
**CALL IN DECISION CAB/19-20/ 5 CARDIFF BUS - LOAN FOR ACQUISITION
OF ELECTRIC VEHICLES**

Appendix 1 of Appendix A of this report is exempt from publication because it contains information of the kind described in paragraph 14 and 21 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972 (as amended).

Purpose of Report

1. To provide Committee Members with background information on: the Council's Call-In procedure; the decision being called-in at this meeting; and the scope, process and structure of Call-In scrutiny.

Call-In Procedure

2. The Council's Constitution contains a Call-In Procedure which provides that any non-Cabinet Member may call-in a decision of which notice has been given, by writing to the Head of Democratic Services (HDS) within the Call-In Period (within seven clear working days after publication of the decision). The HDS shall then notify the Cabinet Business Office and call a meeting of the relevant Scrutiny Committee, where possible after consultation with the Chairperson of the Committee, and in any case within five clear working days of the decision to call-in.
3. Cabinet Decisions, for purposes of the Call-In Procedure, are those made by the Cabinet, a Committee of the Cabinet, the Leader, a Cabinet Member, the Chief Executive or a Corporate Director (or other post holder/s within the same tier of management or responsibility).

Decision Being Called-In - CAB/19-20/5 Cardiff Bus - Loan For Acquisition Of Electric Vehicles

4. On 13th June 2019 Cabinet resolved that:

- a. the granting of a loan to Cardiff Bus from the Council for £2.0 million for the purchase of electric vehicles subject to conclusion of a legal agreement, to include appropriate security arrangements, between the Council and Cardiff Bus in respect of the terms of the loan
- b. In line with the Council's Budgetary Framework, further Council approval be sought when required and if appropriate, in terms of spend commitments and in line with DFT grant conditions, for a further loan to Cardiff Bus for £1.8 million.
- c. the Corporate Director Resources in consultation with the Director of Governance & Legal Services and the Cabinet Member for Finance, Modernisation and Performance be delegated the authority to prepare and conclude of the legal agreements between the Council and Cardiff Bus in respect of approved loans.

5. This Decision, known as **CAB/19-20/5** was published on 14 June 2019 in the Register of Cabinet Decisions, with a proposed implementation date of 26 June 2019. The reason provided for taking this Decision was:

In accordance with legislation the company can only seek loans from the Council. A loan of £2 million is included as part of the Council's Capital programme towards the purchase of vehicles. An additional £1.8 million is required to allow the company to provide match funding and secure a Department for Transport (DFT) Grant of £5.7 million towards 36 electric buses and associated infrastructure. This is part of a number of measures to improve air quality. Having funding all funding in place is a requirement in order to accept the terms and conditions of DFT grant.

Structure of the Papers

6. The papers for this meeting consist of:

Appendix A – Cabinet Report - CARDIFF BUS - LOAN FOR ACQUISITION OF ELECTRIC VEHICLES

Appendix 1 – Low Emission Bus loan (EXEMPTED)

Reasons given for Calling-In Decision CAB/19-20/5

7. During the Call-In period after publication of the Cabinet decision in the Register of Decisions on 14 June 2019, a non-executive councillor submitted a request to call-in Decision **CAB/19-20/5**.

8. The reasons set out by the non-executive councillor for calling in the decision are:

“I am gravely concerned about the security the Council will seek and am of the view this should have formed part of the decision making process, before, proceeding to determine the loan. Questions of security are material to the decision - what if insufficient security can be sought? These are points which should be clearly set out and scrutinised”.

The Call-In request has been deemed valid and hence a Scrutiny Committee meeting has been convened to undertake the Call-In.

Scope of Scrutiny

9. The role of Scrutiny Committees calling-in a decision is:

- To test the merits of the decision;
- To consider the process by which the decision has been formulated;
- To make recommendations (to support the decision, change aspects of the decision or to invite the decision making body to reconsider);
- To suggest further steps before a decision is made.

10. The scope of this scrutiny is limited to exploring the reasons for the call-in listed in paragraph 8 and the role of scrutiny listed in paragraph 9. If questions

are judged as probing areas not within the remit of the call-in, the Chair will deem it necessary to disallow the line of inquiry.

Process for Scrutiny

11. The Committee needs to consider this call-in in accordance with the requirements of the Call-In Procedure, as set out in the Constitution. Under the Call-In Procedure, the relevant Scrutiny Committee may consider the called-in decision itself, or decide to refer the issue to the Council for scrutiny, if the matter is of general significance and importance to the Council as a whole. A Council meeting to consider this issue must take place within 10 clear working days of such a referral, unless otherwise agreed between the Leader and the Chairperson of the relevant Scrutiny Committee.
12. If the Scrutiny Committee chooses to consider the Decision, it may refer the Decision back to the decision maker for reconsideration, setting out in writing the nature of its concerns. The decision maker shall then reconsider the matter before adopting a final decision or formally deferring the matter for further consideration. The relevant Scrutiny Committee or Council as appropriate would be advised of the outcome at its next meeting.
13. If following a Call-In, the matter is not referred back to the decision maker, the decision shall take effect on the date of the relevant Scrutiny Committee or Council meeting which considers the issue, or the expiry of the Scrutiny Period or the Council Scrutiny Period as appropriate, whichever is the later.

Structure of Scrutiny

14. To assist Members, Councillor Chris Weaver, (Cabinet Member for Finance, Modernisation & Performance), Chris Lee, (Corporate Director Resources and Section 151 officer), have been invited to respond to the Call-In and answer Committee Members questions.
15. In addition, Councillor Joel Williams, who has called in the decision, has been invited to give evidence to the Committee. If any written statements are

provided for the meeting, a section has been allocated within the agenda for their consideration. It is at the Chair's discretion to allow other witnesses to address the Committee.

16. All Members are reminded of the need to maintain confidentiality with regard any information provided in respect of paragraph 14 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972. The meeting will go into closed session to enable discussion of this information.

Legal Implications

17. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if, and when, the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

18. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct financial implications at this stage.

RECOMMENDATION

19. The Committee is recommended to:
- Consider Cabinet Decision **CAB/19-20/ 5**. in accordance with the Call-In Procedure;
 - Determine whether to refer the matter to the Decision-maker or not;
 - Agree whether it wishes to forward any comments, observations or recommendations to the Decision–maker in writing.

DAVINA FIORE
Director of Governance & Legal Services
04 July 2019