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Questions asked by Cllr Nikki Woollatt at a Special Scrutiny Committee – 13 Feb 2023

1. The previous business plans/cases had been referred to Council under Cabinet procedure rule 3 not 19(? cant read it) therefore the decision cannot be final until the passing of 5 working days and the rights of call-in under procedure 19 apply. It is clear from this call-in being heard today that the issuing of the decision notice as implemented under rule 19 was incorrect or we would not have been allowed this call-in. It is important for Members to know how that could happen? Have officers not understood the rules which should have applied, or, was it a deliberate attempt to mislead Members and try to apply the rules in such a way as to try and prevent the decision being called-in?

Answer:

As was discussed at the scrutiny meeting, officers advised on the journey of this decision (from scrutiny, audit, cabinet, cabinet, council, cabinet, then back to scrutiny). It is clear from some comments that certain members considered this a 'new' decision, however from a procedural perspective this was still the same decision-making process that was initiated back in October with the receipt of the initial business plan. The application of rule 19(k) to the decision notice reflected that scrutiny had already asked this to be referred to council once earlier in the process. As the Monitoring Officer advised during the committee meeting, it was a matter for debate whether or not (k) was relevant – with some members contending that this was a brand new decision. However, in the event, the call-in was ultimately arranged immediately when it was requested without any suggestion it would not be permitted. Indeed discussion took place at the scrutiny meeting called to scrutinise the decision, about whether or not scrutiny of the decision was being prevented, which was unusual.

As a consequence of the decisions being originally published as implemented has there been any commitments made to 3R on the basis of those decisions?

Answer:

No.

2. & 3

1. These decisions are outside the budget and policy framework

Cabinet have a made a decision which is not with the 22-23 budget, they cannot make a decision which involves expenditure on next years budget 23-24 until that budget has been approved by full Council.

2. due to ground 1 decision was not within the power of the decision maker.

The decision cannot be implemented until the expenditure has been approved within the 23-24 budget. IT should have been subject to a recommendation for full Council to approve the expenditure.

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Does the MO adjudge that decisions 1-4 fall outside of the current budgetary framework and therefore required approval from full Council whether separately or via the 23-24 budget? If so how was this decision allowed to be represented as an implemented decision rather than a recommendation for full Council to approve the funding?

And why were Cabinet not advised of this within the report, surely it should have been identified prior to publishing the report that the decision fell outside of the current budget and policy framework and therefore would require a recommendation from Cabinet to full Council to approve rather than a recommendation for Cabinet to approve? It is not within their powers to approve expenditure outside of the current budget.

Answer:

All decisions of the executive (cabinet) are subject to the budget-making powers of council. The remit and indeed responsibility of the cabinet as shareholder is to make a decision on the business plan of the company precisely in order to inform the council's budget-making process. Therefore, while it might have been clearer to add a recommendation to the existing report that the budget implications were added to the budget being recommended to council, these were already going to be put before cabinet and council in the normal way as part of the budget-setting decision-making process. The cabinet was making a decision on the business plan and the budget envelope to include in other recommendations to council – these were contained in other items that went before cabinet as part of the same agenda.

Budget papers as put to cabinet always include a recommendation onwards to council – policy decisions as a rule usually make the assumption that members are aware that the budget has to be set by (full) council prior to the budget becoming formally agreed.

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