



# 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 24 September 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.

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**Minutes**

**EXECUTIVE SCRUTINY COMMITTEE**

**24 September 2020**

**Meeting held virtually, live on the Council’s YouTube channel: [Hillindgon 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>
20.	<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>
21.	<p><b>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING</b> (<i>Agenda Item 2</i>)</p> <p>Councillor Wayne Bridges declared a non-pecuniary interest in Item 11 on the Cabinet agenda (Setting a licensed deficit) as a member of his family attended Oak Wood School. He remained in the room during the discussion and vote on the item.</p>
22.	<p><b>TO RECEIVE THE MINUTES OF THE MEETING HELD ON 23 JULY 2020</b> (<i>Agenda Item 3</i>)</p> <p>The minutes of the virtual meeting held on 23 July 2020 were agreed as a correct record.</p>
23.	<p><b>EXCLUSION OF PRESS AND PUBLIC</b> (<i>Agenda Item 4</i>)</p> <p>Items to be considered in public and those in private were confirmed.</p>
24.	<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>
25.	<p><b>CONSIDERATION OF EXECUTIVE DECISIONS TAKEN AND ANY CALL-INS</b> (<i>Agenda Item 6</i>)</p> <p>Members had watched the virtual Cabinet meeting held prior so that they could review the Cabinet reports and decisions made.</p> <p>On the Hillingdon Local Outbreak Control Plan, Members sought clarifications around care homes and incidences of covid-19 as well as how schools were sharing best practice during the pandemic.</p>

On the proposed changes to School Admissions Criteria report, Members discussed whether the expansion of some schools had caused a detrimental impact on other schools nearby.

The Committee reviewed the report in relation to licensed deficits for certain schools and requested further information on a number of related matters.

Moving to the monthly budget monitoring report, Members sought clarification on particular grants and expenditure and requested further details about the rapid growth in EHCP plans in the Borough. Members welcomed the plans for the new Tashan Daniel Award set out in the report.

On the School Capital Programme report, the Committee requested a copy of the SEND Provision Capital Plan mentioned.

**RESOLVED: – That the decisions made by the Cabinet at their meeting on 24 September 2020 be endorsed and that no call-in be made.**

The meeting, which commenced at 7.50 pm, closed at 8.20 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 – 24 SEPTEMBER 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 – HILLINGDON LOCAL OUTBREAK CONTROL PLAN

Committee Clarification	Officer response
Q1 – Members requested more information on care homes and how many visits have been made to ensure compliance.	Note: Information to be circulated to the Committee prior to the meeting.
Q2 - Cedar House Care Home was subject to a CQC visit recently. What support has been given by Hillingdon Council to that home	
Q3 – Is there an incidence rate of covid-19 in care homes?	
Q4 – are there arrangements in sharing best practice amongst schools in relation to covid-19?	
Q5 – what is the percentage attendance at schools since children have gone back in September?	

## **ITEM 7 – PROPOSED CHANGES TO THE ADMISSIONS CRITERIA FOR COMMUNITY SCHOOLS**

<b>Committee Clarification</b>	<b>Officer response</b>
<p>Q1 - Schools where the PAN number is changing and there are not sufficient numbers, seem to be fairly close to other schools that have recently been expanded. Have some schools been expanded at the detriment to other schools in the area?</p>	<p>Note: Information to be circulated to the Committee prior to the meeting.</p>

## **ITEM 11 – CONSIDERATION OF A LICENSED DEFICIT BUDGET FOR SCHOOLS**

<b>Committee Clarification</b>	<b>Officer response</b>
<p>Q1 – The report mentions exceptional costs in year in relation to Oak Farm Junior School. What are these costs?</p> <p>Q2 - Schools would have incurred additional expenditure in relation to covid-19. How are schools with a licensed deficit able to fund this in cash-flow terms.</p> <p>Q3 – school budgets appear to be under pressure. Is there an estimate of how many schools will have a deficit by the end of this financial year?</p>	<p>Note: Information to be circulated to the Committee prior to the meeting.</p>

## **ITEM 12 – MONTHLY BUDGET MONITORING REPORT**

<b>Committee Clarification</b>	<b>Officer response</b>
<p>Q1 – para 173 – There is an additional expenditure being asked by Ruislip High School, but does not say what that expenditure is for. Can officers clarify?</p> <p>Q2 – recommendation 15 – the wellbeing for education return grant. Is there a criteria or basis on which this grant will be distributed?</p>	<p>Note: Information to be circulated to the Committee prior to the meeting.</p>

<p>Q3 – para 129 – can officers please explain the rapid growth in the number of children getting EHCP plans compared to other areas?</p> <p>Q4 – para 130 – details on the planning application for a new special school to mitigate the additional pressures on the High Needs Block</p>	
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**ITEM 13 – SCHOOL CAPITAL PROGRAMME UPDATE**

<b>Committee Clarification</b>	<b>Officer response</b>
<p>Q1 – the report mentions a SEND Provision Capital Plan – can officers provide a copy of this please to the Committee?</p>	<p>Note: Information to be circulated to the Committee prior to the meeting.</p>

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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 Monday 26 October 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.