

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE OVERVIEW & SCRUTINY COMMITTEE

HELD AT 7.00 P.M. ON TUESDAY, 9 APRIL 2013

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

Members Present:

Councillor Ann Jackson (Chair)
Councillor Stephanie Eaton
Councillor Sirajul Islam
Councillor Rachael Saunders (Vice-Chair)
Councillor Helal Uddin
Councillor Amy Whitelock

Councillor Peter Golds

Co-opted Members Present:

Memory Kampiyawo – (Parent Governor Representative)
Nozrul Mustafa – (Parent Governor Representative)
Rev James Olanipekun – (Parent Governor Representative)
Dr Phillip Rice – (Church of England Diocese Representative)

Other Councillors Present:

Councillor Alibor Choudhury – (Cabinet Member for Resources)

Councillor Carlo Gibbs –

Guests Present:

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Officers Present:

Vicky Allen – (Strategy Policy & Performance Officer, Strategy, Policy & Performance, Chief Executive's)
Anne Canning – (Interim Corporate Director Education Social Care and Wellbeing)
David Courcoux – (Political Adviser to the Labour Group, Chief Executive's)
David Galpin – (Head of Legal Services (Community), Legal Services, Chief Executive's)

Chris Holme	– (Acting Corporate Director - Resources)
Frances Jones	– (Service Manager One Tower Hamlets, Chief Executive's)
Kelly Powell	– (Communications Officer, Communications, Chief Executive's)
Louise Russell	– (Service Head Corporate Strategy and Equalities, Chief Executive's)
John Williams	– (Service Head, Democratic Services, Chief Executive's)
Angus Taylor	– (Principal Committee Officer, Democratic Services, Chief Executive's)

COUNCILLOR ANN JACKSON (CHAIR) IN THE CHAIR

1. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of:

- Councillor Tim Archer (Scrutiny Lead Chief Executive's), for whom Councillor Peter Golds was deputising.
- Councillor Ohid Ahmed (Deputy Mayor).
- Sarah Barr, Senior SPP Officer, Chief Executive's.
- Apologies for lateness were received on behalf of Councillor Sirajul Islam (Scrutiny Lead Development & Renewal).

Noted

2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

No declarations of Disclosable Pecuniary Interest or other declarations of interest were made.

3. UNRESTRICTED MINUTES

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

Resolved

That the unrestricted minutes of the ordinary meeting of the Overview and Scrutiny Committee, held on 12th March 2013, be agreed as a correct record of the proceedings, and the Chair be authorised to sign them accordingly.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, CE's)

4. REQUESTS TO SUBMIT PETITIONS

There were no petitions.

5. UNRESTRICTED REPORTS 'CALLED IN'

Variation to Order of Business

The Chair informed OSC members that Councillor Gibbs, one of seven Councillors who had "Called In" two decisions of the Mayor outside Cabinet on the agenda before the OSC for consideration, had requested that these "Call Ins" be considered in reverse order to that detailed in the agenda. The Chair considered it reasonable to accommodate this request, and therefore appropriate that the Order of Business be varied so that agenda item 5.2 be considered next and subsequently agenda item 5.1. Accordingly the Chair **Moved** and it was: -

Resolved

That the Order of Business be varied as below:

- Agenda Item 5.2 "Budget Implementation 2013/14 (No 2)" be considered next.
- Agenda Item 5.1 "Budget Implementation 2013/14 (No 1)" be considered thereafter.
- Subsequently return to the order of business detailed in the agenda.

However for ease of reference OSC deliberations and subsequent decisions taken, are set out below in the order detailed in the agenda.

Special Circumstances and Reasons for Urgency

Agenda Item 5.2 "Budget Implementation 2013/14 (No 2)".

Agenda Item 5.1 "Budget Implementation 2013/14 (No 1)"

The Chair informed members of the OSC that the special circumstances and reasons for urgency associated with both "Call Ins" were as below.

"The call-in of this decision was requested on 5th April 2013. In accordance with paragraph 16.4 of the Overview and Scrutiny Procedure Rules, once a call-in is made it is to be placed on the agenda of the Overview and Scrutiny Committee on a date to be determined by the Assistant Chief Executive (Legal Services). The expectation is that this will be at the next meeting of the Committee. As the call-in concerns budget-related matters, it is appropriate for the Committee to deal with the call-in on an urgent basis."

The Chair subsequently agreed the special circumstances and reasons for urgency, indicating that she was satisfied that the matter was urgent, as defined in the Authority's Constitution (Part 4 Rules of Procedure, Section 4.2 Access to Information Procedure Rules, Rule 6 Items of Business, sub

paragraphs 6.3 and 6.5. The special circumstances justifying urgency being as detailed above.

5.1 Budget Implementation 2013/14 (No 1)

Please note that the order of business was varied by resolution of the OSC earlier in the proceedings in order to allow this item of business to be taken as the second item of substantive business (considered after agenda item 5.2), however for ease of reference OSC deliberations, and subsequent decisions taken, are set out below in the order detailed in the agenda.

Please note that composite “Special Circumstances and Reasons for Urgency” were agreed for this “Call In” at agenda item 5 above.

The Chair welcomed: Councillor Carlo Gibbs, one of seven Councillors who had “Called In” decision of the Mayor outside Cabinet (Decision Log Number 021 “Budget Implementation 2013/14 (No 1)” in accordance with the provisions of Part 4 of the Council’s Constitution. Also Councillor Alibor Choudhury, Cabinet Member for Resources, and Mr Chris Holme Acting Corporate Director Resources, who were in attendance to respond to the “Call-in”.

Councillor Carlo Gibbs presented the “Call-in”: summarising the reasons for “calling in” the Mayoral Decision, outlining the key concerns of the “Call-in” Members, and setting out the action sought from the OSC to address these. He also highlighted the additional point that Councillor Choudhury had indicated in his response to the “Call In” considered at agenda item 5.2 earlier in the proceedings, that Mayor considered the amendment to the Budget at Budget Council to have been politically motivated. To take a decision to change that would have political ramifications, and it must therefore be a ‘key’ decision. By determining otherwise the Mayor had placed the Authority at risk of legal challenge

Councillor Alibor Choudhury, Cabinet Member for Resources, responded to the concerns raised by the “Call-in” Members and subsequently responded to questions from the OSC summarised as follows:

- Referring to the above point on political ramifications of the decision, made by Councillor Gibbs, he had not used the word political in its literal sense in the previous discussion.
- Legal advice made clear that the Authority could not lawfully place an artificial cap on statutory adverts, and it was wrong to suggest this.
- The reduction in the Budget for East End Life (EEL) would lead to redundancy of 12 full time staff, and it was therefore subject to the Authority’s processes requiring consultation on such matters with staff and trades unions. The amendment to the Budget had no regard for this process. Also a high proportion of these staff were women and BME, a matter the Mayor took seriously.

- Due regard must be paid to the equality impacts of the proposals, and a full EQIA would need undertaken. Thought needed given to the people that accessed EEL, their reasons for doing so and the impact of closure.
- Financial and contractual obligations needed consideration eg the Authority had recently joined a London-wide print contract and the implications of breaking the contract needed assessed.
- The Authority had a duty to promote equality and social cohesion and used EEL to reach service users and the wider community and the Budget amendment did not take this into consideration.
- Placing statutory notices elsewhere would increase costs significantly, as the former Chief Finance Officer had previously advised. This needed consideration.
- The Mayor considered it sensible to continue the provision of EEL whilst a review of the options was undertaken.
- The Authority had a continuing need to communicate with the maximum number of residents and EEL reached 80 or 90,000 households each week. The Mayor didn't believe this could be achieved without it.
- Consideration that there was a difference between whether EEL was a priority service and the reasons listed for the Mayor's decision. However there was no merit in duplicating the discussion at full Council as it had reached a decision, passed by two thirds majority. The issue needing addressed was whether it was right to reverse that decision through the virement. Responded that the decision of full Council had been erroneous, as the proposals had not been properly evaluated, with all important issues taken into account. The decision had been taken as the politically motivated Budget amendment, intended to undermine the Mayor, had resulted in collateral damage to vulnerable sections of the community who relied on EEL.
- Why had this decision not been placed on the Authority's Forward Plan for Cabinet decision if there were significant concerns regarding the Budget reduction. Responded that the information was not new and already in the public domain. The criteria for a key decision had been weighed when the decision was made: the political sensitivity of the matter was erroneous, being based on malicious politics. The impact of the virement had not been considered significant in terms of impact on 2 or more wards. The consequent rationale of "Call-in" Members that the decision was Key, was therefore not accepted.
- Council employees had a legitimate expectation of continued employment, and if redundancy was proposed, consultation on such matters with staff and trades unions should take place; it was also reasonable for the Mayor to have time to consider the alternative options to EEL. If a timescale for this review and consultation was proposed and funding provided for that period, the virement decision might appear more reasonable. However the virement proposed a sum identical to the annual EEL budget, withdrawn by Budget Council, be re-included. This was a reversal of the full Council decision and

contravened constitutional process. What was the rationale for a virement of £433k and what was the timescale for the review. Responded that the Mayor was doing what he considered necessary to undertake a review of the options relating to EEL, and allow time for any reprourement; and it had been considered appropriate to provide the staff of EEL with security and stability for a year whilst this took place.

Councillor Gibbs and Councillor Choudhury withdrew from the meeting room at the commencement of OSC deliberations on referral/ non-referral of the "Call In", being 8.15pm.

A discussion followed which focused on the following points:-

- The positive value of EEL for communicating information to residents of the borough and the socially inclusive nature of this outreach. Also the need for cross party co-operation on editorial content if EEL continued. Also, however, that the Budget Council discussion in support of withdrawing funding for EEL, did not focus on the quality of the EEL service, but whether it's £0.5million budget was a priority for the Authority in the context of unprecedented cuts.
- Consideration that the decision was in contravention of the Budget and Policy Framework, agreed by a two thirds majority of full Council, and for the Mayor to attempt to work around this through the virement was unconstitutional and made a mockery of the Budget setting process; accordingly **proposed** that the Monitoring Officer and Chief Finance Officer/ Section 151 Officer should be requested to provide advice on this in a report as set out in the Constitution. Also **proposed** that this report and deliberations of the OSC in relation to this Mayoral decision making be placed on the agenda of the full Council meeting to be held on 17th April 2013 at the request of the Chair of the OSC. Noted that the report may come to OSC for consideration prior to consideration by full Council.
- The OSC was advised by Mr Galpin, Head of Legal Services Community, that the OSC could refer the "Call In" of the Mayoral Decision back for further consideration. However, the OSC could not, at this point in time, refer this matter to full Council under the provisions of Rule 7.3 of the BPF rules in the Constitution, as the advice of the Monitoring Officer and Section 151 Officer that the decision was contrary to the Authority's BPF had not yet been obtained. The Chair responded that she had received senior officer advice, that as OSC Chair she could request a report be placed on the full Council agenda, and if this was not so the report to OSC should have advised otherwise. Also regardless of any referral on the basis that the mayoral decision was contrary to the BPF, as OSC Chair she could place the matter on the full Council agenda as a complaint regarding the way the matter had been handled. The Vice-Chair concurred that a referral to full Council should be made on both counts.

- Consideration that there was a lack of clarity on the decision making on whether the decision was 'key' or 'non-key'. Also Councillor Choudhury's response on the importance of EEL to vulnerable elements of the community indicated a significant impact in all wards. The decision appeared "key", given its significant impact on the borough, given it was politically controversial and given the substantial public interest shown. Accordingly **proposed** that the report requested from Monitoring Officer and Chief Finance Officer/ Section 151 Officer should include advice on the the validity of the determination that the decision was not key.
- Commented that a Bill in the new session of Parliament was likely to include the current guidance on operation of local authority media on a statutory basis, resulting in EEL having to be abolished. OffCom had previously rejected the rationale used for maintaining a Council publication, and therefore examination of that rationale was merited by Officers. Commented also that costs would arise from the enforced closure of EEL
- Consideration also that any referral of the Mayoral Decision should acknowledge the legitimacy of consultation with staff and the trades unions where proposals involved redundancies; and if a virement to continue EEL, linked to a consultation timetable, and therefore of a smaller amount than the EEL annual Budget, the OSC was supportive of that.
- Consideration that full Council had fully weighed the implications of withdrawing funding for EEL. Also that the credibility of EEL had been compromised as it the message it conveyed was not entirely corporate.

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

Resolved

1. To refer the decision of the Mayor outside Cabinet back to the Mayor for further consideration;
2. That the Monitoring Officer and Chief Finance Officer/ Section 151 Officer be requested to provide a report, as set out in Rule 7.2 of the Budget and Policy Frameworks Rules of the Authority's Constitution, containing their advice as to whether the decision of the Mayor outside Cabinet was in contravention of the Authority's Budget and Policy Framework. Also that the report include their advice on the the validity of the Mayor's determination that the decision was not 'key';
3. That the report referred to at Resolution 2 above, and deliberations of the OSC in relation to the Mayoral decision making in this case, be placed on the agenda of the full Council meeting to be held on 17th April 2013 at the request of the Chair of the OSC; and

Action by:

Isabella Freeman (Assistant Chief Executive – Legal, CE's)
Chris Holme (Acting Corporate Director Resources)

Alan Finch (Service Head Financial Services Risk and Accountability)

Councillor Gibbs and Councillor Choudhury did not return to the proceedings following OSC deliberations on referral/ non-referral of the "Call In".

5.2 Budget Implementation (No 2) 2013/14

Please note that the order of business was varied by resolution of the OSC earlier in the proceedings in order to allow this item of business to be taken as the first item of substantive business, however for ease of reference OSC deliberations, and subsequent decisions taken, are set out below in the order detailed in the agenda.

Please note that composite "Special Circumstances and Reasons for Urgency" were agreed for this "Call In" at agenda item 5 above.

The Chair welcomed: Councillor Carlo Gibbs, one of seven Councillors who had "Called In" decision of the Mayor outside Cabinet (Decision Log Number 022 "Budget Implementation 2013/14 (No 2)" in accordance with the provisions of Part 4 of the Council's Constitution. Also Councillor Alibor Choudhury, Cabinet Member for Resources, and Mr Chris Holme Acting Corporate Director Resources, who were in attendance to respond to the "Call-in".

Councillor Carlo Gibbs presented the "Call-in": summarising the reasons for "calling in" the Mayoral Decision, outlining the key concerns of the "Call-in" Members, and setting out the action sought from the OSC to address these. He also highlighted the additional point that the Head of Paid Service had not signed off this Mayoral Decision in contrast to the Mayoral Decision for virements to fund East End Life.

He subsequently responded to questions from the OSC as follows:

- The rationale for "Call-in" Members considering that the Mayoral Decision outside the Budget Framework set by full Council. Clarified that the full Council had little control over the actions of the executive Mayor, but setting of the Budget and Policy Framework (BPF) was a matter reserved to it. It set the Authority's Budget every year, and had done so in March 2013. At that meeting an amendment to the Mayor's proposed Budget, had been passed by a two thirds majority, resulting in the funding for mayoral advisors not being included in the Budget Framework. The Mayor had now vired money from reserves in order to put the resources for these back into the Budget Framework, and this contravened/ reversed the full Council decision. The OSC should request Officers to advise on this.

- The stage at which the advice of the Chief Officers would be sought in relation to whether the Mayoral Decision was outside the BPF and whether it was key or non-key.
- Had the work undertaken by the mayoral advisors been identified and an assessment made of its value to the Authority. If the work undertaken by them was unknown, how could a judgement be made as to value for money and the impact of cutting the budget for this; had an impact assessment been done. Had the Executive been asked for the expenditure figure for the advisors, had the supporting documentation been requested. Clarified that the work the advisors undertook was unknown, and without seeing the output or it being detailed, it was difficult to assess; it would be helpful to establish this and Councillor Choudhury may be able to provide details. Impact assessments had been increasingly poor over recent years and sometimes not seen for decisions, an OSC IA might be helpful. However "Call-in" Members did not consider that the Mayor required these advisors to carry out his functions (as he had stated in his decision), when there was a 9 strong Cabinet and thousands of Officers to draw on for advice including political advisors and experts in each directorate in most fields. There were no similar advisors in LB Newham or Hackney where the Cabinet and Officers were relied on for this, so why were they and associated costs essential in LBTH. Also the OSC role was to assess whether value for money was being achieved on Authority spend, and in the context of huge savings to be made and current cuts to staffing costs in ESCWB the use of these monies would make a positive impact if used elsewhere.
- Had consideration been given to the case of Doncaster Council, where a court had determined that it had been lawful for the directly elected Mayor to make decisions against the Budget Framework set by two thirds of the Council. The case would go to appeal shortly, but if upheld power to set an authority's Budget would be the sole prerogative of the executive Mayor. Clarified that the Doncaster case would need monitoring, as the final court ruling would provide a steer on what was a legal decision on the Budget. However, currently the full Council was empowered to set the BPF and contravening the Constitutional and the Legal requirements on this could lead to legal challenge and associated costs for the Authority.
- At the outset of the Budget setting process the focus was on a need to make savings, but now unutilised funds were to be used for mayoral advisors; did "Call-in" Members consider the funds could be better used elsewhere. Commented in response that a 5 per cent cut had been made to the staff costs in Education, Social Care & Wellbeing in order to free up resources for Mayoral priorities and this was not right. The monies proposed for mayoral advisors would be better used to fund posts in ESCWB, improve services or support those suffering the impact of Government welfare reform.
- During the Budget setting process Conservative Group Councillors had been advised that virements were only to be used to provide funds in emergency situations such as the mitigating action required in the Baby P case, so the proposed usage for the vired funds was inappropriate;

had Labour Group Councillors been similarly advised. Confirmation that advice had been given that the purpose of virements was to ensure the Authority continued to run financially in a time of crisis, or financial year end when a budget was overspent and it was essential to ensure funding for continued service provision. The proposed virement was instead shifting resources to fund activities not included within the Budget set by full Council in March 2013.

- Clarified that advice had also been received that the decision was key and therefore required 28 days notice on the Authority's Forward Plan, but this had not transpired.
- Noted that advice had been received that it was the pre-rogative of the Mayor to determine what was or was not a key decision. Clarification that this should be in accordance with the criteria set out in the Constitution and that to determine that it was not a key decision, when a reasonable person could see it was, meant there was potential for legal challenge with associated costs for the Authority. The OSC should request Officers to advise on this.

Councillor Alibor Choudhury, Cabinet Member for Resources, responded to the concerns raised by the "Call-in" Members and subsequently responded to questions from the OSC summarised as follows:

- Referencing the point raised by OSC that virements should only be used for emergencies, this rationale, although generally accepted, was not consistent with the recent General Purposed Committee proposal to introduce a virement cap which would make the process to fund emergencies, such as Baby P, with costs above the cap very difficult.
- The Mayor believed that value for money was being achieved from the mayoral advisors through the support they delivered his administration in policy and strategy development, and excellent outcomes delivered for the borough.
- The political sensitivity attributed to this Mayoral decision by "Call-in" Members was subjective in the context of an erroneous full Council decision. The impact of the virement had not been considered significant in terms of impact on 2 or more wards. The consequent rationale of "Call-in" Members that the decision was Key, was therefore not accepted.
- The Mayor considered the amendment to the Budget at Budget Council to be a politically motivated attack intended to fetter his actions, rather than address budget issues such as the future Budget gap the effect on which would be insignificant.
- The advice received by the Mayor was that the virement decision he had made was both lawful and constitutional.
- Clarication was sought as to the reason for the Head of Paid Service (HPS) not having 'signed off' this Mayoral Decision in contrast to the Mayoral Decision for virements to fund East End Life. Officers suggested that this may be because the HPS Role was different to that of the Chief Executive, with some functions of the latter not included, and the HPS may have exercised a judgement on this in relation to this Mayoral Decision. Councillor Choudhury added that it may be because

the mayoral advisors did not report directly to the HPS, in the same way as East End Life Staff, and the HPS may have considered this was not his direct responsibility. **Written response requested from the Mayor.**

- Clarification was sought as to whether Councillor Choudhury considered the mayoral advisors provided the authority with value for money, with a view to OSC forming a judgement as to the impact of withdrawing the budget for this. Responded that there were several advisors including for housing and Older People and they had helped deliver regeneration projects such as Poplar Baths and the Whitechapel Vision and other projects outcomes to support the vulnerable elements of the community. Also provided support for the delivery of Mayor's pledges and the Mayor's Policy Group relied heavily on them. Officers were paid for delivery and provision of advice but the Mayoral advisors supported this. Considering the response to lack clarity, whether the Executive would accept a commission from the OSC to provide a report detailing the number of mayoral advisors, the time they were contracted to provide, and outcomes produced. **Councillor Choudhury confirmed such a request would be accommodated.**
- Commenting that the Mayor was in the third year in this role and substantial advisory capacity, not required by previous Leaders of the Council, existed in the first two years and was now being supplemented, what had the advisors delivered in Year 1&2 and what outcomes would be delivered in return for the additional resource in Year 3. Responded that workload had increased, delivery had increased significantly in the past year, and much more was intended in the coming year. A summary of the job roles and responsibilities in years 1, 2 and 3 was requested. **Councillor Choudhury undertook to relay the request to the Mayor.**
- Clarification was sought and given as to the role of Cabinet members given the number of mayoral advisers and how the roles were complimentary.

Councillor Gibbs and Councillor Choudhury withdrew from the meeting room at the commencement of OSC deliberations on referral/ non-referral of the "Call In", being 7.35pm.

A discussion followed which focused on the following points:-

- Consideration that the responses of Councillor Choudhury lacked clarity with some OSC members considering them uncooperative and disrespectful of the OSC. The advice of Chief Officers would therefore be important.
- Concern expressed that "Call-in" Members had previously been advised that this virement decision was 'key', and therefore required 28 days notice on the Authority's Forward Plan, but such notice was not given. Concern also in the context that full Council had wanted to change the virement rules at Budget Council, but this had not been

permitted, then the 28 days notice was not given for this virement decision allowing this decision to be taken before the full Council could determine new virement arrangements, at its scheduled meeting on 17th April, 2013.

- Consideration that the decision had not been taken in accordance with due process required in the Constitution, and this undermined confidence in the Authority's governance process and the democratic process. Also that the decision was in contravention of the Budget and Policy Framework, agreed by a two thirds majority of full Council, and to amend this without consultation with other stakeholders was unconstitutional; accordingly **proposed** that the Monitoring Officer and Chief Finance Officer/ Section 151 Officer should be requested to provide advice on this in a report as set out in the Constitution. Also **proposed** that this report and deliberations of the OSC in relation to this Mayoral decision making be placed on the agenda of the full Council meeting to be held on 17th April 2013 at the request of the Chair of the OSC. Noted that the report may come to OSC for consideration prior to consideration by full Council.
- Consideration also that any referral of the Mayoral Decision should emphasise the breach of constitutional procedures more than the rights or wrongs of having mayoral advisors.
- Concern expressed that an individual was making a decision which overturned a decision of the full Council, passed by two thirds majority, in the full knowledge that it would be politically controversial.
- Consideration that the outcome of the Doncaster Council court case would have an important bearing on whether full Council, with a two thirds majority, remained empowered to set the Budget for an Authority, or whether an executive Mayor could take lawful decisions outside this. Accordingly **proposed** that the OSC be kept updated on developments with the case.
- Comment that a leaked set of minutes on the blog 'Trial by Jeory' indicated that mayoral advisors were to coordinate the Mayor's re-election campaign and raise funds for it; consideration that this merited investigation by Officers. In contrast another Member expressed confidence that Officers would ensure the advisors would undertake the role they were employed to and not another.
- Consideration that it was important to establish what the mayoral advisors were doing, noting that substantial changes to the housing and benefit system may require the Mayor to acquire more advice to manage change. Also that it was important to know the value of a role before making it and the people redundant. Noted that Councillor Choudhury had undertaken to provide information on the work undertaken by the mayoral advisors, and the "Call In" should not be supported until this was received and the OSC could form a view as to the value of their work.
- Consideration that an impact assessment was needed establishing what the individuals did, the hours they worked, how much they were paid.

- Consideration that in house expertise was available and the resources for mayoral advisors could be better used elsewhere.
- Consideration that there was a lack of clarity on the decision making on whether the decision was 'key' or 'non-key' and the rationale for the virement in general. The decision appeared "key", given its significant impact on the borough, given it was politically controversial and given the substantial public interest already shown. Accordingly **proposed** that the report requested from Monitoring Officer and Chief Finance Officer/ Section 151 Officer should include advice on the the validity of the determination that the decision was not key,
- Commenting that consultation had taken place on the working of the Mayoral system at inception and a review should now take place to identify what was working well and not working well.
- Advice was sought and given as to the constitutional provisions for the OSC to refer decisions of the Mayor, considered to be in contravention of the Authority's BPF, to full Council for determination. Mr Galpin, Head of Legal Services Community, advised that the OSC could refer the "Call In" of the Mayoral Decision back for further consideration. However, the OSC could not, at this point in time, refer this matter to full Council under the provisions of Rule 7.3 of the BPF rules in the Constitution, as the advice of the Monitoring Officer and Section 151 Officer that the decision was contrary to the Authority's BPF had not yet been obtained.

The Chair summarised that the OSC considered that this Mayoral Decision had been cynically taken to circumvent a full Council decision, passed with a two thirds majority, was not in the public interest and was potentially unlawful. She then formally **Moved**, and it was:-

Resolved

1. To refer the decision of the Mayor outside Cabinet back to the Mayor for further consideration;
2. That the Monitoring Officer and Chief Finance Officer/ Section 151 Officer be requested to provide a report, as set out in Rule 7.2 of the Budget and Policy Frameworks Rules of the Authority's Constitution, containing their advice as to whether the decision of the Mayor outside Cabinet was in contravention of the Authority's Budget and Policy Framework. Also that the report include their advice on the the validity of the Mayor's determination that the decision was not 'key';
3. That the report referred to at Resolution 2 above, and deliberations of the OSC in relation to the Mayoral decision making in this case, be placed on the agenda of the full Council meeting to be held on 17th April 2013 at the request of the Chair of the OSC; and
4. That the OSC be kept updated on developments with the Doncaster Council court case.

Action by:

Isabella Freeman (Assistant Chief Executive – Legal, CE's)

Chris Holme (Acting Corporate Director Resources)

Alan Finch (Service Head Financial Services Risk and Accountability)

Councillor Gibbs and Councillor Choudhury re-entered the proceedings following the conclusion of the OSC deliberations in respect of referral/ non-referral of the "Call In", being 7.50pm.

6. UNRESTRICTED REPORTS FOR CONSIDERATION

6.1 Children's Centre Scrutiny Review Update (To Follow)

Councillor Amy Whitelock, Scrutiny Lead Children Schools & Families, introduced and highlighted key points in the report, which:

- Provided a progress update on implementation of the recommendations contained in the Scrutiny Review Working Group report "Reviewing the impact of the Children's Centres (CCs) restructure" of May 2012.
- Requested the OSC to consider whether further scrutiny of CCs should be included in the OSC work programme.

Anne Canning, Interim Corporate Director Education Social Care and Wellbeing (ESCWB) and Vicky Allen, Strategy Policy & Performance Officer, were also in attendance for this item.

Councillor Whitelock, drew the attention of the OSC to supplementary recommendations/ requests that were the outcome of the recent scrutiny review of progress on implementation of each recommendation contained in the original scrutiny report, including:

- *Re: Recommendation 1:*
 - The involvement of Members, including backbenchers, in the current redevelopment of the website and intranet was considered vital, and accordingly requested.
 - With reference to promoting of information by directorate communication advisers through regular meetings with Lead Members, that the following additional recommendation be made "That all Members be informed at the appropriate time."
- *Re: Recommendation 2:*

Welcoming the current review of the Authority's Organisational Change Procedure [by the People Board], an update to OSC on the refreshed procedure was requested, with a view to confirming improvements, and examining how communications and engagement with key stakeholders was covered in it.
- *Re: Recommendation 3 & 5:*

It was welcomed that there were no further funding reductions for CCs in the recent Budget. However, there were concerns about vacancy

management savings in ESCWB and close monitoring was needed. Accordingly an update to OSC in 6 months time on service capacity in the context of VMS was requested.

- *Re: Recommendation 4:*
Since the progress review it was understood that the recommendation for higher visibility for the Authority's policy for the allocation of places when there was high demand eg on the Council website, was in hand.
- *Re: Recommendation 6:*
Welcomed that work was underway. However, requested an update to OSC at an appropriate time, on the outcome of the business improvement exercise to reduce the burden of data collection on staff, taking into consideration the needs of the Ofsted Inspection Framework.
- *Re: Recommendation 8:*
 - Welcomed the introduction of a new text messaging service, but consideration that there was more scope to use email and social media. Accordingly requested an update to OSC on the findings of the review being conducted with the Parents Forum on accessibility of information relating to the service.
 - Consideration that the approach to promotion of children's services at venues other than schools could be more robust particularly at Idea Stores. Accordingly that the following additional recommendation be made "That Idea Stores be pro-active in the promotion of Children's Services."
- *Re: Recommendation 9:*
Requested a review and update to OSC on the governance model for CCs after one year of operation, including any analysis of the diversity of parents that actively engage and feedback from parents themselves, to ensure it's not overly burdensome.

A discussion followed which focused on the following points:

- Clarification sought and given on sustainability of the service in the context of vacancy management. Anne Canning, Interim Corporate Director ESCWB, responded that:
 - There had been apprehension before the original scrutiny review. However, the outcome had been constructive, with significant involvement of external bodies and CCs staff in the restructure, and a direct influence on it's outcome.
 - Agency staff were secured if needed, however virements to salary budget heads from other budget heads was no longer common practice in the environment of financial constraint. There was a directorate-wide vacancy management exercise intended to deliver significant savings, but there would be no impact on frontline services.
 - The recalibration of office assistant staff reflected a recognition of additional duties arising from the CCs restructure. A great deal of effort was being made to train CCs staff, with a view to building resilience in the service, and it appeared to be having profound

- results. She was confident service sustainability had been addressed provided there were no further budget reductions.
- There was more scope for communication through social media and this would be taken forward.
 - Consideration that the content and terminology in the report relating to communications needed minor revision in the context of recent Budget setting by full Council, and its impact on the Communications Service Budget.
 - Ms Vicky Allen was formally thanked for her hard work in taking forward the progress review and major contribution in drawing together its findings and recommendations in the report.

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

Resolved

1. The contents of the report be noted; and
2. That Members comments be noted; and that it be agreed that further scrutiny on this issue is not appropriate at this point, but that Officers should continue to monitor progress against the original scrutiny review recommendations.

Action by:

Vicky Allen (Strategy Policy & Performance Officer, Strategy Policy & Performance, CE's)

6.2 Electoral Matters Update

Please note that the greater part of GPC deliberations relating to this item of business took place in Part Two of the proceedings (Exempt/ Confidential Section of the agenda or "closed session"), for the reasons outlined by the Chair below. However, for ease of reference, the deliberations/ decision taken that pertain to the unrestricted report are set out below in the order detailed in the agenda.

The Chair informed the OSC that Appendix B to the report contained exempt/ confidential information, the consideration of which was required in Part Two of the proceedings (Exempt/ Confidential Section of the agenda: agenda Item 13.1). After an initial introduction of the unrestricted report and any discussion thereof in open session, it would therefore be necessary to exclude the public and press during consideration of the exempt/ confidential appendix.

Mr John Williams, Service Head Democratic Services and Returning Officer, in introducing the report, which provided an update on various matters concerning electoral registration and the conduct of elections, and summarising the key points contained therein:

- Informed the OSC that the report of the Electoral Commission: "Allegations of electoral fraud in Tower Hamlets in 2012 – Report on the outcome of investigations" had been appended to the report contained in the agenda pack at item 6.2, for Member's ease of reference.
- However due to an administrative error the pages relating to Section 4 "Recommendations for improving trust and confidence in the integrity of elections in Tower Hamlets" were omitted and these were now **Tabled**, a copy of which would be interleaved with the Unrestricted minutes.

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

Resolved

That the contents of the report be noted.

7. VERBAL UPDATES FROM SCRUTINY LEADS

Scrutiny Review - Post-16 attainment

Cllr Whitelock

A focus group with young people, and a concluding session to distil recommendations were yet to be held.

Scrutiny Review - Co regulation and the Accountability of Registered Housing Providers (RPs) Cllr Islam

All the review meetings and a Members Seminar had been held and the report was now being finalised.

Scrutiny - Chief Executive's

Cllr Archer

Councillor Golds reported that Councillor Archer was in the process of conducting interviews with former Chief Executive's who had worked in local authorities with and without an executive mayor.

Scrutiny Review - Removing the barriers to youth and graduate employment-

Cllr Jackson

A visit to Tower Hamlets College had identified good progress but also issues on the apprenticeship scheme and training. There would be a seminar on making access to employment easier on 2nd May.

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

Resolved

That the verbal updates be noted.

8. PRE-DECISION SCRUTINY OF UNRESTRICTED CABINET PAPERS

No pre-decision questions submitted to the Mayor in Cabinet [10 April 2013].

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

None.

10. EXCLUSION OF THE PRESS AND PUBLIC

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

Resolved:

That in accordance with the provisions of Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985, the press and public be excluded from the remainder of the meeting for the consideration of the Section Two business on the grounds that it contained information defined as exempt or confidential in Part 1 of Schedule 12A to the Local Government, Act 1972.

SUMMARY OF EXEMPT PROCEEDINGS

11. EXEMPT/ CONFIDENTIAL MINUTES

Nil items.

12. EXEMPT/ CONFIDENTIAL REPORTS 'CALLED IN'

Nil items.

13. EXEMPT/ CONFIDENTIAL REPORTS FOR CONSIDERATION

13.1 Electoral Matters Update

Appendix B to report tabled and contents noted.

14. PRE-DECISION SCRUTINY OF EXEMPT/ CONFIDENTIAL CABINET PAPERS

Nil items.

**15. ANY OTHER EXEMPT/ CONFIDENTIAL BUSINESS THAT THE CHAIR
CONSIDERS URGENT**

Nil items.

The meeting ended at 9.15 p.m.

Chair, Councillor Ann Jackson
Overview & Scrutiny Committee