

**CABINET**

**DATE OF MEETING:** 1 April 2021

**TITLE OF REPORT:** FROGMORE DAY CARE CENTRE

**Report of:** Head of Corporate Services

**Cabinet Member:** Councillor James Radley, Deputy Leader and Finance

**1 PURPOSE OF REPORT**

1.1 To inform Cabinet of an urgent decision taken to seek surrender of the existing lease for Frogmore Day Care Centre.

**2 OFFICER RECOMMENDATION**

2.1 That Cabinet note the urgent decision taken to seek surrender of the existing lease for Frogmore Day Care Centre.

**3 BACKGROUND**

3.1 Members will recall that Hart District Council entered into a 99 year lease with Hampshire County Council for land adjacent to Frogmore Comprehensive School for the provision of leisure facilities and a day care facility

3.2 Since the Council completed construction in early 2000, Frogmore Day Care Centre has been occupied by the Frogmore Day Care Centre Trust (FDCCT) on a 25 year Lease from 21<sup>st</sup> September 2000, with a Lease expiry date of 31 March 2025.

3.3 On 30 January 2020, prior to the impacts of Covid-19 representatives of FDCCT informed the Council of their intention to wind up the operation and Charity due to financial constraints deeming the provision by the Trust at the centre as unviable. The centre closed on 31<sup>st</sup> March 2020.

3.4 The existing Lease only permitted a Tenant only break option on 21 September 2021, with a requirement for six months' notice of the intention to use that break clause i.e. 21 March 2021.

3.5 Additionally there have been a range of complicating factors including issues associated with the number of surviving Trustees, and the legal ability to seek a formal surrender of the lease, however, our Legal Team has been working alongside their legal advisors to seek to bring this matter to a satisfactory resolution.

3.6 Whilst Frogmore Dare Care Centre Trust has now lodged a letter formally confirming their intention to use the break clause, to seek to bring matters to a close before September, both parties have separately agreed to a deed of surrender, which must now be lodged with the Land Registry.

- 3.7 Once the Council has formally taken possession of the Frogmore Day Care Centre site, its future use will be considered by Cabinet in accordance with the Councils Contract Standing Orders. It is key to note that there has been a range of charitable and public sector organisations who have expressed interest in these premises, even prior to any formal tendering or marketing.

#### **4 REASON FOR URGENT DECISION**

- 4.1 In accordance with the Constitution, the Council can take decisions, outside of the budget or policy framework if the decision is a matter of urgency. Such decisions may only be taken if it is not practicable to convene a quorate meeting of the full Council and if the chairman of Overview and Scrutiny Committee agrees that the decision is urgent.
- 4.2 In this case, there was a clear advantage for the Frogmore Day Care Centre Trust and to Hart District Council to resolve the outstanding lease issues.
- 4.3 The Portfolio Holder and Chairman of Overview and Scrutiny considered and discussed the request and formal notification of agreement to the urgent decision was received around midday on Thursday 18<sup>th</sup> March, the Legal Team were duly advised to action the Deed of Surrender and lodge it with the Land Registry.

#### **5 BUDGETARY IMPACT**

- 5.1 There are no direct costs associated with this decision, nor impacts to equalities, crime and disorder or climate change.

#### **6 NEXT STEPS**

- 6.1 Consideration of the future of the Frogmore Day Care Centre and the budgetary impact of this, will be subject to a future Cabinet report for consideration.

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#### **Appendices**

Appendix 1 – Urgent Executive Decision Form



Chief Executive  
Civic Offices  
Harlington Way  
Fleet  
Hampshire  
GU51 4AE

**URGENT EXECUTIVE DECISION BY JOINT CHIEF EXECUTIVE**

**REPORT TITLE:** Frogmore Day Care Centre:

**PORTFOLIO:** Corporate

**DELEGATED POWER:** Constitution delegated power 263: Urgent Decisions

**KEY DECISION:** **NO**

**PROPOSED DECISION**

To seek the surrender of lease with Frogmore Day Care Centre Trust, and for that surrender to be registered with the Land Registry

**PAPER ATTACHED** **NO**

**REASON FOR DECISION**

Frogmore Day Care Centre Trust formally wound up their operations before the onset of the Covid pandemic

They have served notice of their intention to use the 'tenant only break clause' which would enable the Council to gain possession of the site from the 21<sup>st</sup> September. However, Frogmore Day Care Centre Trust has also agreed a Deed of Surrender which if completed and registered with the Land Registry, would bring the Centre back into the possession of the Council before September, enabling the consideration of its alternative use – as we exit lockdown - quicker

**ALTERNATIVE OPTIONS CONSIDERED AND REJECTED WHEN THIS DECISION WAS MADE**

The alternative considered was to not agree the Deed of Surrender and simply allow the 'tenant only break clause' to proceed. The Council would not be able to gain possession until towards the end of September and it is likely in such circumstances, that with the need to seek alternative uses and Cabinet to consider these, the Centre would not come back into use until 2022 at the earliest.

**WHO HAS BEEN CONSULTED?**

Portfolio Holder for Finance and Corporate Services, The Chairman of Overview and Scrutiny
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Monitoring Officer, S151 Officer
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**HAS ANY CONFLICT OF INTEREST BEEN  
DECLARED BY AN EXECUTIVE MEMBER**

NO

**RESOURCE/ RISK/ CRIME AND DISORDER IMPLICATIONS:**

No financial issues directly associated with this decision
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**BACKGROUND PAPERS**

	<b>Date:</b>	<b>Signed:</b>
<b>CABINET MEMBER:</b>	18 <sup>th</sup> March 2021	<i>James Radley</i>
<b>CHAIRMAN OF OVERVIEW AND SCRUTINY</b>	18 <sup>th</sup> March 2021	<i>Jane Worlock</i>
<b>S 151 OFFICER (Head of Finance)</b>	18 <sup>th</sup> March 2021	<i>Emma Foy</i>
<b>Monitoring Officer</b>	18 <sup>th</sup> March 2021	<i>Daryl Phillips</i>