

Public Document Pack



**Assistant Director, Governance and
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Tuesday 10 November 2015

Notice of Meeting

Dear Member

Overview and Scrutiny Management Committee

The **Overview and Scrutiny Management Committee** will meet in the **Council Chamber - Town Hall, Huddersfield** at **10.00 am** on **Wednesday 18 November 2015**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Assistant Director of Legal, Governance and Monitoring

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Overview and Scrutiny Management Committee members are:-

Member

Councillor Julie Stewart-Turner
Councillor David Hall (Chair)
Councillor Andrew Marchington
Councillor Sheikh Ullah
David Rigby (Co-Optee)
Robert Walton (Co-Optee)

9 Day Change

Under the provision of a 9 day change, Councillor Sheikh Ullah will sub for Councillor Carole Pattison and Councillor Andrew Marchington will sub for Councillor Cahal Burke.

Agenda

Reports or Explanatory Notes Attached

Pages

1: Interests

1 - 2

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

2: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

3: Deputations/Petitions

The Board will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

MATTERS FOR CONSIDERATION

4: Call-in of Cabinet decision in relation to the Mirfield Community Centre - Asset Transfer.

3 - 10

The Panel will formally receive and note the notice of call-in and consider the issues raised in relation to the decision taken by Cabinet on the 20th October 2015, on the Mirfield Community Centre – Asset Transfer.

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KIRKLEES COUNCIL			
COUNCIL/CABINET/COMMITTEE MEETINGS ETC			
DECLARATION OF INTERESTS			
Overview & Scrutiny Management Committee			
Name of Councillor			
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



Name of meeting: Overview & Scrutiny Management Committee

Date: 18th November 2015

Title of report: Mirfield Community Centre – Asset Transfer Proposal and Review of 2002 Cabinet Decisions Regarding Capital Receipt

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes
Is it in the Council's Forward Plan ?	Yes
Is it eligible for "call in" by Scrutiny ?	Yes
Date signed off by <u>Director</u> & name Is it signed off by the Director of Resources? Is it signed off by the Assistant Director - Legal & Governance?	N/A For Information purposes only
Cabinet member portfolio	Resources and Community Safety Cllr Graham Turner

Electoral [wards](#) affected: All

Ward councillors consulted: N/A

Public or private: Public Report

1. Purpose of report

To provide members of the Overview and Scrutiny Management Committee with background information in respect of the Call-In.

2. Key Points

- 2.1 On 27th October 2015, the Assistant Director for Legal, Governance & Monitoring received written notification from 6 non-executive councillors of their wish to call-in a decision of Cabinet made on 20th October 2015. The decision was in relation to the Mirfield Community Centre – Asset Transfer proposal and review of the 2002 Cabinet decision regarding capital receipt. A copy of the notice, including reasons for the call-in and the decision of cabinet is attached at Appendix 1.

- 2.2 **The Assistant Director for Legal Governance and Monitoring has discretion, under section 18 paragraph 18.8 of the Overview and Scrutiny Procedure rules, to extend the period during which the appropriate Scrutiny Panel must meet. As such an extension has been granted due to the availability of key parties - TBC**
- 2.3 The Committee has access to all papers considered by the Cabinet when making the decision, and will be able to question the relevant officers and Cabinet Members. Committee Members are also able to hear from other interested parties including other councillors and members of the public. A detailed timetable for the Committee meeting is attached at Appendix 2.
- 2.4 The Committee should focus its attention and questions on those issues that are the subject of the call-in.
- 2.5 Once the Committee has considered the decision and all supporting information and evidence, it must resolve either to:
- (1) Free the decision for implementation
 - (2) Refer it back to the Cabinet with a recommendation for amendment
 - (3) In exceptional circumstances, refer the issue to the next Council meeting if the decision is not consistent with the budget or any policy previously agreed by the Council. This can only be done with advice from the relevant senior officers and the Assistant Director: for Legal, Governance & Monitoring.
- 2.6 If the decision is referred back to Cabinet, it will be considered at the next meeting of Cabinet. Cabinet may:
- Accept the recommendation of the Scrutiny Panel and amend its decision;
 - Decide that further work needs to be done and defer the item until this is completed. The Overview and Scrutiny Management Committee should be kept informed of the work as it progresses and be formally notified when it is to be reconsidered;
 - Not accept the view of the Scrutiny Committee and confirm its original decision;
 - Refer the issue for discussion at the next appropriate Council meeting.
- 2.7 If the Cabinet rejects the recommendation from the Committee and confirms its decision, it can be implemented immediately as there is no scope for further review and challenge. A decision may only be reviewed once.

3. Implications for the Council

There are no specific implications for the Council within this report as the Committee does not have decision making powers. However as a result of hearing the call in evidence, recommendations may be made to

Cabinet to amend its decision which, if accepted, could result in implications for the Council.

4. Consultees and their opinions

No consultation was appropriate in respect of the contents of this report.

5. Next steps

Following consideration of all the information and evidence, Members of the Committee need to make one of the following three recommendations, in accordance with the Council Procedure Rules:

- (1) Take no further action and free the decision for implementation.
- (2) Refer it back to the Cabinet with recommendation(s) for amendment.
- (3) In exceptional circumstances, refer to the next Council meeting (only if the decision is not in line with the budget or any policy previously agreed by the Council. This can only be done with advice from the relevant senior officers and the Assistant Director: for Legal, Governance & Monitoring.)

6. Officer recommendations and reasons

That Members of the Committee consider all of the information and evidence and make one of the above three recommendations, in accordance with the Council Procedure Rules.

7. Cabinet portfolio holder recommendation

Not applicable

8. Contact officer and relevant papers

Penny Bunker, Governance & Democratic Engagement Manager

Tel: 01484 221000

Email: penny.bunker@kirklees.gov.uk

9. Assistant Director responsible

Julie Muscroft Assistant Director: Legal, Governance & Monitoring

NOTICE OF 'CALL IN' TO OVERVIEW AND SCRUTINY

We, the undersigned, give notice of our wish to refer the decision of Cabinet, made at item 9 (Mirfield Community Asset Transfer) of the agenda considered at the meeting on 20 October 2015 , to Overview and Scrutiny for review under the 'call in' procedure contained in section 18 of the Overview and Scrutiny Procedure Rules.

We regard the Cabinet's decision to review the previous decision of Cabinet in 2002 in relation to this Centre and demand new terms from the Mirfield Community Trust did not take full account of Council policy and other decisions in respect of asset transfers.

In addition we believe that the decision made by Cabinet is a breach of the following sections of Article 13.2 of the Council's Constitution, which states that the following principles should apply to decision making:

- 13.2 a. due regard to all relevant considerations and disregard of all irrelevant factors;
- 13.2 b. proportionality (i.e. the action must be proportionate to the desired outcome);
- 13.2 c. lawfulness and financial propriety and prudence;
- 13.2 d. all due consultation;
- 13.2 e. the taking of professional advice from officers;
- 13.2 g. a presumption in favour of openness;
- 13.2 h. clarity of aims and desired outcomes;
- 13.2 i. the ability to explain the options considered and the reasons for decisions

IN PARTICULAR

We regard the Cabinet decision as failing to take due regard of the principal policy they refer to, that potentially their approach may not be consistent throughout the borough and that potentially the decision may have been predetermined.

ADDITIONAL INFORMATION AND/OR RECOMMENDED COURSE OF ACTION

A review of the decision would allow review of the decision making process, the cabinet evaluation & consideration of existing policy and hopefully recommendations to shape the future of any similar decisions and processes.

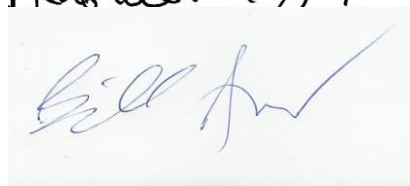
DATED: 26 October 2015

SIGNED:

Melvin Bolt



Kathleen Taylor



Oliver L. Hamilton



Decision of Cabinet on 20TH October 2015

Mirfield Community Centre - Asset Transfer proposal and review of 2002 Cabinet decision regarding capital receipt.

A report seeking approval to authorise officers to transfer the freehold of Mirfield Community Centre, Water Royd Lane, to Mirfield Community Trust.

Officer: Jonathan Quarmby – 01484-221000

1 That officers be authorised to transfer the freehold of Mirfield Community Centre, Water Royd Lane, Mirfield to the Mirfield Community Trust for no premium, subject to a restrictive covenant that will prevent the premises being used for any other purpose than community use.

2 That approval be given to the delegation of the authority of the Assistant Director for Physical Resources and Procurement and the Assistant Director of Legal Governance and Monitoring to negotiate and agree the terms of the freehold transfer that relate to the transfer of the Mirfield Community Centre to Mirfield Community Trust.

Call-In Procedure
Mirfield Community Centre – Asset Transfer Proposal

Meeting		Timetable
1.	Welcome by Chair of Committee	10.00 am*
2.	Opening Statement by signatories to the Call-In - the signatories' spokesperson will outline the reasons for Call-In	10.05 am
3.	Clarification by Committee Members - Panel Members raise issues of clarification with signatories to the Call-In	10.20 am
4.	Opening Statement by Decision-Makers - the relevant decision-makers, with support from appropriate officers, will outline the reasons for their decision and the issues that they took into account (this could include the Leader of the Council and/or the relevant portfolio holder)	10.35 am
5.	Clarification by Committee Members - Panel Members can raise issues of clarification with the decision-makers	10.50 am
6.	Public Participation (Councillors) - councillors who are not signatories may attend to give evidence on issues raised by the Call-In (up to 5 minutes each) - Panel Members may seek clarification on points raised by councillors	11.10 am
7.	Public Participation (Public) - members of the public may attend to give evidence on issues raised by the Call-In (up to 5 minutes each – it is recommended that pressure groups are represented by 1 speaker) - Committee Members may seek clarification on points raised by members of the public	11.30 am
BREAK		11.50 am
8.	Committee Questions - Committee Members can ask any outstanding questions of the decision-makers	12.20 pm
9.	Signatories to the Call-In have the opportunity to identify any outstanding questions through the Chair. The Chair will then look to the decision-makers to respond to the Panel on those issues.	12.40 pm
BREAK – COMMITTEE WITHDRAW TO FORMULATE DECISION		1.00 pm (Lunch) Committee reconvene at 2:30 pm
10.	Committee reconvenes to read out their decision and the reasons for this, which will be in accordance with the Council Procedure Rules: (1) take no further action and free the decision for implementation (2) refer it back to the Cabinet with recommendation/s for amendment (3) in exceptional circumstances, refer to the next Council (only if the decision is not in line with the budget or any policy previously agreed by the Council. This can only be done with advice from the relevant senior officers and the Head of Legal Services.)	

*please note that the timings are for guideline purposes only and are subject to change on the day

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