

WELWYN HATFIELD BOROUGH COUNCIL
COUNCIL – 5 FEBRUARY 2018
REPORT OF THE MONITORING OFFICER

OVERVIEW AND SCRUTINY PROCEDURE RULES – REVIEW OF CALL-IN

1. Executive Summary

- 1.1. The Overview and Scrutiny Procedure Rules in Part 4 of the Constitution provide that those Cabinet decisions which meet the criteria are subject to pre-implementation review through a call-in procedure.
- 1.2. The current call-in procedure for pre-implementation of Cabinet decisions has been reviewed and this report proposes that a change is made to make call-in more effective.

2. Recommendations

- 2.1. That Council approves the changes to the call-in procedure for pre-implementation of Cabinet decisions in the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution so that a called-in item is considered by the appropriate Overview and Scrutiny Committee instead of a Scrutiny Sub-Committee being set up to deal with the item, as indicated in the Appendix to this report.
- 2.2. That Council authorises the Head of Law and Administration as Monitoring Officer to amend the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution to make this change.

3. Explanation

3.1. Current Procedure

The Cabinet publishes decisions it has made at a meeting within three working days and these are circulated to all Members of the Council in the Cabinet Publication of Decision List which gives notice that decisions will come into force within ten working days of the decision being published unless it is called in.

Decisions that involve expenditure of over £100,000 can be called in. Call-in requires at least a quarter of the Members of the appropriate Overview and Scrutiny Committee to request the call-in, in writing, within four working days of the publication of the decision by the Cabinet, to be effective.

The Chairman of the appropriate Overview and Scrutiny Committee, in consultation with the Opposition Group Leaders, has delegated authority to set up a Scrutiny Sub-Committee to deal with the called-in item.

The Scrutiny Sub-Committee must meet to consider the called-in item within twenty working days of publication of the decision by the Cabinet.

If the Scrutiny Sub-Committee decides it is unhappy with the decision, it can refer it back to the Cabinet for reconsideration.

The Scrutiny Sub-Committee comprises up to four Members with no overall majority from any political group. The Chairman is appointed by the Sub-Committee and is a Member of the Opposition and does not have a casting vote. Consequently for any recommendation of a Scrutiny Sub-Committee to be agreed, a majority decision is required.

This means that a Sub-Committee can only make a decision to refer the called-in item back to the Cabinet for reconsideration if the Administration Group Members are in agreement with the Opposition Group Members.

This was demonstrated when a Social Overview and Scrutiny Sub-Committee met following the call-in of the decision made at the Cabinet meeting on 11 July 2017 to approve the transfer of the freehold of Goldings House, Hatfield to Paradigm Housing Group (Minute 24 refers).

Having considered all of the information provided and having put a series of questions to the Portfolio Holders who had been invited to attend the meeting, the Sub-Committee was unable to reach a majority decision to refer the decision back to the Cabinet for reconsideration. This meant that the original Cabinet decision stood and the transfer of the freehold of Goldings House, Hatfield to Paradigm Housing Group with the capital receipt being used to support the Council's Affordable Housing Programme proceeded.

3.2 Proposed Change to the Procedure

It is proposed that instead of the appointment of a Scrutiny Sub-Committee, a special meeting of the appropriate Overview and Scrutiny Committee will be convened to consider the called-in item(s) within three working days of the request to call-in the item(s) or place the called-in item(s) on the Agenda of the next available meeting of that Committee, depending on which can be achieved earliest.

The appropriate Overview and Scrutiny Committee may, after consideration of the matter, decide to refer it back to the Cabinet for reconsideration.

The change is designed to facilitate more effective post-implementation scrutiny of Cabinet decisions and provide for improved engagement of the Opposition Groups in the call-in process.

No change is proposed to the composition of Scrutiny Sub-Committees appointed by an Overview and Scrutiny Sub-Committee to scrutinise a Cabinet decision post-implementation or to carry out a specific piece of scrutiny work.

These Scrutiny Sub-Committees will still comprise up to four Members, with no overall majority from any political group. The Chairman will be appointed by the Sub-Committee and will be a Member of the Opposition and will not have a casting vote. Consequently for any recommendation of a Scrutiny Sub-Committee to be agreed, a majority decision will be required in these cases.

This is provided for in the Procedure for the Operation of the Overview and Scrutiny Function.

The proposed changes to the Overview and Scrutiny Procedure Rules are shown tracked in red on the attached Appendix. These include a minor update to paragraph 3.1 Co-optees.

Implications

4 Legal Implication(s)

The Procedure Rules in the Constitution are regularly reviewed and their operation monitored to ensure that they are relevant, effective, up to date and fit for purpose.

5 Financial Implication(s)

There are no financial implications arising directly from the recommendations in this report.

6 Risk Management Implications

If the Procedure Rules in the Constitution are not regularly reviewed and their operation monitored to ensure that they do remain relevant, up to date taking account of legislation and fit for purpose there is a risk that the basic rules governing the Council's business will not be effective and could give rise to legal challenge.

7 Security and Terrorism Implication(s)

There are no security and terrorism implications inherent in relation to the proposals in this report.

8 Procurement Implication(s)

There are no procurement implications inherent in relation to the proposals in this report.

9 Climate Change Implication(s)

There are no climate change implications inherent in relation to the proposals in this report.

10 Link to Corporate Priorities

The subject of this report is linked to statutory requirements under the Local Government Act 1972 and other relevant legislations. The proposals in this report make changes to the Procedure Rules in the Council's Constitution which will be updated and republished.

11 Equality and Diversity

An Equality Impact Assessment (EIA) has not been carried out in connection with the proposals that are set out in this report. It is considered that there are no differential impacts.

12 Background Papers

None other than the Appendix to this report.

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