

Call-In Sub-Committee

Minutes

6 July 2022

Present:

Chair: Councillor Amir Moshenson

Councillors: June Baxter Rashmi Kalu
Govind Bharadia Jerry Miles

**In attendance
(Councillors):** Simon Brown For Minute 6
Graham Henson For Minute 6
Paul Osborn For Minute 6
Nitin Parekh For Minute 6
David Perry For Minute 6
Natasha Proctor (Online) For Minute 6

1. Attendance by Reserve Members

RESOLVED: To note that there were no reserve Members in attendance at the meeting.

2. Declarations of Interest

RESOLVED: To note that there were no declarations of interests made by Members.

3. Minutes

RESOLVED: That the minutes of the meeting held on 14 June 2021 be taken as read and signed as a correct record.

Resolved Items

4. Appointment of Vice-Chair

RESOLVED: To appoint Councillor Jerry Miles as Vice-Chair of the Call-In Scrutiny Sub-Committee for the 2022/2023 Municipal Year.

5. Protocol for the Operation of the Call-In Sub-Committee

The Chair advised that the call-in notice had been received and drew attention to the document “Protocol for the Operation of the Call-In Sub Committee” contained in the Agenda pack.

He outlined the procedure to be followed at the meeting and the options open to the Sub-Committee at the conclusion of the process.

In accordance with Committee Procedure Rule 46.5, a notice seeking to invoke the call in procedure must state at least one of the following grounds in support of the request for a call-in of the decision:

- a) inadequate consultation with stakeholders prior to the decision;
- b) the absence of adequate evidence on which to base a decision;
- c) the decision is contrary to the policy framework, or contrary to, or not;
- d) wholly in accordance with the budget framework;
- e) the action is not proportionate to the desired outcome;
- f) a potential human rights challenge;
- g) insufficient consideration of legal and financial advice.

Referring to paragraph 8 of the Protocol, the Chair stated that the Sub-Committee, having considered the grounds for the call-in and the information provided at the meeting, may come to one of the following conclusions:

- 1) that the challenge to the decision should be taken no further and the decision be implemented;
- 2) that the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework and should therefore be referred to the Council. In such a case the Call-in Sub-Committee must set out the nature of its concerns for Council; or
- 3) that the matter should be referred back to the decision taker (that is, the Portfolio Holder or Executive, whichever took the decision) for reconsideration. In such a case the Call in Sub Committee must set out the nature of its concerns/reasons for referral for the decision taker/Executive.

6. Call In of the Cabinet Decision (23 June 2022) - Investment into Harrow's Tennis Infrastructure

The Sub-Committee received the notices in respect of the call-in submitted by six Members of the Council in relation to a decision made by the Cabinet on 23 June 2022, on Investment into Harrow's Tennis Infrastructure.

The Chair advised the Sub-Committee on the suggested order of proceedings and reminded Members of the timings allowed for submissions and questions.

The Chair then invited the representative of the signatories to present their reasons for the call-in.

The representative began by explaining that the call in was on the decision to outsource operations of the tennis courts to an external provider and introduce charging, without any prior consultation.

The call in was based on the following five reasons.

1. Inadequate consultation with stakeholders prior to the decision

- a) there had been no consultation with Ward Councillors prior to Cabinet making the decision to outsource the running of the publicly owned tennis courts within the parks in Harrow for profit;
- b) there had been no consultation with the Park User Groups prior to Cabinet making the decision to outsource the running of the tennis courts, as per the contract set out in the Park User Groups – Operational Framework;
- c) there had been lack of adequate consultation with current users of the tennis courts in Harrow and whether they supported or opposed the role out of charging and outsourcing to an external provider;
- d) the Cabinet report ignored and did not take into account the COMPACT agreement with the voluntary and community sector regarding consultation prior to a decision being made that would impact the sector;
- e) there had been lack of consultation with debt advice charities who had more relevant data on Harrow residents and their ability to pay, or not;
- f) the lack of consultation with way the decision was made contradicted the Nolan Principles; in particular, openness and personal judgement. For example, the decision to outsource had been made prior to consultation, therefore, ignored any views that may be made;

- g) the lack of communication or consultation had damaged future partnership working and relationships with residents and community groups.

2. The absence of adequate evidence on which to base a decision

The Cabinet report had insufficient information on the risks associated with the decision to outsource, particularly the potential impact on youth services and groups, spontaneous play, ability to pay, Park User Groups and schools.

Insufficient attention had been paid to potential “unintended consequences” of outsourcing the running of the service:

- there was no evidence base or pricing structure to support the decision. It is noted that the tennis operator would be responsible for the pricing strategy;
- there were no contract limits on profits by the provider; and
- free play would be forced into non-prime times, which would exclude weekends and evenings.

3. The decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework

The decision contradicted Council agreed policies that ensured there was free access to sports facilities through a joined-up, cross-sector approach to delivery.

Harrow Physical Activity and Sports Strategies, and the Public Health Polices, which were currently being updated, were clear that free access to sport was key for healthier lifestyles. By introducing charges to be set by an unknown provider, prior to any consultation, undermined the basic principle of free access to sports.

4. The action is not proportionate to the desired outcome

- a) there was no mention within the report as to how the decision was proportionate to achieving the Councils agreed vision and priorities as set out in the agreed Borough Plan; and
- b) the sports facilities provided in parks should not be used to raise money or profit.

5. A potential human rights challenge

As part of their Personal, social and emotional development (PSED), Cabinet were required to take due regard of equality implications when making decisions.

The Equality Impact Assessment (EqIA) did not respond to the growing cost-of-living crisis and longer-term inflation predictions, which would have a socio-economic impact on accessibility for an increasing number of residents for many years.

The Equality Impact Assessment (EqIA) did not reference the economic data accessible to the council, which was highlighted within the Young Harrow Foundation HAY report:

- a) that the number of younger people living in poverty was much higher than Office for National Statistics (ONS) were stating;
- b) cost was a growing barrier for many to access gyms and sports facilities – with over 50% did not go to a gym, sports or exercise club at least once a week, and therefore, introducing costs would be a further barrier to access these facilities.

In response, a representative of the Portfolio Holder and Cabinet informed the Sub-Committee that the call in request specifically related to Recommendation 3 in the Cabinet Report and made a number of assertions, which could be broadly grouped under the headings of consultation, compliance with procedure and undertakings with external groups, inadequate evidence upon which to make a decision (including pricing and outsourcing), free access to provision, and the negative impact on residents of implementing the recommendations in the Cabinet Report.

The reasons were spurious. The Cabinet Report included a recommendation for the agreement and implementation of a consultation strategy. There was no evidence of non-compliance with policy and procedure as set out in the Harrow Constitution. If the Cabinet Report was implemented, it would maintain an element of free access to the courts. The free access would provide free coach led sessions and the provision of rackets to play tennis. This would provide access to many people that did not have rackets or where the local tennis court is unplayable. The Cabinet Report did not introduce charging, as fees and charges for hiring tennis courts were annually agreed by previous Labour Administrations. However, the council failed to implement a booking system or collect the fees. The Lawn Tennis Association (LTA) had provided evidence demonstrating demand for tennis in Harrow, and undertaken a technical assessment of the courts in Harrow's parks.

The Cabinet Report was not calling for the introduction of charges, because there had always been a charging regime in place in the Fees and Charges schedule. The last Labour Cabinet agreed in January 2022 to increase fees and charges from £10.70 to £11.20 for adults. Many of the Councillors requesting the call in of the Cabinet Report were members of the last Administration, and agreed to a charge £11.20 an hour for the hire of tennis courts.

Under the past Labour Administrations, there has been no collection fees, or monitoring whether any fees were ever collected. Those failures were consistent with a failure to invest in Harrow's tennis courts. If the Cabinet Report was adopted, there would be investment in the tennis courts, and

residents would have access to free coach led sessions in all the courts in Harrow. This would include the provision of tennis rackets for residents. This would help raise physical activity levels especially to residents on lower incomes.

The Sub-Committee adjourned from 7:55 pm to 8:30 pm for deliberations.

RESOLVED: That the challenge to the decision should be taken no further and the decision be implemented.

(Councillors Rahmi Kalu and Jerry Miles requested to be recorded as having voted against the Sub Committee's resolutions to take no further action on notice reasons 1, 2, 4 and 5, which were agreed by majority of votes. The resolution related to notice reason 3 was agreed unanimously.)

(Note: The meeting, having commenced at 6.30 pm, closed at 8.35 pm).

(Signed) Councillor Amir Moshenson
Chair