney Mental Health Foundation Trust, funding for a residential home, 'Stepping Out' and a Mental Health domiciliary service. The mental health budget has been protected from the council's efficiency programmes for the past five years as most of it is managed by the NHS. The social work teams were excluded from the review of assessment and care management for example. It was therefore considered reasonable to include this service in the overall budget proposals.

- Norfolk's Big Conversation, our public consultation on the budget proposals, is running from 26 October 2010 to 10 January 2011. The Big Conversation has been designed to be accessible and ensure that every resident of Norfolk has an opportunity to have their say. In addition to standard opportunities for residents to participate (i.e. by writing/telephoning/text phoning/emailing their views/taking part online etc), we are also holding nine consultation events across the county for disabled

people (with two for Deaf and hearing impaired people). In addition, 23 other events are also taking place with residents and stakeholders from a range of sectors, including older people, carers and parents of disabled young people. All service users who may be affected by item a14 have been contacted and given an opportunity to have their say.

All these events are fully accessible, and the materials have been made available in Easy Read, Braille, Audio, large print and other alternative formats. Senior officers have been present at each disability event to answer questions about the proposals. A palantypist has also been present to record every participant's views. The record of each event and the issues raised will be published, and will provide core evidence for each equality impact assessment of the budget proposals.

We have asked for responses by this date so that we can make people's comments available to the Cabinet on Monday 24th January 2011.

Under our consultation guidelines we generally allow a 12 week period for written consultations. However, the timetable for this consultation is necessarily constrained by the exceptional circumstances we are faced with. We have to gather views to feed into our Cabinet meeting in January so that Full Council can agree a budget on Monday 14th February. In these exceptional circumstances we are having to consult in the time that we have available.

Given the tight timescale, however, we consider that the consultation has been comprehensive and inclusive.

- The full equality impact assessment report of the budget proposals will be published and submitted to Cabinet for consideration on 24 January 2011. A detailed overview of the assessment process is summarised in Annex 1 to this letter.
- I attach a breakdown of each of the services being affected by the budget cuts and the total spend in these areas as you request at Annex 2.

In respect of the timetable for the consultation, it will not be possible to extend the timetable as you request. As you know the Comprehensive Spending Review was only announced in late October and the consultation began immediately. We are required to set a legal budget for the next financial year and therefore have to conclude the consultation in time to prepare for Members to agree the budget on 14th February. Given the tight timescale, however, we consider that the consultation has been comprehensive and inclusive.

In respect of your freedom of information request, you have the right of appeal through the Council's internal complaints procedure by setting out the grounds of your appeal in writing to the Freedom of Information Officer at:

Freedom of Information & Data Protection Unit
The Archive Centre
Martineau Lane
Norwich NR1 2DQ

e-mail: foi@norfolk.gov.uk
Telephone: 01603 222661

If you are dissatisfied after pursuing the complaints procedure, you may apply to the Information Commissioner under Section 50 of the Act for a decision whether your request for information has been dealt with in accordance with the requirements of Part I of the Act. Contact details as follows:-

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
Telephone 01625 545 700
www.informationcommissioner.gov.uk

Yours sincerely,

Harold Bodmer
Director of Community Services

Overview - the Big Conversation equality impact assessment process

Norfolk County Council's budget proposals for 2011/12 – 2013/14 have implications for the future delivery of services. In order to ensure that all potential equality issues are identified and inform decision-making, a comprehensive equality impact assessment process has been put in place. This includes:

- (a) A high-level assessment of the proposals, to identify which protected groups they will affect (for example, disabled people, Black and Asian minority ethnic people, older and younger people etc), and their overall impact, to enable consultation and evidence gathering with these groups to take place;
- (b) An individual assessment of each proposal (where it impacts on protected groups), evidence-based on the views of residents from these groups and relevant community and voluntary organisations and stakeholders;
- (c) The production of a final equality impact assessment report, summarising the findings of consultation, and setting out any potential equality issues for each proposal and mitigating actions, for consideration by Cabinet on 24 January 2011 alongside the budget report;
- (d) A separate equality impact assessment on the workforce implications of the budget proposals will be carried out for consultation with unions;
- (e) Public authorities subject to the equality duties are likely to be subject to the Human Rights Act. The human rights of service users who may not necessarily have a protected characteristic (i.e. asylum seekers, refugees, homeless people) will therefore also be considered where appropriate as part of the equality impact assessment process.