

CABINET

THURSDAY, 21ST MAY, 2020

At 6.00 pm

in the

VIRTUAL MEETING - ONLINE ACCESS, RBWM YOUTUBE

SUPPLEMENTARY AGENDA

PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
i.	Consideration of Member Call In - Children's Centres Consultation Results - Family Hubs	3 - 6

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Report Title:	Consideration of Member Call In – Children’s Centres Consultation Results – Family Hubs
Contains Confidential or Exempt Information?	No – Part I
Meeting and Date:	Cabinet – 21 May 2020

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In accordance with Part 3 B7 and Part 4 A16 of the Constitution, the 30th April 2020 Cabinet decision relating to the item ‘Children’s Centres Consultation Results – Family Hubs’ has been called in for review by the Adults, Children and Health Overview & Scrutiny Panel.

The Panel met to consider the Call In on 14 May 2020 and Cabinet are meeting to consider the Adults, Children and Health Overview & Scrutiny Panel recommendations.

1. REASON(S) FOR CALL IN

1.1 The call-in notice, submitted on 5th May 2020 stated the following reasons for calling in the decision:

- The consultation informing the decision, was not conducted in accordance with Section 5D of the Childcare Act 2006 (as amended) nor the statutory guidance issued by the Secretary of State under Section 5D(2) of the Act (Sure Start children’s centres statutory guidance, April 2013; Chapter 2), which is the lawful basis for consultations on children’s centre provision.
- The process was followed in deciding to close children’s centres as part of the reorganisation of provision fails to comply with duties under, *inter alia*, Sections 3 and 5A of the Childcare Act 2006 (as amended) together with the statutory guidance issued by the Secretary of State under Section 3(6) of the Act (Sure Start children’s centres statutory guidance, April 2013; Chapter 2) namely ensuring there are sufficient children’s centres, so far as reasonably practicable, to meet local need.
- In making the decision, Cabinet has failed to comply with the duty regarding socio-economic inequalities, in accordance with Section 1 of the Equality Act 2010, and the Public Sector Equality Duty, in accordance with Section 149 of the Act, as deficiencies in the Equality Impact Assessment relied upon render it impossible to demonstrate that due regard has been exercised to the need to advance equality of opportunity, as per Section 149(1)(b) of the Act.
- Moreover, responses to the draft report were not returned by the Head of Law nor the Monitoring Officer by the time of publication. Cabinet were informed by the Lead Officer that he had circulated the paper “late

last week” to these officers and had received “some comments”, understood to be in relation to the Equality Impact Assessment, but these were not provided to the meeting. The vote was nonetheless taken by Cabinet, despite members not being privy to the nature and scope of the legal feedback raised. This clearly demonstrates a failure to meet the standard to “have due regard” in discharge of the Public Sector Equality Duty as set out in *Bracking v Secretary of State for Work and Pensions* [2013] EWCA Civ 1345. To proceed to make a decision in these circumstances also fails the more general “Wednesbury unreasonableness” test.

- The decision is in conflict with Policy ASF12 (Access for All), which forms part of the Improving Access Strategy within the Local Transport Plan (2012-2026). Access to everyday services and facilities, which encompasses children’s centres and youth centres, is not improved but worsened by the reorganisation of provision, particularly impacting the young and those on low incomes.

1.2 The call-in notice was signed by the following Members who addressed their concerns with the overview and scrutiny panel: Councillors Baldwin, Werner, Del Campo, Tisi and Price.

1.3 Having considered the Call-In the Overview and Scrutiny Panel could decide:

- to take no further action, in which case the decision will take effect immediately;
- to refer the decision back to the decision-maker for re-consideration, setting out the nature of the Panel’s concerns; the decision-maker must then re-consider the matter with a further 5 working days, taking into account the concerns of the Overview and Scrutiny Panel, before making a final decisions;
- to refer the matter to full Council, in which case paragraph (h) below will apply; or
- to refer the matter to a sub group of the Panel for further consideration and report back to the Panel within a specified period not exceeding 14 days, in which case the Panel will, at its reconvened meeting take one of the decisions set out above; if the Panel does not reconvene within 14 days or does reconvene but does not refer the matter back to the decision maker or to the full Council, the decision will take effect on the date of the reconvened Panel meeting or the expiry of that further 14 day period, whichever is the earlier.
- If, following an objection to the decision, the Overview and Scrutiny Panel does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny Panel or the expiry of that further 5 clear working day period, whichever is the earlier.

- If the matter was referred to Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's view on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider within 5 clear working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 clear working days of the Council request.
- If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, 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.

2. Decision Taken by the Adults, Children and Health Overview & Scrutiny Panel

2.1 The Panel considered the Call-In and were addressed by the Call-In signatories, the Deputy Chairman of Cabinet, Adult Social Care, Children's Services, Health and Mental Health, the Lead Member for Housing, Communications and Youth Engagement, the Director for Children's Services and the Head of Law.

2.2 The following resolution was approved:

1. That the Head of Law has reviewed the Cabinet's decision made on 30th April 2020 and what has been said tonight and the reasons for the call in and has concluded that the decision complies with the law and does not conflict with the Council's Access For All policy

2. The Cabinet paper of 30th April will be brought back to Cabinet in May setting out a consultative pathway

3. The results of a further consultation process and recommendations for a decision will be brought to the Cabinet in July or August 2020.

3. RECOMMENDATIONS

3.1 It is recommended that Cabinet:

1. **Set aside the decision of 30th April 2020 cabinet and officers bring a report to June cabinet which addresses the issues raised via the call in and discussed at the Adults, Children and Health Overview & Scrutiny Panel of 14th May 2020. The report will set out the policy proposal, the priorities established by the earlier consultation and the pathway for consultation on the implementation details that support the proposal.**

4. APPENDICES

- 4.1 This report is supported by one appendix:
 - Appendix A - Cabinet Report 30th April 2020 - [Integrated Family Hubs Report](#) (Electronic version only)

5. BACKGROUND DOCUMENTS

- 5.1 This report is supported by two background documents:
 - Council Constitution – Part 4 A - Purpose and Procedure Rules for O&S
 - Cabinet agenda – 30th April 2020