

# MAYOR'S EXECUTIVE DECISION MAKING

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Wednesday, 17 April 2013

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Mayor's Decision Log No. 21 – Response to Call-In

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## 1. BUDGET IMPLEMENTATION 2013/14 (NO 1) (Pages 1 - 18)

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: John S. Williams, Service Head, Democratic Services

Tel: 0207 364 4204, e-mail: [johns.williams@towerhamlets.gov.uk](mailto:johns.williams@towerhamlets.gov.uk)

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## LONDON BOROUGH OF TOWER HAMLETS

### PROFORMA:

#### MAYORAL DECISION SUBJECT TO CALL-IN AND REFERENCE BACK

**Mayoral Decision Log No:** 021

**Title:** Budget Implementation 2013/14 (No 1) (virements to fund East End Life)

#### **Is this a Key Decision:**

Mayor's provisional decision published 26<sup>th</sup> March 2013 – No.

OSC consideration of "Call In" – Yes.

#### **UNRESTRICTED / RESTRICTED:**

Unrestricted

#### **DATE OF OVERVIEW AND SCRUTINY COMMITTEE:**

*9<sup>th</sup> April 2013*

#### **DECISION OF THE OVERVIEW AND SCRUTINY COMMITTEE:**

*To refer the above decision back to the Mayor for further consideration.*

#### **REASONS FOR THE REFERENCE BACK**

*The Call-in requisition in relation to the above decision set out the following reasons for the call-in:-*

Given the significant impact that this decision will have on both residents and the constitutional framework of the Council as well as the wide ranging public interest in this decision we ask that it be reviewed by the O&S Committee.

It is our view that this decision not only results in an additional £433,000 of Council funds being allocated from reserves but also serves to bring the Council's governance further into disrepute by actively pursuing policies designed to specifically counteract the legitimate decision of full Council when setting the budget.

*The Call-in requisition in relation to the above decision also asked the OSC to consider a number of specific issues:*

- That the Council passed by a two-thirds majority an amended budget which resolved:
  - To delete funding of £1.214m from the budget used to fund East End Life, delivering a saving of £433k by:
    - Reducing funding available for public notices from £267,000 to £100,000, sufficient to support the provision of statutory advertising in local newspapers, tendering a long term contract in order to secure the best rates;
    - Reducing the funding of £176,000 for the advertising of choice based lettings to £50,000, sufficient to fund a provision that can be made available on a weekly basis in each housing office, leisure centre and one-stop shop in the borough, as well as online, to be managed by the lettings team;
    - To cut departmental budgets by £143,000, to reduce their general advertising spend allocated in previous years to East End Life;
- To place a general restriction on the council that all virements outside of the agreed budget framework above £200,000 must be agreed by full council. (officers advised that this would not be dealt with as it was a constitutional amendment and must be agreed at an ordinary Council meeting not a Budget one)

In making this executive decision the Mayor is attempting to use virements to directly undo the amendment put in place by Council to remove the £433,000 budget for East End Life from the Budget. Given that Budget setting is a Council function this attempt to circumvent the Constitution should not be allowed, especially in light of the fact that Council has twice before tried to change the limit on virements to prevent this form of abuse – both at the 2013 Budget meeting, which was prevented by a technicality, and previously in January 2012, a decision which was ignored by officers and the Mayor. Given these attempts and the failure of action we recommend that the Committee press for the Mayor to suspend this virement until Council has the opportunity to express its view on the virement limit, and that this decision should then be taken to comply with that decision.

In taking this decision the Mayor decided not to classify this as a 'key decision'. We were previously advised that this would indeed have to be a key decision and therefore would be subject to the 28 day notice period required for these types of decision – therefore allowing Council the time to ratify its proposed changes to the virement rules at its April 17<sup>th</sup> meeting. The criteria

for deciding whether or not something is a key decision is set out in the constitution:

- (i) A key decision” is an executive decision which is likely:
  - (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or
  - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the borough.
- (ii) A decision taker, when making a decision may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of the Constitution.
- (iii) The Council has not adopted a financial threshold for key decisions but these are subject to financial regulations. However, the criteria that Councillors and officers will have regard to in determining what amounts to a key decisions include the following:
  - Whether the decision may incur a significant social, economic or environmental risk.
  - The likely extent of the impact of the decision both within and outside of the borough.
  - Whether the decision is likely to be a matter of political controversy.
  - The extent to which the decision is likely to result in substantial public interest.

It is our strong view that this decision is indeed a key decision as it will result in nearly half a million pounds being allocated from general reserves against a backdrop of a budget blackhole in forthcoming years of over £50m. Furthermore we believe the decision to reissue this funding will have a significant impact across the borough, especially given that the East End Life publication is delivered widely to residents.

We do not believe that the Mayor has taken due regard of the necessary criteria as this is most definitely an issue of great political controversy and is likely to result in substantial public interest. We also believe that in not taking account of the necessary factors and by deeming this to be a non-key decision, the Mayor has opened the Council up to legal challenge.

The Constitution also states that if the Overview and Scrutiny Committee is of the opinion that a Mayoral Decision “is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by the Council, then that decision may only be taken by the Council.”

It is our view that this decision explicitly goes against and indeed actively seeks to undermine the Budget framework agreed by Council on the 7<sup>th</sup> March 2013. The Constitution goes on to state:

7.2 In respect of functions which are the responsibility of the Mayor or the Executive, the report of the Monitoring Officer and/or Chief Finance Officer shall be to the Mayor and Executive with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet within 21 days of receiving the report to decide what action to take in respect of the Monitoring Officer's or Chief Finance Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

7.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 21 days of the request from the Overview and Scrutiny Committee (or within 28 days if a meeting of the Council is scheduled within that period). At the meeting the Council will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer.

7.4 The Council may either:

7.4.1 endorse a decision or proposal of the decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

7.4.2 amend the budget, financial rule or policy concerned to encompass the decision or proposal of the body or individual responsible for that function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

7.4.3 where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Mayor or Executive to

reconsider the matter in accordance with the advice of the Monitoring Officer and/or the Chief Finance Officer.

7.5 If the Council does not meet, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier providing that the Monitoring Officer and/or the Chief Finance Officer is/are satisfied that the decision is within the budget and policy framework or falls within Rules 6.1.1 – 6.1.4.

We ask that the Overview and Scrutiny Committee forms a judgement as to whether they agree that the Mayor has broken the Council's agreed Budget policy framework and if so require officers to draw up a report as mandated by the Constitution.

The Budget policy framework is one of the few powers reserved to Council. Riding roughshod over the Constitution and pressuring officers to find questionable workarounds not only demeans the office of the Mayor but illustrates the Mayor's utter contempt for the democratic process. This decision is both potentially unlawful and a dereliction of the Mayor's duty to operate in the public interest and within the bounds of the budgetary framework set by Council.

There are extraordinary circumstances in which the Mayor would be forgiven for taking action such as we see here, for example in the case of emergencies or to ensure essential service delivery. For the Mayor to take these steps in order to fund an overtly political communications asset shows the misguided priorities the Mayor is pursuing at the public's expense.

#### **ALTERNATIVE ACTION RECOMMENDED BY THE OVERVIEW AND SCRUTINY COMMITTEE (IF ANY)**

*The Call-in requisition proposed the following alternative action in relation to the Mayor's decision:-*

That the Mayor does not vire this £433,000 and works within the Budget set by Council.

#### **ANY OTHER COMMENTS**

*The OSC had before them the Mayoral Decision Pro-forma considered and signed by the Mayor (published 26<sup>th</sup> March 2013) and the "Call In" Requisition signed by seven Councillors (declared valid 5<sup>th</sup> April 2013).*

*The Overview and Scrutiny Committee considered the call-in request which was presented by Councillor Gibbs.*

Councillor Gibbs summarised 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 reprocurement; and it had been considered appropriate to provide the staff of EEL with security and stability for a year whilst this took place.

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 17<sup>th</sup> 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.

*Following discussion, the Overview and Scrutiny Committee made the following Decision.*


### **Decision**

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

### DECISION OF THE MAYOR

I have reconsidered my decision Log No. 021 "Budget Implementation 2013/14 (No 1)" in the light of the information provided by the Overview and Scrutiny Committee at its meeting on 9<sup>th</sup> April 2013 as set out above.

Having taken into account all of the relevant information I have decided to:-

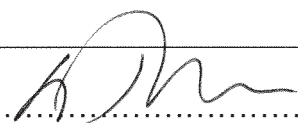
(a) Confirm my decision, of 22<sup>nd</sup> March published on 26<sup>th</sup> March 2013, on the matter\*; 

~~(b) Amend my decision, of 22<sup>nd</sup> March published on 26<sup>th</sup> March 2013, on the matter as follows\*:-~~ 

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.....

(\* Delete as applicable)

Signed .....

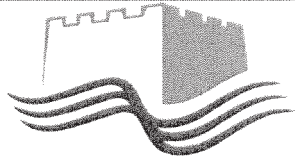


Date .....

17/04/13

Mayor Lutfur Rahman

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<b>Individual Mayoral Decision Proforma</b>  Decision Log No: 0021	 <b>TOWER HAMLETS</b>
<b>Report in response to Mayor's Request for Advice</b>	<b>Classification:</b> Unrestricted
<b>Title: Budget Implementation 2013/14</b>	

<b>Is this a Key Decision?</b>	<b>No</b>
<b>Decision Notice Publication Date:</b>	N/A
<b>General Exception or Urgency Notice published?</b>	<b>Not required</b>
<b>Restrictions:</b>	N/A

## EXECUTIVE SUMMARY

### 1. Request for Advice

1.1 The Mayor requested that officers provide advice on the implications of the budget decision passed by the Council on Thursday 7<sup>th</sup> March 2013.

1.2 The Mayor asked that this advice should cover the validity of the resolution adopted, any action he is required to take in response and his options in relation to the implementation of the Council's decision without interfering with the discharge of his own executive duties and responsibilities.

1.3 He was particularly concerned that the decision as it relates to the publication of East End Life is unclear in some aspects and that it may not be capable of full implementation, the Mayor has cited the example of the costs that would arise from closing East End Life and the delay resulting from the statutory procedures that would need to be followed to make staff redundant, undertake procurement etc.

1.4 The Mayor is mindful of the officer advice to the Council that a detailed review is required to identify the financial and equalities impact of the proposals and that there is 'a significant risk of unwanted outcomes such as higher costs and loss of engagement with residents' for the Council. Legal advice was also provided that the Council 'cannot cap statutory adverts as they are a legal requirement', and that any advertising placed externally would require a formal procurement to be undertaken.

1.5 He is therefore concerned that the Council's decision could put the authority at risk of challenge, for example by failing to meet our statutory duties or because no EqlA has yet been carried out in relation to the proposals.

## **2. Background Information**

2.1 This decision paper deals with the implications arising from the budget decisions relating to the funding of East End Life.

2.2 The decision of Budget Council on 7th March, with regard to East End Life was:

To delete funding of £1.214m from the budget used to fund East End Life, delivering a saving of £433k by:

- o Reducing funding available for public notices from £267,000 to £100,000, sufficient to support the provision of statutory advertising in local newspapers, tendering a long term contract in order to secure the best rates;
- o Reducing the funding of £176,000 for the advertising of choice based lettings to £50,000, sufficient to fund a provision that can be made available on a weekly basis in each housing office, leisure centre and one-stop shop in the borough, as well as online, to be managed by the lettings team;
- o To cut departmental budgets by £143,000, to reduce their general advertising spend allocated in previous years to East End Life;

2.3 In effect the decision was to:

- reduce the budget for public notices by £167k,
- reduce the budget for choice based letting by £126k and
- reduce other departmental budgets (general advertising) by £143k.

2.4 To effect the decision, those Directorates that pay for public notices, choice based lettings notifications and general advertising will have their budgets reduced accordingly.

2.5 It is important to stress that although gross cost of producing East End Life equates to £1.2m it forms part of the wider Communications Budget within Chief Executives. In taking an Executive Decision, due regard will need to be taken of Council's intent.

## **3. Options**

### **3.1. Implement Decision Now**

The Mayor could implement the Council decision taken on 7<sup>th</sup> March 2013 but there are a number of issues arising from that decision

3.1.1 It is not clear on what basis the statutory advertising can be reduced to a £100,000 spend and the legal advice on this proposal was that this could



not be restricted. In order to source another provider the Council would need to conduct a procurement exercise.

3.1.2 The reduction of the budget for advertising on Housing Choice has not been subject to an equalities impact assessment and again may need to be subject to a procurement to source another provider who could conduct it for the reduced budget. The proposal considered at full Council proposed a methodology for advertising Housing Choice requires further analysis.

3.1.3 The effect of the reduction in budget would lead to staff reduction and so would be subject to the Council's organisational change policies and procedures. This will require proposals to be consulted upon with the Council's Trade Unions and staff.

3.1.4 £200,000 was provided for to implement these decisions.

### 3.2 Conduct a Further Review

3.2.1 The Mayor could conduct a further review into East End Life. A review was undertaken in 2011. That review concluded that closure of the publication could cost between £600k and £2.1million, following an analysis of advertising costs with alternative newspapers. The then Chief Financial Officer commented that "strong reliance can be placed on the conclusion that comparative costs would be likely to be greater if other outlets were used. Those assumptions may now need to be revisited.

3.2.2 A further review of East End Life could consider the following:

- Options appraisal
- EQIA on the options available and the consequences of any recommended action
- Financial and contractual implications, particularly with regards to printing and distribution particularly as the Council is part way through a joint procurement with other London Boroughs
- Consultation with staff/ unions given that this decision could lead to the deletion of 12 FTE posts including a high proportion of women and BME staff
- The costs involved in the deletion of these posts need to be taken into account
- Alternative procurement arrangements for statutory public notices and other advertising
- Assess the viability of the alternative method proposed in Council for dealing with Housing Choice Based Lettings by making them internet only or reducing their distribution to a limited number of Council buildings
- The need to communicate with the maximum number of residents at a reasonable cost
- The impact of removing a method of communication that is delivered to over 80,000 residents' homes and is free of charge to them particularly elderly and disabled residents and those who work unsocial hours



- The cost of fulfilling the Council's duty to promote social cohesion as well as promote services and consultations if an alternative method of communication is to be sourced

3.2.3 Organisational review and reprocurement could take between 9 and 12 months on the basis that the total package for the Council's advertising will exceed £250,000 and so will need to be considered following the Tollgate Procedure and seek Cabinet approval in the Contracts Forward Plan. The process for conducting a procurement exercise of this type is detailed in the Council's Procurement Procedures

### 3.3 Virement

3.3.1 The Mayor could decided to vire £433,000 from unallocated reserves in order to maintain the service of East End Life pending the outcome of the review described at 3.2 above . This would allow the issues raised at 3.1 above to be addressed and the risks and costs to the Council to be assessed. The allocation of £433k from unallocated resources would have the benefit of securing budget provision for East End Life for the period of time required to undertake the review referred to in 3.2,, to consider what action should be taken and to fund the period until the action can take effect . There are processes that need to be followed to mitigate the risks for the Council of implementing any decision made by full Council.

## 4. Comments of the Section 151 Officer

4.1 The Executive Mayor has power to vire from one budget head to another up to a maximum of £1million and so long as that is within the parameters of the Council's Budget and Policy framework. That means so long as the virement does not lead to a budget overspend. There are currently sufficient monies unallocated in the Council's General Reserves to cover a one-off allocation required to address one of the options set out in paragraph 3 above.

4.2 The CIPFA definition of virement is "the transfer of an under- spend on one budget head to finance additional spending on another budget head, in accordance with an Authority's Financial Regulations".

## 5. Concurrent report of the Assistant Chief Executive (Legal Services)

5.1 If the Executive Mayor chooses Option 1 provision was made in the budget decision to allow £200,000 to be used to implement the decision but the three issues at 3.1 above will need to be dealt with and there has been no assessment of the cost, which could exceed £200,000.

5.2 If the Executive Mayor chooses Option 3 (with or without Option 2 ) in making any decision to vire moneys he needs to consider whether or not this decision to vire is a key decision. The effect of this is that a non key decision

does not need to appear on the Forward Plan whereas the opposite is true for a key decision. Both Key and Non Key decisions can be called in by Overview & Scrutiny and cannot be implemented until they have been scrutinised, the comments from Overview & Scrutiny taken into account and the decision is re-taken.

5.3 The Council's Constitution states (in Article 13) that a key decision is an executive decision which is likely to:

- a) to result in the local authority incurring expenditure which is, or the making of savings, which are, significant having regard to the local authority's budget for the service or function to which the decision relates: or
- b) to be significant in terms of its effects on community living or working in an area comprising two or more Wards in the borough.

This is the same definition as is in the Local Authorities (Executive Arrangements) Meetings and Access to Information Regulations 2012 (SI 2012/2089)

5.4 No financial threshold has been adopted by the Council for a key decision but Article 13 does state that the Mayor, Councillors and officers will have regard to the following when determining what amounts to a key decision:

- the likely extent of the impact of the decision both within and outside of the borough;
- whether the decision is likely to be a matter of political controversy;
- the extent to which the decision is likely to result in substantial public interest.

It is for the Mayor to decide if this is key decision.

5.5 In looking at limb (a) of Article 13 the £433k represents 10.8% of the total of £2.7 mill which is the gross budget for Communications (as per the budget book) and the Council's spend on publicity of £1.4 giving a total cost of Communications and Publicity including the production of East End Life as £4.1m

5.6 Counsel's advice is that viewing it as a percentage of the Communications and Advertising budget for the Directorate is advised rather than viewing it as a percentage of the Chief Executive's Directorate as that deals with a number of functions and East End Life is only one of those.

5.7 In making his judgment as to whether or not the decision to vire the money is a key decision under limb (a) the Executive Mayor needs to consider if objectively that virement would have a significant effect on the budget for the service or function i.e Communications and Advertising.

5.8 In looking at limb (b) the question that needs to be answered is again would the virement have a significant effect on the communities living or working in 2 or more Wards in the borough.

5.9 The Executive Mayor also needs to have regard to the additional factors stated in the Constitution in Article 13 and decide if they have a significant effect. Simply because something will, for example, attract public interest or political controversy, does not necessarily mean this has significant effect on the decision to vire the money.

5.10 Any decision taken by a public body is open to a judicial review challenge and it is therefore important that the Executive Mayor has taken account of all the relevant factors in making his decision and can demonstrate this.

## **6. Implications for One Tower Hamlets;**

6.1 There will be equalities issues if publication on East End Life were to be restricted or to cease and the Council would need to assess how to replace communication with protected groups who receive information via East End Life . The 2011 survey showed that proportionately more Bengali and elder white residents read East End Life. To date no equalities impact assessment has been undertaken on the effect of ceasing or restricting publication and what alternatives methods could be used to inform residents of Council proposals.

## **7. Risk Assessment;**

The risks are detailed at paragraph 3.1 above

## **8. Background Documents;**

The Council's Constitution

## DECISION

I have considered the above information and advice on the amendments to my budget proposal on East End Life and the powers of virement under the Council's Constitution.

I have decided to vire £ 443k from general reserves which have not been allocated for any particular purpose to the Chief Executive's budget heading in order to ensure sufficient resources are available to continue East End Life whilst I consider all options for the service and implications of ceasing production. I have done this as I do not believe the proposals adopted in the budget were properly evaluated and the timescales for alternative sourcing taken into account.

I have considered whether or not this is a Key Decision under Article 13 of the Constitution. In making this decision I do not consider virement of £443 k is significant when looking at the budget for the Communications Service and moneys spent on advertising across the Council

I also do not consider the virement to be significant in terms of its effect on communities in two or more Wards of the borough. I accept that the decision may be of public and/or political interest but that interest does not make the effect of my decision significant in itself.


It will not incur a significant risk socially, economically or environmentally and indeed, will act to mitigate such risks. The impact of the decision to vire the money will not be significant inside or outside the borough.

In light of the above, I am content that the decision to vire £443 k is a non key decision and I require officers to put this into effect.

I also require officers to conduct the review detailed at paragraph 3.2 in the report to fully inform any decisions on the future of East End Life .

## APPROVALS

**Mayor Lutfur Rahman – Executive Mayor of Tower Hamlets**

Signed:  Date: 22 / 3 / 13

## APPROVALS


**1. (If applicable) Corporate Director proposing the decision or his/her deputy**

I approve the attached report and proposed decision above for submission to the Mayor.

Signed ..... Date .....

**2. Chief Finance Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 22/3/13


**3. Monitoring Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

(For Key Decision only – delete as applicable)


I confirm that this decision:-

(a) has been published in advance on the Council's Forward Plan OR  
(b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.

Signed  Date 22/3/13

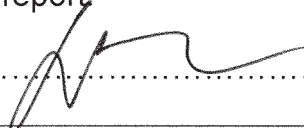
**4. (If the proposed decision relates to matters for which the Head of Paid Service has responsibility) Head of Paid Service**

I have been consulted on the content of the attached report which includes my comments where necessary.

Signed  Date 22/3/13

**5. Mayor**

I agree the decision proposed above for the reasons set out in the attached report.

Signed  Date 22/3/13