

# HAMPSHIRE COUNTY COUNCIL

## Report

<b>Committee:</b>	Economy Transport and Environment (Overview and Scrutiny) Committee
<b>Date:</b>	31 March 2022
<b>Title:</b>	Parking – Service Consolidation Efficiencies Consideration of Request to Exercise Call-in Powers
<b>Report From:</b>	Head of Law and Governance and Monitoring Officer

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### Purpose of this Report

1. The purpose of the meeting to which this Report relates is for the Economy Transport and Environment (Overview and Scrutiny) Committee (ETE Select Committee) to consider whether or not it should exercise its powers under Section 9F of Part 1A of the Local Government Act 2000 ('the 2000 Act'), referred to in the County Council's Constitution as 'Call-in'.

### Recommendation(s)

That Members of the ETE Select Committee determine whether:

2. They recommend that the Executive Member for Highways Operations should re-consider his decisions as set out in the Decision Record attached at Appendix 1 OR
3. They consider that they should not recommend the Executive Member for Highways Operations re-consider his decisions as set out in the Decision Record attached at Appendix 1.

### Contextual information

4. As part of the Transformation to 2019 programme, the ETE Select Committee considered the proposed savings for the Economy Transport and Environment Department ('Department') on 19 September 2017. On the same day, the Executive Member for Environment and Transport (as he was then called) approved for submission to Cabinet, the proposed savings options for the department, which included that consideration would be given to ending all current transport and traffic agency agreements with the District Councils to be

replaced with a new delivery arrangement. The savings proposals were approved by Cabinet on 16 October 2017 and recommended to the County Council on 2 November 2017, whereupon the overall Transformation to 2019 savings were approved, subject to further consultation and Executive decision making where necessary. Some of the Department's proposals were not supported by Full Council (closure of Household Waste Recycling Centre Service Review and School Crossing Patrols) and were removed from the Transformation to 2019 savings programme.

5. Following the approval of the Transformation to 2019 savings proposals by Full Council, the then Executive Member for Environment and Transport made a number of decisions at his Decision Day on 14 November 2017 relating to On Street Parking and Civil Parking Enforcement, both of which form the Parking Project approved by full Council.
6. The then Executive Member for Environment and Transport at his meeting on 5 June 2018 gave authority to develop and implement proposals for a centralised County Council Civil Parking Enforcement service, either delivered directly or through a contract with a commercial service provider, in the event that suitable revised financially robust civil parking enforcement agency arrangements cannot be agreed with the relevant districts and borough councils. Amongst other matters, he also gave approval in principle for the introduction of chargeable on-street parking.
7. At his meeting on the 29 October 2018, the then Executive Member for Environment and Transport considered the progress that had been made on the Parking project and gave authority, amongst other matters, to enter into any contractual arrangements with those District and Borough Councils who had expressed a desire to continue to operate on street Civil Parking Enforcement on the County Council's behalf. The ETE Select Committee pre scrutinised this paper at its meeting of the same day and supported the recommendations.
8. The then Executive Member for Environment and Transport gave authority at his Decision Day meeting on 12 March 2019 to procure and spend for the provision of Civil Parking Enforcement Services for the whole of Hampshire. He further gave authority to include those district areas within the proposed Hampshire County Council directly controlled outsourced enforcement service, where the relevant district or borough council had not agreed and entered into new, financially robust agreements for the future operation of on-street Civil Parking Enforcement by the agreed deadline of 31 March 2019. New Agency Agreements with specific terms linked to financial performance were subsequently entered into for 7 Hampshire Districts/Boroughs with civil parking enforcement for the remaining 4 Districts and Boroughs being carried out by Hampshire County Council through its procured partner.
9. On 8 October 2020, the then Executive Member for Environment and Transport confirmed the policy approach to review the agency agreements in the event of performance falling below the requirements that had been set out within previous decisions, with a view to termination of the arrangement in the absence of a reasonable explanation. At its meeting on 10 March 2022, the

ETE Select Committee pre-scrutinised the Parking - Service Consolidation Efficiencies Report attached at Appendix 2a ("Decision Day Report") and Appendix 2b ("Supporting Appendix") due to be considered by the Executive Member for Highways Operations later that afternoon. After detailed questions and debate, the Select Committee resolved by majority not to support the recommendations within the Report. The reasons giving for voting not to support the decision were lack of financial information relating to the proposed efficiencies, lack of detail regarding key performance indicators (KPI's) and lack of information regarding contract management.

10. The Executive Member for Highways Operations was present at the ETE Select Committee meeting on 10 March 2022, listened to the questions and debate and thanked members for their comments, which he confirmed he would consider as part of his decision making.
11. The Executive Member for Highways Operations considered the Report at his Decision Day on the afternoon of 10 March 2022 and approved the recommendations contained at paragraphs 2 and 3 of the Report. The decision record of the Executive Member dated 10 March 2022 is attached at Appendix 1.
12. Following the decision of the Executive Member for Highway Operations on 10 March 2022 a call-in request was made by a quorum of members of the ETE Select Committee for a meeting of the Committee to be held in order for it to consider whether or not it should exercise its call-in powers. No stated reason was given in the the call-in request.

### **Legal and Constitutional Position**

13. Legal provisions in respect of Call-in are set out at Section 9F of Part 1A of the 2000 Act and reflected at Part 3, Chapter 3, Paragraph 1.17 of the County Council's Constitution. A copy of Part 3, Chapter 3, Paragraph 1.17 of the Constitution is attached at Appendix 3 for ease of reference. It should be noted however that discussion of the Executive decision subject of the Call-in request is not limited to the points raised in the request (should any have been given).
14. When a Scrutiny Committee meets in order to consider whether or not it should exercise its Call-in powers in respect of an Executive Decision, a Select Committee is required to consider whether or not to recommend:
  - a) that the decision be reconsidered by the relevant decision maker; or
  - b) that its function in respect of review or scrutiny of the decision should be exercised by the County Council.
15. It should however be noted that the recommendation as referred to at 14 b) above is not available where the Executive decision in question is in line with the Budget or Policy Framework. Neither does the exercise of Call-in powers prevent implementation of a decision within the Budget and Policy Framework.

16. As indicated at paragraph 4 of this Report, the decision of the Executive Member for Highways Operations relates to proposals regarding implementation of the County Council's Decision regarding the Transformation to 2019 proposals, following submission of the Department's proposed savings options, agreed by Cabinet prior to consideration by the County Council at its meeting on 2 November 2017. For these reasons, it is the view of the Head of Law and Governance and Monitoring Officer that the decision made by the Executive Member for Highways Operations is in line with the Budget or Policy Framework. Therefore, should the ETE Select Committee determine it appropriate to exercise its Call-in powers, the recommendation open to the Committee is as set out in paragraph 3 above.

## **Scrutiny**

17. The role of a Scrutiny Committee includes both developing and reviewing policy and holding the Executive to account. A Scrutiny Committee may not however discharge any functions other than those conferred on it, and whilst it is perfectly proper for a Scrutiny Committee to offer advice and recommendations to an Executive decision maker, in law responsibility for an Executive decision is that of the Executive. Similarly, in law, functions of the Executive cannot be discharged or overturned by the Full Council.
18. Where pre-scrutiny of a proposed Executive decision takes place, the Executive is advised that it should take into account any views expressed by an Overview and Scrutiny Committee when determining their final decision. The Executive is not however limited to consideration only of the views of a Scrutiny Committee and may take into account other relevant factors in its decision-making process and make other determinations as it thinks fit.
19. It should be noted that the Executive Member for Highways Operations was present at the Select Committee meeting which scrutinised the Parking Service Consolidation report. At that meeting, he listened to the Select Committee's questions and debate and acknowledged their comments and views. As part of his decision day he further acknowledged that he noted their concerns and reasons for not supporting the recommendations, which he had considered in making the decision.
20. When operated effectively, call-in provisions should ensure that there is an appropriate balance between effectively holding the Executive to account, being able to question decisions before they are recommended, and allowing effective and efficient decision making by the Executive within the policy framework and budget agreed by the full Council.

## **Call-in**

21. So far as reconsideration of the recommendations in the Report contained at Paragraphs 1.1 and 1.2 of the decision record, it is open to the ETE Select Committee to recommend the Executive Member for Highways Operations to reconsider his decision.

22. It is not however possible under the provisions relating to call-in for the ETE Select Committee to do anything other than ask the Executive Member for Highways Operations to reconsider the specific decision he made.

### **Departmental Background information**

23. To support the ETE Select Committee in their consideration of this item, the Economy Transport and Environment Department have provided background information which supports and explains why the conclusions within the Report were reached. Appendix 4 (Agenda Item 11) contains exempt information within Paragraph 3 of Part 1 of Schedule 12 A to the Local Government Act 1972.

**REQUIRED CORPORATE AND LEGAL INFORMATION:**

**Links to the Strategic Plan**

<b>Hampshire maintains strong and sustainable economic growth and prosperity:</b>	yes
<b>People in Hampshire live safe, healthy and independent lives:</b>	no
<b>People in Hampshire enjoy a rich and diverse environment:</b>	no
<b>People in Hampshire enjoy being part of strong, inclusive communities:</b>	no

**Other Significant Links**

<b>Links to previous Member decisions:</b>	
<u>Title</u>	<u>Date</u>
<a href="#">2017-09-19-ETE Select Committee pre scrutiny of Transformation to 2019 saving proposals</a>	19 September 2017
<a href="#">2017-11-02-Council Medium Term Financial Strategy</a>	2 November 2017
<a href="#">2017-11-17-EMET Decision County-Wide Civil Parking Enforcement Services</a>	17 November 2017
<a href="#">2018-06-05-EMET T19 Parking Project Update</a>	5 June 2018
<a href="#">2018-10-29-EMET T19 Modernisation of the On Street Parking Service</a>	29 October 2018
<a href="#">2019-03-12-EMET Decision Day-T19 Parking Project Update (hants.gov.uk)</a>	12 March 2019
<a href="#">On-Street Pay and Display Parking-2020-10-08-EMETE Decision Day (hants.gov.uk)</a>	8 October 2020
<b>Direct links to specific legislation or Government Directives</b>	
<u>Title</u>	<u>Date</u>
Local Government Act	2000

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

Document

Location

None

## **EQUALITIES IMPACT ASSESSMENT:**

### **1. Equality Duty**

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

### **2. Equalities Impact Assessment**

An EIA was not applicable as the report is governance in nature and relates to decisions that have a separate assessment undertaken.

### **Climate Change Impact Assessment**

The carbon mitigation tool and/or climate change adaptation tool were not applicable because the decision relates to a separate project, which is subject to assessment individually.