

MAYOR'S EXECUTIVE DECISION MAKING

Wednesday, 18 July 2018

Mayor's Decision Log No. 180

1. **CALL-IN OF 'SECURING THE FUTURE OF EARLY YEARS SERVICES'
(Pages 3 - 10)**

The Decision made by the Mayor in Cabinet on Wednesday, 27 June 2018 in respect of agenda item 6.3 'securing the future of early years services – local authority day nurseries' was "called in" under the Overview and Scrutiny Committee Procedure Rules of the Council's Constitution.


The 'call-in' was considered by the Overview and Scrutiny Committee on 11th July, 2018. The Committee agreed to refer the matter back to the Mayor for further consideration and proposed an alternative course of action.

The Mayor has subsequently given further consideration to this matter in the light of the comments and recommendations of the Overview and Scrutiny Committee as set out in the attached document.

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: Matthew Mannion, Committee Manager, Democratic Services

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<p>Non-Executive Report of the:</p> <p>Overview and Scrutiny Committee</p> <p>11 July 2018</p>	 <p>TOWER HAMLETS</p>
<p>Report of: Cllr Marc Francis, Vice-chair of the Overview and Scrutiny Committee</p>	<p>Classification: Unrestricted</p>
<p>Call-in of 'securing the future of early years services'</p>	

Executive Summary

The Decision made by the Mayor in Cabinet on Wednesday, 27 June 2018 in respect of agenda item 6.3 'securing the future of early years services – local authority day nurseries' was "called in" under the Overview and Scrutiny Committee Procedure Rules of the Council's Constitution by Councillors Puru Miah, Tarik Khan, Eve McQuillan, Shad Chowdhury and Gabriela Salva Macallan ('Call-in Members').

The Mayor in Cabinet decided that the Council consult on the proposal of a phased closure of the Local Authority Day Nurseries and that the feedback of the consultation be brought back to the Mayor for further consideration. The consultation proposal sets out that Mary Sambrook Local Authority Day Nursery would close at the end of July 2018, followed by John Smith Local Authority Day Nursery and Overland in the first half of 2019.

On 11 July 2018, the Overview and Scrutiny Committee (Committee) convened a meeting to consider the following:

- the Cabinet's report, set out at agenda item 6.3 of the Cabinet papers for Wednesday, 27 June 2018
- the "call in" requisition from the Call-in Members dated 6 July 2018
- the Mayor in Cabinet Decision published on 5 July 2018
- representations by the Call-in Members
- representations by the Lead Member for Children, Schools and Young People, Cllr Danny Hassell.

The Committee agreed that the Mayor in Cabinet decision be referred back to the Mayor for reconsideration according to the recommendations set out in this report.

Recommendations:

The Mayor in Cabinet is recommended to reconsider the following:

1. The length of the Consultation so the consultation period ends at least two or three weeks after the end of the school holidays.
2. The scope of the consultation is widened to include an option other than closure or the unsustainable status quo, and to involve engagement mechanisms that encourage greater participation and feedback from a wider range of stakeholders and residents.
3. The process of the Consultation so that feedback from the consultation is brought back to the Overview and Scrutiny Committee to feed into the Mayor's decision-making process.

1. THE MAYOR IN CABINET'S DECISION

- 1.1 The Mayor in Cabinet's decision, published on 5 July 2018, agreed to
 - Note the proposal to undertake a phased closure of the council's three childcare day nurseries
 - Agree that consultation take place in respect of the said proposal(s) and that the feedback of the said consultation to be brought back to the mayor for consideration
 - Note what further actions will be undertaken to improve the availability of affordable and accessible childcare.
- 1.2 The consultation proposals referred to in the Mayor in Cabinet's decision refer to the phased closure of Mary Sambrook Local Authority Day Nursery at the end of July 2018, followed by John Smith Local Authority Day Nursery and Overland in the first half of 2019.

2. THE 'CALL IN' REQUISITION

- 2.1 Cllrs Gabriela Salva Macallan, Puru Miah and Tarik Khan, representing the Call-in Members, presented the reasons for the Call-in, which are summarised below.
- 2.2 It was noted that the Cabinet Report was published late on Friday, 22 June 2018 before the Mayor in Cabinet made his decision on Wednesday, 27 June 2018. Accordingly, Call-in Members raised concerns that Councillors had insufficient time to consider the report in full, carry out appropriate due diligence on a key decision and explore alternative options available.
- 2.3 The Call-in Members also raised concerns that the proposed consultation does not constitute full and meaningful consultation with residents.

- 2.4 Firstly, the Call-in Members noted that the proposed consultation of twenty eight days combined with the start of the phased closure of the Local Authority Day Nurseries at the end of July, provided a very short period of time in which to explore options, consult with parents and staff and consider feedback fully.
- 2.5 The Call-in Members also highlighted that the proposed consultation only proposed the options to close the Local Authority Day Nurseries or maintain the status quo and suggested that further options should be consulted on.
- 2.6 The Call-in Members therefore proposed that a working group of Executive and Non-executive Councillors be set up and provided with sufficient information to explore more options to consult on, particularly around the financial viability of the Local Authority Day Nurseries. It was suggested that the working group work with unions, parents and obtain information from other Local Authorities to look at the funding gap and draw up alternative options. The Call-in Members then proposed consulting in September.
- 2.7 The Call-in Members tabled information on a public consultation by Salford City Council on proposals to find a more cost effective way to deliver local authority nurseries. It was noted that the Salford City Council consultation proposed a 90 day consultation with parents, staff, schools and the private and voluntary sector.

3 LEAD MEMBER'S PRESENTATION

- 3.1 The Lead Member set out the context of Decision and highlighted considerations around equity of the Early Years provision, limited resources and alternative provisions for those currently attending Local Authority Day Nurseries.
- 3.2 Firstly, the Lead Member highlighted the need for the fair provision of services and that all children should benefit from the Early Years provision. The Lead Member noted that in the London Borough of Tower Hamlets, 22,000 children under the age of five use the Council's Early Years provision. However, fewer than one hundred children use the Local Authority Day Nurseries, which is less than 1.6% of the Council's overall provision. While Early Years spend in the borough equates to the equivalent of £1,700 per child, Local Authority Day Nursery provision has the equivalent benefit of £15,000 per child.
- 3.3 In terms of resources, the Lead Member noted that the Schools Forum, which manages the Dedicated Schools Grant, has decided that the financial pressure on the schools budget is so significant that it is unable to carry on funding this provision.
- 3.4 Further, the Lead Member highlighted that the children currently attending Local Authority Day Nurseries can be accommodated through alternative

nursery provision and the Report outlines the transfer proposals and makes provision for children with special education needs and disabilities.

- 3.5 The Lead Member indicated that he was amenable to an extension of the consultation period beyond twenty eight days. Further, the Lead Member highlighted that alternative suggestions could be proposed by residents during the consultation, which would be considered by the Mayor in Cabinet in public, at which point it the decision could be subject to a 'Call-in'.

4. CONSIDERATION OF THE "CALL IN"

- 4.1 After hearing from the Call-in Members and the Lead Member, the Committee 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 child care provision.
- 4.2 Firstly, the Committee queried the impact on children and parents if the decision to consult is further delayed, including the potential for services to be run down. On balance, however, the Committee noted the importance for parents to have certainty around the availability of services in all three Local Authority Day Nurseries until the end of the "school" year and for staff to have some certainty about their jobs for a similar period.
- 4.3 The Committee also considered the option of proceeding on the basis of the Mayor in Cabinet's decision and noted comments from the Call-in Members that the timeframes would be unfair on parents with the first closure (Mary Sambrook) effectively proposed to take place at the end of July as the lower number of children are consolidated within the other two Local Authority Day Nurseries for the school summer holidays.
- 4.4 The Committee further noted the Lead Members' proposals to transfer children currently attending the Local Authority Day Nurseries to Children's Nursery schools. The Committee reflected on the different types of provision at Local Authority Day Nurseries, which cater for children from 6 months old and supports children with special education needs, disabilities and English as a second language. While the committee noted the unfilled places at the Nursery Schools, it was also noted that children under the age of three cannot access them.
- 4.5 In terms of late papers, the Committee echoed the Call-in Members' concerns about the ability to fully consider the Report, which was published just five days before the decision. The Committee was also concerned that none of the written pre-decision questions it referred on 25th June were answered at the Cabinet meeting on 27th June, and so were not available to inform the Mayor's decision.
- 4.6 As regards the consultation, the Committee noted that there was no statutory requirement to consult on the decision to close the Local Authority Day Nurseries and that the Council had decided to do so under its best value improvement practice. However, the Committee considered that the proposed

twenty eight day consultation period over the school holidays would not allow for full and meaningful consultation with staff and parents. The Committee felt that a consultation running into September or even early-October would be fairer for all stakeholders.

- 4.7 The Committee also noted that the consultation was limited to two options and that alternative suggestions could be proposed to explore funding options for the Local Authority Day Nurseries, similar to the Salford City Council consultation model. In particular, the Committee commented that the proposed binary choice between closure and continuation with the status quo with a yearly budget deficit of nearly £1 million is not a real choice.
- 4.8 The Committee agreed that, while full and meaningful consultation is necessary, the currently-projected budget deficit means that the Local Authority Day Nurseries cannot be allowed to drift on without a decision on their future. Clear parameters should be set around the timeframe to develop a meaningful alternative option within the next three months so that LBTH does not face significant additional costs in 2019/20, which might impact on other services. The burden of this deficit should not fall on Children's Services existing budgets.
- 4.9 The Committee considered the pressure on the schools budget and noted the Schools Forum's decision that it was no longer able to fund the provision of Local Authority Day Nurseries. The committee agrees that the Dedicated Schools Grant should not be used to fund the LADNs beyond existing commitments.
- 4.10 Further, the Committee noted what it believes are inefficiencies in the Local Authorities Day Nurseries operating budget, including recharges from central Council support services (£472,000). These should also be closely scrutinised to ensure their appropriateness..
- 4.11 The Committee also commented on the pressing need for affordable childcare and noted the impact this has in undermining national and local efforts to tackle child poverty in Tower Hamlets by encouraging parents into work. Accordingly, the Committee reiterated the need for further options to be brought forward to retain or even expand the provision of genuinely affordable childcare in the borough.

5. RECOMMENDATIONS

- 6.1 As a result of a full and wide ranging discussion, the Committee

RESOLVED that:

The decision is referred back to the Mayor in Cabinet to reconsider the following:

- (A) The length of the Consultation so the consultation period ends at least two or three weeks after the end of the school holidays.

- (B) The scope of the consultation is widened to include an option other than closure or the unsustainable status quo, and to involve engagement mechanisms that encourage greater participation and feedback from a wider range of stakeholders and residents.
 - (C) The process of the Consultation so that feedback from the consultation is brought back to the Overview and Scrutiny Committee to feed into the Mayor's decision-making process.
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DECISION OF THE MAYOR

I have reconsidered my decision in Cabinet on 27th June, 2018 in the light of the information provided by the Overview and Scrutiny Committee at its meeting 11th July, 2018 as set out above.

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

- (A) Confirm my decision of 27th June, 2018 on this issue with the following commitments;

I want to thank the Overview and Scrutiny Committee for their swift and detailed deliberations on the proposal to go out to consultation on the proposed closure of the three Local Authority Day Nurseries (LADNs). Since I became Mayor I have welcomed the role of scrutiny in challenging and improving the decisions the council takes. I stand by that belief and while we may not agree on everything, scrutiny can have an important role improving the decisions we take. On this occasion it is worth reiterating that the decision which was called in was about whether to go out to public consultation on proposals to close three LADNs. The decision was not about whether to go ahead with any proposed closures.

The context of this decision was set out in detail in the original Cabinet report which highlighted the reduction in council funding overall, the withdrawal of almost £1m a year of Dedicated Schools Grant funding by the School's Forum, concerns about the equity of the LADNs and the potential to get greater benefit from investing our limited funding in other types of provision.

Following their hearing the Overview and Scrutiny Committee made three recommendations about the scope and timeframe of the consultation and any subsequent decision which followed it, they did not recommend cancelling the consultation.

Taking each proposal in turn:

The length of the Consultation so the consultation period ends at least two or three weeks after the end of the school holidays.

I am happy to agree that the consultation should be extended from the 28 days originally proposed and will now end on or after the 9th September 2018 to allow more than enough time for teachers, parents, service users and wider stakeholders

to contribute to the consultation. I am advised that teachers are expected to return to schools over the week commencing 27th August so this would also allow schools at least two weeks following the school holidays for consultation responses to be submitted.

The scope of the consultation is widened to include an option other than closure or the unsustainable status quo, and to involve engagement mechanisms that encourage greater participation and feedback from a wider range of stakeholders and residents.

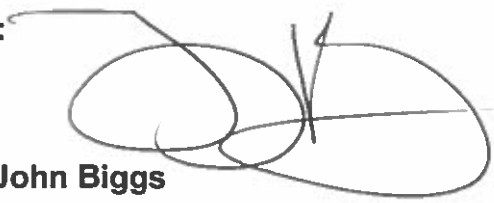
The consultation document will be essentially based on the option to close but includes some exploration of where an equivalent saving might be secured within the Early Years budget in the event of a decision to retain the LADNs and the resulting need to find savings of almost £1m a year from other areas in order to replace the Dedicated Schools Grant funding which the Schools Forum have made clear they will no longer be providing. The consultation will also allow the opportunity for respondents to provide financially viable alternative suggestions which will be considered ahead of any final decision.

The consultation will be publicised widely, and it is likely that interested parties will, substantially, already be aware of the issue. However we need to design the consultation in a way that maximises our reach to include a broad range of interests in the responses. I have asked officers to explore if there are other appropriate options for extending the reach of our consultation but I am confident, partly as a result of the response rate previously that those with an interest will be engaged in the process.

The process of the Consultation so that feedback from the consultation is brought back to the Overview and Scrutiny Committee to feed into the Mayor's decision-making process.

As I stated at the Cabinet meeting and subsequently I have committed to taking any decisions on this matter following the consultation in a public Cabinet meeting. This would mean the papers and any supporting documents being made available to Overview and Scrutiny as normal ahead of the Cabinet meeting when they are published. The pre-decision scrutiny process will then allow Committee members to raise any further questions of the report and to express any views they wish to through the Chair's ten minute verbal report to the Cabinet meeting. Any such decision would of course also be subject to call in.

On the basis above I confirm my decision of 27th June 2018 on this issue.

Signed: 	Date: 18/7/18
Mayor John Biggs	

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