

<b>REPORT TO:</b>	<b>SCRUTINY AND OVERVIEW COMMITTEE</b> 26 April 2017
<b>AGENDA ITEM:</b>	<b>5</b>
<b>SUBJECT:</b>	<b>CALL-IN: FAIRFIELD HALLS' OPERATOR</b>
<b>LEAD OFFICER:</b>	<b>Jacqueline Harris-Baker, Director of Law and Monitoring Officer</b>
<b>CABINET MEMBERS:</b>	<b>Councillor Tony Newman, Leader</b> <b>Councillor Timothy Godfrey, Culture, Leisure and Sport</b> <b>Councillor Simon Hall, Finance and Treasury</b>

<b>ORIGIN OF ITEM:</b>	This item has been triggered by the call-in of the decision by the Leader on 11 April 2017 on the Fairfield Halls' Operator by 15 members of the Council.
<b>BRIEF FOR THE COMMITTEE:</b>	To consider and respond to the Call-In in accordance with the procedure set out in the Council's constitution (set out in paragraph 2.3 below).

## 1. Executive Summary

- 1.1 The decision taken on the Fairfield Halls' Operator by the Leader on 11 April 2017 has been called-in by 15 members of the Council.
- 1.2 Attached at **Appendix A** is the decision report and at **Appendix B** is the completed call in form that was received by the monitoring officer (signatures have been redacted).

## 2. Call-In – Fairfield Halls' Operator

- 2.1 The decision taken by the Leader, that is the subject of this call-in, was as follows:

*The Leader of the Council **RESOLVED** to:*

- 1.1 *Agree the appointment of the party named in the Part B report as the Preferred Bidder for the Fairfield Halls Operator concessions contract.*
- 1.2 *Agree that the name of the Preferred Bidder be published upon conclusion of the standstill period required under regulation 47 of the Concessions Contract Regulations 2016.*

1.3 Agree that subject to:

1.3.1 *'fine tuning' discussions with the Preferred Bidder being resolved to the satisfaction of the Council and there being no material changes to the proposed solution beyond the scope set out in this report, authority to award the final contract and lease and agree all necessary documentation be delegated to the Executive Director Place, in consultation with the Cabinet Member for Culture, Leisure and Sport and the Cabinet Member for Finance and Treasury; AND*

1.3.2 *The terms and conditions of all necessary documentation being to the satisfaction of the Director of Law and Monitoring Officer.*

1.4 *Note that the contract is valued at £90-180m and will operate for a term of ten years with an option to extend for a further five years, up to a maximum term of fifteen years.*

2.2 The call-in pro-forma is attached at Appendix B. The decision form was received on Saturday 15 April from Councillor Helen Pollard and was signed by the following Councillors; Jason Cummings, Jeet Bains, James Thompson, Jan Buttinger, Dudley Mead, Donald Speakman, Chris Wright, Tim Pollard, Andy Stranack, Mario Creatura, Yvette Hopley, Lynne Hale, Maria Gatland, Margaret Mead.

The reasons stated for the Call-In were that:

*"This decision is not open and transparent as there has been no opportunity for questions to be raised by opposition members or the public. Without scrutiny it is impossible to agree that local people will benefit as stated on page one of the paper, which links to the Community Strategy.*

*"Without full details available it is not possible to agree that the priority of liveability is being contributed to."*

There were no requests for additional information to assist the Scrutiny and Overview Committee when considering the referral.

### 2.3 **Call-In Procedures**

The Council's constitution, **Part 4E Scrutiny & Overview Procedure Rule** states:

*"11.08 The referral shall be considered at the next scheduled meeting of the Scrutiny and Overview Committee unless, in the view of the Borough Solicitor, this would cause undue delay. In such cases the Borough Solicitor, will consult with the decision-taker and the Chair of Scrutiny*

*and Overview to agree a date for an additional meeting. The Scrutiny and Overview Committee may only consider a maximum of three referrals at any one meeting.*

- 11.09 At the meeting, the referral will be considered by the Committee which shall determine how much time it will give to the call-in and how the item will be dealt with including whether or not it wishes to review the decision. If having considered the decision there are still concerns about the decision then the Committee may refer it back to the Cabinet for reconsideration, setting out in writing the nature of the concerns. The Cabinet shall then reconsider the decision, amending the decision or not, before making a final decision.*
- 11.10 The Scrutiny and Overview Committee may refer the decision to the Council if it considers that the decision taken by the Leader or Cabinet is outside the Budget and Policy Framework of the Council. The Council may decide to take no further action in which case the decision may be implemented. If the Council objects to Cabinet's decision it can nullify the decision if it is outside the Policy Framework and/or inconsistent with the Budget.*
- 11.11 If the Scrutiny and Overview Committee decides that no further action is necessary then the decision may be implemented.*
- 11.12 If the Council determines that the decision was within the Policy Framework and consistent with the Budget, it will refer any decision to which it objects, together with its views on the decision, to the Cabinet. The Cabinet shall choose whether to either, amend, withdraw or implement the original decision within 10 working days or at the next meeting of the Cabinet after the referral from the Council.*
- 11.13 The responses of the decision-taker and the Council shall be notified to all Members of the Scrutiny and Overview Committee once the Cabinet or Council has considered the matter and made a determination.*
- 11.14 If either the Council or the Scrutiny and Overview Committee fails to meet in accordance with the Council calendar or in accordance with paragraph 11.08 above, then the decision may be implemented on the next working day after the meeting was scheduled or arranged to take place."*

- 2.4 Given the nature of the reasons for the call-in, it is anticipated that the vast majority of the meeting will held in public ("Part A"). However there is a possibility that some of the discussion may need to be held in private ("Part B"). Should the discussion touch on matters that are commercially sensitive, it may therefore be necessary to exclude the press and public as stated in Section 100A(4) of the Local Government Act, 1972, Schedule 12A Part 1.

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**APPENDIX A:**

Part A Report to the Leader on 11 April 2017

**APPENDIX B:**

Call in pro-forma

**BACKGROUND DOCUMENTS:**

None