

# Call-in Request – Cabinet Member Decision

**Scrutiny Committee**

**Date: 21<sup>st</sup> October 2019**

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Author: Chief Legal Officer (Monitoring Officer)

Wards: Rodbourne Cheney

Parishes Affected: Central Swindon North

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## **1. Purpose and Reasons**

- 1.1 To consider a request for call-in submitted in relation to a Cabinet Member decision.
- 1.2 The request for call-in has been made in accordance with the provisions of paragraph 16 of Section 5 of Part 4 (“Rules of Procedure – Overview and Scrutiny Committees”) of the Council’s Constitution.
- 1.3 Members are reminded that the subject matter of the proposed Cabinet Member Decision has been determined to be private and confidential by virtue of paragraph 3, Schedule 12A, Local Government Act 1972 as it relates to commercial affairs.

## **2. Recommendations**

The Committee is recommended to:

- 2.1 Consider this request for call-in of a Cabinet Member decision.
- 2.2 Consider the supporting evidence provided in relation to the claims submitted in paragraph 5.1 of the Cabinet Member Decision Note and the Notice of Call-in that the decision should be referred back to the Cabinet Member for reconsideration.

## **3. Detail**

- 3.1 The Scrutiny Committee is authorised to consider requests for “call-in”, as defined in the Council’s “Call-in” procedure, set out in paragraph 16 of Section 5 of Part 4 (“Rules of Procedure – Overview and Scrutiny Committees”) of the Council’s Constitution.
- 3.2 The call-in procedure is intended for use only in exceptional circumstances, when members of the Overview and Scrutiny Committees have evidence that a decision has been made without due process being carried out or without an appreciation of the implications of the approved action.
- 3.3 The procedure allows for the call-in of any published decision, within the specified notice period (5 working days) after the publication of the decision, where such request is received from any four members, representing a minimum of two political groups (paragraph 16(c) of the Rules of Procedure and Terms of Reference Overview and Scrutiny Committees).

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- 3.4 On 10<sup>th</sup> October 2019, a request was submitted to the Monitoring Officer by Councillors Stan Pajak, Jim Grant, Emma Bushell and Steve Allsopp for the call-in of a decision made by Councillor Dale Heenan, Cabinet Member for the Town Centre, concerning the confidential Cabinet Member decision attached at Appendix 1.
- 3.5 A copy of the confidential notice relating to the call-in, including details of the grounds provided by the members in support of their request, is attached at Appendix 2.
- 3.6 In accordance with the Council's call-in procedure, the Committee is invited to consider the evidence provided by the four councillors as to why the decision fails to meet the requirements of the Council's principles of decision making, as set out in Article 13 ("Decision Making") of the Council's Constitution, with particular regard to the carrying out of due process in reaching the decision and/or failing to fully appreciate the implications of the decision, and determine whether the matter should be referred back for further consideration.
- 3.7 The Scrutiny Committee is advised that, in accordance with the provisions of paragraph 16 of Section 5 of Part 4 ("Rules of Procedure – Overview and Scrutiny Committees") of the Council's Constitution, any decision to refer the matter back to the Cabinet Member for further consideration must address the nature of its concerns about the decision.
- 3.8 It is for the Scrutiny Committee to determine whether to support the case put forward in the notice of call-in and choose not to refer the matter back to the Cabinet Member. In such circumstance, the original decision will take immediate effect.

## **4. Alternative Options**

- 4.1 The options available to the Committee are set out in the report.

## **5. Implications, Diversity Impact Assessment and Risk Management**

### Financial and Procurement Implications

- 5.1 This report to Scrutiny Committee has no financial or procurement implications. The financial and procurement implications of the original Cabinet Member Decision are set out in the Cabinet Member Decision Note.

### Legal and Human Rights Implications

- 5.2 Legal and Human Rights considerations have been taken into account in preparing this report.

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## All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 This report has no sustainability or other implications. Such implications in relation to the original Cabinet Member Decision are set out in the Cabinet Member Decision Note

## Diversity Impact Assessment

- 5.4 No Diversity Impact Assessment has been carried out for this report as any such assessment and implications in relation to the original Cabinet Member Decision are set out in the Cabinet Member Decision Note

## Risk Management

- 5.5 A risk management assessment is not appropriate for this report.

## **6. Consultees**

- 6.1 The author has consulted, where appropriate, with Corporate Directors, Directors, Heads of Service, other officers, and relevant partners on the purpose, content, and recommendations of the report.

## **7. Background Papers**

- 7.1 None.

## **8. Appendices**

- 8.1 Appendix 1: Private and Confidential – the Cabinet Member Decision Note
- 8.2 Appendix 2: Private and Confidential – The Notice of Call-in