

Special Overview and Scrutiny Committee on 10 April 2007

Report Title: **Monitoring Officer's Report on the Call-In of a Decision taken by The Executive on 20 March 2007 recorded at minute TEX 182**

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

Report of: **The Monitoring Officer and Acting 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 Executive on 20 March 2007 on the Crouch End and Muswell Hill Stop and Shop Schemes, minuted at TEX 182, falls inside the Council's policy or budget framework

2. Recommendations

2.1 That Members note the advice of the Monitoring Officer that the decision taken by The Executive was inside the Council's policy framework.

Report Authorised by:



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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 report on the Crouch End and Muswell Hill Stop and Shop Schemes to The Executive meeting on 20 March 2007

4. Background

- 4.1 In order for a decision to be outside the policy framework, it would have to be contrary to, or inconsistent with, a policy set out in Part F.6 of the Constitution which is “The Budget and Policy Framework Schedule”. Among these framework policies are “over-arching” strategies such as the Community Strategy. The Council’s Constitution itself is part of the framework that must be complied with. A decision would be outside the budget framework if it necessarily resulted in expenditure exceeding an agreed budget. Decisions must, of course, comply with the relevant legislation.
- 4.2 Under the Call-In procedure set out in Part I.3 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 budget/policy framework. Members requesting a Call-In must give reasons for it and outline an alternative course of action. In other words, it is not necessary for a valid Call-In to claim that The Executive acted outside its powers. It is sufficient to allege that the original decision was ill-advised.

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

- 5.1 The Call-In form states, under the first heading, that the original decision of The Executive “is not claimed to be outside the budget/policy framework”. The Monitoring Officer agrees with this because there is no provision in the budget/policy framework that is contravened by this decision.

6. Call-In Procedure Rules

- 6.1 The rules governing the Call-In procedure are set out in Part I.3 of the Council’s Constitution. Once a Call-In request has been validated and notified to the Chair of Overview and Scrutiny Committee (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 The Monitoring Officer must prepare a report (this report) to advise OSC whether or not the original decision was within the Council’s policy framework. OSC Members must have regard to that report and any advice from the Monitoring Officer but Members themselves make the eventual determination as to whether the original decision was, in fact, within the policy framework.
- 6.3 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 Executive as the original decision taker. If this option is followed, The Executive 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 Executive for reconsideration.

6.4 If OSC Members determine that the original decision was outside the policy framework, the Committee must refer the matter back to The Executive with a request to reconsider it on the grounds that it is incompatible with the policy framework.

6.5 In that event, The Executive 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 decision taken by The Executive was inside the Council's policy framework.

8. Use of Appendices / Tables / Photographs

8.1 Not applicable.