

OVERVIEW AND SCRUTINY BOARD



Report subject	Call-in of Decision - Homeless Health Hub
Meeting date	29 March 2022
Status	Public Report [Appendices 2-4 are exempt, Appendix 5 is also partially exempt]
Executive summary	<p>The Board is asked to review and scrutinise the decision of the Cabinet taken on 9 March 2022 in relation to the Homelessness Health Hub, following the receipt of a valid call-in request from the pre-requisite number of councillors.</p> <p>In accordance with the Constitution, the Board must determine whether or not to offer any advice in relation to the decision. If advice is offered, Cabinet will be required to reconsider the decision and consider any advice offered.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <p>the Overview and Scrutiny Board consider the reasons submitted in the request for call-in, review and scrutinise the decision of the Cabinet against these reasons, and determine whether to offer any advice to Cabinet.</p>
Reason for recommendations	The Constitution prescribes the process for the call-in of decisions. It is for the Overview and Scrutiny Board to determine whether it wishes to offer any advice to the Cabinet.
Portfolio Holder:	Not applicable
Corporate Director	Graham Farrant (Chief Executive)
Report Authors	Richard Jones (Head of Democratic Services) Sarah Culwick (Deputy Head of Democratic Services)
Wards	Council-wide
Classification	For Decision

Background

1. The Cabinet made a decision on 9 March 2022 in relation to the Homeless Health Hub. The decision was published on 10 March 2022. A copy of the decision, an extract of the minutes and the original report presented to the Cabinet are appended to this report.
2. Any decision which is not subject to urgency provision shall not come into force, and may not be implemented, until the expiry of five clear working days after the decision was made, recorded and published, pending call-in. The call-in period commenced on 10 March 2022, closing on 17 March 2022.

Requirement for Valid Call-In

3. The procedure within the Constitution states that the Monitoring Officer will consider the Call-In request and confirm its validity or otherwise. A valid Call-In request must comply with the following:
 - (a) Have the correct number of signatures
 - (b) Give reasons for the Call-In. The reasons must set out the grounds upon which the Call-In is based with reference to Rule 14.2 of Part 4C of the Constitution and the evidence to support the grounds. Reasons must be legitimate and not designated to create an obstacle to or delay the proper transaction of business nor should they be vexatious, repetitive, or improper in any other way.

Number of signatories (a)

4. In terms of the number of councillors who are required to make a request, the provisions in the Constitution provide that any three or more members of the Overview and Scrutiny Board, or alternatively 10 Councillors (who are not members of the Cabinet), may submit a Call-In notice, in writing, within the period specified, to the Monitoring Officer of their nominated representative. In this case 3 Councillors all members of the Overview and Scrutiny Board have been named as requesting the Call-In. The Monitoring Officer has therefore accepted the call-in notice as valid in respect of the number of signatures required.

Reasons for Call-In (b)

5. Part 4C Procedure Rule 14 (Call-In) states that:

Call-In is the exercise of Overview and Scrutiny's statutory power to review an Executive decision which has been made but not carried out. Call-In should only be used in exceptional circumstances. This Rule shall apply to a decision of the Cabinet, the Leader, Portfolio Holder or a Key Decision made by an Officer and there are reasonable grounds that one of the following is applicable: -

 - (a) *The decision was not made in accordance with the principles of decision-making set out in Article 12 of this Constitution*
 - (b) *The decision was neither published in accordance with the requirements for the Cabinet Forward Plan and not subject to the 'general exception' or 'special urgency procedures' set out in this Constitution; or*
 - (c) *The decision is not in accordance with the Key Policy Framework or Budget*

6. The decision, which was a key decision, was made by the Cabinet at their meeting on 9 March 2022.
7. The question therefore is whether there are reasonable grounds that one of the three limbs of Procedure Rule 14, as set out above, apply. Neither (b) nor (c) apply, so the question is whether there are reasonable grounds that the decision was not made in accordance with the principles of decision-making set out in Article 12 of the Constitution. For ease of reference, these have been reproduced in full below.

Article 12 – Decision Making

1.1 *When the Council takes a decision it will do so in accordance with the following principles:*

- (a) *Be clear about what the Council wants to happen and how it will be achieved*
 - (b) *Ensure that the decision and the decision-making process are lawful*
 - (c) *Consider the Public Sector Equality Duty and its obligations under the Human Rights Act*
 - (d) *Consult properly and take professional advice from Officers*
 - (e) *Have due regard to appropriate national, strategic, local policy and guidance*
 - (f) *Ensure the action is proportionate to what the Council wants to happen*
 - (g) *Ensure the decisions are not unreasonably delayed*
 - (h) *Explain what options were considered and give the reasons for the decision*
 - (i) *Make the decision public unless there are good reasons for it not to be*
8. The email notices of call-in from the respective councillors list the grounds and reasons for the call-in as follows. Continuous paragraph numbering has been maintained for ease of reference.

Article 12 – 1.1 (d) - Consult properly and take professional advice from Officers

Reasons for Call-in

9. When the Council makes a decision it will consult properly and take professional advice from Officers;

On this occasion the council produced no information that it had consulted with partners and received confirmation of support from one or more to take on the proposed organisation or provide funding to support the project. Furthermore, it was clear from the paper presented to the Overview and Scrutiny Board that the advice of the officers was that this would not be good value for money and therefore the Cabinet have not taken professional advice from officers.

Article 12 – 1.1 (f) - Ensure the action is proportionate to what the Council wants to happen

Reasons for Call-in

10. When the council makes a decision it will ensure the action is proportionate to what the Council wants to happen;

The decision to spend close to £1m on a homeless hub without establishing the number of people that will be supported by the centre means that it cannot be established whether this investment is proportionate. The statements made throughout the process that this was not intended to be a service for people who are homeless but not on the streets suggests that the individuals who access this service will be very small and therefore the investment would not be proportionate. The councils stated aim in the homelessness reduction strategy is to reduce homelessness and rough sleeping to as close to zero as possible and so the centre is likely to become redundant if the aim is achieved.

Article 12 – 1.1 (h) - Explain what options were considered and give the reasons for the decision

Reasons for Call-in

11. When the council makes a decision it will explain what options were considered and give the reasons for the decision;

Whilst the paper presented to cabinet and scrutinised by the O & S Board explained what options were considered, it did not give reasons for the decision. The paper also stated that there was no preferred option and that 4 were being presented for consideration. However, when the lead member introduced the paper to the Board they stated that the 'preferred option was option 4'. Further, at cabinet there was no discussion around the various options and a decision was taken to progress option 4 without good reasons for the other options being disregarded.

Article 12 – 1.1 (i) - Make the decision public unless there are good reasons for it not to be

Reasons for Call-in

12. When the council makes a decision, it will make the decision public unless there are good reasons for it not to be.

Whilst the purchase price of the homeless health hub could be considered commercially sensitive, the options regarding the way forward did not need to be in confidential session, nor did the discussion around the options. The reason that the decision had to come before cabinet was that the original proposal was found to have grossly underestimated the works required, to not have considered the need to receive a market value for the property under Charity Commission rules and this demonstrated a failing in the process that the public have a right to understand.

Options for Overview and Scrutiny Board to Offer Advice

13. The Constitution prescribes the call-in procedure. It is for the Board to consider the matter and decide whether to offer any advice to the Cabinet.
14. If the Board decides not to offer any advice to Cabinet, then the decision may be implemented immediately. If advice is offered, the Cabinet will be required to reconsider the decision in light of the advice of the Board.
15. Where a matter is considered and advice is offered by the Overview and Scrutiny Board, its advice will be submitted to the Cabinet for a decision to be made on the matter. The Cabinet shall consider the advice, but shall not be bound to accept it in whole or in part. It shall have sole discretion to decide on any further action to be taken in relation to the decisions in question, including confirming, with or without amendment, the original decision or deferment pending further consideration, or

making a different decision. There are no further rights to enable a Councillor to submit a Call-In notice. The decision may then be implemented.

Summary of financial implications

16. There are no financial implications arising from this report.

Summary of legal implications

17. The law relating to call-in originates from the Local Government Act 2000 which establishes that scrutiny has a power to review or scrutinise decisions made but not implemented by the executive.
18. The Constitution, (Part 4, Section C) prescribes the Council's procedures pursuant to the regulations.
19. The right of Call-in should only be used in exceptional circumstances and not as a means of delaying a decision. It is an established part of the checks and balances on the Executive.

Summary of human resources implications

20. There are no human resource implications arising from this report.

Summary of sustainability impact

21. There are no sustainability issues arising from this report.

Summary of public health implications

22. There are no public health implications arising from this report.

Summary of equality implications

23. There are no equality implications arising from this report.

Summary of risk assessment

24. The procedures for processing and considering call-in requests is detailed in the Council's Constitution. There are no specific risks associated with this report, however, failure to comply with the Council's procedure rules would give rise to potential reputational damage or legal challenge.

Background papers

Published works

Appendices

Appendix 1 – Extract of Decision Notice - Cabinet – 9 March 2022

Appendix 2 – Extract of the Confidential Minutes from the 9 March 2022 Cabinet
[Confidential by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act]

Appendix 3 – Recommendations from the Overview and Scrutiny Board – *[Confidential by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act]*

Appendix 4 – Extract of the Confidential Minutes from the Overview and Scrutiny Board [*Confidential by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act*]

Appendix 5 – Cabinet Report from the 9 March 2022 meeting including the exempt appendices. [*Note Appendix A is Confidential by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act*]