

MEETING:	OVERVIEW AND SCRUTINY COMMITTEE
DATE:	11 JULY 2011
TITLE OF REPORT:	CALL-IN OF CABINET MEMBER (CORPORATE SERVICES & EDUCATION) DECISION CONCERNING THE HEREFORDSHIRE MUSIC SERVICE
REPORT BY:	Assistant Director – Law, Governance and Resilience

CLASSIFICATION: Open

Purpose

To review Cabinet Member (Corporate Services & Education) decision concerning a new sustainable model of business for the delivery of the Music Service, which has been called in by three Members of the Committee: Councillors EPJ Harvey; MAF Hubbard; SJ Robertson.

Recommendation(s)

THAT: the Committee reviews Cabinet’s decision and decides

- (i) whether it accepts that decision with no further comment, or**
- (ii) whether it wishes to accept the grounds on which the decision of the Cabinet has been called-in and refer the decision back to the decision maker for reconsideration and, if so, what recommendations to Cabinet it wishes to make.**

Key Points Summary

- Call-in is a statutory right for Members of the Council to review a decision of the Executive taken by Cabinet or an individual Cabinet Member after it is made but before it is implemented.
- A decision can not take effect pending consideration of the call-in by the Overview and Scrutiny Committee.
- After consideration by the Overview and Scrutiny Committee the decision maker may implement the original decision or reconsider it in the light of the Overview and Scrutiny Committee’s comments.

- The Committee has no power to overturn a decision of the Executive. It can only request the Executive to reconsider its decision.
- The Constitution (4.5.16.5) provides that call-in should only be used in exceptional circumstances including but not limited to;
 - a where there is evidence which suggests that issues have not been handled in accordance with the decision-making principles set out in this Constitution;
 - b where a key decision has been taken which was neither published in accordance with the requirements for the Forward Plan, and is not subject to the urgency procedures set out in this Constitution; or
 - c where a decision is outside the Budget and Policy Framework.
- The Overview and Committee can either accept the Cabinet Member (Corporate Services & Education) decision with no further comment or accept the grounds on which the decision of the Cabinet Member has been called-in and refer the decision back to the decision maker for reconsideration.

Reasons for Call-in

2. In accordance with the Scrutiny Procedure Rules set out at Part 4 Section 5 of the Constitution, the Cabinet Member (Corporate Services & Education) decision on 24 June 2012 concerning a new sustainable model of business for the delivery of the Music Service has been called in for consideration by this Committee.

3. The stated reasons for the call-in are:

“Call-in of the decision to approve a new business model for the Herefordshire Music Service on the grounds that under 4.5.16.5.a: there is evidence that issues have not been handled in accordance with the decision-making principles set out in the constitution.

i.e Under 2.11.1.1 of the constitution:

- The decision is not proportionate and is discriminatory and inequitable for tutors and pupils;
- The decision has not been properly consulted upon - i.e. parents & pupils; and insufficient notice was provided following publication in the forward plan (16th May) to enable meaningful consultation or direct representations to be made ahead of the decision being taken (24th June);
- The council has not been clear about what it wants to happen – particularly regarding community impact of new model – post-code lottery, and non-financial risk management of new model’s impact on overall HMS provision

Under 4.2.15.4 of the constitution no information regarding the person to whom to direct representations or the date by which representations should be made was published in the Forward Plan”.

4. The call-in is therefore made on the basis that there is evidence which suggests that issues have not been made in accordance with the decision making principles set out in the Constitution.

5. The decision notice (Ref No. 2011.CS&E.002 KEY), together with the report by the Head of Music Service to the Cabinet Member (Corporate Services & Education) in relation to the Music Service, 24 June 2011, is appended.

Appendices

- Decision Notice of the Cabinet Member (Corporate Services & Education) on 24 June 2011 (Ref 2011.CS&E.002 KEY).
- Report to the Cabinet Member (Corporate Services & Education) 24 June 2011 – Music Service.

Background Papers

- None identified.