
Performance and Finance Scrutiny Committee

5 July 2021

Rejected Call-in – Appointments to Outside Bodies

Report by Director of Law and Assurance

Summary

A call-in request relating to the appointments to outside bodies ([link to decision](#)) has been considered and rejected by the Director of Law and Assurance in his role as Monitoring Officer. As set out in the Constitution, the reasons for any call-in requests rejected by the Monitoring Officer are published in the papers for the next meeting of the relevant scrutiny committee.

Focus for scrutiny

The Committee is asked to note the reasons for the rejection of the call-in request as set out below.

1. Reasons for Rejection

- 1.1 The call-in request was made on the grounds that the Cabinet had not made appointments in the best interest of the County Council by having not sought nominations or taken into consideration new members for appointments from the pool of 70 elected members as per recommendations from the report.
- 1.2 The call-in also sought the following outcomes:
 - That the cabinet consult and receives nominations for appointments to outside bodies from all members, across all parties, including independent members, to ensure the best person, experience and key skills are taken into account for appointment to the role and appointments are made at full council in an open, democratic and transparent manner, for the best interest of the council.
 - That nominations are made at full council, by full council.
 - A change in the constitution to reflect outside bodies to be made by full Council.

2. Monitoring Officer's Assessment

- 2.1 The call-in request is considered by reference to the factors set out in Standing Order 8.32, the pre-conditions for the request set out in Standing Order 8.29-31 having been met. Those factors are:
 - The matter has previously been considered by the scrutiny committee

- New information has come to light since such consideration
- It is a matter the committee would be expected to consider
- A delay to the decision would likely significantly damage the interests of the Council.

In relation to these factors the position or conclusion reached was:

- 2.1.1 It is the case that the proposals in the report for the Cabinet's decision were not previously considered by a scrutiny committee.
- 2.1.2 There is nothing to suggest that a delay to the decision would be likely to significantly damage the interests of the Council.
- 2.1.3 It has not been the case in previous years that a scrutiny committee has been invited to or has sought to scrutinise appointments to outside bodies. It is difficult to envisage that it is a matter which the scrutiny committee would expect to consider. Whilst the appointments to outside bodies have been delegated to the Cabinet with criteria to inform their decision this does not come with an expectation that the exercise of their judgment, which will in all cases be subjective, will be subjected to scrutiny any more than those which take place at full Council. Nor does the delegation come with a requirement for consultation.
- 2.1.4 No reasons or rationale are expected to be given or required for such appointments by any decision-making forum. The Cabinet should not be asked to explain or account for the exercise of its judgment in such matters. That is not asked of any other decision makers – including the selection of chairs of scrutiny committees or the appointments made at full Council. It is the exercise of political judgment by reference to indicative criteria. It is difficult to see what the scrutiny committee could add to that process without seeking to question the exercise of such a personal political discretion. Given the number of outside body appointments it would also need to be a very lengthy exercise in seeking, providing and commenting on the basis for each appointment.
- 2.1.5 The proper mechanism for influencing such decisions is by making representations to the decision makers – in this case to the Cabinet – prior to the decisions being made. There are opportunities for doing so, but they are not part of the scrutiny function. Whilst the call-in seeks to invite the Cabinet to carry out a consultation exercise or to account for the application of the criteria there is no requirement that Cabinet does this and so the outcome sought is outside what can properly be required of Cabinet.
- 2.1.6 The proposed decision was published in the usual way and all members were on notice of the proposal and the details of the intended appointments proposed by the Cabinet. There was ample opportunity for any member or any group leader to make representations to be considered by the Cabinet, including information about members who may meet the criteria for consideration when making appointments. The decisions were taken at a public meeting of the Cabinet, convened in accordance

with the Council's Constitution and which other members had the right to attend and to ask to speak.

- 2.1.7 No such representations were made or, to the extent they were made direct to members of the Cabinet by or on behalf of any elected members they were taken into consideration by the Cabinet. There is no requirement for such representations to be recorded or publicised.
- 2.1.8 I therefore conclude that this is not a decision, or set of decisions, which the scrutiny committees would have expected to consider.
- 2.1.9 There is an additional problem with this call-in request as the further outcomes it seeks fall beyond the role and powers of the scrutiny process.
- 2.1.10 A call-in request cannot be used to propose a change to the constitution or to ask to change a properly made delegation of authority to the Executive. Those are matters for the Governance Committee or for consideration by full Council. The Scrutiny Committee's task is to make recommendations about the proposed decision by the Cabinet. It cannot make a recommendation for the Cabinet to take a decision about constitutional matters including the scheme of delegation.

3. Conclusion

- 3.1 For the above reasons and consideration of the relevant factors the call-in request is declined.
- 3.2 If any member or group is not satisfied with the arrangements for making appointments to outside bodies or the delegation of those decisions to the Cabinet the correct course would be to raise the issue at Governance Committee which can decide whether to propose changes to the Constitution for consideration by the County Council.

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Background papers

None