

CONSIDERATION OF EXECUTIVE DECISIONS TAKEN & CALL-IN

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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 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. 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 14 December 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 Part E – Policy Overview, Scrutiny & Select Committee Procedure Rules in the Council's Constitution.

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.

Call-in of Cabinet Member and Officer 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 - 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.

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.