



Haringey Council

Agenda item:

[No.]

Special Overview & Scrutiny Committee On 9 December 2009

Report Title: **Monitoring Officer's Report on the Call-In of Decisions taken by the Cabinet on 17 November 2009 recorded at minute CAB 92**

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 decisions taken by the Cabinet on 17 November 2009 on a report entitled "Supported Housing Review" and minuted at CAB 92, 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:

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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 Strategy 2009-19
The Council's Sustainable Community Strategy
The report on Supported Housing Review to Cabinet on 17 November 2009

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 policy/budget framework. Members requesting a Call-In must give reasons for it and outline an alternative course of action. They must specify whether the original decision is claimed to be outside the policy/budget framework. But it is not necessary for a valid Call-In request to claim that 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. Advice on the budget framework, when this is relevant, is provided by the Chief Financial Officer. This is still a requirement even when those Members requesting the Call-In do not allege that the Cabinet decision was outside the policy framework. While OSC Members should have regard to the Monitoring Officer's advice, it is a matter for Members' own determination whether the Cabinet decision was inside the policy framework or not.
- 4.4 This determination 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 and 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 the 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 proposals of the Cabinet "are considered to be inside the policy and budget framework". The Call-In request form then sets out 6 reasons why the original Cabinet decision should be re-considered. The Monitoring Officer agrees with the view stated in the Call-In request that the original Cabinet decisions were inside the policy and budget framework for the reasons set out as follows.
- 5.2 The only strategy of any relevance to this decision in the policy framework is the Council's Housing Strategy 2009-19. This has no direct references to the future of specific sheltered housing schemes. It does refer on page 18 to implementing the

conclusions of the Supported Housing Review as a priority action. On the same page the Housing Strategy also refers to an increased demand for housing provision for dementia, learning disabilities, physical disabilities, autism, mental health issues and other specialised needs. The original Cabinet decisions were intended to address this demand. There is no reason to consider that the original Cabinet decisions were in conflict with the Housing Strategy.

- 5.3 The “Older Persons’ Housing Strategy”, mentioned in the report to Cabinet, has not been completed or adopted and it will probably not form part of the Council’s “Budget and Policy Framework” in any event.
- 5.4 The Call-In request form also refers to the original Cabinet decisions being “in direct conflict” with Council Plan priorities 3, 4 and 5. This allegation is answered in the report being submitted to this meeting of OSC by the Director of Urban Environment. In any event, the Council Plan is not part of the Council’s policy framework. There is nothing specific in the Sustainable Community Strategy, linked to the Council Plan, that is in conflict with the original Cabinet decisions.

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, 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.

6.5 The Call-In request form asks OSC to refer the original decisions "back to full Council" with a list of points to be taken into account. However, the original decisions were all matters within the remit of the Cabinet, not full Council, being "executive-side" functions.

6.6 If OSC Members agree with the Monitoring Officer's recommendation that the original Cabinet decisions were all within the policy framework, then the only role for full Council would be to debate the issues and state a view as provided for in paragraph 6.2 (iii) above. The formal decision-making on the future of the specific sheltered housing schemes would have to stay with the Cabinet.

7. Recommendations

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

8. Use of Appendices / Tables / Photographs

8.1 Not applicable.