

**Report for:** Special Overview and Scrutiny Committee  
1 December 2020

**Title:** **Joint report of the Monitoring Officer and the Chief Finance Officer on the Call-In of a Decision taken by the Cabinet on 10<sup>th</sup> November 2020 to approve the Alterations Policy for Leaseholders**

**Report authorised by:** Bernie Ryan, Monitoring Officer and Jon Warlow, Chief Finance Officer & Section 151 Officer

**Lead Officer:** Raymond Prince, Deputy Monitoring Officer

**Ward(s) affected:** N/A

**Report for Key/  
Non Key Decision:** N/A

**1. Describe the issue under consideration**

To advise the Overview and Scrutiny Committee on the call-in process, and in particular whether the decision taken by Cabinet on 10<sup>th</sup> November 2020 relating to the approval of the Alterations Policy for leaseholders, is within the policy and budgetary framework.

**2. Cabinet Member Introduction**

N/A

**3. Recommendations**

That Members note:

- a. The Call-In process;
- b. The advice of the Monitoring Officer and Chief Financial Officer that the decision taken by the Cabinet was inside the Council's policy and budgetary framework.

**4. Reasons for decision**

The Overview and Scrutiny Committee is expected to take its own decision with regard to whether a called-in decision is outside or inside the policy and budgetary framework when considering action to take in relation to a called-in decision.

**5. Alternative options considered**

N/A

**6. Background information**

## Call-in Procedure Rules

- 6.1** The Call-In Procedure Rules (the Rules) appear at Part 4, Section H of the Constitution, and are reproduced at Appendix 1 to this report.
- 6.2.** The Rules prescribe that once a validated call-in request has been notified to the Chair of Overview and Scrutiny Committee (OSC), the Committee must meet within 10 working days to decide what action to take. In the meantime, all action to implement the original decision is suspended.
- 6.3** If OSC Members determine that the original decision was within the policy framework, the Committee has three options:
- (i) to not take any further action, in which case the original decision is implemented immediately.
  - (ii) to refer the original decision back to Cabinet as the original decision-maker. If this option is followed, the Cabinet must reconsider their decision in the light of the views expressed by OSC within the next 5 working days, and take a final decision.
  - (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 call-in. Full Council can then decide to either:
    - take no further action and allow the decision to be implemented immediately, or
    - to refer the decision back to the Cabinet for reconsideration. The Cabinet's decision is final
- 6.4** If OSC determine that the original decision was outside the budget/policy framework, it must refer the matter back to the Cabinet with a request to reconsider it on the grounds that it is incompatible with the policy/budgetary framework.
- 6.5** 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. Full Council would have two options:
    - to amend the budget/policy framework to accommodate the called-in decision, in which case the decision is implemented immediately, or
    - to require the decision-maker to reconsider the decision again and to refer it to a meeting of the Cabinet, to be held within five working days. The Cabinet's decision is final.

## The Policy Framework

**6.6** A definition of The Policy Framework is set out in the Constitution at Article 4 of Part Two (Articles of the Constitution) which is reproduced as follows:

***“Policy Framework***

*These are the plans and strategies that must be reserved to the full Council for approval:*

- *Annual Library Plan*
- *Best Value Performance Plan*
- *Crime and Disorder Reduction (community safety) Strategy*
- *Development Plan documents*
- *Youth Justice Plan*
- *Statement of Gambling Policy*
- *Statement of Licensing Policy*
- *Treasury Management Strategy*

*Any other policies the law requires must be approved by full Council.*

*Such other plans and strategies that the Council agrees from time to time that it should consider as part of its Policy Framework:*

- *Housing Strategy”*

**6.7** The policy framework is intended to provide the general context, as set by Full Council, within which decision-making occurs. In an Executive model of local government, the majority of decisions are taken by the Executive – in Haringey’s case this being the Cabinet/Leader/Cabinet member. Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 the determination of a matter in the discharge of an Executive function nonetheless becomes a matter for the full Council if the proposed determination would be contrary to a plan or strategy adopted or approved by Full Council in relation to the function in question. Case law makes it clear that it would not be a proper use of a full Council approved plan or strategy to seek to make it a means for Full Council to micro-manage what ought to be Executive decisions.

## **7. Current Call-In**

**7.1** On 20<sup>th</sup> November 2020, a call-in request was received in relation to the Cabinet decision taken on 10<sup>th</sup> November 2020 on the recommendation to approve a revised Alterations Policy for leaseholders. A copy of the Cabinet report dated 10<sup>th</sup> November 2020; the published draft minutes and the call-in request all form part of the published Agenda pack distributed to Members of the OSC, and so are not reproduced again here as appendices to this report.

**7.2** The request does not assert that the decision was outside the policy or budgetary framework, and in any event, the Chief Financial Officer also confirms his view that the Cabinet decision is within the budgetary framework.

**7.3** In summary, the key assertion made in the call-in is the that given the paramount importance of the safety of leaseholders and tenants, there is a concern that the decision taken by Cabinet is counter to that objective. In particular, it was further

asserted that it appeared to be untenable to assume that the work carried out by Homes for Haringey (HfH) in and of itself guarantees safety. In support of the concern, the call-in raised the following matters:

- Despite officers having observed potentially hazardous alterations, there had been no attempt made to establish, or evidence provided in the report, that external installations carried out by HfH are more likely to be manufactured and fitted correctly and less likely to compromise fire safety than those done by a contractor chosen by a leaseholder.
- During the Cabinet meeting, the point was made by Ms Van Den Bergh and Councillor Cawley-Harrison relating to instances where doors and windows installed by HfH having safety issues.
- Concerns were also raised during the meeting about instances where, following unsafe work, no follow up inspections took place to review the work, and when residents raised the failings with local ward councillors having already done so to HfH without remedial action, works to rectify outstanding problems was not carried out for over 12 months.
- That during the meeting, the Managing Director of HfH stated that the number of complaints made by residents following works carried out by HfH was *“higher than we would want it to be”*.

**7.4** In light of the points made above, the call-in went on to assert that until HfH is able to improve on its processes, has sufficient quality control in terms of an independent building control sign-off process, and can evidence that all work is being carried out to a standard required for the safety of residents, Cabinet’s decision will not positively contribute towards the discharge of the Council’s legal responsibility to ensure it has robust processes in place to ensure doors and windows are installed to current regulatory standards in the event of a fire.

**7.5** This aspect of the call-in concluded by making reference to Appendix 3 of the proposed revised “Alterations Policy for Leaseholders” that *“[i]t is not appropriate for independent contractors to carry out alterations to our buildings”*, it is necessary to consider the impact of mandating that leaseholders rely on a monopoly supplier, and the impact this may have on the cost and quality of work they can expect. The point was made that leaseholders right to appeal unreasonable costs to the First Tier Tribunal provides this, as this is an inherently confrontational and technical process and many leaseholders may be reluctant to engage with it.

**7.5** The call-in went on to detail alternative courses of action, namely:

- This decision going to Overview and Scrutiny Committee will provide a chance for fresh evidence about the relative safety of HfH and open market installations of doors and windows to be presented. If such evidence is not forthcoming, then the existing ‘Alterations Police for Leaseholders’ should remain in place.
- Fresh provisions should be made to guarantee the cost and quality of work on leaseholder properties does not fall below the standard they could have obtained on the open market and which is not dependent on them taking cases to the First Tier Tribunal.

- HfH to set out an additional QA process that includes an independent building control survey of the installation of doors and windows following the completion of the works and closure of the job in the works list, or instances where the job is not marked as completed, within 5 working days of any replacement or installation works carried out, irrespective of if the work is carried out by HfH or an external contractor, to ensure the work meets the safety standards expected by the Council, and for this report to be sent to the leaseholder of the property without request.
- HfH to offer a market comparison document with all S20 notices, or notices of works to leaseholders comparing their costs (presented as a complete, itemised breakdown) with alternative suppliers that may have been available on the open-market as is now standard practise in other industries such as utilities.

## **8. Monitoring Officer's Assessment**

### **8.1 The Call-In Procedure Rules require that:**

*“The [Overview and Scrutiny] Committee shall consider any report of the Monitoring Officer / Chief Finance Officer as to whether a called-in decision is inside or outside the policy / budget framework. The Overview and Scrutiny Committee shall have regard to that report and any advice but Members shall determine whether the decision is inside or outside the policy/ budget framework.”*

### **8.2 The Monitoring Officer considered the request on 20<sup>th</sup> November 2020, and determined that it met the 6 criteria for validity as set out in the Call-In Procedure Rules.**

### **8.3 Following investigation and consideration, the Monitoring Officer made an assessment of whether the decision was outside the policy framework and concluded that it was not because the subject matter of the call-in is not contrary to the list of plans and strategies which comprise the policy framework set out at paragraph 6.6 above.**

## **9. Conclusion**

### **9.1 For the above reasons, the Monitoring Officer concludes that the Cabinet's decision was not outside of the policy framework.**

## **10. The Section 151 Officer's Assessment**

### **10.1 The Section 151 Officer's assessment is that the decision taken by Cabinet on the 10<sup>th</sup> November 2020 regarding the approval of the Alterations Policy for Leaseholders is within the financial framework of the authority.**

## **11. Contribution to strategic outcomes**

N/A

**12. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities) Finance and Procurement**

The Chief Finance Officer's comments are set out above.

**Legal implications**

The Monitoring Officer's views are set out above.

**Equality**

N/A

**13. Use of Appendices**

Appendix 1 Call-In Procedure Rules

**14. Local Government (Access to Information) Act 1985**

N/A