

Committee: Council	Date: 26 th June 2013	Classification: Unrestricted	Report No:	Agenda Item:
Report of: The Mayor and Executive Originating officer(s) John Williams, Service Head, Democratic Services		Title: Report of the Executive in accordance with section 20 of the Access to Information Procedure Rules Wards Affected: All Wards		

1. **SUMMARY**

- 1.1 On 26th March 2013 the Mayor published decisions to vire funds to maintain publication of East End Life until a review had been completed and to maintain funding for the Mayor's Office whilst considering his options for that service. These decisions were called in and reviewed at the Overview and Scrutiny Committee meeting held on 9th April 2013.
- 1.2 Whilst reviewing the decisions, the Overview and Scrutiny Committee requested:-
- a) That the Monitoring Officer and Chief Finance Officer report to the Executive in accordance with section 7 of the Budget and Policy Framework Procedure Rules at part 4.3 of the Council's Constitution, with their advice as to whether the Mayor's virement decisions were either contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget; and
 - b) that the Executive report to the Council in accordance with section 20 of the Access to Information Procedure Rules at part 4.2 of the Constitution on the reasons for the Mayor's opinion that the virement decisions were not Key Decisions as defined in Article 13 of the Constitution.
- 1.3 The report of the Monitoring Officer and Chief Finance Officer at (a) above was considered by the Executive on 8th May 2013. The conclusion of the Monitoring Officer and Chief Finance Officer was that the Mayor's decisions were not contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget. In accordance with Budget and Policy Framework Procedure Rule 7.2, the report was copied to each Member of the Council and was reported by the Executive to the Overview and Scrutiny Committee on 4th June.

- 1.4 This report deals with the issue at (b) above in relation to the Access to Information Procedure Rules, and informs the Council of the reasons for the Mayor's opinion that the virement decisions do not represent Key Decisions.

2. RECOMMENDATIONS

- 2.1 That the report be noted.

3. BACKGROUND

- 3.1 The original Executive Mayoral Decisions to vire funding to East End Life and the Mayor's Office to allow for review periods were published on 26th March 2013. Both decisions were subsequently called-in.
- 3.2 The Overview and Scrutiny Committee considered the call-ins at its meeting on 9th April 2013 and, supporting the call-ins, referred both decisions back to the Mayor for further consideration. The Mayor confirmed his original decisions on 17th April 2013.

4. KEY DECISIONS

- 4.1 Article 13 of the Council's Constitution defines a 'Key Decision' as '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.'
- 4.2 This definition is the same as that set out in the Local Authorities (Executive Arrangements) Meetings and Access to Information Regulations 2012. Article 13 further states that:-
- (i) 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; and
 - (ii) The Council has not adopted a financial threshold for key decisions but these are subject to financial regulations. However, the criteria that the Mayor, Councillors and officers will have regard to in determining what amounts to a key decision 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.

4.3 Key Decisions are subject to certain statutory and constitutional requirements including publication both in advance of the decision being made and subsequently.

5. ACCESS TO INFORMATION PROCEDURE RULES

5.1 Section 20 of the Access to Information Procedure Rules sets out that the Overview and Scrutiny Committee can require a report if it thinks that a key decision has been taken which was not either included in the forward plan, or the subject of the general exception procedure, or the subject of an agreement with the Chair of the Overview and Scrutiny Committee, or the Speaker of the Council under Rule 19 (urgency procedure).

5.2 The Executive's report shall be submitted to the Council and shall set out particulars of the decision, the individual or body making the decision, and if the Mayor is of the opinion that it was not a key decision, the reasons for that opinion.

5.3 During discussion of the call-ins on 9th April 2013, the Overview and Scrutiny Committee considered that the Mayor's decisions in relation to the two virements should have been treated as Key Decisions, and required the Executive to report under section 20.

6. MAYOR'S REPORT

East End Life

6.1 The Budget Council on 7th March 2013 agreed a budget motion to take savings of £433,000 from advertising for public notices, choice based lettings and general advertising, for the purpose of causing East End Life to cease publication. The Mayor did not wish to cease publication without due consideration and on 22nd March he made a decision to make a virement of £433,000 from unallocated reserves to the Chief Executive's directorate budget in order to ensure sufficient resources were available to continue the production of East End Life pending

consideration of the options for the service and the implications of ceasing production of the paper.

- 6.2 In making his decision in respect of East End Life the Mayor stated that he had considered whether or not the matter was a Key Decision under Article 13 and that when making the decision he did not consider the virement of £433,000 was a significant amount in respect of the local authority's overall budget for the communication services and publicity budget of £4.1m (representing 10.8%), nor was the virement decision significant in terms of the effects upon the community living or working in an area comprising two or more wards in the borough.
- 6.3 The Mayor went on to say that 'it would not incur significant risk socially, economically or environmentally and indeed would act to mitigate such risks. The impact of the decision to vire the money will not be significant inside or outside the borough. I am content that the decision to vire £433,000 is a non-key decision and I require officers to put it into effect.'

Funding the Mayor's Office

- 6.4 The Budget Council on 7th March 2013 agreed a budget motion to take savings of £296,000 for Mayoral Advisors. The costs of the Mayor's Office are part of the Democratic Services budget. The Mayor decided that he wanted to keep the advisors whilst he considered his options and the implications of reducing the expenditure and on 22nd March he made a decision to make a virement of £296,000 from unallocated reserves to the Democratic Services budget in order to ensure sufficient resources were available to continue the current arrangements pending consideration of the options and the implications to his office of reducing the expenditure.
- 6.5 In making his decision in respect of Democratic Services the Mayor stated that he had considered whether or not the matter was a Key Decision under Article 13 and that when making the decision he did not consider the virement of £296,000 was a significant amount in respect of the local authority's overall budget for Democratic Services of £2.97m (representing 10.0%), nor was the virement decision significant in terms of the effects upon the community living or working in an area comprising two or more wards in the borough.
- 6.6 The Mayor went on to say that 'it would not incur significant risk socially, economically or environmentally and indeed would act to mitigate such risks. The impact of the decision to vire the money will not be significant inside or outside the borough. I am content that the decision to vire £296,000 is a non-key decision and I require officers to put it into effect. The reports of the Monitoring Officer and Chief Finance Officer confirm that I had took the appropriate considerations into account in respect of my decision that they were not Key Decisions. The Executive accepts the reports and has nothing further to add.

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 The reports to the Executive on 8th May 2013 in respect of the virement decisions were prepared by the Section 151 Officer in conjunction with the Monitoring Officer and contain his full comments.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)

- 8.1 The reports to the Executive on 8th May 2013 in respect of the Virement decisions were prepared by the Section 151 Officer in conjunction with the Monitoring Officer and contain her full comments.
- 8.2 Ultimately, a decision is only a Key Decision if it falls within the definitions set out at paragraph 4.1 above. The fact that it is likely to be a matter of 'political controversy' or result in substantial public interest is a matter to which the decision-maker should have regard, and the implication is that the potential for such controversy or interest may in some cases be evidence of it being a decision which will have significant effects. However a decision is not a Key Decision simply because it is politically controversial or of public interest. In this case the Mayor had regard to these matters and acknowledged that his decision may be of public and/or political interest.
- 8.3 The question of whether a particular decision is a Key Decision is one for the decision-taker (the Mayor) provided that all relevant considerations are taken into account and a rational conclusion is reached. In the view of the Monitoring Officer and Chief Finance Officer, the Mayor did have regard to relevant considerations and reached the conclusion (that it was not a Key Decision) to which he was entitled to come. The Mayor was not referred specifically to the Secretary of State's guidance on Key Decisions contained in Chapter 7 of the New Council Constitutions, but the matters referred to in that guidance are similar to those which the Mayor took into account.
- 8.4 In conclusion, in making the decision as to whether the matter was a Key Decision the Mayor did take into account the specified matters under Article 13.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 None directly related to this report.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

10.1 Not applicable to this report.

11. RISK MANAGEMENT IMPLICATIONS

11.1 Any risk management issues in relation to the decisions are dealt with in the Mayor's report above.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

12.1 Not applicable to this report.

13. EFFICIENCY STATEMENT

13.1 Not applicable to this report.

**Local Government Act, 1972 Section 100D (As amended)
List of "Background Papers" used in the preparation of this report**

Brief description of "background papers"	Name and telephone number of holder and address where open to inspection.
None	N/A
