



Council Excellence Overview and Scrutiny Committee

	SPECIAL MEETING
Date:	Tuesday, 28 February 2012
Time:	6.00 pm
Venue:	Committee Room 1 - Wallasey Town Hall

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SUPPLEMENTARY AGENDA 3

3. CALL-IN OF CABINET MINUTE 315 (Pages 1 - 4)

At its meeting held on 21 February 2012, the Cabinet (minute 315) resolved –

“That the 2012/13 Budget proposals agreed by the Cabinet, under urgent business, at its Special meeting held on 13 February 2012 be rescinded (Minute No. 310 refers) and therefore, they will not go forward to the Budget Council meeting, scheduled for 1 March 2012, for consideration.”

That decision has been called in by Councillors Phil Davies, Ann McLachlan, George Davies, Adrian Jones and Harry Smith for the reasons set out in the attached notice.

The Committee is requested to consider the call-in in accordance with the following procedure –

- (i). Explanation of Call-In by Lead Signatory
- (ii). Evidence from Call-In Witnesses
- (iii). Evidence from Cabinet Member’s Witnesses
- (iv). Summing Up by Mover of Call-In
- (v). Summing Up by Cabinet Member
- (vi). Committee Debate
- (vii). Committee Decision

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STANDING ORDER 35

CALL IN MECHANISM

1. When a decision is taken by the Cabinet, a committee of the Cabinet or an individual Cabinet member (other than one referred to full Council or which is certified urgent by a unanimous decision of the Cabinet) and notified to all members of the Council (by electronic and/or other means) any Leader or Deputy Leader of a political group or any five members of the Council may by notice in writing submitted to the Head of Legal and Member Services within five working days of such notification require that the decision be not implemented and be referred to the relevant Select Committee for scrutiny within a further fifteen working days from receipt of the notice. Any such notice must specify the decision in question, the reason for call-in and be signed by the members concerned. The relevant Chief Officer and all members will be notified of a call-in immediately and no action will be taken to implement the decision until the call-in procedure has been completed. A decision of the Cabinet, a committee of the Cabinet or an individual Cabinet member may be called in only once.
2. When a matter is referred to a Select Committee the Chair of that committee may require the presence of the relevant Cabinet member and any Council officer to answer questions on that matter and may require the production of appropriate documents or reports in the custody of the Council or may call for additional reports.
3. If the Select Committee disagrees with the decision it may either ask Cabinet to reconsider the decision or refer it to full Council for consideration if it considers that the decision is contrary to the policy framework or not in accordance with the budget. The Chair of the Select Committee shall have the opportunity to explain the Committee's views to the Cabinet or Council as appropriate.
4. If the Select Committee agrees with the decision the relevant Chief Officer may implement it. In the event of any political group not agreeing with the majority decision of the Select Committee it may prepare a written minority report for consideration by Council when the minutes of the Select Committee are considered. Any such report must be handed to the Head of Legal and Member Services in accordance with Standing Order 12(2). The Leader of the relevant group or his/her representative will have an opportunity to explain the minority report to the Council and Council may discuss and vote for or against such a report without prejudice to any decision already implemented.

Reasons for Call In of Minute 315 Cabinet February 21st

The 2012/13 Budget Agreed by the Cabinet on 13th February 2012

On February 21st the Cabinet took the following decision:

That the 2012/13 Budget proposals agreed by the Cabinet, under urgent business, at its Special meeting held on 13 February 2012 be rescinded (Minute No. 310 refers) and therefore, they will not go forward to the Budget Council meeting, scheduled for 1 March 2012, for consideration.

This decision, taken by Cabinet on February 21st, to revoke the budget proposal constitutionally referred by Cabinet on February 13th to Budget Council on March 1st was an Executive decision.

The minutes of that Cabinet were published and notified on February 23rd.

The five day period subsequent to that when a call in can be lodged expires on Thursday March 1st

A further period of up to fifteen days is required for the Call In to be heard.

No decision can be activated until the Call In period has expired and it is clear the decision has not been called in, or until the Call In has been heard.

In order to have their budget heard, the Labour Group were required to resubmit it as an amendment to the Conservative Proposal tabled at Cabinet on February 21st and referred by just four votes to Budget Council.

This amendment had to be submitted by noon on February 27th, less than two working days after the publication of the Cabinet minutes of the 21st.

It is clear that the Executive Decision was unconstitutionally implemented before the expiry of a Call In period.

The consequence of this unconstitutional act was the change of status of the Labour Budget proposal from a Cabinet proposal agreed unanimously by all ten Cabinet members and lawfully submitted to Budget Council to an amendment to an alternative Budget Proposal.

This relegation to the status of an amendment then allows the budget procedure agreed by Cabinet on February 21st to treat the Conservative

proposal put forward at Cabinet on February 21st as the standing minute which will not require a vote if the amendments fall.

This is despite the fact that the Conservatives are not the largest party, and could be outvoted by Labour as the largest party if the Liberal Democrats continue their policy of abstention, which their communications with the press indicate they will.

In these circumstances, where two legal budgets have been formally and constitutionally proposed to Council, and where one of those budgets has been unconstitutionally revoked, the Budget Procedure should be withdrawn, allowing both proposals to stand with equal status as originally referred to Council.

A vote should then be taken on each budget, with the order of voting the same as for a usual Council, with the budget remaining after others have fallen also subject to the confirmation of a majority vote.