

**CYNGOR CAERDYDD  
CARDIFF COUNCIL**

**POLICY REVIEW AND PERFORMANCE  
SCRUTINY COMMITTEE**

**17 January 2023**

**CALL IN DECISION CAB/22-23/39 St David's Hall**

**Appendices 1-7 of Appendix A to this report are not for publication as they contain exempt information of the description contained in paragraphs 14 and 16 of Part 4 of Schedule 12A of the Local Government Act 1972. In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.**

**Purpose of Report**

1. To provide Committee Members with background information on the Council's Call-In procedure; the decision being called-in at this meeting; and the scope, process and structure of Call-In scrutiny.

**Call-In Procedure**

2. The Council's Constitution contains a Call-In Procedure which provides that any non-Cabinet Member may call-in a decision of which notice has been given, by writing to the Head of Democratic Services (HDS) within the Call-In Period (within seven clear working days after publication of the decision). The HDS shall then notify the Cabinet Business Office and call a meeting of the relevant Scrutiny Committee, where possible after consultation with the Chairperson of the Committee, and in any case within five clear working days of the decision to call-in.
3. Cabinet Decisions, for purposes of the Call-In Procedure, are those made by the Cabinet, a Committee of the Cabinet, the Leader, a Cabinet Member, the Chief

Executive or a Corporate Director (or other post holder/s within the same tier of management or responsibility).

### **Decision Being Called-In - CAB/22-23/39 St. David's Hall**

4. On 15 December 2022 Cabinet resolved to:

- Note the Outline Business Case attached at Confidential Appendix 4.
- Approve, in principle the offer from AMG (set out as Option 2 in this report) and further described in the Outline Business Case at Confidential Appendix 4, the draft Heads of Terms at Confidential Appendix 5 and delegate authority to the Director of Economic Development in consultation with the Cabinet Member for Culture, Parks and Events, the Section 151 Officer and the Legal Officer to progress negotiations with AMG and for Legal Services to prepare proposed contractual documentation.
- note that consultation will be undertaken as follows:
  - Public consultation as part of the Council's budget setting process, and;
  - Consultation with affected staff in relation to a potential transfer to AMG under the Transfer of Undertaking (Protection of Employment Regulations 2006 ("TUPE").
- note that findings of the consultation, together with an assessment of best value of the AGM offer will be brought back to Cabinet for consideration as part of a final decision on whether to proceed with the offer from AMG.

5. This Decision, known as **CAB/22-23/39** was published on 16 December 2022 in the Register of Cabinet Decisions, with a proposed implementation date of 30 December 2022. The purpose of taking this Decision was:

To consider the Outline Business Case for the future of St David's Hall and agree to proceed to the Full Business Case stage.

## Structure of the Papers

6. The papers for this meeting consist of:

**Appendix A** – Cabinet Report – St David’s Hall 15 December 2022

Confidential Appendix 1 - Conditions Survey 2021

Confidential Appendix 2 - Conditions Survey Cost Report

Confidential Appendix 3 - Property Management Summary

Confidential Appendix 4 - Outline Business Case

Confidential Appendix 5 - AMG Proposal - Heads of Terms

Confidential Appendix 6 - Legal Advice

Confidential Appendix 7

Appendix 8 – HR Note

Appendix 9 - Equality Impact Assessment - Financial Overview

**Appendix B** – Cabinet Report – 2023/24 Budget Modelling Update and Consultation Requirements 22 December 2022

Appendix 1 – Provisional Local Government Financial Settlement 2023/24 Statement and Key Data Table

Appendix 2 – Budget Consultation 2023/24 Details

## Reasons given for Calling-In Decision CAB 22-23/39

7. During the Call-In period after publication of the Cabinet decision in the Register of Decisions on 15 December 2023, a non-executive councillor submitted a request to call-in Decision **CAB 22-23/39**.
8. The reasons set out by the non-executive councillor for calling in the decision are set out in the following extract taken from the written request to the HDS, dated 19 December 2022:

## Finance

*'During the recent Economy & Culture Scrutiny Committee on Monday 12th December 2022, I stated the Council may have sufficient borrowing capacity in place, should it choose to keep St David's Hall in house and undertake the necessary refurbishment works. When this question was put to the Officers and Cabinet Members present, I was advised they were unable to answer these questions as they were not within the Cabinet portfolios of the Cabinet Members present.*

*It is also materially relevant that following the Cabinet Meeting on Thursday 15th December 2022, the Council received confirmation of the Welsh Government block grant to Cardiff for the next financial year. The better than anticipated block grant, an increase of 9%, means the Council does not have to undertake the same level of savings it was anticipating when the disposal of St David's Hall was considered by scrutiny and presented to the Cabinet for decision. It is therefore necessary to consider whether the Administration wishes to change approach in respects to the disposal of St David's Hall, given the outline business case may now change given this improved financial position....*

*...There is therefore new information relating to the budget settlement that materially impacts the Council's financial position. This in turn may have an impact on the disposal of St David's Hall and the decision taken by the Cabinet on Thursday 15th December 2022.'*

9. In the absence of the HDS the Call-In request has been deemed valid by the Monitoring Officer on the basis that the 9% settlement which the Council was advised of subsequent to the decision taken on 15 December 2023 is significant new information which has not previously been considered by Scrutiny. The Call-in can consider the possible impact of this new information on the decision. However, it will not reopen all aspects of the decision.
10. The Call-in will therefore be undertaken by this Committee at its 17 January 2023 meeting.

## **Scope of Scrutiny**

11. The role of Scrutiny Committees calling-in a decision is:
  - To test the merits of the decision;
  - To consider the process by which the decision has been formulated;
  - To make recommendations (to support the decision, change aspects of the decision or to invite the decision-making body to reconsider);
  - To suggest further steps before a decision is made.
  - To come to a view in a relatively short time scale, so as not to compromise the speed and efficiency of the decision-making process.
  
12. The scope of this scrutiny is limited to exploring the Finance reasons for the call-in highlighted in paragraph 8 and the role of scrutiny listed in paragraph 9. If questions are judged as probing areas not within the remit of the call-in, the Chair will deem it necessary to disallow the line of inquiry.
  
13. For clarity, Members must restrict their questioning to how the Provisional Settlement will change the Council's financial position, and whether exploring an alternative operating model for St. David's Hall continues to be a legitimate savings proposal for the Council to put forward.

## **Process for Scrutiny**

14. The Committee needs to consider this call-in in accordance with the requirements of the Call-In Procedure, as set out in the Constitution. If the Scrutiny Committee chooses to consider the Decision, it may refer the Decision back to the decision maker for reconsideration, setting out in writing the nature of its concerns. The decision maker shall then reconsider the matter before adopting a final decision or formally deferring the matter for further consideration. The relevant Scrutiny Committee or Council as appropriate would be advised of the outcome at its next meeting.
  
15. If following a Call-In, the matter is not referred back to the decision maker, the decision shall take effect on the date of the relevant Scrutiny Committee or

Council meeting which considers the issue, or the expiry of the Scrutiny Period or the Council Scrutiny Period as appropriate, whichever is the later.

### **Structure of Scrutiny**

16. To assist Members, Councillor Chris Weaver, (Cabinet Member for Finance, Modernisation & Performance), and Chris Lee, (Corporate Director Resources and Section 151 officer), have been invited to respond to the Call-In and answer Committee Members questions.
17. This decision has been called in by the Chair of the Policy Review and Performance Scrutiny Committee, Councillor Joel Williams. As such Councillor Williams will present the issues and reason he has called in the decision to the Committee.
18. The confidential information at Appendices 1-6 of the Cabinet papers for CAB/22-23/39 are included in this pack of papers to assist Members preparation. However, the scope of the scrutiny is restricted to the new information in Appendix B and how that impacts on the decision taken in respect of St. David's Hall. Therefore, Members are reminded of the need to stay within the agreed parameters as set out in paragraph 8 and to maintain confidentiality with regard the confidential information provided in respect of paragraph 14 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972. This will assist in ensuring that the scrutiny stays open for public observation and avoid entering closed session to enable discussion of this information.

### **Legal Implications**

19. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if, and when, the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out

any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

### **Financial Implications**

20. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct financial implications at this stage.

### **RECOMMENDATION**

The Committee is recommended to:

- Consider Cabinet Decision **CAB/22-23/39** in accordance with the Call-In Procedure;
- Determine whether to refer the matter to the Decision-maker or not;
- Agree whether it wishes to forward any comments, observations or recommendations to the Decision-maker in writing.

**DAVINA FIORE**

**Director of Governance & Legal Services**

**11 January 2023**