



Havering

LONDON BOROUGH

GOVERNANCE COMMITTEE AGENDA

7.30 pm

**Tuesday
25 June 2019**

**Committee Room 2 -
Town Hall**

Members 11: Quorum 4

COUNCILLORS:

**Conservative Group
(6)**

Robert Benham (Vice-Chair)
Michael White (Chairman)
Joshua Chapman
Roger Ramsey
Damian White
Christine Vickery

**Residents' Group
(2)**

Ray Morgon
Barry Mugglestone

**Upminster & Cranham
Residents' Group (1)**

Linda Hawthorn

**Independent
Residents' Group
(1)**

David Durant

**Labour Group
(1)**

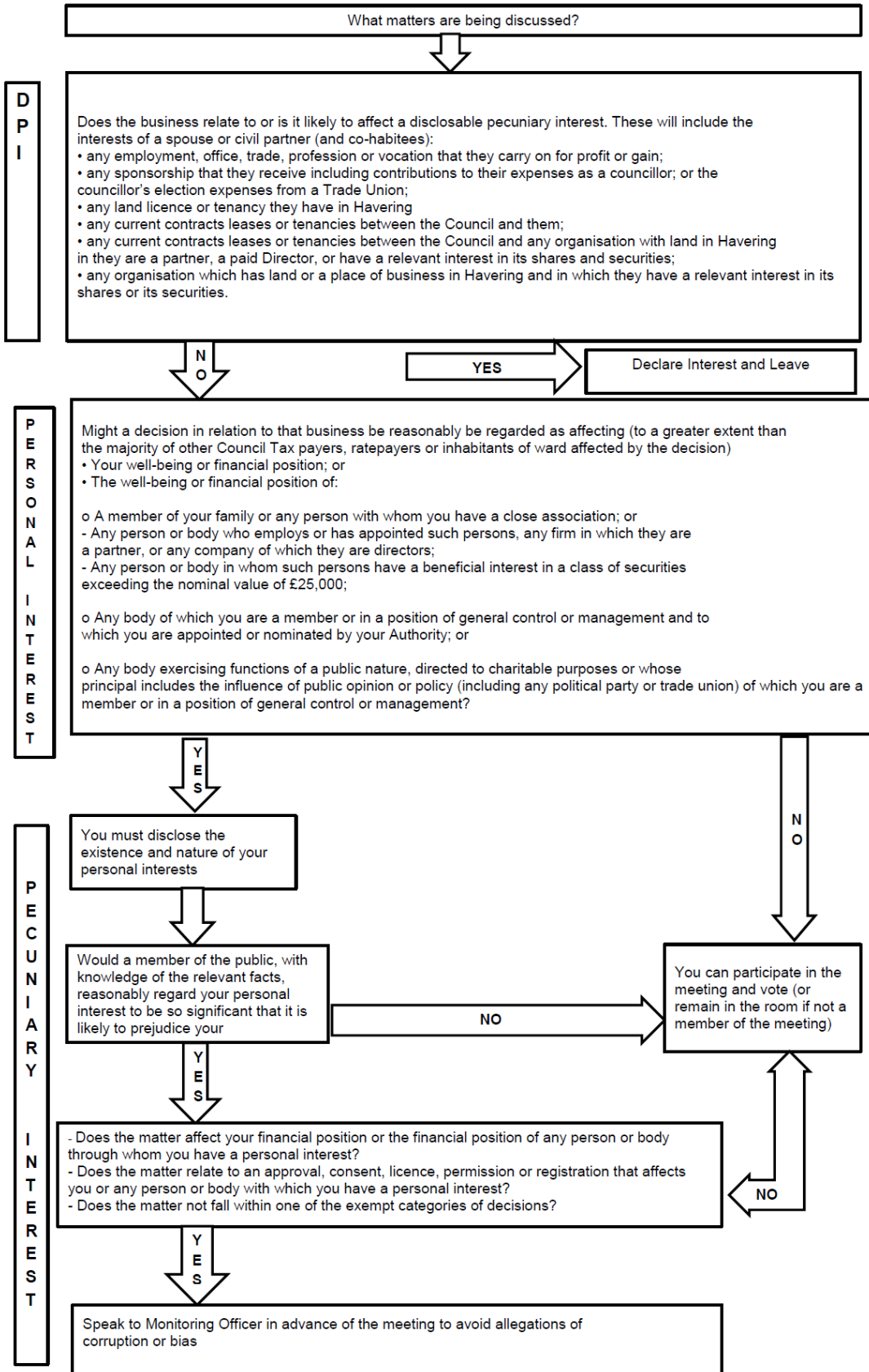
Keith Darvill

**North Havering Residents
Group (1)**

Darren Wise

**For information about the meeting please contact:
Debra Marlow tel: 01708 433091
e-mail: debra.marlow@onesource.co.uk**

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

2 APOLOGIES FOR ABSENCE & SUBSTITUTE MEMBERS

(If any) - receive

3 DISCLOSURE OF INTERESTS

Members are invited to disclose any interest in any of the items on the agenda at this point of the meeting.

Members may still disclose any interest in any item at any time prior to the consideration of the matter.

4 MINUTES (Pages 1 - 10)

To approve as a correct record the minutes of the Committee held on 21 May, 2019, and to authorise the Chairman to sign them.

5 CHANGES TO THE CONSTITUTION (Pages 11 - 18)

6 REVIEW OF CALL-IN PROVISIONS (Pages 19 - 36)

Andrew Beesley
Head of Democratic Services

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**MINUTES OF A MEETING OF THE
GOVERNANCE COMMITTEE
Council Chamber - Town Hall
21 May 2019 (8.15 - 8.35 pm)**

Present:

COUNCILLORS

Conservative Group	Robert Benham (Vice-Chair), Michael White (Chairman), Joshua Chapman, Viddy Persaud+ and Robby Misir+
Residents' Group	Ray Morgon and Barry Mugglestone
Upminster & Cranham Residents' Group	Linda Hawthorn
Independent Residents Group	David Durant
Labour Group	Keith Darvill
North Havering Residents Group	Darren Wise

Apologies were received for the absence of Councillors Damian White who was substituted by Councillor Robby Misir+ and Roger Ramsey who was substituted by Councillor Viddy Persaud+.

All decisions were taken with no votes against.

The Chairman reminded Members of the action to be taken in an emergency.

1 DISCLOSURE OF INTERESTS

There were no declarations of interest.

2 APPOINTMENTS TO OUTSIDE BODIES

Consideration was given by the Governance Committee to the appointments to outside bodies.

The Committee proceeded to make all necessary appointments.

Voting was required for the appointments to:

- Local Government Information Unit; and

- London Road Safety Council.

Councillor Damian White and Councillor Linda Hawthorn were both nominated and seconded for the position on the Local Government Information Unit.

Following a vote, **Councillor White was appointed.**

Voting was as follows:

For Councillor White: Cllrs Benham, M. White, Misir, Wise, Chapman and Persaud.

For Councillor Hawthorn: Cllrs Morgon, Mugglestone, Durant and Darvill.

Councillor Robert Benham and Councillor Linda Van De Hende were both nominated and seconded for the position on the London Road Safety Council.

Following a vote, **Councillor Benham was appointed.**

Voting was as follows:

For Councillor Benham: M. White, Misir, Wise, Chapman and Persaud.

For Councillor Van De Hende: Cllrs Morgon, Mugglestone, Durant and Darvill.

All other appointments were made as per the schedules attached.

Chairman

APPOINTMENTS RECOMMENDED BY THE COUNCIL TO OTHER ORGANISATIONS, 2019/20

ORGANISATION AND NUMBER OF APPOINTEES	EXECUTIVE MEMBER APPOINTMENTS	
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CEME (Centre for Engineering & Manufacturing Excellence) - 1

Director of Neighbourhoods

East London Waste Authority - 2

Cllr Osman Dervish and Cllr Robert Benham

East London Waste Authority Board (officer)

Director of Neighbourhoods

**London Councils
(Leaders' Committee)**

Representative (1): Leader of the Council – ***Cllr Damian White***
 Deputy: (1) Deputy Leader of the Council – ***Cllr Robert Benham***
 (2) ***Cllr Roger Ramsey***

Transport & Environment Committee

Representative (1): ***Cllr Osman Dervish***
 Deputies (up to 4): ***Cllr Jason Frost***
Cllr Viddy Persaud
Cllr Robert Benham
Cllr Roger Ramsey

Grants Committee

Representative (1): ***Cllr Viddy Persaud***

Deputy (up to 4): ***Cllr Jason Frost***

Appointments to other organisations, 2018/19

Pensions CIV (Sectorial Joint Committee)	Representative (1): Chairman of Pensions Committee – <i>Cllr John Crowder</i> Deputy (up to 2): <i>Cllr Jason Frost and Cllr Joshua Chapman</i>
Greater London Employment Forum	Representative (1): <i>Cllr Robert Benham</i> Deputy Representative (1): <i>Cllr Viddy Persaud</i>
Newable (formerly Greater London Enterprise Limited) -1	Leader of the Council – <i>Cllr Damian White</i>
London Riverside (BID) Ltd	Representative (1): Leader of the Council – <i>Cllr Damian White</i>
Thames Gateway Strategic Group	Leader of the Council and Cabinet Member for Environment - <i>Cllr Damian White and Cllr Osman Dervish</i>

Appointments to other Organisations 2019/20

ORGANISATION AND NUMBER OF APPOINTEES	MEMBER APPOINTED (Non Executive Appointments)	COMMENTS AND NOTES
Adoption & Permanency Panel-2	Cllr Christine Smith and Cllr Gillian Ford	
Citizens Advice Havering - 2	COUNCILLOR CHRISTINE SMITH <i>One vacancy remaining</i>	
Coopers Company & Coborn Educational Foundation	Cllr Chris Wilkins	
Essex Wildlife Trust (Bedfords Park Management Committee)	Cllr Ray Best	
Governor Panel - 3	Cllr Robert Benham, Cllr Gillian Ford and Cllr Paul McGeary	
Havering Arts Council - 5	Cllr Jason Frost, Cllr Tim Ryan, Cllr Joshua Chapman, Cllr Linda Hawthorn and Cllr Tele Lawal	

Appointments to other Organisations 2019/20

ORGANISATION AND NUMBER OF APPOINTEES	MEMBER APPOINTED (Non Executive Appointments)	COMMENTS AND NOTES
Havering Association for People with Disabilities - 2	Cllr Christine Smith and Cllr Stephanie Nunn	
Havering Bands and Majorettes Association- Executive Committee - 3	Cllr Reg Whitney, Cllr Osman Dervish and Cllr Denis O'Flynn	
Havering Chamber of Commerce and Industry	Cllr Jason Frost	
Havering Children's Trust	Cabinet Member for Education, Children & Families – Cllr Robert Benham	
Havering Community Safety Partnership – 2	Cabinet Member for Public Protection and Safety – Cllr Viddy Persaud the Chief Executive – Andrew Blake-Herbert	
Havering Joint Forum - 6	Leader of the Council – Cllr Damian White, Deputy Leader of the Council – Cllr Robert Benham, Leader of the Opposition Group – Cllr Ray Morgon Cllr Michael White Cllr Linda Hawthorn Cllr Keith Darvill	
ORGANISATION AND NUMBER OF APPOINTEES	MEMBER APPOINTED (Non Executive Appointments)	COMMENTS AND NOTES

Appointments to other Organisations 2019/20

ORGANISATION AND NUMBER OF APPOINTEES	MEMBER APPOINTED (Non Executive Appointments)	COMMENTS AND NOTES
Havering Sports Council - 5	Cabinet Member for Public Protection and Safety – Cllr Viddy Persaud, Cllr Ciaran White, Cllr Sally Miller, Cllr Linda Hawthorn and Cllr Tele Lawal	
Havering Sixth Form College - 1	Mrs Wendy Brice Thompson (till 30 September 2020)	<i>Will not require Councillor appointment until September 2020</i>
Havering Theatre Trust - 3	Cllr Philippa Crowder, Cllr Gillian Ford and Cllr Paul McGeary	
<i>Hornchurch Housing Trust (Nomination Trustees) - 6</i>	<i>Cllr Damian White and Cllr Carol Smith (until February 2021) Cllr John Mylod and Cllr Nic Dodin (until February 2022) Cllr Joshua Chapman and Cllr Melvin Wallace (until February 2023)</i>	<i>Cllr Chapman , Cllr Mylod & Cllr Wallace appointments agreed at Governance on 7.03.19</i>

Appointments to other Organisations 2019/20

Local Government Association General Assembly - 4	Leader of the Council – Cllr Damian White, Leader of the Opposition - Cllr Ray Morgon Councillor Robert Benham Councillor Michael White	
Local Government Information Unit - 1	VACANCY	Cllr Damien White (elected)
London Home & Water Safety Council -1	Cabinet Member for Environment – Cllr Osman Dervish	
London Road Safety Council - 2	VACANCY and Cllr Osman Dervish	Councillor Robert Benham (elected)
London Youth Games-1	Cabinet Member for Public Protection and Safety – Cllr Viddy Persaud	
<i>Lucas Children’s Play Charity Nominative Trustees – 2</i>	<i>Cabinet Member for Education, Children & Families (Cllr Robert Benham) and Cllr Gillian Ford (appointed till November 2019)</i>	<i>Agreed at Governance on 11.11.15</i>

Appointments to other Organisations 2019/20

ORGANISATION AND NUMBER OF APPOINTEES	MEMBER APPOINTED (Non Executive Appointments)	COMMENTS AND NOTES
North East London NHS Foundation Trust – 1	Director of Adult Services – Barbara Nicholls	
Poyntz (a.k.a. Richard Poyntry’s) and other charities	Mrs June Alexander(until March 2020) VACANCY (until March 2020) and Rev. Michael Sparrow (until March 2020)	Appointed by Governance on 9 March 2016 Cllr Ron Ower - Unopposed
Relate North East - 2	Cllr Viddy Persaud and Cllr Carol Smith	
Reserve Forces & Cadets Association -1	Cllr Barry Mugglestone	
Romford Town Management Partnership	Cllr Robert Benham and Cllr Joshua Chapman	No longer in place
<i>Romford Combined Charity Nominative Trustees – 2</i>	<i>Councillor Joshua Chapman (until 3.11.20) and Mrs Wendy Brice Thompson and Councillor Dilip Patel (until 3.11.22) Councillor Melvin Wallace (until 3.11.19)</i>	<i>Cllr Chapman’s appointment agreed by Governance on 11 January 2017</i>
Safer Neighbourhood Board	Cabinet Member for Public Protection and Safety – Cllr Viddy Persaud	

Appointments to other Organisations 2019/20

ORGANISATION AND NUMBER OF APPOINTEES	MEMBER APPOINTED (Non Executive Appointments)	COMMENTS AND NOTES
Sight Action Havering	Cllr Christine Smith	Appointment agreed by Governance Committee on 7 November 2018
Standing Advisory Council for Religious Education (SACRE) - 5	Cllr Philippa Crowder, Cllr Judith Holt, Cllr Stephanie Nunn, Cllr Gillian Ford and Cllr Tele Lawal	
Tenant Management Organisations - 3	BETRA (Gooshays) – Cllr Paul McGeary DELTA (Squirrels Heath)- Cllr Melvyn Wallace PETRA (St Andrews’) – Cllr John Mylod	
Veolia ES Cleanaway Havering Riverside Trust - 1	Cllr Robert Benham	
Wennington Quarry Community Liaison Committee- 1 (until May 2022)	Cllr Paul McGeary	

GOVERNANCE COMMITTEE

Subject Heading:

Changes to the Constitution

SLT Lead:

Andrew Blake-Herbert
Chief Executive

Report Author and contact details:

Anne Brown, 01708 432091
Anne.Brown@havering.gov.uk

Policy context:

Governance

Financial summary:

None

The subject matter of this report deals with the following Council Objectives

- Communities making Havering
- Places making Havering
- Opportunities making Havering
- Connections making Havering

- ☐
- ☐
- ☐
- ☐

SUMMARY

This report proposes changes to the Constitution for recommendation to Council on Members’ common law right to access documents on a ‘need to know’ basis and the rules of procedure relating to budget setting.

RECOMMENDATIONS

That the Committee recommend to Council that:

1. the Protocol on Member/Officer Relations is amended to authorise the Monitoring Officer to decide, on a case by case basis, a Member's common law right to access documents; and
2. the Council's Budget and Policy Framework Rules are amended in accordance with paragraph 3.3 of this report.

REPORT DETAIL

1. Background

- 1.1 This report proposes changes to the Constitution for recommendation to Council on Members' common law right to access documents on a 'need to know' basis and the rules of procedure relating to budget setting.

2. Members' 'need to know'

- 2.1 The Council's Protocol on Member/Officer Relations (which is in Part 5 of the Constitution) includes a section on '*Access to information – 'Need to Know'*'. Members statutory, but qualified, rights of access to information are recorded in Part 4 of the Constitution (Rules of Procedure – Access to Information Procedure Rules).
- 2.2 In respect of non-executive decision making, Members have statutory rights by s100(F) of the Local Government Act 1972. In respect of executive decision making, Members have statutory rights by r16 and r17 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- 2.3 These rights are in addition to Members' common law right to access documents on a 'need to know' basis but such access is also subject to limitations. In other words, there is no unrestricted entitlement to see Council documents. A Member has to have good reason to see documents, i.e. it has to be necessary for the Member to be able to carry out his/her duties.
- 2.4 There are other exceptions too. According to case law, there is no right to a "roaming commission to go and examine ... documents ... because he is a councillor". Nor does a Member have a right to know if he/she has an indirect motive or purpose for obtaining the document. Further, even if there is an entitlement in principle, some documents may be so confidential that they cannot be disclosed without necessary redaction.

- 2.5 Members' common law right to access documents therefore has to be decided on a case by case basis. As well as demonstrating a need to know, the right has to be balanced against competing data protection and privacy rights and the need for confidentiality if circumstances so require.
- 2.6 Currently, the Protocol on Member/Officer Relations does not state in terms who is authorised to decide a Member's common law right to access documents. It is proposed therefore that the Protocol is amended to expressly authorise the Monitoring Officer to respond to any such requests on a case by case basis.
- 2.7 Members are asked to note that the Leader has also approved such a delegation to the extent that the right to access documents relates to executive decision making.

3. **Council procedure rules on budget setting**

- 3.1 The Local Authorities (Standing Orders) (England) Regulations 2001 (the Regulations) require local authorities to incorporate into their standing orders a mechanism for resolving disputes between Cabinet and Council when setting the budget and policy framework.
- 3.2 More specifically, according to r3(1)(b) a local authority operating executive arrangements in the form of a Leader and Cabinet must incorporate in standing orders for regulating its proceedings and business the provisions set out in Part II of Schedule 2 of the Regulations or provisions to the like effect (see **Appendix 1**). These provisions relate to Council's consideration each year of Cabinet's budget proposals for the following financial year.
- 3.3 In Part 4 of the Constitution, the Council's Budget and Policy Framework Procedure Rules are set out. At paragraph 2.9, provision is made for "an Executive Mayor" to object to any Council decision to amend the budget as proposed by Cabinet. As such a provision is of no relevance given the Council's Leader and Cabinet model of governance, it is proposed that it be replaced with the following:
- "2.9 If following consideration of the Executive's budget proposals, Council has any objection to them, it must inform the Leader of any objections which it has to the Executive's proposals and must give the Leader instructions requiring the Executive to reconsider, in the light of those objections, those proposals in accordance with Council's requirements.*
- 2.10 *Where Council gives instructions in accordance with paragraph 2.9, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the*

instructions on behalf of the Executive within which the Leader may:

2.10.1 submit a revision of the proposals as amended by the Executive, which have been reconsidered in accordance with Council's requirements, with the Executive's reasons for any amendments made to the proposals, to Council for Council's consideration; or

2.10.2 inform Council of any disagreement that the Executive has with any of Council's objections and the Executive's reasons for any such disagreement.

2.11 When the period specified by Council, as referred to in paragraph 2.10, has expired Council must, when setting the budget, take into account:

2.11.1 any amendments to the proposals that are included in any revised proposals;

2.11.2 the Executive's reasons for those amendments;

2.11.3 any disagreement that the Executive has with any of Council's objections; and

2.11.4 the Cabinet's reasons for that disagreement;

which the Leader submitted to Council, or informed Council of, within the period specified."

3.4 The practical effect of the statutory provisions is to put the brakes on Council if it is minded to vary or substitute Cabinet's budget proposals and require that Cabinet's views are considered before a budget for the following year is set.

3.5 However, the statutory provisions do not otherwise restrict Council's ability to regulate its proceedings and business. Accordingly, the stipulation that Cabinet submits its proposals before 8th February in any financial year has not been incorporated into the procedure rules as it does not fit in with the timetabling of meetings leading up to the setting of the budget each year.

IMPLICATIONS AND RISKS

Financial implications and risks:

None in relation to this report.

Legal implications and risks:

The relevant legislative and constitutional provisions have been referred to in the body of the report.

Human Resources implications and risks:

None.

Equalities implications and risks:

None directly arising from this report.

Background Papers

None.

Appendix 1 – Relevant provisions of Part II of Schedule 2 of the Regulations

6.

Subject to paragraph 10, where, before 8th February in any financial year, the authority's executive submits to the authority for its consideration in relation to the following financial year—

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of [sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ, of the Local Government Finance Act 1992];
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the authority has any objections to them, it must take the action set out in paragraph 7.

7.

Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the executive leader of any objections which it has to the executive's estimates or amounts and must give to him instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.

8.

Where the authority gives instructions in accordance with paragraph 7, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may—

- (a) submit a revision of the estimates or amounts as amended by the executive ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or
- (b) inform the authority of any disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.

9.

When the period specified by the authority, referred to in paragraph 8, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account—

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the executive's reasons for those amendments;

- (c) any disagreement that the executive has with any of the authority's objections; and
- (d) the executive's reasons for that disagreement, which the executive leader submitted to the authority, or informed the authority of, within the period specified.

10.

[Repealed]

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GOVERNANCE COMMITTEE

Subject Heading:

Review of Call-in provisions

SLT Lead:

Andrew Blake-Herbert
Chief Executive

Report Author and contact details:

Anne Brown, 01708 432091
Anne.Brown@havering.gov.uk

Policy context:

Governance

Financial summary:

None

The subject matter of this report deals with the following Council Objectives

- Communities making Havering
- Places making Havering
- Opportunities making Havering
- Connections making Havering

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SUMMARY

This report reviews the Council’s call-in provisions which, in broad terms, is the mechanism by which executive decisions are scrutinised before they are implemented.

RECOMMENDATIONS

That the Committee:

1. note the review of the Council's call-in provisions and the intention to consult the Overview and Scrutiny Board; and
2. if appropriate, make recommendations for changes for Council's approval.

REPORT DETAIL

1. Background

- 1.1 The Council's Constitution mandates an annual report to Council reviewing the operation of the provisions relating to call-in and urgency.
- 1.2 The Governance Committee, among other things, is responsible for monitoring and reviewing the role of overview and scrutiny and making recommendations.

2. What is call-in?

- 2.1 Call-in refers to the right to delay the implementation of certain executive decisions which have been made (but have not yet been implemented) to allow the decisions to be considered by a scrutiny committee. More broadly, scrutiny forms an integral part of the work of councils in delivering services by holding the executive to account for the important decisions they make.
- 2.2 It is necessary to recognise the legitimacy of call-in as an effective tool for holding the executive to account for the important decisions they make. By the same token, it should not be viewed as a substitute for early and constructive involvement in policy formulation or the decision making process and thereby minimising the need for call-in. Nor should call-in be viewed as a party-political tool.
- 2.3 The law relating to call-in can be found in the Local Government Act 2000. Sections 9F(2)(a) and 9F(4) of that Act between them establish that an overview and scrutiny committee has a power to review or scrutinise decisions made but not implemented by the executive, which includes a power to recommend that the decision be reconsidered by the

person who made it. The power in the Act also includes the power for an overview and scrutiny committee to refer the issue to Council for it to consider it substantively.

- 2.4 The law therefore requires councils to make provision for call-in but does not impose prescriptive rules on councils. Instead, councils have the freedom to make their own arrangements which best suit local needs and circumstances.
- 2.5 According to the Centre for Public Scrutiny Practice Guide on 'Key decisions and powers of call-in' (June 2014):

"call-in provides a mechanism for councillors to intervene when they feel that a decision being made by the executive needs to be revisited (or possibly changed). It provides a key check and balance in the leader/cabinet system of governance – a long-stop that, in theory, prevents the overweening exercise of power by Cabinet.

It should, however, be regarded as a measure that is only needed in exceptional circumstances, rather than day-to-day. It sits in the context of a range of other tools at scrutiny's disposal to influence decision-making."

3. The Council's call-in provisions

- 3.1 The Council's call-in procedure is set out in Part 4 of the Constitution and is attached as **Appendix 1** for ease of reference. In summary, decisions which have been made by Cabinet or individual Cabinet members, or key decisions made by officers, can be called-in by the following:
- 3.1.1 Overview and Scrutiny Board,
 - 3.1.2 overview and scrutiny committees/sub-committees,
 - 3.1.3 at least two members representing between them more than one group (and may include one or two members who are not attached to a group), or
 - 3.1.4 at least one co-opted member and one member.
- 3.2 A key decision is an executive decision, which is likely a) to result in the Council incurring expenditure which is, or the making of savings which are, significant or b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards.
- 3.3 According to Council rules, in financial terms, a decision is significant if it is in excess of £500,000 or in excess of 10% of the gross controllable composite budget at Head of Service level (subject to a minimum value

of £250,000) whether relating to revenue expenditure/savings or capital expenditure.

- 3.4 The Constitution also refers to the statutory education co-opted members on the Children & Learning Overview & Scrutiny Sub-Committees having call-in rights.
- 3.5 In addition, the Council's call-in provisions entitle the Overview and Scrutiny Board and the overview and scrutiny committees/sub-committees to refer an executive decision which has been made (but has not yet been implemented) to Council because, in its opinion, it is contrary to or not wholly in accordance with the budget and policy framework set by Council.
- 3.6 The time-limit for a call-in is within three working days of the publication of the decision in 'Calendar Brief'.
- 3.7 A call-in request must be in writing and signed (but, subject to specified requirements, this includes the use of email), and must state the grounds. Provision is also made for "holding" requests and for requests to be withdrawn.
- 3.8 If the decision maker and the Chairman of the Overview and Scrutiny Board agree that the decision is urgent, the right to call-in can be dis-applied. A decision is urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests.

4. Use of call-in and urgency powers

- 4.1 For Members' information, during the period May 2018 to May 2019 there were 11 call-in requests which are listed at **Appendix 2**.
- 4.2 Also during that period, the right to call-in was dis-applied on 3 occasions as listed at **Appendix 3**. These decisions will be reported to the next meeting of Council.

5. Other Councils' rules on call-in

- 5.1 As call-in rules are not prescriptive, detailed arrangements differ from council to council but are broadly similar. For comparison and benchmarking purposes, attached at **Appendix 4** is a snap-shot of the call-in rules recorded in the constitutions of 10 other councils. These include 5 other London Boroughs as well as district, county and unitary councils.
- 5.2 **Appendix 4** focuses on the following key issues: which executive decisions can be called-in; who can make a call-in request; the time-limit

(or standstill period) for call-in requests; call-in validity criteria and urgency rules.

- 5.3 As already noted, call-in arrangements must be suitable for the local needs and circumstances of individual councils. In particular, the political composition of a council, i.e. the number and sizes of different political groups and the number (if any) of independent members, can have a significant bearing on the operation of call-in in practice.
- 5.4 That said, as part of the review of the Council's call-in provisions, Members are asked to consider the following assessment:
- 5.4.1 **Which executive decisions can be called-in:** the scope of the Council's call-in provisions, namely, decisions which have been made by Cabinet or individual Cabinet members, or key decisions made by officers, is in line with the practice adopted by most other councils and requires no change.
- 5.4.2 **Who can make a call-in request:** the Council's threshold for the number of individual Members who can request a call-in (i.e. two) is relatively low. Having regard to the political composition of the Council, it is for Members to decide what they consider to be an appropriate threshold and the appropriate role of co-opted members.
- 5.4.3 **The time-limit (or standstill period) for call-in requests:** compared to the Council's 3 working days, most councils appear to have a longer time-limit of 5 working days. In practice, however, the Council's standstill period is longer than 3 working days as notice of decisions which can be called-in is given on a Thursday (which is when Calendar Brief is dispatched) and the time-limit for calling in a decision does not expire until the following Wednesday at midnight. Also, in some cases, the decision may already have been published.
- 5.4.4 **Call-in validity criteria:** having regard to the criteria adopted by other councils to determine what constitutes a valid call-in request, the following improvements are proposed.
- 5.4.5 First, that it be made explicit that decisions may only be called-in once and that decisions are not eligible for call-in if there has been pre-decision scrutiny. Duplication would not serve a useful purpose, is not cost effective and would result in unacceptable delay.
- 5.4.6 Second, that call-in requests should not only set out the grounds or reasons relied upon but also the suggested alternative proposals, actions or resolution of the matter. Clearly explained

grounds or reasons will in turn ensure that there are clear parameters within which the decision called-in can be reviewed.

5.4.7 Third, that the Monitoring Officer be authorised to decide whether a call-in request is valid as assessed against the stated criteria and that it is otherwise an appropriate use of the call-in process.

5.4.8 **Urgency rules:** all the councils have very similar urgency rules and there does not appear to be any need to change the Council's urgency rules as outlined above (see paragraph 3.8).

5.5 Members are requested to note the review of the Council's call-in provisions and, if appropriate, make recommendations for changes for Council's approval. Members are also requested to note that the views of the Overview and Scrutiny Board on the operation will also be reported to Council.

IMPLICATIONS AND RISKS

Financial implications and risks:

None in relation to this report.

Legal implications and risks:

The relevant legislative and constitutional provisions have been referred to in the body of the report.

Human Resources implications and risks:

None.

Equalities implications and risks:

None directly arising from this report.

Background Papers

None.

Appendix 1

Extract from Part 4 of the Constitution on the call-in procedure

17 Call-in (“requisition”) procedure

(a) All decisions of Cabinet and individual Cabinet members, and all key decisions taken by staff will be notified weekly to all members, who shall be entitled to requisition that decision. Notification will be by the weekly Calendar Brief (or, where necessary, by supplementary Calendar Brief) to all members, indicating the latest date for submission of a requisition.

(b) If the Head of Democratic Services is notified of a requisition of a decision shown on that notification within three working days of the publication in Calendar Brief (or any supplementary Calendar Brief) of a decision, then that decision shall not be acted upon but shall be submitted to the next Overview and Scrutiny Board meeting as soon as possible, either at the next ordinary meeting if due within 15 working days of receipt of the requisition or at a special meeting convened for the purpose (to be held, so far as practicable, within 10 working days of the receipt of the requisition), for determination.

(c) At a meeting due to consider a requisition submitted under (b) above, the Overview and Scrutiny Board may resolve to initiate either of the specific call-in procedures set out in rule 5 of the Policy Framework Procedure Rules or in rule 5 of the Budget Framework Procedure Rules.

(d) Any requisition submitted under (b) above must be in writing and must be signed by:

- (i) at least two members representing between them more than one group (and may include one or two members who are not attached to a group), or
- (ii) at least one co-opted member and one member.

The requisition must state the grounds for the requisition.

(e) The Board may uphold a requisition in its entirety or in part, or may decline to uphold a requisition (in which case the original decision shall stand and be able to be implemented forthwith).

(f) Following the consideration of the matter by the Board, if the requisition submitted under (b) above is upheld, the matter shall be referred to either

- (i) The Council where the Board considers the matter is contrary or not wholly in accordance with the policy or budgetary framework, or otherwise
- (ii) The Cabinet

(g) The report of the Board submitted to the Council or Cabinet shall incorporate the Board's views on the requisition and any recommendations it wishes to put forward as to how the requisitioned decision should be reviewed or altered in order to address the points in the requisition that have been upheld.

(h) The Board's views may be articulated by an officer's report, by a minute of the Board or by a summary of the minute.

(i) A requisition under (b) above shall be determined at the board meeting by simple majority.

(j) The members calling in the decision may indicate at the time of submitting any requisition that it is "holding" requisition, to permit informal discussion with the Board member or the Chairman of the Board, as the case may be, as to the merits of the decision. Time shall be of the essence when dealing with "holding" requisitions. A "holding requisition" shall be treated as withdrawn if, eight clear days having passed from the publication of the decision, both members have not confirmed by notice in writing to the Head of Democratic Services that the requisition should be subject to the full requisition procedure provided for in the preceding paragraphs.

(k) Any requisition may be withdrawn by the requisitioners at any time prior to it being disposed of.

(l) For the avoidance of doubt, "notice given in writing" for the purpose of this Rule includes notice given by a requisitioner by fax or by email from an address or number recognised as associated with the member sending it, and shall be regarded as validly signed by both members if either an identical fax or email is received from both of them or one clearly associates him or herself with a submission by the other, and different members may use different methods of giving such notices.

18 Exception to the call-in ("requisition") procedure

(a) The call-in procedure set out above shall not apply where a decision being taken by Cabinet or an individual Cabinet member, or a key decision made by a member of staff, is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in.

(b) The decision making person or body can only take an urgent decision under (a) above and avoid the call-in procedures after obtaining agreement from the Chairman of the Board that the decision be treated as urgent.

(c) In the absence of the Chairman, the Vice Chairman, or if neither is able to act, then the Mayor, or in his/her absence the Deputy Mayor, may give the agreement in (b) above.

(d) Any agreement obtained under (b) or (c) above shall be evidenced in writing.

(e) The Leader of the Council will submit quarterly reports to Council on decisions taken by himself, Cabinet or individual Cabinet members, or key decisions made by a member of staff, pursuant to this rule in the preceding three months. The report will include the number of decisions taken and a summary of the matters in respect of which those decisions were taken.

(f) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council by the proper officer with proposals for review if necessary.

19 The Party Whip

There shall be no Party Whip at a meeting of the Overview and Scrutiny Board or Sub-Committees. "The Party Whip" is understood to mean "any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote before the Overview and Scrutiny Board or Sub-Committee, or the application or threat to apply any sanctions by the group in respect of that Councillor should they speak or vote in any particular manner"

20 Procedure at Overview and Scrutiny Board or Sub-Committee meetings

(a) The Overview and Scrutiny Board and any sub-committees shall consider the following business:

- (i) minutes of the last meeting
- (ii) declarations of interest
- (iii) consideration of any matter referred to the Board only for a decision in relation to call in of a decision
- (iv) responses of the Leader or Executive to reports of the Overview and Scrutiny Board or Sub-Committees
- (v) the business otherwise set out on the agenda for the meeting.

(b) Where the Overview and Scrutiny Board or Sub-Committee conducts investigations (for example, with a view to policy development), the committee shall observe the following principles:

(i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak

(ii) that those assisting the committee by giving evidence be treated with respect and courtesy

(iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

(c) Following any investigation or review, the committee shall prepare a report for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

Appendix 2

List of Decisions Called-in during the period May 2018 to May 2019

1. **9th October 2018-**
 - a) **Highways Capital Footway and Carriageway**
 - b) **Update to Corporate Complaints Policy & Procedure**
 - c) **Upminster Bridge CPZ – Results of informal consultation**
2. **18th October 2018 - Penalty Charge Notice Banding**
3. **8th January 2019 – Keep Havering Moving- adoption of parking strategy and Highways Re-surfacing Policy**
4. **6th February 2019 – Adopt East London**
5. **2nd April 2019 –**
 - a) **London Counter Fraud Hub**
 - b) **Chafford Sports Complex**
 - c) **Land at Hall Lane Pitch and Putt**
6. **11th April 2019 – Havering Brownfield Land Register Update 2019**
7. **28 May 2019 MOPAC Partnerships Plus Scheme for s92 Police**

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Appendix 3

List of Executive Decisions Made under Call-in Waiver Provisions during the period May 2018 – May 2019

Executive Decision	Decision Maker	Title	Date
18/66 Non Key Waiver from Call-in	Cllr Roger Ramsey, Finance & Property	Granting of Lease to Havering Theatre Trust	22 November 2018
18/69 Non Key Waiver from Call-in	Cllr Damian White, Leader	Lower Thames Crossing Consultation – delegation of formal response	05 December 2018
Cabinet Decision Key Waiver from Call-in	Cabinet	Update of the Council's Medium Term Financial Strategy (MTFS) and budget for 2019/20	24 July 2018

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APPENDIX 4

Other Councils' Rules on Call-in

London Borough Councils

Council	Which decisions can be called-in	Who can call-in	Time-limit/ Standstill period	Validity criteria and who decides	Urgency rules
Brent	All key decisions (irrespective of the decision maker) and any other decision by the Cabinet/ Cabinet Committee	Relevant O&S committee; or 5 non-Cabinet members	5 working days	Must include reason(s) for the request, suggested alternative proposals, actions or resolution of the matter There are other criteria, e.g., must not be vexatious, repetitive or frivolous Chief Ex decides	Chief Ex and Chair of relevant O&S must agree that any delay likely to be caused by the call-in process would seriously prejudice the council's or the public's interests
Hammer-smith & Fulham	All key decisions	50% of the voting members of the relevant Policy and Accountability Committee Educ. co-optees only entitled to request call-in of educ. matters	3 working days	Must be in writing and set out reasons The proper officer decides	The Mayor must agree that any delay likely to be caused by the call-in process is likely to seriously prejudice the council's or the public's interests
Haringey	Key decisions made by the Executive	Any 5 members of the council	5 working days	Must specify the decision to which it objects and whether the decision is claimed to be outside the policy or budget framework; give reasons in writing and outline an alternative course of action	If the decision maker and the Chair of O&S agree that any delay likely to be caused by the call-in process would seriously prejudice the council's or the public's

				Monitoring Officer decides	interests
Newham	All decisions by the Executive and officer key decisions	Scrutiny chair plus any 5 scrutiny members (educ. co-optees may only put their name to call –in on educ. members); or 3 members of the O&S committee; or 20% of cllrs (i.e. 12)	5 working days	The Chief Ex can reject call-in because of a breach of procedure or other reason in the constitution	If the decision maker and the Chair of O&S agree that any delay likely to be caused by the call-in process would seriously prejudice the council's or the public's interests
Waltham Forest Page 34	All Cabinet/ Cabinet Committee/ Cabinet Member decisions and officer key decisions	Any 4 members of the council	5 working days	Must give reasons in writing for call-in; outline the alternative course of action or recommendation proposed and adhere to a number of specific requirements Other rules include: a decision may only be called in once and call-in must only be used for the purpose of effective scrutiny Director of Governance and Law decides	If the Director of Governance and Law, following consultation with the relevant Chair of O&S and the decision maker, agrees any delay would be likely to expose the council, its members or the public to a significant level of risk, loss or significant disadvantage

Other Councils

Council	Which decisions can be called-in	Who can call-in	Time-limit/ Standstill period	Validity criteria and who decides	Urgency rules
Babergh DC	All key decisions or any decision taken by Cabinet	5 members including at least 1 member from a	5 working days	A proposal can be called-in once only A recommendation to council, a council	The Chair of the council agree that any delay likely to be caused by the call-in process

		minority party or an independent member		committee etc. cannot be called-in A limit of 20 call-ins per council year Chair of O&S, in consultation with the Monitoring Officer decides	would seriously prejudice the council's or the public's interests
Kirklees	All executive decisions	5 councillors or Chair and 1 other member of O&S	5 working days	A decision can be called-in once only Must include reasons and, where possible, provide supporting evidence to illustrate how the decision making principles have been breached Service Director, Legal Governance and Commissioning in consultation with the Chair of O&S	The decision maker and the Chair of O&S agree it is urgent for the stated reasons
South Cambridgeshire DC	All Cabinet/Cabinet Member/Cabinet Committee/Joint Cabinet Committee and officer key decisions	Chair of O&S or any 5 councillors	5 working days	A proposal can be called-in once only Decisions must be outside of the budget and policy framework and not in accordance with the decision making principles set out in the constitution Chairman of O&S decides unless the Monitoring Officer advises otherwise	If the Chair of the Council and Chair of O&S agree that any delay likely to be caused by the call-in process would seriously prejudice the council's or the public's interests
Wiltshire	All Cabinet/Cabinet Member/Cabinet Committee /Joint Cabinet Committee and officer key decisions	10 councillors	5 working days	Must give details of the decision, which of the principles of decision making have not been followed and in what way(s) and the action already taken to resolve the matter, including representations made to the decision maker Not intended to be used when councillors simply disagree with the decision taken and	If the decision maker and the Chair of the Council agree that any delay likely to be caused by the call-in process would seriously prejudice the council's or the public's interests

				wish to appeal it	
York	All Executive/ Executive Member decisions and officer key decisions	3 councillors	2 working days	Must identify item to be called-in and give reasons Does not apply to matters that have been subject of a previous call-in or to decisions which require Full Council approval	If, in the opinion of the decision making person or body, the delay likely to be caused by the call-in process would, for example, seriously prejudice the council's or the public's interests