



HILLINGDON  
LONDON



# Executive Scrutiny Committee

**Date:** THURSDAY, 24 OCTOBER  
2019

**Time:** 7.15PM OR AT THE RISING  
OF CABINET, WHICHEVER  
IS EARLIEST

**Venue:** COMMITTEE ROOM 6 -  
CIVIC CENTRE, HIGH  
STREET, UXBRIDGE

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

## To Members of the Committee:

Councillor Henry Higgins (Chairman)  
Councillor John Riley (Vice-Chairman)  
Councillor Simon Arnold  
Councillor Wayne Bridges  
Councillor Peter Curling  
Councillor Kerri Prince  
Councillor Nick Denys  
Councillor Peter Money BSc (Hons) MSc  
(Res) PhD  
Anthony Little (Representative Member  
for Education Issues)

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camera and scan the code below:



**Published:** Wednesday, 16 October 2019

**Contact:** Mark Braddock

**Tel:** 01895 250470

**Email:** [mbraddock@hillington.gov.uk](mailto:mbraddock@hillington.gov.uk)

## Putting our residents first

Lloyd White  
Head of Democratic Services  
London Borough of Hillingdon,  
Phase II, Civic Centre, High Street, Uxbridge, UB8 1UW

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# About the Executive Scrutiny Committee

## Terms of Reference

### Membership

8 Members, appointed on a proportional basis. 2 voting church and 3 voting parent governor representatives when the decision made by Cabinet or any decision called-in that relates wholly or in part to any education functions which are the responsibility of the authority's Cabinet. Attendance by education representatives shall be as set out in paragraph 4 of these rules (see below).

The Committee will normally meet in an informal capacity immediately after the conclusion of a meeting of Cabinet to consider which decisions the Members of the Committee might require further information about or to consider for potential call-in. Although meeting in an informal capacity, 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).

### Terms of Reference

To exercise the right set out in the Policy Overview, Scrutiny and Select Procedure Rules to call-in and recommend for reconsideration any key decisions made but not yet implemented by the Cabinet, a Cabinet Member, a Council Cabinet Sub-Committee or an officer. This would include any key decision that needs further information from the decision-maker to explain why it was taken.

#### **4. Education Representatives**

*The Residents, Education and Environmental Services Policy Overview Committee shall include in its membership the following voting representatives:*

- (a) 1 Church of England diocese representative;*
- (b) 1 Roman Catholic diocese representative; and*
- (c) Such other representatives of faiths and denominations as may be appointed by the Council subject to a direction being issued by the Secretary of State.*
- (d) 3 parent governor representatives elected by parents.*

*These representatives will also be appointed to the Executive Scrutiny Committee when a decision has been made by the Cabinet or any decision called-in that relates wholly or in part to any education functions which are the responsibility of the authority's Cabinet.*

*Education representatives may only attend (in part) as members of a Committee meeting, for education related items / decisions on the agenda, which they may speak and vote on.*

# 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 September 2019 1 - 2
- 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** Follow-up: Matters for clarification from the last meeting 3 - 6  
To receive the responses on any information requests or clarifications on matters from the previous Cabinet meeting and associated reports.
- 6** Consideration of Executive Decisions Taken and any Call-Ins 7 - 14  
To undertake the statutory scrutiny role of executive decision-making by the London Borough of Hillingdon, and in particular to review decisions made by the Cabinet prior to this meeting. Members should consider any other decision taken by a Cabinet Member(s) or key decision taken by an Officer published in the five working days before this meeting.



## Minutes

### EXECUTIVE SCRUTINY COMMITTEE

26 September 2019

Meeting held at Committee Room 6 - Civic Centre,  
High Street, Uxbridge

	<p><b>Committee Members Present:</b> Henry Higgins (Chairman), Simon Arnold, Wayne Bridges, Peter Curling, Kerri Prince, Nick Denys, Eddie Lavery (In place of John Riley), Peter Money and Tony Little (Representative Member for Education Issues)</p> <p><b>LBH Officers Present:</b> Mark Braddock (Democratic Services)</p>
21.	<p><b>APOLOGIES FOR ABSENCE AND TO REPORT THE PRESENCE OF ANY SUBSTITUTE MEMBERS</b> (<i>Agenda Item 1</i>)</p> <p>Apologies were received from Councillor Riley. Councillor Edward Lavery was present as Councillor Riley's substitute</p>
22.	<p><b>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING</b> (<i>Agenda Item 2</i>)</p> <p>No interests were declared by Members.</p>
23.	<p><b>TO RECEIVE THE MINUTES OF THE MEETING HELD ON 25 JULY 2019</b> (<i>Agenda Item 3</i>)</p> <p>The minutes of the meeting held on 25 July 2019 were approved as a correct record.</p>
24.	<p><b>EXCLUSION OF PRESS AND PUBLIC</b> (<i>Agenda Item 4</i>)</p> <p>Items were considered and public and private as set out on the Cabinet agenda.</p>
25.	<p><b>FOLLOW-UP: MATTERS FOR CLARIFICATION FROM THE LAST MEETING</b> (<i>Agenda Item 5</i>)</p> <p>The Committee noted the responses provided by officers on the clarifications on the Cabinet reports from the last meeting. It was welcomed that a regular report would be received by the Residents, Education and Environmental Services Policy Overview Committee on the Community Infrastructure Levy.</p>
26.	<p><b>CONSIDERATION OF EXECUTIVE DECISIONS TAKEN AND ANY CALL-INS</b> (<i>Agenda Item 6</i>)</p> <p>Members gave consideration to the Cabinet reports of the 26 September 2019 meeting and the decisions made by Cabinet on them earlier that evening.</p> <p>All Members present welcomed the Council's robust response to Heathrow Airport Limited's Statutory Consultation on expansion.</p>

On the report on the licensed deficit that was granted by Cabinet for three schools in the Borough, clarification was sought on the effect of the proposed increase in funding from the Government on schools and further details on budget management plans for Oak Wood School in light of their ongoing deficit.

On the Revenue and Capital Month 4 Budget Monitoring Report, Members sought clarification on the School Deficit Recovery Plan detailed in the report, along with more information on the overspend relating to Special Educational Needs Transport due to demographic growth. Additionally, more context was requested on the overspend in the Central School Services Block due to the increase in young people accessing alternative provision.

**RESOLVED: – That the decisions made by the Cabinet at their meeting on 26 September 2019 be endorsed and that no call-in be made.**

The meeting, which commenced at 7.42 pm, closed at 8.00 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Mark Braddock, Statutory Scrutiny Officer. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

## FOLLOW-UP: MATTERS FOR CLARIFICATION FROM THE LAST MEETING

Contact: Mark Braddock  
Statutory Scrutiny Officer  
Telephone: 01895 250470

### REASON FOR REPORT

To follow-up any clarifications and information requests agreed by the Committee undertaking their role scrutinising the decisions and reports from the last Cabinet meeting. These matters are for noting only and not for call-in. If a particular Member wishes for further clarification on the information provided below, this will be for the Committee to determine.

### OPTIONS OPEN TO THE COMMITTEE

**That the Committee note the information provided.**

### CABINET – 26 SEPTEMBER 2019

The Committee gave consideration to the reports and the decisions made by Cabinet at this meeting and sought further information or clarifications in the reports as set out below. The information is provided below by Council officers.

Committee clarification	Officer response
<p><b>Item 7 – Consideration of setting a licensed deficit budget in 2019/20 for three schools in the Borough.</b></p> <p>Clarification was sought on the effect of the proposed increase in funding from the Government on these three schools.</p>	Information awaited / will be provided before or at the meeting
<p><b>Item 7 – Consideration of setting a licensed deficit budget in 2019/20 for three schools in the Borough.</b></p> <p>Further details were requested on the budget management plan for Oak Wood School in light of their ongoing deficit linked to pupil numbers.</p>	Information awaited / will be provided before or at the meeting
<p><b>Item 9 - Revenue and Capital Month 4 Budget Monitoring Report</b></p> <p>Clarification was sought on the status of the School Deficit Recovery Plan detailed in the report and more information on it.</p>	Details regarding the Plan will be provided before or at the meeting

<p><b>Item 9 - Revenue and Capital Month 4 Budget Monitoring Report</b></p> <p>More information was sought on the overspend relating to Special Educational Needs Transport explaining the higher demographic growth than expected when budgets were set, as cited in paragraph 73 below:</p> <p>‘The service is projecting a drawdown of £1,716k from the SEN Transport contingency as at Month 4, an adverse movement of £978k on the Month 2 position. This reflects the continued growth in the number of children that have an Education, Health and Care Plan (EHCP), which is currently running at approximately 10% per annum and that it is becoming more challenging to avoid having to procure single occupancy or lower occupancy routes as children are being placed further away. It is now evident that the demographic growth is significantly higher than anticipated when the budgets were set in February 2019.’</p>	<p>Information awaited / will be provided before or at the meeting</p>
<p><b>Item 9 - Revenue and Capital Month 4 Budget Monitoring Report</b></p> <p>More context was requested why there is an overspend in the Central School Services Block due to the increase in young people accessing alternative provision above the 50 places expected, as set out in paragraph 87 below:</p> <p>‘The overspend is as a result of an increase in the number of young people accessing alternative provision. The Council currently commissions fifty places at the in-borough alternative provision setting and the historic trend is for numbers at the start of the academic year to be below this number before gradually building up. Currently numbers accessing this provision are already in excess of the commissioned number, resulting in an additional cost pressure. As a result of this, the Council is working with the provider to review the number of</p>	<p>During the previous school year there was an increase in referrals to the in-Borough alternative education provision. The Council, on behalf of Schools Forum, is working closely with the education provider to review placements to ensure that where appropriate young people are being supported to re-integrate into mainstream provision.</p>



commissioned places.'	
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## CONSIDERATION OF EXECUTIVE DECISIONS TAKEN & CALL-IN

Contact: Mark Braddock  
Statutory Scrutiny Officer  
Telephone: 01895 250470

### REASON FOR REPORT

To provide information to Committee Members on their statutory scrutiny responsibilities and their power to call in decisions made by Cabinet and recent key decisions by Cabinet Members and Officers.

### OPTIONS OPEN TO THE COMMITTEE

#### First meeting (directly after Cabinet)

That the Committee either:

1. Review the decisions taken and agree no call-in be made;
2. Consider the potential for any call-in, by requesting further information, which will be provided by midday the following Monday. At this point, a majority of the Committee (informally) would decide whether to call-in to a second meeting.
3. Resolve at the meeting, through a majority, to formally call-in a decision with relevant reasons and agree to hold a second meeting to hear the matter to determine whether it be referred back to the decision-maker.

#### Second meeting (if required)

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.

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

- i. Refer it back to the Cabinet or Cabinet Member (whoever made the decision) 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 (i.e. if it is contrary to the Council's policy framework or budget, or if it was a "key decision" that was not dealt with as such by the Cabinet or Cabinet Member), or;
- iii. Decide not to refer back the decision based on the information or assurances received. If the Committee wishes, it may give advice or feedback to the decision-maker and/or officers instead.

## 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 2. 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. Additionally, technical criteria is given on what can and cannot be called-in as per the Council's Constitution and also national guidance and regulations.
4. On areas where Members request further information or clarification prior to any potential call-in, officers will be asked to provide a response to the Committee queries by **midday on the following Monday 28 October 2019**.
5. 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.
6. The full procedure is set out in Annex 1.

### Calling in Cabinet decisions

7. All Members of this Committee are on the electronic and hard copy mailing list to receive copies of the Cabinet meeting agendas and decisions in order to scrutinise the decisions made. The Committee may only call in the specific formal resolutions made by the Cabinet, i.e. the recommendations in the report (or tabled or amended subsequently) that were agreed at the meeting. Any resolutions by the Cabinet "to note" or "to receive" or similar cannot be called in, as there is no technical decision taken. Cabinet resolutions on policy and budget framework documents that are referred direct to full Council cannot be called in. More detail is provided in Annex 2.

### Education decisions

8. Co-opted representative Members for Education may only sit on the Committee and speak and vote on education (or part education items where a resolution made specifically relates to education). On any other business, such co-opted members are welcome to remain in the room as an observer during Part 1 items / discussion only. For the benefit of the co-opted member, the agenda may be adjusted to allow education items first.

## **Cabinet Member and officers decisions**

9. The Forward Plan, as far as possible, 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 and only if they are deemed "key decisions" as outlined in Annex 2.
10. The Committee may also call-in any key decisions taken by officers (where they have been previously delegated to officers by Cabinet) and will be notified of such decisions. However, such decision-making by officers is extremely rare and key decisions are usually taken by Cabinet or Cabinet Members.
11. To call-in Cabinet Member and Delegated Officer Key Decisions, this requires the agreement of the Chairman of the Committee within 5 working days of the decision being published by Democratic Services on the formal decision notice. 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.
12. The Committee is advised that day-to-day administrative executive decisions by officers are excluded from the scrutiny call-in powers of the Committee. There is no central record of such decisions, but officers should act in accordance with their relevant Departmental Scheme of Delegations, which is published.

## **APPENDICIES AND BACKGROUND PAPERS**

Annex 1 – Policy Overview, Scrutiny and Select Committee Procedure Rules [extract of Council Constitution]

Annex 2 - Criteria for call-in as agreed at the first meeting of the Committee in 2006, with supplementary technical notes.

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

## **Annex 1 – Policy Overview, Scrutiny and Select Committee Procedure Rules [extract of Council Constitution]**

### **Call-In by the Executive Scrutiny Committee**

- (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 meet immediately after the conclusion of a meeting of Cabinet to consider which decisions the Members of the Committee might require further information about or to consider for potential call-in. At this meeting Members will review the decisions taken at the Cabinet meeting and give consideration to the potential for call-ins of items. On areas where further information or clarification is sought, officers will be asked to provide a response to the Committee queries by midday on the following Monday.
- (d) These responses will be sent to Members of the Committee by email, and based on this information, Members will be asked to email or telephone the Chairman on whether they are content with the information supplied or whether they recommended the calling –in of a particular item. The majority of the Committee Members will have to agree to the call-in request for it to proceed. The Chairman would then advise the Head of Democratic Services.
- (e) If an item is called in, another formal meeting of the Committee will take place by 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.

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.

- (e) If, having considered the decision, the Executive Scrutiny Committee are 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.

- (f) 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.
- (g) 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.
- (h) 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.
- (j) 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.

#### **1. CALL-IN under urgent circumstances (urgency or special 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 Chairman of the Executive Scrutiny Committee (or Vice-Chairman in their absence) must be informed that the decision will be implemented immediately upon him/her agreeing that the decision is reasonable and to it being treated

as a matter of urgency. In the absence of the Chairman or Vice-Chairman then the Mayor (or Deputy Mayor if required) can take this decision. Decisions taken as a matter of urgency must be reported to the next available meeting of Council, together with the reasons for urgency.



## **Annex 2 – Criteria for call-in agreed by the Executive Scrutiny Committee**

### **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 a Policy Overview or Select Committee.

### **Supplementary Technical Notes from Democratic Services:**

#### **What decisions can be called-in?**

1. Cabinet decisions (key and non-key decisions)
2. Cabinet Member decisions (key and non-key decisions)\*
3. Officer decisions (key decisions only, i.e. when delegated by Cabinet)

*\*The law only requires key decisions can be called-in by Cabinet Members, however, Hillingdon's Constitution extends this to non-key decisions, for increased accountability.*

If a decision above is considered contrary to any strategic policy or the approved budget (that are part of the Council's policy and budget framework) - or if it was a "key decision" that was not dealt with as such by the Cabinet or Cabinet Member, then the Committee may consider referral of the matter to full Council instead.

## **Decisions that cannot be called in include:**

- Any decision relating to a non-executive (Cabinet) function, e.g. licensing or planning decision;
- Non-key decisions delegated by Cabinet to Council officers (e.g. operational, i.e. to implement the Cabinet's decision);
- Decisions taken under urgency or special urgency provisions (where the Chairman of the Committee has already waived the scrutiny call-in period);
- A decision that has already been the subject of a call-in during the previous 6 months;
- Any decision that is required to be taken by the full Council (e.g. Annual Budget, Policy Framework documents, or reports to Cabinet making recommendations to full Council);
- Decisions that are not technically decisions, i.e. "to note" or "to receive";
- Previously taken decisions by Cabinet Members that are later 'ratified' by Cabinet.

### **KEY DECISIONS DEFINITION (Article 7, Council Constitution)**

1. Developing proposals that require the Council to amend its policy framework.
2. Decisions resulting in cost/savings outside of existing budget that exceed the following thresholds:-
  - 10% of the annual revenue budget for a service or any proposals in excess of £500,000.
  - variations to capital schemes on programmes in excess of £250,000 in any one year.
3. Decisions which have a significant impact on two or more wards as defined below:-
  - where the outcome will have a significant impact on the well-being of the community or the quality of service provided to a significant number of people living or working in an area.
  - Where 'Communities of Interest' as well as geographic areas are affected significantly, e.g. young people by the closure of a youth centre.