

Special Overview and Scrutiny Committee on 29 July 2008

Report Title: **Monitoring Officer's Report on the Call-In of a Decision taken by The Cabinet on 15 July 2008 recorded at minute CAB 35**

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**

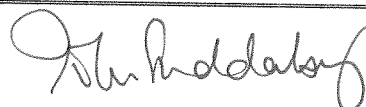
1. Purpose

1.1 To advise the Overview and Scrutiny Committee whether or not the decision, taken by The Cabinet on 15 July 2008 on a report entitled "Service Improvement Initiatives for Leaseholders" and minuted at CAB 35, 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 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 Housing Strategy 2003/08
The report on Service Improvement Initiatives for Leaseholders to The Cabinet meeting on 15 July 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). 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' 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 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 decision of The Cabinet "is not considered to be outside the budget/policy framework". The Monitoring Officer agrees with this 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 2003-08. This has no specific references to the mechanisms for collecting leasehold service charges or to provision for leaseholders to opt out of estate window and door replacement schemes.
- 5.3 There are several references of a general nature in the Housing Strategy to the involvement of tenants and leaseholders and to consultation with them. The report to the Cabinet recites prior consultation with several bodies representing leaseholders and states that leaseholders' suggestions have been incorporated into the report to address their main concerns. Although the Call-In request form alleges a lack of "full consultation" it is not evident that this is the case or that any shortcomings in the consultation could amount to a clear contravention of the Housing Strategy.

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.

7. Recommendations

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

8. Use of Appendices / Tables / Photographs

- 8.1 Not applicable.