

REPORT TO:	Scrutiny & Overview Committee 6 October 2022
SUBJECT:	CALL-IN: MAYOR IN CABINET DECISION ON TEMPORARY WORKERS STAFFING CONTRACT
LEAD OFFICER:	Simon Trevaskis Senior Democratic Services & Governance Officer - Scrutiny

ORIGIN OF ITEM:	This item has been triggered by the call-in of the key decision (2422EM) taken by the Executive Mayor in Cabinet on 21 September 2022.
BRIEF FOR THE COMMITTEE:	The Scrutiny & Overview Committee is asked to consider and respond to the Call-In in accordance with the procedure set out in the Council's constitution (set out in section 3 below).

1. EXECUTIVE SUMMARY

- 1.1 The Executive Mayor in Cabinet took the decision, at the Cabinet meeting on 21 September 2022, to award a four-year contract called off from the ESPO Mstar3 Framework London Collaboration Lot 1 Temporary Workers Staffing to the provider and for the maximum contract value stated in the part B report.
- 1.2 A call-in request for the Scrutiny & Overview Committee to review this decision was received on 29 September 2022. The call-in request was submitted by the Chair, Vice-Chair, Deputy-Chair and one other member of the Scrutiny & Overview Committee.
- 1.3 The Scrutiny and Overview Committee is asked to review this call-in request, in line with the call-in procedure set out in the Council's Constitution. A copy of this procedure can be found in section 3 of this report.

2. CALL-IN: MAYOR IN CABINET DECISION ON TEMPORARY WORKERS STAFFING CONTRACT

- 2.1 At the Cabinet meeting held on 21 September 2022 a report was considered by Executive Mayor concerning the Temporary Workers' Staffing Contract. The decision taken by the Executive Mayor in Cabinet that is the subject of this call-in was to: -

'Approve the award of a four-year contract called off from the ESPO Mstar3 Framework London Collaboration Lot1 Temporary Workers Staffing to the provider and for the maximum contract value stated in the part B report.'

The Cabinet reports on which this decision was made can be found attached as Appendix A & B. Please note that Appendix B is considered to be confidential on the grounds that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). A copy of the Decision Notice is attached at Appendix C.

- 2.2 The completed call-in request is attached at Appendix D. The decision form was received on 29 September 2022 from the Chair of the Scrutiny & Overview Committee, Councillor Rowenna Davis. The call-in request received emailed support Councillor Richard Chatterjee, in his role as Vice-Chair, Councillor Leila Ben-Hassel, in her role as Deputy Chair and Councillor Sean Fitzsimons in his role as a Committee Member. This complies with the requirements for call-in as set out in paragraph 11.5 in section 4E – Scrutiny & Overview Procedure Rules in the Council's Constitution,

which state that a call-in request must be signed by either: -

- i. The Chair and Vice Chair of the Scrutiny and Overview Committee and 1 member of that Committee; or for education matters the Chair, Vice Chair and 1 voting member of that Committee or any Sub-Committee formed under Rule 1.1 above; or
- ii. 20% of Council Members (14 Members)

2.3 The reasons stated in the request as to why the Call-In has been submitted is:-

'We need reassurance that this approach delivers value for money. We particularly want to make sure that this framework delivers the best outcome for the residents of Croydon as opposed to pursuing a more traditional competitive tendering process.

We want reassurance that due process has been followed as there is a risk of legal challenge to the decision.

We lack the information to judge whether this decision is consistent with budget framework.

We want clearer explanation as to why the MStar3 Framework is the best option for the Council rather than the other options mentioned in the report.

We want reassurance that that this decision will meet the Council's strategic needs, particularly regarding workforce and recruitment.'

2.4 The outcomes desired from the Call-In is:-

'Reassurance that due legal and financial process has been followed.

Reassurance that the decision provides the best value for money for residents and meets the Council's long term strategic workforce needs.

An efficient and helpful enquiry that also offers the Council guidance and reassurance without adding to the risk of delay.'

2.5 The following information has been requested to inform the Scrutiny & Overview Committee's consideration of the call-in request:-

- 1 Further explanation on the legal advice provided.
- 2 The report mentions benchmarking – can this information be provided along with any other work to compare our situation with other London boroughs.
- 3 An evaluation of the previous contract in terms of quantitative and qualitative data – What does good look like? How has this informed the new process?
- 4 MStar3 Framework –what version is proposed to be used and when does it expire?
- 5 How much has the Council spent annually on the Adecco contract to date? What is the likelihood of reaching the £100m top figure? How much is budgeted for this contract in the current MTFS?
- 6 How has the Council assessed its needs for temporary workers.
- 7 What is the average length of time a temporary employee is in post and how many times are these contracts re-extended?

2.6 A report from officers responding to the grounds given in the call-in request will be prepared for the consideration of the Scrutiny & Overview Committee. Given the shortened timescale for the meeting, this report, which will be attached as Appendix E, is being prepared and will follow after agenda publication.

3. CALL-IN PROCEDURE

3.1 The Council's Constitution, Part 4E Scrutiny & Overview Procedure Rule, states:

"11.9 The referral shall be considered at the next scheduled meeting of the Scrutiny and Overview Committee unless, in the view of the Monitoring Officer, this would cause undue delay. In such cases the Monitoring Officer will consult with the decision-taker and the Chair of Scrutiny and Overview to agree a date for an additional meeting. The Scrutiny and Overview Committee may only consider a maximum of three referrals at any one meeting.

11.10 If the proposer/ supporters who initiated the Call-in want a person/s who is a Member or an officer of the authority to appear as a witness, then the permission of the Chair of Scrutiny and Overview Committee (who will agree with the appropriate Director) must be sought at least 5 clear working days prior to the date of the Call-in meeting, or with the permission of the Chair of Scrutiny and Overview Committee within 3 working days in exceptional circumstances in order to allow for members/ officers to be called.

11.11 At the meeting, the referral will be considered by the Committee which shall determine how much time it will give to the call-in and how the item will be dealt with including whether or not it wishes to review the decision. If having considered the decision there are still concerns about the decision then the Committee may refer it back to the decision-maker for reconsideration, setting out in writing the nature of the concerns. The decision-maker shall then reconsider the decision, amending the decision or not, before making a final decision.

11.12 Where the Scrutiny and Overview Committee or Sub-Committee is of the opinion that an Executive decision is, or if made would be, contrary to or not wholly in accordance with the Budget and Policy Framework, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer. In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be presented to the Executive with a copy to every member of the Council.

11.13 The Executive must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the relevant Scrutiny and Overview Committee or Sub-Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

11.14 The Scrutiny and Overview Committee may refer the decision to the Council if it considers that the decision taken by the Mayor or Cabinet is outside the Budget and Policy Framework of the Council. In such circumstances, the provisions of Rule 7 of the Budget & Policy Framework Procedure Rules (Part 4C) apply. The Council shall meet within 10 working days of the request by the Scrutiny and Overview Committee. The Council may decide to take no further action in which case the decision may be implemented. If the Council objects to Cabinet's decision it can nullify the decision if it is outside the Policy Framework and/or inconsistent with the Budget.

11.15 If the Scrutiny and Overview Committee decides that no further action is necessary then the decision may be implemented.

11.16 If the Council determines that the decision was within the Budget & Policy

Framework and consistent with the Budget, it will refer any decision to which it objects, together with its views on the decision, to the Cabinet. The Cabinet shall choose whether to either amend, withdraw or implement the original decision within 10 working days, or at the next meeting of the Cabinet after the referral from the Council.

- 11.17 *The responses of the decision-taker and the Council shall be notified to all Members of the Scrutiny and Overview Committee once the Cabinet or Council has considered the matter and made a determination.*
- 11.18 *If either the Council or the Scrutiny and Overview Committee fails to meet in accordance with the Council calendar or in accordance with Rule 11.8 above, then the decision may be implemented on the next working day after the meeting was scheduled or arranged to take place.*
- 11.19 *The referral procedure shall not apply in respect of urgent decisions. A decision will be urgent if any delay likely to be caused by the referral process would seriously prejudice the Council's or the public interests. The record of the decision and the notice by which it is made public shall state if the decision is urgent and therefore not subject to the referral process. The Chair of the Scrutiny and Overview Committee must agree that the decision proposed cannot be reasonably deferred and that it is urgent. In the absence of the Chair, the Deputy Chair's consent shall be required. In the absence of both the Chair and Deputy Chair, the Mayor's consent shall be required. Any such urgent decisions must be reported at least annually in a report to Council from the Mayor."*

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Appendix A: Part A Cabinet Report for the Temporary Workers Staffing Contract.

Appendix B: Confidential Part B Cabinet Report for the Temporary Workers Staffing Contract. (Please note that this appendix is listed separately as item ## in the agenda).

Appendix C: The Decision Notice for the decision taken by the Executive Mayor.

Appendix D: Completed call-in form that was received by the Monitoring Officer.

Appendix E: Is a report responding to grounds for call-in (to follow).