

OVERVIEW AND SCRUTINY CALL-IN FORM

<p>Decision to be called in:</p> <p>Give a brief description of the decision to be called in. If it was a Cabinet decision refer to the title of the report. For an officer decision quote the subject listed on the schedule of delegated decisions. It is important to be accurate and clear to ensure there is no confusion about which decision you wish to call-in.</p>	<p>Provision of indemnities in respect of legal costs.</p> <p>Cabinet 24th July 2018.</p> <p>Report of Legal Services Manager</p> <p>Cabinet Member: Cllr N. Oliver, Corporate Services</p>
<p>Decision made by:</p>	<p>Cabinet</p>
<p>Date decision was made:</p>	<p>24th July 2018</p>
<p>Relevant Scrutiny Committee:</p> <p>Tick the Committee which would consider the call-in. If in doubt the Scrutiny Officer can advise.</p>	<p><input type="checkbox"/> Health and Wellbeing OSC</p> <p>Communities and Place OSC</p> <p><input checked="" type="checkbox"/> Corporate Services and Economic Growth OSC</p> <p><input type="checkbox"/> Family and Children’s Services OSC</p>
<p>Reasons for the Call-In:</p> <p>For the call-in to be valid you must state a reason why it is being made, having regard to the decision making principles set out in the Constitution: (Article 13:02 Principles of decision making)</p>	<p>Tick appropriate reason below:</p> <p><input checked="" type="checkbox"/> Proportionality (ie the action must be proportionate to the desired outcome) The decision is not proportional to the desired outcome as although time was available to the Council, the matters within the report have not been risk assessed nor have they been pre scrutinised to protect the Communities of Northumberland from exposure to unconsidered costs outside the budget process of the Council. Whilst ordinarily such a decision to vary the budget expenditure of the Council can be taken by cabinet, such a decision taken by the administrations single party cabinet that involves the Leader of that administration should be fully exposed to the determination of risk and full public scrutiny to ensure</p>

the decision is proportional to the outcome in the eyes of the public.

✓ **Due and appropriate consultation and the taking of professional advice from officers.** It is apparent that officers have not fully or correctly briefed members of Cabinet prior to the release of this report for their consideration. At the time of writing this call in request, as far as non-administration members are aware, Court papers have not been served on the Council, yet indemnity from personal expenditure on advice for members has been sanctioned by this report and presumably public expenditure has taken place following the decision of Cabinet on 24th July 2018.

An officer is named as one of the persons to be offered indemnity via this report. Officers, (employees of the Council), are protected by their conditions of service through the public liability insurance of the Council. Officers have been named in cases against the Council previously, particularly in special cases involving children's/social services yet personal indemnity has not been sought, the Council remaining fully reliant on its insurance.

Through the 'duty of care' the Council has to members of Council, members are also covered by the same insurance policies. It appears that the 'Normal' route, to wait for full disclosure of evidence from parties and then seek legal assurance that the case is greater than 51% winnable by the Council has not been undertaken or advised to cabinet. Council and its cabinet have been denied the opportunity to lower costs to the public. The cabinet, its advising officers and its members may be found to have acted recklessly as in information available in the public domain it has not sought to engage with the litigants outside of the due legal process.

The report does not contain an end date to stop the recurrent payments for legal advice and does not cover the recovery of public funds being spent in the event of Members being found in breach of the Code of Conduct of the Council by their actions. Leaving no clear way to recover costs from named members and officers if recklessness is proven and members are steered through the Standards process. Nor does it expressly instruct matters of recovery if the Council decides to

collapse any case and compensate the litigants the report is therefore deficient in its clarity towards the protection of the public.

✓ Respect for human rights

Human rights considered in this call-in are covered by the seven Nolan principles that apply to members and officers working in the Council environment.

Selflessness – holders of public office should only act in the public interest.

Integrity – they should not act or make decisions for personal benefit.

Objectivity – must take decisions impartially, fairly and on merit, using the best evidence without discrimination or bias.

Accountability – are accountable for their actions and must submit themselves to scrutiny as necessary.

Openness – should take decisions in an open and transparent manner.

Honesty – holders of public office should be truthful.

Leadership – leaders in public office should exhibit leadership and be willing to challenge poor behaviour if it occurs.

✓ A presumption in favour of openness

This threatened litigation involving the planning process across Northumberland is a controversial and high priority issue for many of the Council Tax payers of the County. Such a decision as made by Cabinet to indemnify its members and officers without assessing the long, medium and short term risks to the Council Tax payer nor allowing the communities of Northumberland the surety of openness, that the process adopted by Cabinet on 24th July 2018 is found a sound and a safe way to spend public funds; Which if this case progresses to court and the Council are found reckless or if criminal behaviour is proven, may cost the

Taxpayer £Millions in compensation that will potentially decimate services and jobs to pay those £Millions. The only open way to illustrate to the public and our employees that the decision to indemnify is safe for the public purse, is to ensure it is fully and openly scrutinised through this call in process.

✓ Clarity of aims and desired outcomes

To safely care for Officers and members of Council guiding them through the legal process and ensuring the correct and agreed process is followed in a cost effective manner acceptable to the public whilst guaranteeing all aspects of recovery of expenditure are considered, scrutinised and safeguarded to the benefit of all concerned.

A great deal of further work is required on the potential outcomes of the Cabinet decision of 24th July 2018, including details of the expected expenditure and the effects on jobs and services of an unfavourable outcome for the Council.

As this item and matter has not been through the Risk Assessment process of the Council nor through pre-scrutiny of the report to Cabinet and when considered in the light of the Nolan Principles the public of Northumberland expect that their processes are safe and their elected members and officers consider and utilise all aspects available to them and are able to guarantee the processes of assurance. The Communities of Northumberland should feel their elected members make decisions with full honesty and integrity. Not engaging with the full scrutiny and the risk assessment process and Cabinet not being able to take that process into account may have affected the conclusions reached on 24th July 2018.

Signatures:

Once you have filled in the form you must canvass the necessary support from other members. You either need to get the support of:

Five signatories comprising non-executive members or, in the case of education matters, may include any non-Council members with voting rights in respect of the matter in question.

This can be demonstrated by having the members sign the form and forward the completed form to Jackie.Roll@northumberland.gov.uk the named Scrutiny Officer expressing their support for the call-in.

This must be done before the end of the Call-in period. (ie by noon on the fifth day following the publication of the relevant decision notice.

	Name	Signature
Five Members	Cllr Grant Davey	received
	Cllr David Ledger	received
	Cllr Allan Hepple	received
	Cllr Susan Dungworth	received
	Cllr Mark Purvis	received

Contact Details:	
Name of person to be contacted if there are any difficulties or questions.	Jackie.Roll@northumberland.gov.uk 01670 622603

Date:.....1 August 2018.....