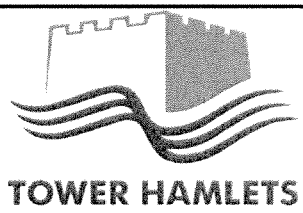
Individual Mayoral Decision Proforma Decision Log No: 0021	
Report in response to Mayor's Request for Advice	**Classification:** Unrestricted
Title: Budget Implementation 2013/14	

Is this a Key Decision?	**No**
Decision Notice Publication Date:	N/A
General Exception or Urgency Notice published?	**Not required**
Restrictions:	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 7th 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 EqIA 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 7th 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 alterbnative 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