

# OVERVIEW AND SCRUTINY BOARD



Report subject	<b>Call-in of Decision - Pay and Reward Final Position</b>
Meeting date	23 September 2024
Status	Public Report
Executive summary	<p>The Board is asked to review and scrutinise the decision of the Cabinet taken on 4 September 2024 in relation to the item of business relating to 'Pay and Reward Final Position', 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 in light of the advice but is not obliged to follow it.</p>
Recommendations	<p><b>It is RECOMMENDED that:</b></p> <p><b>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.</b></p>
Reason for recommendations	<p>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.</p>
Portfolio Holder(s):	Councillor Jeff Hanna, Portfolio Holder for Transformation and Resources
Corporate Director	Graham Farrant, Chief Executive
Report Authors	<p>Janie Berry, Director of Law and Governance and Monitoring Officer</p> <p>Richard Jones, Head of Democratic Services and Deputy Monitoring Officer</p>
Wards	Not applicable
Classification	For Decision

## Background

1. On 4 September 2024 Cabinet agreed the final negotiated position and financial costs associated with implementing pay and reward and delegated to the Chief Executive, in consultation with the Leader of the Council, authority to make any final adjustments to the scheme and to implement the final arrangements. The decision was published on 4 September 2024. 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 key 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 4 September 2024, closing on 11 September 2024.

## 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 14.3 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 or their nominated representative. In this case 3 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 14.3 (Call-In) states that:

*Call-In is the exercise of Overview and Scrutiny's statutory power to review an Executive Key Decision which has been made but not carried out. Call-In should only be used in exceptional circumstances. This Rule shall apply to a Key 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 4 September 2024.
7. The question therefore is whether there are reasonable grounds that one of the three elements of Procedure Rule 14.3, as set out above, apply. The Council's Monitoring Officer has determined that neither (b) nor (c) apply in this instance, 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 makes a decision it will:**

- (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; and*
- (j) *take into account the Council's statutory duties and responsibilities relating to counter-terrorism, prevention of violent extremism and the Prevent channel.*

### **Call-In Content by the 3 Councillors**

8. The valid call-in element, submitted by the Chair of Overview and Scrutiny Board, Councillor Stephen Bartlett and supported by Councillor Philip Broadhead and Councillor John Beesley, is set out below:

#### **“Article 12 - 12.1 (h) - Explain what options were considered and give the reasons for the decision**

##### **Reasons for Call-in**

*“Para 8 of the pay and reward report presented to cabinet states “All other models that have been explored, including the option of fixed spot rates rather than pay bands have been significantly more expensive to implement and sustain and are not affordable within the Council's challenging financial position and have therefore been discounted”.*

*“The report does not provide any detail or supporting evidence to substantiate this statement. Indeed, the report states all other models have been*

discounted. This statement assumes therefore, that there are no other options possible. But this is the authors opinion, and it is not for the report author to pre-empt the decision, when other options are available and could be preferable to the decision maker for reasons unknown to the author.

“This reflects a lack of objectivity within the report forcing the decision maker to consider only one option when clearly other options exist.

“Para 7 of the pay and reward report states the final pay offer is based on the original offer which comprises a pay-banding structure for salaries and refers to Appendix 2 of the report. Appendix 2 shows the pay bands, but it does not give the reasons why the annual increment payments are made, or why the number of annual increments differ between different bands. Some pay bands have no increments, whilst others have initially seven reducing to six at the end of the implementation period. Data is not presented to show the financial or inequality impacts of the increment payments, making it impossible for the decision maker to understand or even be aware of the significant impact this has for employees or the cost to the Council. It is not possible to make a considered decision on the pay and award system without this knowledge or understanding.

“Para 2 of the Pay and Reward report states the project will introduce a single pay structure and will address any inconsistencies and inequalities in pay across the organisation ensuring colleagues are fairly and equally compensated for their work and that colleagues doing the same level of work will receive equal pay. This statement is not supported with data, alternative options, or information to allow the decision maker to understand if this statement is correct. An analysis of data not contained in the report will show that pay differentials between staff on the same band will be up to 15%. This, combined with different numbers of annual increments between different pay bands, results in a pay structure that does not ensure colleagues are treated equally or fairly and that colleagues doing the same work will receive equal pay.”

### **Options for the Overview and Scrutiny Board to Offer Advice**

9. 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.
10. 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.
11. Where a matter is considered and advice is offered by the 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**

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

### **Summary of legal implications**

13. 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.
14. The Constitution, (Part 4, Section C) prescribes the Council's procedures pursuant to the regulations.
15. 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**

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

### **Summary of sustainability impact**

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

### **Summary of public health implications**

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

### **Summary of equality implications**

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

### **Summary of risk assessment**

20. 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 – 4 September 2024

Appendix 2 – Extract of the minutes of Cabinet – 4 September 2024

Appendix 3 – Original report presented to Cabinet – 4 September 2024