

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE OVERVIEW & SCRUTINY COMMITTEE

HELD AT 7.00 P.M. ON TUESDAY, 6 NOVEMBER 2012

**ROOM C1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Ann Jackson (Chair)
Councillor Rachael Saunders (Vice-Chair)
Councillor Tim Archer
Councillor Stephanie Eaton
Councillor Sirajul Islam

Councillor Khaled Uddin Ahmed

Other Councillors Present:

Councillor David Snowdon
Councillor Alibor Choudhury
Councillor Rania Khan
Councillor Joshua Peck
Councillor John Pierce

Co-opted Members Present:

Memory Kampiyawo – (Parent Governor Representative)
Nozrul Mustafa – (Parent Governor Representative)
Rev James Olanipekun – (Parent Governor Representative)

Guests Present:

Sharon Ament – (Director of Museum of London, Docklands)

Officers Present:

David Galpin – (Head of Legal Services (Community), Legal Services, Chief Executive's)
Heather Bonfield – (Interim Service Head Culture, Learning & Leisure Services, Communities Localities & Culture)
Sarah Barr – (Senior Strategy Policy and Performance Officer, One Tower Hamlets, Chief Executive's)
Jill Bell – Head of Legal Services (Environment), Legal Services
Louise Russell – (Service Head Corporate Strategy and Equalities, Chief Executive's)

Zoe Folley

– (Committee Officer, Democratic Services Chief Executive's)

1. APOLOGIES FOR ABSENCE

Apologies for absence was received from

- Councillor Helal Uddin, Scrutiny Lead, Resources
- Councillor Amy Whitelock, Scrutiny Lead, Children, Schools & Families for whom Councillor Khales Uddin Ahmed was deputising.
- Canon Michael Ainsworth.

2. DECLARATIONS OF DISCLOSABLE PERSONAL INTERESTS

No declarations of disclosable personal interests were made.

However Councillors declared interests as follows:

Rev. James Olanipekun declared an interest in agenda item 5.2. (Mayor in Cabinet Decision Called In: Mayor's Mainstream Grants Programme 2012-15). The declaration was on the basis that he was the Vice-Chair of Poplar Harca and was a Trustee of LBTH street pastors.

Councillor Khales Uddin Ahmed declared an interest in agenda item 5.2 (Mayor in Cabinet Decision Called In: Mayor's Mainstream Grants Programme 2012-15). The declaration was on the basis that he was a board member of Poplar Harca.

Councillor Rachael Saunders declared an interest in agenda item 5.2 (Mayor in Cabinet Decision Called In: Mayor's Mainstream Grants Programme 2012-15). The declaration was on the basis that she was a board member of the Bromley –by- Bow Centre.

Nozrul Mustafa declared an interest in agenda item 5.2 (Mayor in Cabinet Decision Called In: Mayor's Mainstream Grants Programme 2012-15). The declaration was on the basis that he was an Executive Member of a Collective of Bangladeshi Schools in the Borough

3. UNRESTRICTED MINUTES

The Chair **Moved** and it was:-

RESOLVED

That the unrestricted minutes of the meeting of the Overview and Scrutiny Committee held on 2nd October 2012 be approved and signed by the Chair as a correct record of the proceedings.

The Chair referred to the information requested regarding electoral fraud. (Item 3 of the minutes). David Galpin (Head of Legal Services, Community) reported that he had since circulated the information to the Chair and it was agreed that the information be passed on to Sarah Barr (Senior Strategy Policy and Performance Officer, Chief Executives') for circulation to the Committee.

Action by

Sarah Barr (Senior Strategy Policy and Performance Officer, Chief Executives')

4. REQUESTS TO SUBMIT PETITIONS

No requests were received.

5. UNRESTRICTED REPORTS 'CALLED IN'

5.1 Mayor in Cabinet Decision Called In: Review of Tower Hamlets Art Work

The Chair welcomed Councillor David Snowdon in accordance with the provisions of Part 4 of the Council's Constitution and also Councillor Rania Khan, Cabinet Member for Culture and Heather Bonfield, Interim Service Head, Culture, Learning & Leisure who were in attendance to respond to the call-in.

Councillor Snowdon presented the reasons for the call-in outlining his concerns. He stressed the significance of the sculpture. He alongside Councillor Archer had visited the sculpture. It was now time for residents of the Borough to benefit from it.

Crucially, Cllr Snowdon argued that the Mayor had failed to consider all of the options and the organisations that could host the work. He referred to a letter received from the Museum of London Docklands detailing how they could host the work safely and securely. They currently hosted other key art works and have the arrangements in place to store the sculpture. Like many galleries and museums, they are in a position to secure insurance, underwritten by the Government, through a scheme administered by the Arts Council. This was not just about the financial benefits but about the cultural benefits to residents from returning the work to the Borough. A lack of consideration was given to this.

The Committee heard from the Director of Museum of London, Sharon Ament. She confirmed that they were prepared to host the work and had received

many offers of support from other key groups. i.e. to transport, install and help maintain it. She had written to the Mayor with this proposal in October 2012. The Museum would host it on a long-term loan basis, rather than transfer of ownership. The museum is free to access and they would have a programme of community engagement and education in relation to the works. There had been much discussion and support for the proposal on social forums

Councillor Snowden also queried the legality of the sale, whether the necessary legal documentation was in place to sell the work. Jill Bell, Service Head Legal, confirmed that it was.

The Committee heard from Councillor Joshua Peck. He reported that, in addition to the Museum of London Docklands offer, other institutions such as Queen Mary University of London had offered to host the work. A quote obtained from their insurers showed it could be insured for £2,000 a year, indicating it was possible to insure the work for a reasonable price. Other institutions that have made offers to host the work or support its return to the borough were Christchurch Spitalfields, Morpeth School, Art Fund and Whitechapel Gallery. Furthermore 1200 people have signed a petition in support of its retention

Councillor Rania Khan and Heather Bonfield responded and their points were summarised as follows:

Councillor Rania Khan stated that the Cabinet appreciated that the sculpture was a great piece of art. She drew attention to the budget cuts and the absence of the sculpture from the Borough for 15 years with little attention. Over half the people surveyed in a recent poll supported the sale of the work. It would secure much needed funding for essential services and social regeneration including social housing. There was no certainty that insurance, underwritten by the Government, could be secured by the institutions mentioned.

Ms Heather Bonfield stressed the problems around the insurance. The advice she had previously received from the council's insurer, and others, was that it was not insurable, but this was being rechecked. In terms of exploring different options of where the sculpture could be sited, they had reviewed public spaces including Victoria Park after the refurbishment works were completed, but they were not considered viable.

Jill Bell clarified that the artist sold the statue to the London County Council (LCC) in the 1960s as set out in the Authority's archived minutes. The statue then passed into the ownership the Greater London Council (GLC) and then, under the LGA 1985, to LBTH.

In reply to the presentations, the Committee raised the following questions and comments:

- There was a resolution, agreed by full Council 2 years ago, to bring back the sculpture to the Borough. Very little appeared to have been

done since then, apart from discussions with the Canary Wharf Group in October, right at the last minute.

- Why had there been a delay in sending the Museum of London Docklands proof of ownership of the sculpture so they could pursue their insurance application?
- Had the government insurance option been fully explored with other bodies as well
- The risk that other artists would be deterred from selling artwork to LBTH if this artwork was sold.
- Whether the receipts would belong to the Housing Revenue Account given the sculpture was located on a housing estate.
- In reply Jill Bell confirmed that they would not. The decisions were made by the LCC at a General Purposes Committee not a Housing Committee as shown by the minutes.
- Whether the Council had approached more than one insurer, before deciding that the sculpture was uninsurable.
- Why officers had waited until the Victoria Park refurbishments were finished before deciding that was an unsuitable site, and why the sculpture couldn't be located on one of the 'islands' in the Park.
- It was not clear what projects would be funded with the proceeds from the sale.
- There was a lack of consultation with the community, and it did not seem as if residents views had been taken into account

In response it was reported that the Council had engaged in on-going discussions with the Canary Wharf Group over the last 2 years but they had now indicated that they did not wish to host the sculpture. It was necessary to wait for the works to Victoria Park and the security report to be completed before assessing if it could be accommodated in the park because of changes to the plans and ground conditions arising.

It was evident from the assessments that the park was not a suitable location as explained in the Cabinet report. There were many important pieces of art work in the Borough for public enjoyment and the Council fully supported art works. Ms Bonfield did not believe the sale would deter artists from selling the work to LBTH in future give this track record.

The letter from the Museums of London had only recently been received and contained other information and requests that were being addressed. The Mayor had given an indication of the types of projects that would be undertaken which included housing, culture, community safety and schools.

In response to further questions Sharon Ament confirmed that the London Museum had yet to secure the government insurance. They needed proof of ownership for this. As soon they had received this they could apply for this. They had received great assurances that their application would be successful.

The Committee considered the views and comments made by Councillor Snowdon in presenting the call-in and the information given by Councillor Rania Khan and Heather Bonfield.

On a unanimous vote, the Committee agreed that Cabinet's provisional decision be referred back to Cabinet for further consideration, with the following alternative actions proposed:

Insufficient consideration has been given to alternative options for returning the sculpture to the borough for public view and the decision appears to have been rushed. These alternative options should now be fully considered. In particular, the offer from the Museum in London Docklands to host and insure the sculpture should be explored as well as the other expressions of interest and offers of support. These offers illustrate that it is possible to return the sculpture to public view in the borough securely.

The sculpture should be displayed in a publicly accessible place so it can be enjoyed by as many people as possible. All options should be fully explored including council land and the University.

The officer advice on this issue was disappointing, the report produced for the decision was inadequate and rightly caused concern that a decision taken on it would be open to challenge. Local institutions had not been contacted for their interest or advice on hosting the sculpture and the position over insurance was unclear. No mention was made of advice taken, other than that of Christies; giving the impression that only the sale of the statute was seriously being considered. No detail was included on usual practice on council insurance needs or why the conclusion had been reached, causing further concern regarding veracity. The reports own risk analysis warned of the issues, currently being faced by the Council, if the case was not dealt with correctly.

A large number of residents clearly support the return of the sculpture to the borough and would greatly enjoy visiting it. Moore's inspiration was eastenders awaiting the end of the Blitz, and it was felt strongly that the state should remain in the east end of London.

There is doubt that sculpture would fetch the much quoted £20 million at auction, particularly given its condition. This would be one-off capital funding and not sustainable, and, relative to the Council's overall budget would not have a significant impact on savings to be made. The benefits of retaining the statue would therefore far outweigh the relatively modest financial gain from the sale.

It was disappointing that the Executive's argument for selling the sculpture appeared to have changed from the position that they would love to keep the sculpture but that it was uninsurable, to an argument that the sculpture was being sold to raise funds. No clear priorities for use of the proceeds of the sale have been produced, with different Lead Members citing different potential

areas. Furthermore, there appears to be a lack of clarity about the Mayor's priorities for spending, as seen through the Mainstream Grants Programme process, the draft Community and Voluntary Sector Strategy and the Enterprise Strategy. This leads to the conclusion that funds raised will be spent on the whim of the Mayor alone.

The statue belongs to the borough, no matter how long it has been cared for elsewhere. The fact that it was previously sent away to Yorkshire, rather than lose it, is not an excuse to now sell it, just because the Mayor has decided it is no longer valued by residents.

Members and residents were told that the sculpture was uninsurable and it was logistically impossible to locate in the borough, but this is clearly not true, it could be brought home at little or no cost and as such should be returned to the borough for public enjoyment.

5.2 Mayor in Cabinet Decision Called In: Mayor's Mainstream Grants Programme 2012-15

The Chair welcomed Councillor John Peck in accordance with the provisions of Part 4 of the Council's Constitution and also Councillor Alibor Choudhury, Cabinet Member for Resources to respond to the call-in.

In his presentation to the Committee, Councillor Peck assisted by Councillor John Pierce outlined the reasons for the call-in and the concerns. Councillor Peck explained his concerns related to the process, the impact on organisations doing critical work in the borough, the nature of the new organisations receiving funding and the geographical balance of organisations recommended to receive funding.

In terms of process, there no evidence that an Equalities Impact Assessment had been undertaken, which risked the Council being exposed to judicial review. He was concerned that the officer recommendations had been significantly changed by the Executive, and that this part of the process was not transparent. He also expressed concern that the process was still being progressed, rather than being paused, as should happen when a decision is subject to a Call-in. This breached the Council's Constitution.

There had also been complaints from organisations about long delays and that the process kept changing.

A key concern was the significant cuts in funding to social welfare advice agencies. In some cases, organisations may have to close down as they would no longer be viable. The Council should be supporting such groups in this current economic climate and in light of the welfare benefits cuts. Cutting these services at a time when they are most needed would impact upon some of the most vulnerable people in the borough.

Councillor Peck also raised concerns about the organisations receiving funding for the first time, or significant increases in funding. He suspected they had strong links to the Mayor and his political network. Finally, he argued that the geographical spread of funding across the borough was not balanced, or linked to the level of deprivation in the borough and was therefore unfair. The areas in the south and east of the Borough would suffer the most from the welfare cuts as they were the most impoverished as showed at the recent seminar. How does the proposals relate to this need?

The process had raised serious questions in the community regarding why some very experienced groups were losing major funding and new ones were having major increases in grant.

Councillor Peck requested that the officers original recommendations, made to the Corporate Grants Programme Board (CGPB) be published; that the Equalities Impact Assessment be published; That all decisions be reviewed to looked at equity and geography; and that the money in the social welfare advice services budget be allocated to advice groups with a good track record in this area.

Councillor Alibor Choudhury responded to these points. He stressed that no decisions have yet been made and the Mayor and Cabinet wanted to consult the Overview and Scrutiny Committee as part of the ongoing process. He underlined that the Executive fully supported the voluntary sector; that the Council had received 100 more applications than previously. He highlighted the savings imposed on the Council by the government with the possibility of more needing to be found in the future. He noted the clear criteria agreed by the Council in March 2012. He explained the consultation, application and assessment process.

The aim of the Corporate Grants Board was to ensure the recommendations made by officers were robust. In moderating the recommendations the Board took into account any gaps in provision, the organisations capacity to secure alternative funding, their potential to develop and knowledge of the community and local area, and relevance to Mayoral priorities. A key aim was to encourage new groups and small groups at the heart of the community to develop. The decisions would be subject to robust monitoring arrangements.

It was difficult to carry out an Equalities Impact Assessment at this stage as the process had not been completed. The Board had fully looked at the geographical balance of the proposals. The final decisions should be made shortly.

In response, the Committee raised the following questions and concerns:

- Concern that many valuable organisations had lost funding yet there was no justification for this.
- The Committee queried the capacity of the new organisations to deliver the aims and outcomes expected. There were also concerns about small organisations capacity to upscale quickly, given their

significant increases in funding. How could this be assessed given they had no track record? What assurances were there to ensure this? Cllr Choudhury said there would be robust performance monitoring arrangements put in place by the Council, but that new organisations needed to be given a chance.

- It was stated that for some groups receiving a reduction in funding, their reserve budgets had been taken into account. Was this a factor considered for all groups? Cllr Choudhury said he couldn't comment on individual organisations.
- The cuts of up to 40% in MSG funding to Early Years services overall was raised, as was older peoples day services, sports and activities, and refugee assistance, which had also seen cuts of up to 70%. Cllr Choudhury did not respond.
- The Committee requested a geographical breakdown of the proposals be provided. Cllr Choudhury reiterated that no final decisions had been made yet.
- It was questioned whether the location of the organisation or its visitors was taken into account when assessing geographical coverage.
- The Committee raised concerns about the changes made to the original officer recommendations and that this was not transparent. They requested that these officer recommendations were published in the interest of transparency. Cllr Choudhury responded that changes were made to reflect Mayoral priorities and address gaps in provision. The Committee disagreed, as neither the MSG Programme or other recent reports had shown how they had met Mayoral priorities.
- The Committee were very concerned that an Equalities Analysis of the proposals was not available and requested that this be published as soon as possible. Again Cllr Choudhury stressed that no decisions had yet been made.
- The Committee were also extremely concerned about cuts to welfare advice services.
- The Committee questioned the plans for the unallocated budget. Again Cllr Choudhury stressed that the review had not been completed. One option was to use it to help address the needs from the welfare reforms that had not fully bedded in. If reviewed it was unlikely that any of the proposed awards would decrease. He considered that the Mayors priorities ran through the proposals.
- In relation to the Call in, Mr Galpin considered that whilst no final decision had been made, proposals had been put forward. Therefore it was reasonable for the Committee to review the plans at this stage

The Committee considered the views and comments made by Councillor Joshua Peck in presenting the call-in, and the information given by Councillor Alibor Choudhury.

The Committee unanimously agreed that Cabinet's provisional decision be referred back to Cabinet for further discussion and urgently revised to ensure fairness.

They proposed that the following alternative actions are taken, and concerns considered:

That the proposals be fully reviewed, taking into account:

- an equalities analysis
- the geographical spread of funding
- the potential impact of welfare reform on vulnerable residents and the importance of advice services, as well as the impact of withdrawing funding withdrawal from third sector organisations that are supporting the boroughs residents.
- The capacity of all organisations commissioned to deliver a quality service and stated outcomes.
- The proposed levels of funding could have significant impacts on the council's service delivery and the Committee would like to see more information on what services will no longer be delivered as a result of the proposals.
- There were significant concerns raised about the process and its transparency to residents and organisations involved.
- There was particular concern that key information had not been made available to the Committee. The Committee requests that in the interest of transparency the original officer recommendations be published, as well as the Equality Impact Assessment and the geographical breakdown of proposals. A list of organisations total proposed funding was also requested, rather than broken down into different projects funded by different directorates.
- The Committee proposed that the funding in the welfare advice budget be allocated to welfare advice services, particularly those with a good track record in delivering these services.
- Concern was expressed that many longstanding third sector and community organisations faced significant cuts in funding and possible closure. Their expertise and experience in delivering services is essential in this difficult economic climate. The reasons for reducing or ceasing their funding to such an extent should be fully justified and communicated to organisations and members.
- The Chair also stated that if it is later found that the council is not discharging its duty to the public, that questions will have to be answered as to why these funding decisions were taken in the light of the welfare changes and other funding cuts that will soon be faced in Tower Hamlets.
- The Committee also reminds the Mayor of the Overview and Scrutiny Committee's plan to undertake a scrutiny review of the mainstream grants process, and they asked that the Executive co-operate fully with this.

- Given the lack of information currently available in relation to the decisions being made, it would be ethically impossible for OSC to agree with the decisions. The Executive is urged to share publicly the information on which they are basing their decision. If this is not done, it was confirmed that once a final decision has been made by the Executive, that decision could, and would in all probability, also be called in for consideration by the OSC.

6. REPORTS FOR CONSIDERATION

There were no reports for consideration.

7. VERBAL UPDATES FROM SCRUTINY LEADS

The Committee received verbal updates from scrutiny leads on current work.

Councillor Islam, Scrutiny Lead Development and Renewal, reported on progress with his work on co regulation and accountability of regulated housing providers. He reported that a first meeting of his working group had been arranged for 21st November 2012 and would comprise 3 Members. They would be meeting to undertake such initial tasks as scoping the review.

Councillor Saunders, Scrutiny Lead Adults Health and Wellbeing reported on the work of the Health Scrutiny Panel. The Panel would be looking at Community Assets in St Paul's way. They would also be looking at the transfer of public health from the NHS to local Councils. It was planned to hold two evidence sessions on this and a case study to ascertain peoples views and how the plans could improve outcomes.

In the absence of Councillor Whitelock, Sarah Barr (Senior Strategy Policy and Performance Officer, Chief Executives') reported on the work of the Councillors Portfolio (Children, Schools and Families). The working group would be looking at post 16 attainment. The latest results had yet to be issued and the Children's Schools and Families Directorate would be reviewing these. The working group would therefore commence its review in January 2013 so that it could take into account their findings.

Councillor Archer, Scrutiny Lead Chief Executives, reported on his review of the role of the Chief Executive in a Mayoral system. He reported on a meeting with the Interim Chief Executive recently held to look at the Chief Executive's role and the Executive arrangements. The review was progressing well.

The Chair, Councillor Jackson, reported on the Youth unemployment review. The review was to start this month (November 2012). One of the main aims was to look at the issues from the young persons view point.

The Chair also briefly mentioned future reviews. A key topic that could be looked at was the issue of bad debts. She invited Members to give some thought to this suggestion.

RESOLVED:

That the verbal updates be noted.

8. PRE-DECISION SCRUTINY OF UNRESTRICTED CABINET PAPERS

No pre-decision questions submitted to Mayor in Cabinet [7 November 2012].

9. ANY OTHER UNRESTRICTED BUSINESS WHICH THE CHAIR CONSIDERS TO BE URGENT

The Chair referred to a late request made by Councillor Eaton regarding the vacant post of Scrutiny Lead (Communities, Localities and Culture).

It was noted that the position had yet to be filled and that Councillor Fozol Miah had been approached to fulfil this role. However there was some uncertainty whether Councillor Miah was still a Member of the Committee.

The Committee were therefore asked to consider whether they should appoint a Member to fulfil this position at this meeting.

Councillor Eaton emphasized the need for the position to be filled. She reported on the significant issues within the Portfolio of late and that it was an area of great importance to the Council and residents alike. It was important that the role was appointed to as quickly as possible so that the Member could pursue this work. She expressed a willingness to take up the position.

The Committee requested that they be given more time to consider this appointment. It was therefore agreed that the nominations be sought from the Committee and an appointment be made via e-mail save holding up the process to the next meeting. It was agreed that the appointment would be confirmed at the next meeting of the Overview and Scrutiny Committee.

It was also requested and agreed that the membership of the Overview Scrutiny Committee be clarified and that the Committee's rights to information in view of the 2012 Executive procedural rules be clarified. Members considered that it would be helpful to have an explanatory note on this.

RESOLVED:

That nominations for the position of Scrutiny Lead (Communities, Localities and Culture) be sought from the Committee and appointed to via e-mail and the appointment be formally confirmed at a future meeting of the Committee.

That the membership of the Overview Scrutiny Committee be clarified and that the Committee's rights to information in view of the 2012 Executive procedural rules be clarified and an explanatory note be provided on this

ACTION:

Sarah Barr, (Senior Strategy Policy and Performance Officer, Chief Executives')

10. EXCLUSION OF THE PRESS AND PUBLIC

Nil items

The meeting ended at 9.15 p.m.

Chair, Councillor Ann Jackson
Overview & Scrutiny Committee