

Special Overview and Scrutiny Committee on 10 December 2008

Report Title: **Monitoring Officer's Report on the Call-In of a Decision taken by The Cabinet on 18 November 2008 recorded at minute CAB 91**

Forward Plan reference number (if applicable): **N/A**

Report of: **The Monitoring Officer and Head of Legal Services**

Wards(s) affected: **All**

Report for: **Consideration by Overview and Scrutiny Committee**

1. Purpose

1.1 To advise the Overview and Scrutiny Committee whether or not the decision, taken by The Cabinet on 18 November 2008 on a report entitled "Haringey's Parkforce – Open Space Supervision" and minuted at CAB 91, falls inside the Council's policy or budget framework.

2. Recommendations

2.1 That Members note the advice of the Monitoring Officer that the decisions taken by The Cabinet were inside the Council's policy and budget framework.

Report Authorised by:



John Suddaby, Monitoring Officer and Head of Legal Services

Contact Officer: Terence Mitchison, Senior Project Lawyer, Corporate
Terence.mitchison@haringey.gov.uk 8489-5936

3. Local Government (Access to Information) Act 1985

3.1 The following background papers were used in the preparation of this report:

The Council's Constitution
 The Council's Safer Communities Strategy 2005/08 and Community Safety Partnership Plan 2008-11
 The Council's Sustainable Community Strategy 2007-16

The report on "Haringey's Parkforce – Open Space Supervision" to The Cabinet meeting on 18 November 2008

4. Background

- 4.1 Under the Call-In Procedure Rules, set out in Part 4, Section H of the Council's Constitution, any 5 Members may request a Call-In even though they do not claim that the original decision was in any way outside the Council's budget/policy framework. Members requesting a Call-In must give reasons for it and outline an alternative course of action. But it is not necessary for a valid Call-In request to claim that The Cabinet acted outside its powers. It is sufficient to allege that the original decision was ill-advised for any reason.
- 4.2 The Call-In Procedure Rules require the Monitoring Officer to rule on the validity of the request at the outset. The Monitoring Officer has ruled that this Call-In request complies with all the 6 essential criteria for validity.
- 4.3 The Monitoring Officer must also submit a report to Overview and Scrutiny Committee (OSC) advising whether each Cabinet decision, subject to Call-In, was inside or outside the Council's policy framework (budget framework advice, when this is relevant, is provided by the Chief Financial Officer). While OSC Members should have regard to the Monitoring Officer's advice, it is a matter for Members' to decide whether the Cabinet decision was inside the policy framework or not.
- 4.4 This decision should be the subject of a separate specific vote and it should be expressly minuted.
- 4.5 It is not every Council policy that forms part of the "Budget & Policy Framework". This framework is set out at Part 3 Section B of the Constitution. It contains the most important over-arching strategies, such as the Sustainable Community Strategy, and major plans including the Community Safety Partnership Plan. There would have to be a clear contravention or inconsistency with such a Strategy before a Cabinet decision could be ruled to be outside the policy framework.

5. Details of the Call-In and the Monitoring Officer's Response

- 5.1 The Call-In request form states, under the first heading, that the original decisions of The Cabinet "are considered to be inside the budget framework but outside the policy framework".
- 5.2 The first bullet point below this opening statement expresses the view of those Members signing the Call-In request form that "whilst supporting the general principles of the park-force scheme, the overview and scrutiny committee should re-examine the specific proposal to abolish the Haringey Parks Constabulary."
- 5.3 In the fifth bullet point below this opening statement, it is claimed that "disbanding the Parks Constabulary is outside the policy framework of the Council. The Council would risk not meeting several best value performance indicators (BVPIs) if this action went ahead." The BVPIs alleged to be at risk include those on the level of crime, fear of crime,

feeling of public safety, robberies per thousand population, racial incidents per thousand population, number of class A drug supply offences and the green flag status of Haringey's parks.

- 5.4 While the "best value" duty is still in force, the power underlying BVPIs in section 4 of the Local Government Act 1999 was repealed by section 139 of the Local Government and Public Involvement in Health Act 2007 which abolished BVPIs in England with effect from 1 April 2008.
- 5.5 Apart from the point about BVPIs, it is relevant to consider whether the abolition of the Parks Constabulary, and its replacement by alternative supervision arrangements under the Parkforce model, could amount to a contravention of the Council's policy framework. It should be noted that one of the objectives of the report to the Cabinet was to improve supervision and public safety in parks and open spaces by adopting the Parkforce supervision arrangements.
- 5.6 The only strategy of any relevance to this decision in the policy framework is the Council's Community Safety Partnership Plan 2008-11. This is the statutory crime and disorder reduction strategy under section 6 of the Crime and Disorder Act 1998. While it deals with many aspects of crime reduction and policing, there is no specific reference to the Parks Constabulary or any "policy" to retain that part of the service.
- 5.7 The Sustainable Community Strategy also covers crime reduction measures in public places but, again, there is no specific reference to the Parks Constabulary.
- 5.8 The report to Cabinet shows how the costs of adopting the Parkforce model would be met by existing funding sources including partner body and Local Area Agreement resources. There should be no expenditure outside agreed budgets as a result of the Cabinet's decisions.
- 5.9 Accordingly, the Monitoring Officer advises that there is no identifiable contravention of the Council's policy or budget framework.
- 5.10 If Members of Overview and Scrutiny Committee (OSC) accept this advice and find that the Cabinet's decisions were within the policy/budget framework, that does not prevent them from making recommendations to the Cabinet about those decisions if Members consider it expedient for other reasons (see paragraph 6.2 (ii) below).

6. Call-In Procedure Rules

- 6.1 Once a Call-In request has been validated and notified to the Chair of OSC, the Committee must meet within the next 10 working days to decide what action to take. In the meantime, all action to implement the original decision is suspended.
- 6.2 If OSC Members determine that the original decision was within the policy framework, the Committee has three options:
 - (i) Not to take any further action, in which case the original decision is implemented immediately

- (ii) To refer the original decision back to The Cabinet as the original decision taker. If this option is followed, The Cabinet must meet within the next 5 working days to reconsider its decision in the light of the views expressed by OSC.
- (iii) To refer the original decision on to full Council. If this option is followed, full Council must meet within the next 10 working days to consider the decision. Full Council must either decide, itself, to take no further action and allow the decision to be implemented immediately or it must refer the decision back to The Cabinet for reconsideration.

6.3 If OSC Members determine that the original decision was outside the policy Framework (notwithstanding the advice in this report), the Committee must refer the matter back to The Cabinet with a request to reconsider it on the grounds that it is incompatible with the policy framework.

6.4 In that event, The Cabinet would have two options:

- (i) to amend the decision in line with OSC's determination, in which case the amended decision is implemented immediately
- (ii) to re-affirm the original decision in which case the matter is referred to a meeting of full Council within the next 10 working days.

7. Recommendations

7.1 That Members note the advice of the Monitoring Officer that the decisions taken by The Cabinet were inside the Council's policy/budget framework.

8. Use of Appendices / Tables / Photographs

8.1 Not applicable.