


Non-Executive Report of the: Overview & Scrutiny Committee 7th July 2015	 TOWER HAMLETS
Report of: Service Head, Democratic Services	Classification: Unrestricted
Rich Mix Litigation – Call In	

Originating Officer(s)	David Knight, Committee Services Officer
Wards affected	All

1. SUMMARY

- 1.1 The attached report “Rich Mix Litigation” was considered by the Mayor on 22nd June, 2015 and has been “Called In” by Oliur Rahman; Kibria Choudhury; Maium Miah; Gulam Robbani and Muhammad Mustaqim This is in accordance with the provisions of rule 16 of the Overview and Scrutiny Procedure Rules in Part 4 of the Council’s Constitution.

2. RECOMMENDATION

- 2.1 That the OSC considers
- A. The contents of the attached report, review the Mayor’s decision (provisional, subject to Call In) arising; and
 - B. Decide whether to accept the decision or to refer the matter back to the Cabinet with proposals and reasons.

3. BACKGROUND

- 3.1 The request (received 26th June, 2015) to “call-in” the Mayor’s decision published on 22nd June, 2015 was submitted under rule 16 of the Overview and Scrutiny (OSC) Procedure Rules. It was considered by the Interim Monitoring Officer who has delegated responsibility for calling in Cabinet and Mayoral decisions in accordance with agreed criteria.
- 3.2 The Call-In request fulfilled the required criteria and the decision is referred to OSC in order to consider whether or not to refer the matter back to the Cabinet for further consideration.
- 3.3 Implementation of the Cabinet decision is suspended whilst the “Call In” is considered.

4. THE MAYOR IN CABINET'S PROVISIONAL DECISION

4.1 The overall report, attached at Appendix 1 (To be tabled at the meeting), considered the. However for ease, all the Decisions agreed by the Mayor in Cabinet in relation to the report are listed below:-

DECISION

The report contained recommendations that related to an on-going case in the High Court. The recommendations were as follows:

1. Decide whether to proceed with the trial which is listed for 3 days in the week commencing 20 July 2015 or not.
2. Decide whether to accept Rich Mix's settlement proposal of 27 March 2015 or to continue with settlement discussions on the basis outlined in the report or on some other basis.
3. Agree, subject to 2, to continue the constructive discussions with Rich Mix concerning co location
4. Specify the balance of supporting reasons in respect of the decisions in 1 and 2.

4.2 Reasons for Decisions

4.2.1 Appendix 1 to this report sets out the full reasons for the proposals.

4.3 Alternative Options Considered

4.3.1 Appendix 1 to the report sets out any alternative options considered.

5. REASONS AND ALTERNATIVE COURSE OF ACTION PROPOSED FOR THE 'CALL IN'

5.1 The Call-in requisition signed by the five Councillors listed above gives the following reason for the Call-in:

5.1.1 Independent Group fully supports and appreciates the wonderful work done by Rich Mix, its staff and partners at grassroots level. The key issues and reasons to call-in this decision herein, relates to the process; lack of transparency, accountability, precedent, best value for money, avoidance from criticism of cronyism and nepotism, together with, a fair and honest level-playing field for all local organisations, among other areas.

5.1.2 While it may be the case that a similar decision can be reached after going through the proper process, the issue of concern is that transparency should be observed with information available for scrutiny by local residents and elected members.

5.1.3 This call-in is based on the following reasons

- 5.1.4 This decision was not being undertaken in the right way - here had been insufficient evidence and work to date to clarify the potential risk of a precedent, costs and benefits of writing off such a significant amount of public money, without public and elected councillors having the opportunity to objectively scrutinise and judge the merit of such a haphazard decision taken behind closed doors without evidence.
- 5.1.5 Need to know the cost of implementation of this decision for the council and local residents.
- 5.1.6 There has been a lot of talk about transparency and accountability - even criticism by Labour, Conservatives, and Secretary of State/Commissioners previously - about decisions being taken behind the close doors. If they were genuine in their criticism then all documents relating to this decision should be made public and members should be able to scrutinise the decision.
- 5.1.7 Given the overall grants/funding related issues, best value review, PWC report and other relevant criticism, would it be wise, professional or appropriate for the new Labour mayor or the Executive to make such a decision now or in future to write off such a significant sum of Tax Payers' money, without proper accountability and transparency
- 5.1.8 On what criteria and rationale can such a decision be made? We would request that the criteria and rationale be made public and shared with elected members in general, particularly councillors who have called-in this decision taken in a hurry and behind closed doors, opening up the council to potential criticism and cherry-picking, if no such information and evidence is made available. The criteria and rationale must be in writing and formally announced or made public and all organisations should be informed so they are aware of its existence and potential benefits on the same basis as the Rich Mix
- 5.1.9 Will other agencies, projects or similar venues be allowed to make such a case (if and once the criteria or rationale is known) and receive the same treatment from the Labour Mayor, Labour executive, and Labour-controlled Overview and Scrutiny Committee which is now supposed to scrutinise and monitor the Mayor, its policies and decisions rather than opposition? More importantly, how will other bodies know on what criteria and rationale this decision was made on, and how can they pursue similar course with the council if there is no clear information
- 5.1.10 If there is genuine need for 'Exempt Information' under legislation relating to this decision - summarised and appropriately redacted information must be provided and at the very least a criteria to inform public and other bodies be available so a fair, honest and transparent level playing fields is established
- 5.1.11 How does this decision fit in with the cuts a Labour Mayor and Cabinet will have to make soon. Is it best use of our resources? What evidence is

there to support such a claim vis-a-vis other cuts and pressures facing the council?

5.1.12 The decision has been undertaken in such a hurry, whereas, this decision could have been made in a few days at the Cabinet meeting, following proper protocol with full information. Reports, rationale and details provided for scrutiny so that a transparent and robust decision is reached

5.1.13 The lack of information, rationale, fairness, transparency, secretive manner in which this decision seemed to be handled has resulted in this decision being called-in - not the work done by Rich Mix. This decision will also make other groups in the community uneasy as there may be a risk of perceived level of cronyism and nepotism due to the manner in which is being taken behind closed doors. In order to support the some of the good work done by Rich Mix, and the Council's reputation, the above points must be addressed immediately

5.2 Alternative action proposed:

5.2.1 That the Executive:

1. Make all documents and information relating to this decision public for a proper and genuine scrutiny and accountability in a transparent manner and postpone any action until such time.
2. Publicise and make available the rationale for this decision and how other local organisations can benefit from such approach from the Council.
3. Provide requested information to all Councillors especially those who have called-in this decision to protect the Council's reputation in the community.
4. Publicise and make available the true cost of implementing such a decision.
5. Revert back to the previous state of play until above steps have been taken, and then, make an objective decision based on the results, facts and professional advice in a democratic manner.

6. CONSIDERATION OF THE "CALL IN"

6.1 Having met the "Call In" request criteria, the matter is referred to the OSC in order to determine the "Call In" and decide whether or not to refer the matter back to Cabinet for further consideration.

6.2 The following procedure is to be followed for consideration of the "Call In":

- (a) Presentation of the "Call In" by one of the "Call In" Members followed by questions from members of OSC.
- (b) Response from the Lead Member/officers followed by questions from members of OSC.
- (c) General debate followed by OSC decision.

N.B. In accordance with the OSC Protocols and Guidance adopted by the Committee at its meeting on 4th June, 2013, any Member(s) who present(s) the “Call In” is (are) not eligible to participate in the general debate.

6.3 It is open to the OSC to either resolve to take no action (which would have the effect of endorsing the original Mayoral decision), or to refer the matter back to the Mayor for further consideration setting out the nature of its concerns and possibly recommending an alternative course of action.

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

7.1 The comments of the Chief Financial Officer are incorporated Appendix 1 of this report.

8. LEGAL COMMENTS

8.1 The Mayor in Cabinet’s decision has been called-in in accordance with the Overview and Scrutiny Procedure Rules set out in the Council’s Constitution. The alternatives presented in paragraph 2.1 of the recommendations in this report are options available to the Committee under the Overview and Scrutiny Procedure Rules.

8.2 Legal comments relevant to the Mayor’s decision and to the review by the Overview and Scrutiny Committee are set out in the report on which the decision was based.

9. APPENDICES

Appendix 1 – Rich Mix Litigation Mayoral Decision Log Number 101 –To be tabled at the meeting.

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