

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE OVERVIEW & SCRUTINY COMMITTEE

HELD AT 7.30 P.M. ON TUESDAY, 16 OCTOBER 2018

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

Members Present:

Councillor Abdal Ullah (Chair)	
Councillor Marc Francis (Vice-Chair)	– Lead for Resources
Councillor Sufia Alam	– Lead for Children's Services
Councillor Mufeedah Bustin	–
Councillor Kahar Chowdhury	– Lead for Health, Adults and Community
Councillor James King	–
Councillor Andrew Wood	–
Councillor Victoria Obaze	–

Co-opted Members Present:

Dr Phillip Rice	– Church of England Representative
Khoyrul Shaheed	– Muslim Faith Community
Fatiha Kassouri	– Parent Governors
Neil Cunningham	– Parent Governors

Other Councillors Present:

Mayor John Biggs
Councillor Danny Hassell
Councillor Denise Jones

Apologies:

Councillor Kyrsten Perry	–
Councillor Mohammed Pappu	–
Councillor Bex White	–
Joanna Hannan	– Representative of Diocese of Westminster
Ahmed Hussain	– Parent Governors

Officers Present:

Elizabeth Bailey	– Senior Strategy, Policy and Performance Officer
Janet Fasan	– (Divisional Director, Legal)
Sharon Godman	– (Divisional Director, Strategy, Policy)

Afazul Hoque	– and Partnerships)
David Jones	– (Head Corporate Strategy & Policy)
	– (Interim Divisional Director, Adult Social Care)
Debbie Jones	– (Corporate Director, Children's)
Christine McInnes	– (Divisional Director, Education and Partnership, Children's)
Denise Radley	– (Corporate Director, Health, Adults & Community)
Matthew Vaughan	– (Political Advisor to the Conservative Group, Democratic Services, LPG)
David Knight	– (Senior Democratic Services Officer)

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

Whilst no declarations of disclosable pecuniary interest were received. Councillor Marc Francis and Doctor Philip Rice (Church of England Representative) both indicated that they had expressed concerns regarding the phased closure of the three local authority childcare day nurseries (Item 3.3.1 refers)

2. APPOINTMENT OF SCRUTINY LEAD

The Committee agreed to the appointment of Councillor Bex White to the vacant Scrutiny Lead for Governance role.

3. UNRESTRICTED REPORTS 'CALLED IN'

3.1 Securing the future of Early Years services

The Committee noted that a decision made by the Mayor in Cabinet on Wednesday, 26 September 2018 in respect of agenda item 6.2 'securing the future of early years services – phased closure of the three local authority childcare day nurseries' was "called in" under the Overview and Scrutiny Committee Procedure Rules of the Council's Constitution by Councillors Puru Miah, Tarik Khan, Ruhul Amin, Shah Ameen and Gabriela Salva Macallan ('Call-in Members'). The questions and comments from Members on the Call In may be summarised as follows:

The Committee noted:

- The Cabinet's report, including the following appendices:
 - the Consultation report
 - Equality Impact Assessment
 - Submission from UNISON

- The letter addressed to Councillors of the London Borough of Tower Hamlets from Lorraine Flanagan, Head Teacher of Thomas Buxton Primary School and Chair of the LBTH Schools Forum dated 10 October 2018;
- The “call in” requisition from the Call-in Members;
- Representations by the Call-in Members
- Representations by the Lead Member for Children, Schools and Young People, Cllr Danny Hassell.
- A briefing on whether the decision is contrary to the policy framework, or is contrary to, or not wholly in accordance with the Council’s budget

- The Committee highlighted concerns over due process, insufficient alternative options and a focus on budgetary issues.

- **Due process:**
 - The Call-in members had stated that Mary Sambrook had stopped taking children prior to the decision and consultation process, accordingly the numbers presented to the Schools Forum and used throughout the consultation were in their view not accurate
 - Unison claimed that senior staff apparently put pressure on children centre staff to encourage parents to complete the survey in favour of closure of the LADNs. The Call-in members noted that on the principles of democracy, accountability and integrity, the consultation should be investigated.

- **Service for the end-user:**
 - The call-in Members expressed concern that there was insufficient provision, particularly for SEN children, and consider Overland to effectively be a unit for those children living with a hearing condition. Concerns were raised that the closure of the LADN would mean residents would lose provision for under two year olds. Overland and John Smith were linked to children’s centres and provided specialised affordable quality day nurseries with wrap around care.
 - The Decision does not factor in the work needed to make up other services to the standard that Overland already is at.

- **Alternative options:**
 - Alternative options should have been considered, such as investment; reconsideration of charges, opening up the waiting lists,

using spaces in better ways and looking at the voluntary sector. LADN staff have ideas and should have been engaged in the process.

- Following the presentation by the Call-In members, the Committee queried the following issues:
 - Noted that the charge of £4.80 was very low and had not been reviewed for over ten years. The Committee noted comments that the Council could consider alternatives rather than charge families with the full cost of £40 to be viable.
 - The Committee noted that the strategic plan goals around reducing inequality and supporting a cohesive society had not been fully reflected in the Decision. The proposals have focused on cost rather than the benefits of affordable specialised care that the LADNs provide.

The Committee then received and noted the response from the Lead Member which is summarised as follows:

- The Lead Member set out the context of the Decision and highlighted considerations around equity of the Early Years provision, limited resources and alternative provisions for those currently attending Local Authority Day Nurseries.
- Firstly, the Lead Member commented on budget pressures, number of children using the LADNs and costs, SEND provision, the quality of alternative provision and the consultation process. These are summarised as follows:
 - **Budget pressure:** The Council would have to find £1million savings to keep the provision of LADNs. Few boroughs have this provision and those that do, such as Birmingham, are seeking to close it as the provision is deemed unviable.
 - **Capacity and cost:** A small number of childcare places are provided by the LADNs with high costs. At full capacity, the three LADNs could provide approx. 100 child care places. The cost per child, currently funded by the Early Years Budget, is approximately £11,000, which equates to 3 times the cost of alternative early education or childcare provision.
 - **SEND provision:** The Lead Member noted that there are no children on a child protection plan and no Looked After Children currently attending the LADNs. The Lead Member also detailed the

small number of children on a child in Need Plan, EHCP or with hearing impairments attending the LADNs.. Alternative provisions could cater for this cohort. The head teacher at the Children's House maintained Nursery School is a trained audiologist with experience working with deaf children.

- **Consultation process:** As this was a non-statutory consultation, four weeks would have been reasonable. However, following a call-in by the Overview and Scrutiny committee, the consultation period was extended to over eight weeks beyond the statutory consultation requirements. The Lead Member noted Unison's letter regarding allegations of senior staff filling out feedback forms on behalf of residents and noted that this had not been corroborated and the Council had not received any complaints or whistleblowing and this should be disregarded.
- Following the presentation by the Lead Member, the Committee queried the following issues:
 - Whether £1million savings are required to come from the Early Years budget and noted that there is pressure on the Early Years budget. Within that budget the discretionary elements are the LADNs and Children's Centres.
 - To what extent the Council had considered the voluntary sector taking on the provision as an alternative way to provide for under two year olds. The Committee noted the staff transfer requirements under TUPE would mean a cost of approx. £1m. Accordingly, the Lead Member noted it was unlikely that providers in the borough would be willing to take on this cost. It was also noted that staff if transferred will lose their employment rights they have with the Council as potential provider may restructure the service and put them on revised terms and conditions. Further, there is no funding from Government for under two year olds and it can be argued that childcare subsidy that is being paid to families using the LADN should be extended to all children in the borough. The Committee noted that there had been no formal consultation with the voluntary sector.

After hearing from the Call-in Members and the Lead Member, the Committee then considered the impact on children and parents, the need for due process for key decisions, the time and scope of the consultation and the need for affordable provision. The comments of the Committee are outlined as follows:

- **Budget focus:** The Committee noted that the decision seemed to be strongly based on budget considerations and insufficient

focus on the benefits of the service provided for those children attending.

- **Alternative options:** The Committee was concerned that a series of alternative options had not been fully looked into, including partnering with voluntary organisations to continue the provision. While the Committee noted the benefit of informal discussions, the Committee commented that formal discussions with voluntary organisations should have taken place and considered as an alternative option.
- **Specialised services:** The Committee also noted that there did not appear to be comprehensive plans in place around the transition of SEN and vulnerable children and that specialised services need to be provided on more than just an ad-hoc basis during this period.
- **Consultation concerns:**
 - Those who responded to the consultation were not reflective of those who use the LADNs.
 - Consultation process itself had not been fair and balanced and that LADNs had been “run into the ground’ beforehand.
- The Committee also commented that they did not believe the decision would be in accordance with the budget and policy framework and requested formal advice from the S.151 and Monitoring Officers.

In conclusion, the Chair Moved and it was **RESOLVED** that:

- I. The Decision would not be in accordance with the budget and policy framework and therefore agreed that the advice of the Monitoring Officer and S151 Officer be sought on this question
- II. If the Monitoring Officer and S151 Officer agree that the Decision is outside the budget and policy framework, the Decision be referred to full Council in accordance with paragraph 7.3 of Part 4.3 of the Constitution.
- III. If the Monitoring Officer and S151 Officer do not agree that the Decision is outside the budget and policy framework, then the Decision be referred back to the Mayor in Cabinet to consider the alternative options outlined in the call-in requisition.

3.2 Future Management of the Integrated Community Equipment Service

The Committee noted that a decision made by the Mayor in Cabinet on Wednesday, 26 September 2018 in respect of agenda item 11.1 “future management of the integrated community equipment service had been “called

in” under the Overview and Scrutiny Committee Procedure Rules of the Council’s Constitution by Councillors Marc Francis, Mohammed Pappu, Tarik Khan, Gabriela Salva Macallan and Puru Miah (‘Call-in Members’). The questions and comments from Members on the Call In may be summarised as follows:

The Committee noted that:

- The Mayor in Cabinet’s decision, published on 28 September 2018, had agreed to Support awarding a contract to Medequip Assistive Technology Ltd (Medequip) for the Community Equipment Service via a call-off from the framework agreement procured by Hammersmith & Fulham, for four years, from 1st April 2019 to 31st March 2023, with an option to extend for a further two years. Which would enable delivery of the savings target for Community Equipment Service of £308,000 for 2019/20 as agreed by the Cabinet in the MTFS plan;
- The early surrender of the lease on the Yeo St premises (12 years unexpired) would result in the landlord paying the Council an estimated £900,000 as a surrender premium. This would be a one-off payment back to the Council, and in part be utilised to cover the one-off moving and setup costs;
- The alternative course of action proposed in the call-in, which proposed that:
 - .□.1 the Decision to outsource the Community Equipment Service to *Medequip Assistive Technology Ltd* via the London Community Equipment Consortium framework is withdrawn.
 - .□.2 Officers are instructed to draw up a business plan to improve the service further and secure better Value for Money over the next two years, when the service should then be reviewed;
- Discussions are initiated with the local NHS to determine the future level of funding it will provide for community equipment
- Full details of the budget for Community Equipment Service, Telecare Alarms and Assistive Technology, and the external consultant’s report (underpinning the “due diligence” work in relation to this proposal) are published;
- The Call In referenced concerns over outsourced services in the past failing to maintain or improve the quality of service that residents had received. In the Call-in Members’ views, this included persistent problems with some private agencies that had taken over Homecare, following the decision to close the award-winning in-house Homecare Service in 2011;
- According to the Labour Local Government Trade Union Principles, an opportunity should be given to in-house services proven not to be delivering value for money to make the required improvements to avoid

costly tendering and outsourcing procedures. The Community Equipment Service had apparently not been given this opportunity with three years' worth of uncertainty and several vacant staff posts. However, despite this uncertainty, Community Equipment Service staff had remained committed to their service users and the delivery of a good service. In response to this point the Committee queried whether the Labour Local Government Trade Union Principles were relevant to the Council and a cross-party committee. However, the Committee noted that a good service run in-house could potentially deliver the efficiencies needed. Further, the Committee noted that the Community Equipment Service (i) is a statutory service; (ii) is not a failing service; and (iii) had not enjoyed the opportunity of utilising the investment in technology to improve its ordering service;

- The Call In Councillors:
- Felt that improved technology should be tried to assist staff deliver a better service and achieve better value for money.
- Expressed concerns that outsourcing may fail to achieve anticipated savings.
- Queried whether the decision had been driven by the potential £900,000 capital receipt from relinquishing the lease of Yeo Street depot twelve years ahead of the specified period and should not be a factor in the decision.
- Queried whether W the 'specialist consultant' reviewing the service had been able to provide an objective options appraisal.

The Members then received and noted the response from the Lead Member which is summarised as follows:

The Committee:

- Noted the context of the Decision and that service delivery had been considered at length and stemmed from a report in 2016 from the Institute of Public Care (Oxford Brookes University), which noted that the service should improve its quality, efficiency and effectiveness.
- Was then advised that:
 - **Service:** while the quality of the service had improved, the Community and Equipment Service remained "adequate" and not "excellent".
 - **Best value:** The Council is subject to a duty to achieve "best value" and believes it can do so by outsourcing to Medequip and benefiting from economies of scale The Lead Member noted that the Labour Party Local Government Trade Union Principles referred

to by the call in members above also goes on to reference the need to achieve best value.

- **Options fully considered:** Appendix 2 sets out the options that were considered, which were reviewed thoroughly.
- **Management:** through the consortium, the Council would join the management board and meet monthly to review service delivery. This gives the Council a direct role and influence in the service oversight.
- **Savings:** the Council believes this Decision would achieve efficiency savings in 18/19 and for both the Council and NHS going forward.
 - The Lead Member informed the Committee that the Council had initially been approached by the Landlord with regard to the lease and occupation of the building and the capital receipt was not a major factor in the proposed way forward.

- Also noted that:
 - If the Council continues to occupy the building, it will incur a rent rise of £35,000, putting additional pressure on the additional budget.
 - To take advantage of savings in rent rates, the Council has considered moving to smaller premises. The Council's asset management review advised that suitable premises are unlikely to become available in the next 12-18 months.
 - The Council would face costs in investing in new equipment to meet future demands and therefore would require substantial additional investment.
 - The Committee noted that Tower Hamlets was only one of a few boroughs where this service was not delivered by an external provider and warehouse operations were complex and not within the Council's core operations. However, while outsourcing could benefit from economies of scale to meet increasing demand, the Council could also look at more options to deliver efficiencies. The Committee further noted that neighbouring boroughs had taken more innovative approaches, such as a shared service type model, to offer services to other boroughs.

- The Committee queried whether other boroughs had flagged up problems with the quality of service from Medequip. The Call-in member commented that there was anecdotal evidence from the City of Westminster around the contract with Medequip. The Committee further noted that the Council would be involved in the management and a monthly project board.
- The Committee queried whether it had sufficient information to determine the long term costs of outsourcing.

In conclusion, the Chair Moved and it was **RESOLVED** that:

The Decision be referred to the Mayor in Cabinet for reconsideration including consideration of the alternative course of action set out in the call-in requisition

4. EXCLUSION OF THE PRESS AND PUBLIC

As the agenda circulated contained no exempt/ confidential business and there was therefore no requirement to exclude the press and public to allow for its consideration.

The meeting ended at 9.30 p.m.

**Chair, Councillor Abdal Ullah
Overview & Scrutiny Committee**