

**Report for:** Special Overview and Scrutiny Committee  
11 July 2017

**Title:** Monitoring Officer's Report on the Call-In of a decision taken by the Cabinet on 20<sup>th</sup> June 2017 relating to the proposed relocation of Highgate Library Services and disposal of the existing library site

**Report authorised by :** Bernie Ryan, Monitoring Officer

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

**Ward(s) affected:** Highgate

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

**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 the Cabinet on 20<sup>th</sup> June 2017 relating to the proposed relocation of Highgate Library Services and disposal of the existing library site 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. The Rules provide that 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. However it is not necessary for a valid Call-In request to claim that The Cabinet, Leader or Cabinet Member acted outside its powers.
- 6.2.** The Rules require the Monitoring Officer to rule on the validity of the request at the outset. The Deputy Monitoring Officer, acting for and on behalf of the Monitoring Officer at his request, has ruled that this Call-In request complies with all the 6 essential criteria for validity. Accordingly, the need arises for the Monitoring Officer and/or the Chief Financial Officer to prepare a report for the Overview and Scrutiny Committee (OSC) advising whether the decision does fall inside or outside of the policy or budget framework.
- 6.3.** The Rules further prescribe that once a validated call-in request has been notified to the Chair of 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.
- 6.4.** 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 five 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.
- 6.5.** 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
- 6.6.** 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.

6.7. 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

6.8. 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”*

6.9. 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 the 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.

- 6.10.** OSC is required to have regard to the contents of this report and to any advice. However, it is for Members to determine whether the decision is inside or outside of the policy / budget framework. This decision should be the subject of a separate specific vote, and it should be expressly minuted.

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

- 7.1.** On 27<sup>th</sup> June 2017, a call-in request was received in relation to the Cabinet decision taken by the Cabinet on 20<sup>th</sup> June 2017 relating to the proposed relocation of Highgate Library Services and disposal of the existing library site. A copy of the public report to Cabinet is reproduced at [Appendix 2](#) to this report. A copy of the published draft minutes of the Cabinet meeting is reproduced at [Appendix 3](#) to this report. A copy of the call-in request is reproduced at [Appendix 4](#) to this report.
- 7.2.** The request asserts that the decision was not outside the policy or budget framework.

## **8. The Monitoring Officer's Response**

- 8.1.** The Monitoring Officer agrees that this decision falls within the policy framework. The decision taken by Cabinet is expressed to have been one taken in principle, and on the basis that a further report will be presented to Cabinet for a final decision to be made on the proposal. This is compliant with the Council's Budget and Policy Framework as set out in Part Four Section E of the Constitution. Any final decisions taken by Cabinet in this report are within its powers and terms of reference.

## **9. The Chief Financial Officer's Response**

- 9.1.** The call-in request states it does not claim the decision is outside the budget framework. The Interim Deputy Chief Executive, in her capacity as Chief Financial Officer, agrees with this view on the basis that recommendations in the report are in line with the Council's Budgetary & Policy Framework Procedure Rules set out in Part 4 Section E of the Council's Constitution.

## **10. Contribution to strategic outcomes**

N/A

- 11. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)**

**Finance and Procurement**

The Chief Financial Officer's views are set out above.

### **Legal implications**

The Monitoring Officer's views are set out above.

### **Equality**

N/A

## **12. Use of Appendices**

Appendix 1 Call-In Procedure Rules

Appendix 2 Cabinet report dated 20<sup>th</sup> June 2017

Appendix 3 Published draft minutes of the Cabinet meeting

Appendix 4 Copy call-in request

## **13. Local Government (Access to Information) Act 1985**

N/A