



HILLINGDON
LONDON



Executive Scrutiny Committee

Date: THURSDAY, 16 FEBRUARY
2012

Time: 7.30 PM OR AT THE RISING
OF THE CABINET MEETING

Venue: COMMITTEE ROOM 7 -
CIVIC CENTRE, HIGH
STREET, UXBRIDGE UB8
1UW

**Meeting
Details:** Members of the Public and
Press are welcome to attend
this meeting

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reports can be made available
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request. Please contact us for
further information.**

Councillors on the Committee

Eddie Lavery (Chairman)
John Riley (Vice-Chairman)
Mo Khursheed (Labour Lead)
Brian Crowe
Paul Harmsworth
Brian Stead

Representative Members for Education issues:

Vacancy – Church of England
Diocesan Representative

Anthony Little – Roman Catholic
Diocesan Representative

Vacancy – Parent Governor
Representative

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This Agenda is available online at:

<http://modgov.hillingdon.gov.uk/ieListDocuments.aspx?CIId=236&MIId=1094&Ver=4>

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Useful information

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Executive Scrutiny

About this Committee

This Committee exercises the right set out in the Policy Overview and Scrutiny Procedure Rules to **call-in and recommend for reconsideration any decisions made but not yet implemented** by the Cabinet, a Cabinet Member, a Council Committee or a delegated officer.

“Call in” enables the Committee:

- To question the circumstances of the decision
- To ask for more information about the decision if that contained in the report recommending the decision is considered inadequate
- To decide whether to ask for the decision to be reconsidered by the person or Committee that took it.

Rules of Procedure

Call-In

- (a) When a decision is made by the Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet, or a Key Decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including by electronic means, and shall be available at the Civic Centre normally within 2 working days of being made.
- (b) The notice of the decision will bear the date on which it is published and notified to all Members of the Council and will specify that the decision will come into force, and will then be implemented, on the expiry of 5 working days after the publication of the decision, unless the decision is called-in by the Executive Scrutiny Committee.
- (c) The Committee will normally meet immediately after the conclusion of a meeting of Cabinet to enable Members to review the decisions taken at the Cabinet meeting and give consideration to the potential for call-ins of items. Should there not be a consensus as to which decisions require such consideration then the matter will be determined by a majority vote of those Members of the Committee present and able to vote (with respect to the normal rules as set out in the Code of Conduct).
- (d) On areas where Members request further information or clarification, officers will be asked to provide a response to the Committee queries by midday on the following Monday following the Cabinet and this Committee meetings.
- (e). These responses will be sent to Members of this Committee by email, and based on this information, Members will be asked to email or telephone Democratic Services

on whether they are content with the information supplied or whether they recommend the calling –in of the particular item. The majority of the Committee Members will have to agree to the call-in request for it to proceed.

- (f). If an item is called in, another formal meeting of the Committee will take place on the Tuesday (or the Thursday at the latest) of the following week after Cabinet, where relevant officers and the relevant Cabinet Member, if appropriate, will be invited to discuss the called-in item.
- (g) Decisions made by an individual Member of the Cabinet or a Key Decision made by an officer with delegated authority from the Cabinet, can be called-in by agreement of the Chairman of the Committee and the lead representative of the majority party on the Committee within 5 working days of the decision being published. These Members shall inform the Head of Democratic Services of the reasons for the call-in. The Executive Scrutiny Committee will meet within 5 days of the Head of Democratic Services being notified to consider the decision.
- (h) If, having considered the decision, the Executive Scrutiny Committee is still concerned about it, then it may:
 - refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or
 - refer the matter to full Council, but only in the circumstances set out below.

A decision will not be referred to full Council unless either the Committee believes it to be contrary to the Policy Framework or Budget, or considers that it was a Key Decision that was not dealt with as such by the Cabinet. If it is referred to the decision maker they shall then reconsider within a further 5 working days, amending the decision or not, before adopting a final decision.

- (i) If following an objection to the decision, the Executive Scrutiny Committee does not hold the two meetings within 10 working days of the date of the Cabinet meeting, the original decision shall take effect at the end of the 10-day period.
- (j) If the matter was referred to full 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.
- (k) If the Council does object, it has no authority to make decisions in respect of a Cabinet 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 views 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 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

- (l) 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.

CALL-IN AND URGENCY

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet or executive member is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests or could lead to an (increased) risk of damage to people or property. The record of the decisions, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Head of Paid service or his/her nominee and the Chairman of the Executive Scrutiny Committee or his/her nominee must be informed that the decision will be implemented immediately upon their all agreeing that the decision is reasonable and to it being treated as a matter of urgency, or after 2 clear days should no objection to urgent implementation be received. Decisions taken as a matter of urgency must be reported to the next available meeting of Council, together with the reasons for urgency.

Agenda

- 1 Apologies for Absence and to report the presence of any substitute Members
- 2 Declarations of Interest in Matters coming before this meeting
- 3 To receive the Minutes of the meeting held on 26 January 2012 (**Pages 1-4**)

- 4 Exclusion of Press and Public

To confirm that the items of business marked Part I will be considered in public and that the items marked Part II will be considered in private.

- 5 Consideration of Any Call-Ins (**Pages 5-8**)

To hear the Call-In of any decision made at the Cabinet meeting prior to this meeting or made by Cabinet Members, other Council Committees or a delegated officer and published within five working days of this meeting.

Members should bring their Cabinet agenda to the meeting.

Members should consider any other decision published in the five working days before this meeting.

The purpose of this meeting is to decide whether to refer back any decision to the decision maker.

Minutes

Executive Scrutiny Committee

Thursday, 26 January 2012

**Meeting held at Committee Room 7 - Civic Centre,
High Street, Uxbridge UB8 1UW**



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	<p>Members Present: Councillors Eddie Lavery (Chairman), John Riley (Vice-Chairman), Brian Crowe, Paul Harmsworth, Mo Khursheed and Brian Stead.</p> <p>Apologies: Tony Little – Roman Catholic Diocesan Representative.</p> <p>Officer Present: Khalid Ahmed, Democratic Services Manager</p>	
<p>30.</p>	<p>DECLARATIONS OF INTEREST</p> <p>Councillor Brian Crowe declared a Personal Interest in Cabinet Agenda Items 5 (Disabilities Commissioning Plan 2011-2015 – Outcome of Consultation) and 7 (Transforming Adult Social Care - Personalisation and Commissioning Plan 2011-2015: Outcome of Consultation). He remained in the room and took part in the discussions.</p>	
<p>31.</p>	<p>MINUTES OF THE MEETING HELD ON 15 DECEMBER 2011</p> <p>Agreed as an accurate record.</p>	
<p>32.</p>	<p>EXCLUSION OF PRESS AND PUBLIC</p> <p>It was agreed that all items of business be considered in public.</p>	
<p>33.</p>	<p>CONSIDERATION OF ANY CALL-INS OF DECISIONS MADE AT THE CABINET MEETING ON 26 JANUARY 2012</p>	<p>Action by:</p>
	<p>Members gave consideration to the Cabinet reports of 26 January 2012 and after careful consideration Members decided not to call-in any decision. The Committee endorsed all decisions made by the Cabinet at their meeting.</p> <p>However the Committee requested information on the following Cabinet report:</p> <p>Cabinet Agenda Item No. 5 - Disabilities Commissioning Plan 2011-2015 - Outcome of consultation</p> <p>"The Committee noted and accepted paragraph 37 (page 28 of the Cabinet agenda) of the report under legal comments. However, the Committee asked, is the Borough Solicitor confident that the full</p>	

consultation process undertaken is robust given well known legal challenges elsewhere in the country on similar issues relating to the transformation of social care services."

[Subsequent to the meeting, the following response was provided by the Borough Solicitor :

"I am responding to the request by the Members of the Executive Scrutiny Committee in which they ask whether I am confident that the full consultation process undertaken is robust given well known legal challenges elsewhere in the country on similar issues relating to the transformation of social care services.

The reply to this is yes, I am confident that the consultation process undertaken by the Council is sufficiently robust. The process is fully documented in Appendix 1 of the report and it lasted between 26th September 2011 to 16th January 2012 and as far as I am aware, it is one of the most thorough consultation processes that has ever been set out in a Cabinet report.

The legal principles which have to be followed by any local authority, whenever it undertakes a consultation process, have been firmly established by the case of Rv London Borough of Brent ex parte Gunning. They are set out in paragraph 35 of the report under the heading 'Legal' but I will set them out again in this e-mail. Consultation exercises must be:

- 1. undertaken when proposals are still at a formative stage;*
- 2. include sufficient reasons for proposals to allow those consulted to give intelligent consideration and an intelligent response;*
- 3. adequate time must be given for this response;*
- 4. the product of consultation must be conscientiously taken into account when the ultimate decision is made.*

In paragraph 37 of the Cabinet report, I have stated that "The Borough Solicitor therefore advises that the consultation process has complied with legal requirements".

It is of course possible that a legal challenge may be brought in relation to Cabinet's decision but then again every decision which the Council makes is potentially challengeable in the Courts. I would reiterate that given the very thorough consultation process which the Council has undertaken, as set out in Appendix 1, it is my view that it has complied with the legal principles set out in the Gunning case."]

In addition, discussion took place on **Cabinet Agenda Item No. 8 - Further Support to Voluntary Organisations 2012/13 Financial Year** and the Labour Group Members of the Committee expressed some concern regarding the decision to reduce the annual core

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Agenda Item 5

TO CONSIDER THE CALL IN OF ANY DECISIONS MADE AT CABINET ON 16 FEBRUARY 2012 OR MADE BY CABINET MEMBERS, OTHER COUNCIL COMMITTEES OR A DELEGATED OFFICER AND PUBLISHED WITHIN FIVE WORKING DAYS OF THE MEETING.

Contact Officer: Khalid Ahmed
Telephone: 01895 250833

REASON FOR REPORT

To provide information to Committee Members on their powers to call in decisions made by Cabinet, Cabinet Members and officers with delegated power from Cabinet.

OPTIONS OPEN TO THE COMMITTEE

To note the contents of this report and use it to inform the process of, considering whether to request further information on decisions taken at Cabinet, or to approve the Call-in of decisions. If Members agree to Call-In an item, another formal meeting of the Committee will take place on the Tuesday (or the Thursday at the latest) of the following week after Cabinet, where relevant officers and the relevant Cabinet Member, if appropriate, will be invited to discuss the called-in item.

To hear any called in decisions made recently by Cabinet Members, other Council Committees or a delegated officer.

The options open to the Committee when considering a Called In decision is to:

- i. Refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of the Committee's concerns, or
- ii. Refer the matter to full Council, but only in the circumstances set out in the rules of procedure (included earlier in this agenda and reports), or
- iii. Decide not to refer back the decision. If the Committee wishes, it may give advice or feedback to the decision-maker and/or officers.

INFORMATION

Criteria and process for deciding a call-in

1. Advisory criteria agreed by the Committee for deciding whether or not to call in a decision are attached in Annex 1. If a decision is called in, the criteria will be referred to in the call-in notification, to give reasons for the Committee's decision.
2. The advisory criteria may be amended at any time, if the Committee feels they do not adequately reflect the range of reasons for calling in decisions.
3. At this Committee's meeting on 2 June 2009 approval was given to an amendment to the rules of procedure relating to Call-Ins. These amendments were approved by Council at their meeting on 2 July 2009.

4. The purpose of this meeting is to enable Members to review the decisions taken at the Cabinet meeting which is taking place prior to this meeting and give consideration to the potential for call-ins of items.
5. On areas where Members request further information or clarification, officers will be asked to provide a response to the Committee queries by midday on the following Monday (20 February 2012).
6. These responses will be sent to Members of this Committee by email, and based on this information, Members will be asked to email or telephone Democratic Services on whether they are content with the information supplied or whether they recommend the calling –in of the particular item. The majority of the Committee Members will have to agree to the call-in request for it to proceed. The Chairman will then advise the Head of Democratic Services.
7. If an item is called in, another formal meeting of the Committee will take place on the Tuesday (or the Thursday at the latest) of the following week after Cabinet, where relevant officers and the relevant Cabinet Member, if appropriate, will be invited to discuss the called-in item.
8. Any Member of the Committee may also propose a decision for call in by contacting Democratic Services, the Chairman of the Committee or the lead representative of the majority party on the Committee. It is recommended that this is done either before the Cabinet meeting or within 2 working days of the Cabinet meeting in order to allow time for the Committee to be consulted before the deadline for considering the decision expires. Any proposals will be notified to the whole Committee for comment and agreement.

Cabinet agendas and decisions

9. All Members of this Committee are on the mailing lists to receive printed copies of the Cabinet meeting agendas and decisions.

Education decisions

10. Representative Members for Education on the Committee can only vote on education issues. They may speak on education and other matters.

Cabinet Members' and officers' decisions

11. The Forward Plan lists planned Cabinet Members' decisions and may be used to guide scrutiny of Cabinet Members' decisions. All Members of this Committee also receive an e-mail copy of all requests for Cabinet Members' decisions. All Councillors receive e-mail copies of Cabinet Members' decisions when made, which may be published at any time. Call-in on these decisions can only take place within 5 working days of the decision being published.
12. As advised at the Committee's first meeting, Government Guidance states that day-to-day decisions by officers should be excluded from scrutiny. There is no central record of officers' delegated decisions. Cabinet Members are briefed on the more significant delegated decisions at Directors' briefing. Directorates should keep records of delegated decisions.

BACKGROUND PAPERS

Annex 1 – Criteria for call-in as agreed at the first meeting of the Committee in 2006.

Members should bring their copies of the Cabinet agenda and decisions and the Forward Plan to the meeting.

SUGGESTED SCRUTINY ACTIVITY

- Refer to the attached criteria when considering Cabinet decisions for call-in, noting those that are mandatory and those that are advisory.
- To review the decisions taken at the Cabinet meeting which is taking place prior to this meeting and to give consideration to the potential for call-ins of items as outlined in the Call-In procedure.
- If a vote is taken, Education representatives may only vote on items or elements of item reports concerning education
- Consider recent Cabinet Member decisions – decide whether to call-in any of these.

Annex 1 – Criteria for call-in agreed at the Executive Scrutiny Committee’s first meeting

Mandatory

- a. A majority of the Committee agrees to call-in the decision (this is required by the Constitution)

Advisory

- b. The expenditure or savings resulting from the decision are £25,000 or greater (to stop trivial call-ins)

and one or more of the following:

- c. The recommendations that lead to the decision do not adequately reflect the evidence contained in the report.
- d. There is evidence that does not appear to have been considered in reaching the decision.
- e. There is a high level of public interest or concern, perhaps evidenced by many complaints or a petition to Councillors.
- f. The decision appears to be contrary to an Auditor’s or an Inspector’s recommendation.
- g. Cabinet has not accepted a recommendation from another O&S committee.