



HILLINGDON  
LONDON

**VIRTUAL**

# Executive Scrutiny Committee

**Date:** THURSDAY, 23 JULY 2020

**Time:** 7.15 PM

**Venue:** THIS IS A VIRTUAL  
MEETING

**Meeting  
Details:** Watch a live broadcast of this  
meeting on the Council's YouTube  
channel: [Hillingdon London](#)

**To all Members of the Cabinet:**

Henry Higgins (Chairman)

John Riley (Vice-Chairman)

Simon Arnold

Wayne Bridges

Peter Curling (Opposition Lead)

Kerri Prince

Nick Denys

Peter Money

Tony Little (Representative Member for  
Education Issues)

**Published:**

Wednesday, 15 July 2020

**Contact:**

Mark Braddock - Statutory Scrutiny  
Officer

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

# 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 25 June 2020 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**

**VIRTUAL EXECUTIVE SCRUTINY COMMITTEE**

25 June 2020

**Broadcast live on the Council’s YouTube Channel:  
[Hillingdon London](#)**

	<p><b>Committee Members Present:</b> Henry Higgins (Chairman), John Riley (Vice-Chairman), Simon Arnold, Wayne Bridges, Peter Curling, Kerri Prince, Nick Denys, Peter Money and Tony Little (Representative Member for Education Issues)</p> <p><b>LBH Officers Present:</b> Mark Braddock (Democratic Services)</p>
8.	<p><b>APOLOGIES FOR ABSENCE AND TO REPORT THE PRESENCE OF ANY SUBSTITUTE MEMBERS</b> (<i>Agenda Item 1</i>)</p> <p>All Members were present.</p>
9.	<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 present.</p>
10.	<p><b>TO RECEIVE THE MINUTES OF THE VIRTUAL MEETING HELD ON 21 MAY 2020</b> (<i>Agenda Item 3</i>)</p> <p>The minutes of the meeting held on 21 May 2020 were approved as a correct record.</p>
11.	<p><b>EXCLUSION OF PRESS AND PUBLIC</b> (<i>Agenda Item 4</i>)</p> <p>Items were considered in public and private as set out on the Committee and Cabinet agenda.</p>
12.	<p><b>FOLLOW-UP: MATTERS FOR CLARIFICATION FROM THE LAST MEETING</b> (<i>Agenda Item 5</i>)</p> <p>Clarifications from the last meeting were noted.</p>
13.	<p><b>CONSIDERATION OF EXECUTIVE DECISIONS TAKEN AND ANY CALL-INS</b> (<i>Agenda Item 6</i>)</p> <p>Members had joined the live virtual Cabinet meeting held prior so that they could fully review the Cabinet reports and decisions made.</p> <p>On the Council’s budget outturn report, the Committee sought clarification on policy areas that had been reviewed around groups that may be potentially discriminated to avoid legal challenge. The Committee also asked for more information on the outcome of the recent recruitment campaign for the SEND service in light of the increased spend in this area.</p>

Members queried the Council's position on compliance with the Homelessness Order 2003 and statistics on neighbouring boroughs for comparison. Additionally, the Committee requested more information on the outturn figure in relation to the Programme of Works 2019/20 for youth provision.

On the quarterly planning obligations report, Members sought clarification on the presentation of the Community Infrastructure Levy Annual report to the relevant Policy Overview Committee. It was clarified that the expectation is that for the next report more detail would be provided, including ward breakdown.

**RESOLVED: – That the decisions made by the Cabinet at their virtual meeting on 25 June 2020 be endorsed and that no call-in be made.**

The meeting, which commenced at 7.40 pm, closed at 8.00 pm.

The public part of this virtual meeting was broadcast live on the Council's YouTube channel [here](#) under The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) (Regulations) 2020. 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.

# Agenda Item 5

## 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 – 25 JUNE 2020

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.

### Item 5: Budget Outturn 2019/20

Committee Clarification	Officer response
<p>Page 16, para 35, the report talks of housing services incurred significant legal costs around the Housing Allocations Policy:</p> <p><i>“During 2019-20 the Housing Service has incurred significant legal costs defending challenges against the Housing Allocation Policy. Expenditure above budgeted levels is reported against General Contingency. The Allocation Policy has since been updated and this should mitigate the risk of further legal challenges.”</i></p> <p><b>Question - have other policy areas across the Council been reviewed around groups that may potentially be discriminated against - and to ensure no further legal challenges?</b></p>	<p>Council officers advise that it would be impossible to review every policy area within the Council for the purpose of trying to avoid legal challenges.</p> <p>However, when a new policy arises, a change to an existing policy is made, or the Council is forced to review a policy as a result of a Court decision [this happened with the social housing allocation policy], then equality considerations will be carefully looked and the Council’s Equalities Lead Officer will support officers across the Council in preparing an Equalities Impact Assessment, where one is considered necessary.</p> <p>Officers advise it would be impossible for the Council, considering the breadth of its services, to anticipate every possible legal challenge. However, the Council is bound by the Public Sector Equality Duty under section 149 of the Equality Act 2010 and the Council has a good record of complying with it.</p>

	<p>It should also be noted that individuals often threaten the Council with legal action, on the grounds of discrimination or otherwise, which are devoid of merit.</p>
<p>Para 88, refers to an overspend on the SEND budget due to additional agency staff:</p> <p><i>“The outturn position for the SEND service is an overspend of £312k, an adverse movement of £119k on the Month 11 position. The overspend is due to the service having to employ agency staff to cover a number of critical roles in the SEND Team, as the service is coming to the end of recruitment to the new staffing structure. The adverse movement represents the requirement to fund additional agency staffing costs covering vacant posts and clearing backlogs of work.”</i></p> <p><b>Question - is the extra spending because the recruitment campaign was not successful?</b></p>	<p>Officers advise that this is partially the case. There is a national challenge to recruit permanent SEND officers due to the growth in SEND over the past 5 years. Longer term, sustainable measures are currently being reviewed to enable any future recruitment drive, including the recruitment of recent graduates in education and psychology.</p>
<p>Table 11 in the report shows the latest Housing Needs Performance Data.</p> <p><b>Question 1 - is the Council falling foul of the 6 week Bed and Breakfast rule as per the Homelessness Order 2003? - or is it moving families around B&amp;Bs to avoid this?</b></p> <p><b>Question 2 - are there any statistics on neighbouring boroughs to compare our performance?</b></p>	<p>Hillingdon Council has a strong track record in preventing and reducing levels of homelessness, with a clear plan of action in place approved by Cabinet in December 2019 (Homeless prevention and Rough Sleepers Strategy). On those occasions when the use of emergency housing is unavoidable for a homeless household with children, officers always seek to find self-contained accommodation.</p> <p>The majority of B&amp;B accommodation provided by the Council is self-contained and, therefore, not subject to the 6 week rule.</p> <p>The last published Government figures of shared B&amp;B use for families (where a household shares a bathroom and/or kitchen facilities with other households)(published 31/12/2019) confirms the following –</p>

	<table border="1"> <tr> <td colspan="2">Bed and breakfast hotels (including shared annexes) - Total with children and resident more than 6 weeks</td> </tr> <tr> <td>Brent</td> <td>3</td> </tr> <tr> <td>Ealing</td> <td>47</td> </tr> <tr> <td>Hammersmith &amp; Fulham</td> <td>0</td> </tr> <tr> <td>Harrow</td> <td>3</td> </tr> <tr> <td><b>Hillingdon</b></td> <td><b>0</b></td> </tr> <tr> <td>Hounslow</td> <td>0</td> </tr> <tr> <td>K&amp;C</td> <td>0</td> </tr> </table>	Bed and breakfast hotels (including shared annexes) - Total with children and resident more than 6 weeks		Brent	3	Ealing	47	Hammersmith & Fulham	0	Harrow	3	<b>Hillingdon</b>	<b>0</b>	Hounslow	0	K&C	0
Bed and breakfast hotels (including shared annexes) - Total with children and resident more than 6 weeks																	
Brent	3																
Ealing	47																
Hammersmith & Fulham	0																
Harrow	3																
<b>Hillingdon</b>	<b>0</b>																
Hounslow	0																
K&C	0																
<p>The programme of Works 2019/20 outturn shows £5k spend on youth provision.</p> <p><b>Question - can it be clarified why only £5k was spent out of the proposed £1,125m?</b></p>	<p>Officers advise that the unspent Youth provision programme budget of £1,120k has been rephased into 2020/21.</p> <p>Feasibility work is being undertaken on a range of projects that could qualify for funding from this budget. The nature of these works means that they can have significant lead-in times and alongside this consideration is being given to ensure that the funds are allocated across a number of eligible projects and achieve value for money.</p> <p>During 2019/20 other budgets provided for £967k of capital investment in leisure facilities, sports clubs and meeting facilities that also support the Council's Youth offer and the design and feasibility stages were completed for the Yiewsley &amp; West Drayton Leisure Centre scheme.</p>																

This page is intentionally left blank

## 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 Monday 27 July 2020**.
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 and lead representative of the other party 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.