

NORTH YORKSHIRE COUNTY COUNCIL

YOUNG PEOPLE OVERVIEW AND SCRUTINY COMMITTEE

4 December, 2008

**Call In of Decision By Assistant Chief Executive (Legal and Democratic Services)
Relating to Institution of Proceedings for Judicial Review of the School Adjudicator's
Determination on Admissions to Community Schools in Harrogate**

1.0 PURPOSE OF REPORT

- 0.1 To enable the Committee to consider whether it would wish to refer the decision relating to an application for judicial review back to the Assistant Chief Executive (Legal and Democratic Services) or to the full Council and, if so, the nature of its concerns about the decision.

2.0 THE DECISION OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL AND DEMOCRATIC SERVICES)

- 2.1 On 17 November 2008 the Assistant Chief Executive (Legal and Democratic Services) made the following decision:-

“That Institution of Judicial Review proceedings in relation to the Adjudicator’s decision of 29 September 2008 be authorised”.

- 2.2 A copy of the Report (see attachment pages 3-5), Appendices (pages 6-27) and Decision Record (pages 28-29) are attached as Appendices to this Report.

3.0 THE CALL IN

By 24 November, 2008 I had received written notice from 6 Members that they wished the decision of the Assistant Chief Executive (Legal and Democratic Services) to be called in. The notice was signed by County Councillors Margaret Ann de Courcey Bayley, Bill Hout, Keith Barnes, Les Parkes, John Marshall and Steve Macaré.

The reasons given for Call-in were:-

A Judicial Review even if successful would perpetuate what is perceived by many as an unfair system. Efforts should be made to establish a consensus amongst interested parties.

4.0 THE ROLE OF THE OVERVIEW AND SCRUTINY COMMITTEE

- 4.1 It is for the Committee to consider the decision which has been subject to call in and then to decide whether, or not, it wishes to refer it back to the decision making person or body (the Assistant Chief Executive (Legal and Democratic Services) for reconsideration, setting out in writing the nature of its concerns, or whether, or not, it wishes to refer the matter to full Council.

- 4.2 If the Committee does not refer the matter back to the Assistant Chief Executive (Legal and Democratic Services) or refer it to the Council, the decision will take effect

on the date of the Overview and Scrutiny Committee meeting. The relevant parts of the County Council's Overview and Scrutiny Committee procedure rules are set out below.

5.0 16. CALL IN

Note: Powers of call in apply only to functions which are the responsibility of the Executive.

- (d) If, having considered the decision, the Overview and Scrutiny Committee wishes to do so, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or refer the matter to full Council. If referred to the decision maker they shall then consider the matter, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the overview and scrutiny committee does not refer the matter back to the decision making person or body the decision shall take effect on the date of the overview and scrutiny meeting.
- (f) Where the matter has been referred to full Council, but the Executive decides that the matter must be determined prior to the next Council meeting, they may proceed to determine the matter, and shall report the matter to the next Council meeting.
- (g) Subject to (f) above, if the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, (note: it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget) the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.

6.0 ISSUES TO BE DETERMINED

- 6.1 That the Committee considers whether, or not, it wishes to refer the decision back to the Assistant Chief Executive (Legal and Democratic Services) for reconsideration and, if so, the nature of the Committee's concerns, or whether the Committee wishes to refer the matter to full Council, or not.

CAROLE DUNN
Assistant Chief Executive (Legal and Democratic Services)

County Hall
NORTHALLERTON

26 November 2008
JW/JD/ALJ

<u>Background Documents</u>	None
Author of Report	Jane Wilkinson