

CALL-IN SUB-COMMITTEE MINUTES

25 FEBRUARY 2014

Chairman: * Councillor Jerry Miles

Councillors: † Sue Anderson * Asad Omar (1)
* Chris Mote † Anthony Seymour

In attendance: * Paul Osborn Minute 70
(Councillors)

* Denotes Member present
(1) Denotes category of Reserve Member
† Denotes apologies received

65. Attendance by Reserve Members

RESOLVED: To note the attendance of the following duly constituted Reserve Members:

Ordinary Member

Reserve Member

Councillor Mano Dharmarajah

Councillor Asad Omar

66. Declarations of Interest

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

67. Appointment of Vice-Chairman

RESOLVED: That Councillor Chris Mote be appointed Vice-Chairman of the Call-In Scrutiny Sub-Committee for the remainder of the 2013-14 municipal year.

68. Minutes

RESOLVED: That the minutes of the meeting held on 5 November 2013 be taken as read and signed as a correct record.

RESOLVED ITEMS

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

The Chair drew attention to the document 'Protocol for the Operation of the Call-In Sub-Committee'. 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 wholly in accordance with the budget framework;
- (d) the action is not proportionate to the desired outcome;
- (e) a potential human rights challenge;
- (f) insufficient consideration of legal and financial advice.

He informed the Sub-Committee that the grounds (a) - (f) had been cited on the Call In notice, of which grounds (a), (b) and (e) had been deemed to be valid for the purposes of Call-In.

RESOLVED: That the Call-In would be determined on the basis of the following grounds:

- (a) inadequate consultation with stakeholders prior to the decision;
- (b) the absence of adequate evidence on which to base a decision;
- (e) a potential human rights challenge.

70. Call-In of the Portfolio Holder Decision - Civic Amenity Site: Policies and Charges

The Sub-Committee received the papers in respect of the call-in notice submitted by 6 Members of Council in relation to the decision made by the Portfolio Holder for Community Safety and Environment on Civic Amenity Site: Policies and Charges.

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 invited the lead representative of the signatories, Councillor Graham Henson, to present the reasons for the call in of the decision to the Sub-Committee.

He stated that the Council was bound to operate in an open, honest and transparent manner, to consult widely and listen to residents' views. This decision would result in a selected group of residents being charged for a service without an opportunity to consider their objections and alternative options.

He believed that the consultation had been inadequate; he himself had learned of the change via the local press. In his view the decision had a wide ranging impact and should therefore have been treated as a key decision and followed the correct procedure for such a decision, particularly in respect of advance notice.

In respect of evidence, the report did not demonstrate how the decision was arrived at, nor how it would reduce aggressive behaviour on the part of site users. No alternative options had been provided, and no consideration had been given to negative outcomes, such as an increase in fly-tipping. In seeking to address the behaviour of a minority, many law-abiding residents would be affected. Furthermore, no Equality Impact Assessment (EqIA) had been provided, and it was impossible to judge if certain groups would be adversely affected; for instance, many disabled people used vehicles classified as vans.

Finally, the decision was likely to have an adverse impact on the environment, as residents prevented from using the site were more likely to dispose of waste illegally.

The Portfolio Holder for Community Safety and Environment expressed her surprise and disappointment that the decision had been called in, as it had been taken in response to a serious threat to the safety of staff at the depot, who had been the subject of aggressive behaviour and physical threats, to such a degree that they were unwilling to give evidence in criminal prosecutions.

In her view, the main stakeholders in this situation were the staff, who had been consulted upon the changes. The Council had a duty to ensure a safe environment for staff; they had worked with the police and anti-social behaviour teams to address problems, and additional measures had been introduced to minimize the ability of dissatisfied and unlawful site users to treat staff badly.

The Portfolio Holder informed the sub-committee that an EqIA had been undertaken, and its findings had been summarized and reported in the main document. As no issues had been identified, it had not been considered necessary to append it to the report.

In her view, a clear policy would reduce arguments and dispute, and this policy would bring Harrow in line with neighbouring boroughs, thereby preventing residents of other boroughs taking advantage of Harrow's more lenient access rules. Of 200,000 trips to the depot each year, some 3,500 would be affected by the change and charges. She did not consider that this would cause a disproportionate impact. A Member added that to qualify as a key decision, there would have to be a 'significant' impact, and he was satisfied that this was not the case here.

In conclusion the Portfolio Holder reiterated her view that the safety of staff was the primary concern and the current situation required immediate action. The policy would, in any event, be reviewed in 3 months.

In response to the Portfolio Holder's remarks the Lead Signatory stated that the safety of staff was equally a priority for him, and to suggest otherwise was offensive. However, this concern did not obviate the need to adhere to process, and consultation had not taken place; clearly he could not support a policy or action unless he was aware of it. He repeated his view that the decision was indeed 'key', as it affected more than two wards in applying equally to all residents across the borough.

Members considered a definition of 'van' and how this would be assessed by staff at the depot. In response to Members' concerns about whether disabled residents would be adversely affected by the new policy, an officer advised that a separate means of disposal was already in place for disabled drivers.

(The Sub-Committee then adjourned from 6.05 pm until 6.15 pm to receive legal advice.)

The Chair announced the decision of the Sub-Committee and it was

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

(Note: The meeting, having commenced at 5.00 pm, closed at 6.20 pm).

(Signed) COUNCILLOR JERRY MILES
Chairman