

Cabinet

Supplementary Information



Date: Tuesday, 6 September 2022

Time: 4.00 pm

Venue: The Council Chamber - City Hall, College Green, Bristol, BS1 5TR

6. Reports from scrutiny commission

(Pages 2 - 4)

Issued by: Sam Wilcock, Democratic Services

City Hall, Bristol, BS1 9NE

E-mail: democratic.services@bristol.gov.uk

Date: Monday, 05 September 2022



At OSMB's public meeting on 27th July, a statement was submitted by members of People Scrutiny and OSMB in reference to concerns about the viewing and sharing of social media posts made by members of Bristol Parent Carers Forum.

The Chair also noted that he had been advised that officers were looking into this matter in order to establish the facts and he would like them to conclude this piece of work before OSMB considered whether any additional action was necessary.

OSMB then resolved:

To note that members feel that an independent inquiry into these allegations is essential, but to also recognise the need to gather further factual information (as referred to in the Chair's statement under Chair's business). Once that process is concluded, OSMB agree to delegate to the OSMB Chair and Vice-Chair the decision on the way forward and whether to instigate an independent investigation.

Following that OSMB meeting, the Chair and Vice-Chair met with officers from Legal Services and with the Chief Executive to hear how the fact finding exercise was being conducted and the results produced.

The remit of the exercise that Legal Services were asked to conduct was as follows:

"Legal Services have been asked to establish the facts around what occurred and the reasons why. We have also been asked to comment on the lawfulness of the viewing and sharing that took place."

It is important to note that this remit was not established by OSMB or any of its members, as indicated above, it was established by the Chief Executive ahead of the OSMB meeting of . In addition, OSMB (including the Chair and Vice Chair) was not involved in the process itself including the interviewing of officers, or in determining the questions asked. The Chair and Vice-Chair did suggest that some additional information should be included in the resulting report in order to provide further context but it should be clearly noted that this report is the result of an internal fact finding exercise involving the interviewing of officers understood to have been involved.

It is therefore an officers' report not an OSMB report, and its conclusions are those of Legal Services not of OSMB members.

The key conclusions that Legal Services came to were as follows:

- 1) In regards to the specific concerns raised relating to the gathering of information from social media in autumn 2021 and spring 2022, there was no surveillance, as defined in the Regulation of Investigatory Powers Act 2000 (RIPA). Nor is there any potential breach of the Article 8 (Right to Respect for Private and Family Life) under the Human Rights Act 1998.

- 2) Similarly, Legal Services conclude there is no evidence that systematic monitoring took place. The collation of social media content on the two occasions outlined was done for the specific purpose outlined in the report. On this basis, there was no legal requirement to undertake a DPIA and the Information Governance and Security Team have confirmed that their view would have been that a DPIA would not have been required.
- 3) The council has a Social Media Protocol but it doesn't deal directly with viewing and sharing third party social media. It is recommended that the Protocol be reviewed and updated to add guidance on this, taking into consideration best practice from other local authorities and with input from the Local Government Association.

The report and its conclusions were discussed at a confidential meeting of OSMB and People Scrutiny Leads on Friday 26th August which was also attended by the officers from BCC Legal Services who conducted the fact finding exercise.

In response, the Chair of OSMB, in consultation with the Vice Chair, recommended the following:

That OSMB note the conclusions of the officers' report and that, in particular, OSMB support the recommendation that the council's Social Media Protocol be reviewed and updated to provide guidance on the viewing and sharing of third party social media. That this process considers best practice from other local authorities, and includes input from the Local Government Association. In addition, that the process of creating a more effective social media protocol should also include input from a cross party reference group of councillors.

OSMB also has strong concerns about the statement in the report that there was "no formal written decision to authorise the gathering of these social media posts". Although the officers' report concludes that there was no legal requirement to undertake a DPIA, this has been concluded in retrospect and only after concerns had been raised in the public domain. There does not seem to be any evidence of the officers involved in the collation of social media posts considering whether a DPIA was necessary beforehand. There is also no evidence of any of the officers considering whether the action they were taking, (i.e. searching through personal social media of parent-carers of children with Special Education Needs) was morally or ethically appropriate.

OSMB's concern is that, regardless of the lawfulness of the actions undertaken, the council's reputation has suffered as a result of ensuing national media coverage, and the already damaged levels of trust between many parent carers and the council has been further diminished. Clearly the creation of an improved social media protocol should ensure such an episode should not be repeated in future, but it is concerning that a more cautious approach was not followed, especially given that SEND is already an area of great sensitivity and concern.

Following a confidential meeting of OSMB on Friday, August 26th, which also included lead members of People Scrutiny, it was agreed that this report be submitted to Bristol City Council Cabinet for September 6th. In addition, and in agreement with the Chair of People

Scrutiny, it was felt that there was a need for an additional agenda item to be placed on People Scrutiny's agenda for their 12th September public meeting to seek further clarification on matters that have arisen as a result of the information published in the Officers' Report. It was agreed that the Officers' Report should also be published in the papers for that meeting, and that members of OSMB be invited to participate at People Scrutiny for that agenda item.

The Chair and Vice Chair would like to voice their appreciation of the way in which the Chief Executive and Legal Services Officers engaged with them, and the willingness and openness shown in responding to their queries. We believe that the resulting report provides invaluable information contributing to a wider understanding of what happened from the perspective of those officers involved. It is hoped that further inquiry via the People Scrutiny Committee session on September 12th will provide further additional context.