

Chief Executive's Department

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date

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when responding please contact
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our ref
Scrutiny/Call In/SAO/ljl

your ref

Dear Tony,

Many thanks for your letter of 12 June with a request for a call in. I note that your request is supported by Mr J Taylor and Mrs S Maynard.

I have looked at the grounds you have given for the call in and, in my view, all the issues you raise, were considered by the Cabinet. You will know that our Constitution states that a call in should only be used in exceptional circumstances and that "reasons must be legitimate and not designed to impede the proper transaction of business for vexatious, repetitive or other improper reasons". On the face of it, your grounds do not set out anything new for the Scrutiny Committee or the Cabinet to consider.

You will also be aware, because you were closely involved, that this issue has already been examined by a cross-party Scrutiny Committee. It has been considered in a number of open forums, and was the subject of wide consultation before the final decision was made by Cabinet. You will recall that several members of scrutiny felt that all discretionary support for denominational home to school transport should be removed and, in fact, the Cabinet adopted a compromise position which it was hoped would resolve matters amicably. Given that background, I am not at all clear why you feel that a call-in by scrutiny will assist your case in any way.

When we spoke over the telephone yesterday, I also raised my concerns that you had a prejudicial interest in this matter in accordance with the Code of Conduct. I note, in this respect, that under ground 7 of your letter of 12 June, you state that St Richard's "is critically affected by this outcome". Although our Constitution is silent on the point, I take the view that someone with a prejudicial interest is not entitled to ask for a call in.

Having considered all the above matters, however, I understand the strong feelings about this issue, and I take into account the fact that you were not aware, before the call-in deadline, that your interest could prevent you from signing the request for a call in. I have looked at all the papers that went before the Cabinet and I believe it would be advantageous for the Scrutiny Committee to look again at three of the grounds you have raised to clarify any matters of doubt which may remain.

Those are:-

- (a) the potential impact of the decision on the pattern of use of school places;
- (b) the "huge financial benefit that the churches and their communities provide to the Council by their provision of land, buildings and finance to support state school places in Sussex"; and
- (c) the recent advice of the Secretary of State concerning denominational transport.

Although all these matters have been put before the Cabinet as part of the decision making process, I would be content for the Scrutiny Committee to have a final look to see whether they feel the Cabinet has overlooked any relevant issues. I see no purpose, however, in asking the Scrutiny Committee to look at the other grounds you have given. The Cabinet was well aware of the outcome of the wide consultation which was undertaken. The report to Cabinet was also very clear about the financial information which was available.

Your ground 4 alleged that the Council had failed to demonstrate equity or fairness, but I do not consider that anything more can be achieved by re-visiting that.

On ground 7, I believe that the information in front of members about the impact of the decision on St Richard's was very clear, both at Scrutiny and at Cabinet. No purpose would be served by re-examining this issue. The same is true in relation to ground 8. The environmental impact was considered as part of the report to members.

I will advise the Chairman of the Scrutiny Committee to consider this call in as an urgent item at the next meeting of the Scrutiny Committee on 20 June. It is important that the matter is considered as quickly as possible. In my view, as I have said, you have a prejudicial interest and you will not be able to attend the meeting. No doubt you will consider whether you wish to appoint a substitute for the meeting, and make arrangements for somebody to speak in relation to the call in.

Please let me know if anything is not clear and I will do my best to help.

Yours sincerely

Andrew Ogden
Director of Law and Personnel