

RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE

16 MARCH 2020

REPORT OF HEAD OF DEMOCRATIC SERVICES & ELECTIONS

A.1 CALL-IN – FUNDING OF THE CHANGES TO THE MEMBERS’ ALLOWANCES SCHEME 2019/20

(Report prepared by Ian Ford and Lisa Hastings)

1.0 PURPOSE OF THE REPORT

To enable the Committee to scrutinise an Executive Decision made in respect of the funding of the cost in 2019/20 of the changes to the Members’ Scheme of Allowances agreed by Full Council on 21 January 2020, which has been called-in.

2.0 BACKGROUND

At its meeting held on 21 February 2020 (Minute 120 refers) the Cabinet, inter alia, considered the Financial Performance Report – In Year Performance against the Budget at end of the Third Quarter 2019/20 and Long Term Financial Forecast Update and made the following Executive Decision:

“RESOLVED that –

(a) *in respect of the financial performance against the budget at the end of December 2019:*

- (1) *the current position be noted;*
- (2) *the proposed adjustments to the budget, that include a contribution to the Forecast Risk Fund of £0.446m, as set out in Appendix H to item A.3 of the Report of the Corporate Finance and Governance Portfolio Holder, be agreed; and*
- (3) *the use of £0.041m of the contribution to the Forecast Risk Fund of £0.446m to fund the cost in 2019/20 of the changes to the Members’ Scheme of Allowances agreed by Full Council on 21 January 2020 be agreed.*

(b) *in respect of the Updated Long Term Forecast:*

- (1) *the updated forecast be agreed, which includes the commitment to on-going support to external organisations within the principles set out in the Portfolio Holder’s report; and*
- (2) *the Resources and Services Overview and Scrutiny Committee be consulted on the updated long term forecast.”*

The Report and Appendices from the Corporate Finance and Governance Portfolio Holder which Cabinet took into account when making its decision are attached as Appendices 1 and 2 to this report. Appendix H to the Portfolio Holder’s report is the most relevant to the Decision and this call-in.

Resolution (a) (3) “the use of £0.041m of the contribution to the Forecast Risk Fund of £0.446m to fund the cost in 2019/20 of the changes to the Members’ Scheme of Allowances agreed by Full Council on 21 January 2020 be agreed” of the above Decision has been called in by Councillors Bush, I J Henderson and Placey and is to be the subject of scrutiny by this Committee. The Call-in Notice submitted by those Councillors is attached as Appendix 3 to this report.

In calling in the decision, those councillors did so on the basis that in their opinion the decision failed to meet one or more of the assessment criteria as set out in Overview and Scrutiny Procedure Rule 17(b). The criteria identified with stated reasons for the scrutiny is as follows:

(iv) The decision maker did not take into account relevant considerations or other material factors and therefore, the decision is unreasonable:

Reasons: The Independent remuneration Panel had already factored in the increased work load due to the reduction in the size of the council when recommending the increase to basic allowances in May 2019. At that time the panel’s recommendation was ‘to increase by 7.5% to reflect additional work from ward changes and increased numbers of constituents which is more comparable to the mean and medium of basic allowance paid by other councils given a recommended amount payable from the 1st May 2019.’

This being the case the reason expressed by the leader of the council that the latest increase reflects the increased work load brought about by the reduction in the size of the council is not valid as this issue was addressed by the previous increase.

Therefore, in our opinion, the use of savings identified in the budget to fund this increase in Members’ allowances would be unreasonable in these circumstances.

(v) The decision is contrary to a previously agreed decision made in Full Council, which has not been superseded by a subsequent decision

Reasons: as above

(vii) The decision was not taken in accordance with the principles set out in Article 13 (Decision Making) of the Constitution:

Reasons: We believe that the report of the IRP which was accepted with the approval of the above mentioned recommendation to raise allowances in May 2019 constitutes a consultation and the latest decision ignores it. Furthermore, the leader of the council failed to put the proposal that resulted in this latest decision to the IRP for consideration prior to implementation.

In our opinion the £41,000 would be better used offsetting the 10 year budget deficit, reducing this year’s amount from £450,000 to £409,000.

As required by sub-paragraph (b) of the Overview and Scrutiny Procedure Rule 17 (Part 5.27 of the Constitution) Councillors Bush, Henderson and Placey confirmed that they did not wish to enter into mediation.

3.0 COURSES OF ACTION OPEN TO THE COMMITTEE

When the Committee has considered the decision, sub-paragraphs (j), (k) and (l) of the Overview and Scrutiny Procedure Rule 17 (Part 5.29 of the Constitution) give the Committee three different options:

1. Having had regard to the advice of the Monitoring Officer, the Committee considers the decision is contrary to the Council's Budget or Policy Framework, at which point it refers the matter to the next practicable meeting of the Council, subject to the provisions of the Council Procedure Rules; or
2. The Committee decides to ask the decision maker (i.e. Cabinet in this instance) to reconsider their decision, at which point the decision maker (Cabinet) must do so within fifteen working days following the meeting; or
3. The Committee does not wish to refer the matter back to the decision maker (Cabinet) or to Council, at which point the decision is deemed to be confirmed and takes effect immediately following the meeting.

The Committee cannot amend the decision.

4.0 ADVICE OF THE MONITORING OFFICER

In accordance with Article 6 of the Constitution, each Overview and Scrutiny Committee will, amongst other functions, review or scrutinise executive decisions made by the Cabinet.

It is important to highlight that the Call-in process applies to the Decision made at Cabinet on 21st February 2020, which relates to the identification of the funding for the cost in 2019/20 of the changes to the Members' Allowance Scheme, which was agreed by Full Council on 21st January 2019. The Call-in procedure is not to scrutinise a decision of Full Council.

The Constitution requires that where a call-in is requested the Councillors requesting the call-in shall state whether they consider the decision is contrary to the Budget and Policy Framework. In this case Councillors Bush, I J Henderson and Placey, the callers-in, have stated that they do not believe the decision contravenes the Budget or Policy Framework.

Neither the Monitoring Officer nor the Section 151 Officer considers that the decision taken by the Cabinet on 21st February 2020 was contrary to the Budget and Policy Framework. The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget or Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.

5.0 RECOMMENDED

That the Committee notes the contents of the above report, scrutinises the called-in decision and decides which course of action in Section 3.0 above it wishes to take.

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LIST OF APPENDICES FOR REPORT OF HEAD OF DEMOCRATIC SERVICES & ELECTIONS

A.1 CALL-IN – FUNDING OF THE CHANGES TO THE MEMBERS’ ALLOWANCES SCHEME 2019/20

Appendix 1 – Report of the Corporate Finance and Governance Portfolio Holder submitted to the Cabinet.

Appendix 2 – Appendices to the Portfolio Holder’s Report.

Appendix 3 – Call-in Notice submitted by Councillors Bush, I J Henderson and Placey