



Haringey Council

Agenda item:

[No.]

Special Overview & Scrutiny Committee

On 1 October 2009

Report Title: **Monitoring Officer's Report on Call-In of Decision taken by the Cabinet on 8 September 2009 recorded at minute CAB 59**

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

Wards(s) affected: **All**

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

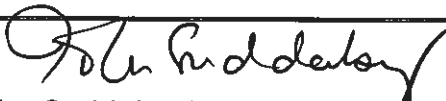
1. Purpose

1.1 To advise the Overview and Scrutiny Committee whether or not the decision taken by the Cabinet on 8 September 2009 on a report entitled "Decent Homes Programme Review, Preparing for Homes for Haringey Audit Inspection and Review of the Management Agreement" and minuted at CAB 59, falls inside the Council's policy or budget framework.

2. Recommendations

2.1 That Members note the advice of the Monitoring Officer and the Chief Financial Officer that the decision taken by the Cabinet was inside the Council's policy and budget framework.

Report Authorised by:


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3. Local Government (Access to Information) Act 1985

3.1 The following background documents were used in the preparation of this report
The Council's Constitution
The Council's Housing Strategies 2003-08 and 2009-19

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 whether or not they 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 in the Call-In Procedure Rules.
- 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. Advice on the Council's budget framework has been provided by the Chief Financial Officer in section 6 of this report. This is still a requirement whether or not the Members requesting the Call-In allege that the Cabinet decision was outside the budget/policy framework. While OSC Members should have regard to the advice of the Monitoring Officer and the Chief Financial Officer, it is a matter for Members' to decide whether the Cabinet decision was inside the budget/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 or Council decision 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 service plans including the Housing Strategy. 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 outside the policy and budget framework". The Monitoring Officer disagrees with this for the reasons set out as follows.
- 5.2 The Call-In request form refers, in its second bullet point under the first heading, to a decision approved by the full Council on 24 January 2005 to adopt the recommendations of the Stock Options Appraisal Steering Group. These included the adoption of the "Stock Condition Survey Minimum Standard" for the purposes of meeting the decent homes standard by 2010/11 and as the basis for the ALMO bid (Council minute 89). The Call-In form then alleges that this Council decision "has been changed by stealth" because the Gateway Report on Decent Homes issues (June 2009) refers to "items that exceed the stock condition survey minimum standard" being included in the scope of works undertaken within the Year 1 works.

- 5.3 The argument of the Call-In signatories appears to be that the Council decision in January 2005 has become part of the “policy framework” and that any decision by the Cabinet to approve or “ratify” works undertaken beyond the “minimum standard” would be outside the “policy framework”.
- 5.4 However, this argument is not valid in the view of the Monitoring Officer.
- 5.5 The decisions taken in relation to the recommendations of the Stock Options Appraisal Steering Group (SOASG) were all within the remit of the Executive (predecessor to the Cabinet) as “executive-side” functions. The recommendations were reported on to full Council because they resulted in eventual changes to the Council’s Housing Strategy which is a part of the Council’s policy framework. The SOASG recommendations included the establishment of the ALMO at the earliest possible date after a tenant ballot.
- 5.6 The Council’s Housing Strategy for 2003-08 reflected the recommendations of SOASG including the establishment of the ALMO. But there was nothing specific in that version of the Housing Strategy that tied future works to achieve decent homes to the “Minimum Standard” in the Stock Condition Survey. In fact, one of the key priorities for Homes for Haringey was described as “to improve the quality of the housing stock to a modern standard”.
- 5.7 The subsequent and current version of the Housing Strategy for 2009-19 also has no specific reference to a “Minimum Standard”. The Strategy recites that the Government has set a target for all social housing stock to reach the Decent Homes standards by 2012. It continues by stating that “a survey of Council stock concluded that at March 2008 42% of Council stock did not meet these standards and an investment programme is underway to address this”.
- 5.8 To conclude, there is nothing specific in the past or current Housing Strategies, or any other overarching strategy or major service plan, that places the Cabinet’s decisions on 8 September outside the Council’s policy framework.

6. Chief Financial Officer comments

- 6.1 The call-in proposes that the decisions taken by the Cabinet on 8 September are outside of the budget framework previously approved by Council. This is based primarily on a report to a Homes for Haringey Board that reported a potential £26m shortfall in funds on the basis that improvement works would continue to be funded to the end of the project. In particular these improvement works include replacing flat roofs with pitch roofs at a higher cost.
- 6.2 It is correct that a number of improvement works have been carried out to a number of properties in the first part of the programme. However, Cabinet on 8 September, in approved the rest of the programme for years 2 to 5 on the basis of my comments in that report which said that ‘DCLG guidance gives sufficient flexibility for local decisions to be made for using Decent Homes resources for converting flat roofs to pitch where

appropriate and subject to the availability of resources'. A further detailed review is being carried out on whether there is scope to carry out more improvement work in the future within the resources available, however, the decision by Cabinet on 8 September to approve the later part of the programme on this basis means that it is was taken within the budget framework.

6.3 The digital television works is not part of the Decent Homes programme, but is being implemented at the same time in certain blocks to take advantage of economies and practicality of other works being carried out concurrently. The funding for this is within the existing approved Housing capital programme.

6.4 The use of the major repairs reserve in 2009/10 is part of a planned and agreed facility with DLCCG to utilise Decent Homes funding in 2008/09 and carried forward the unspent Council resource to then use on Decent Homes in the following year.

7. Call-In Procedure Rules

7.1 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.

7.2 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.

7.3 If OSC Members determine that the original decision was outside the policy framework, 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.

7.4 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.

8. Recommendations

- 8.1 That Members note the advice of the Monitoring Officer that the decision taken by the Cabinet was inside the Council's policy framework and the advice of the Chief Financial Officer that it was inside the budget framework.

9. Use of Appendices / Tables / Photographs

- 9.1 Not applicable.