

AGENDA ITEM
REPORT TO EXECUTIVE SCRUTINY COMMITTEE
20 OCTOBER 2026
REPORT OF THE
MONITORING OFFICER

CALL-IN VALIDITY REPORT

SEND REFORM PROGRAMME – EDUCATION WHITE PAPER AND LOCAL AREA REFORM PLAN UPDATE

SUMMARY

This report provides a formal assessment of the validity of a call-in request submitted in respect of the Cabinet decision of 17 September 2026 concerning the SEND Reform Programme – Education White Paper and Local Area Reform Plan Update.

Its purpose is to determine whether the issues raised meet the constitutional threshold for call-in and whether they engage one or more of the Council's Decision-Making Principles in a manner which warrants further scrutiny.

In doing so, the report distinguishes between:

- (a) the merits and lawfulness of the substantive decision; and
- (b) whether issues of process, clarity or information arise which are capable of engaging the Council's Decision-Making Principles and therefore properly fall to be considered through call-in.

The report identifies those principles which are potentially engaged and therefore defines the scope within which the Committee may properly undertake its scrutiny.

RECOMMENDATIONS

That the Executive Scrutiny Committee:

1. Notes that the call-in request is valid; and
2. Proceeds to consider the call-in on the grounds identified in this report.

BACKGROUND

1. This report assesses a call-in request following Cabinet's decision of 17 September 2026 titled *SEND Reform Programme – Education White Paper and Local Area Reform Plan Update*.
2. The assessment is undertaken in accordance with:
 - a. the Local Government Act 2000;
 - b. the Council's Constitution; and
 - c. the Council's Decision-Making Principles at paragraph 1.35.
3. The purpose of this report is to determine whether the call-in request meets the constitutional requirements for validity and whether it should proceed to the Executive Scrutiny Committee.
4. The assessment focuses solely on whether the matters raised by Members, if supported by evidence, could reasonably indicate that one or more of the Decision-Making Principles may not have been fully demonstrated at the point Cabinet made its decision.
5. This report does not determine the merits of the SEND Reform Programme or whether Cabinet should have reached a different substantive decision. Those are not matters for the Monitoring Officer to determine through the validation process.
6. For clarity, validation of a call-in does not establish that the decision was unlawful or that any procedural failure occurred. The question at this stage is whether issues of process, clarity or information arise which are properly capable of further scrutiny.

THE CALL-IN PROCESS

Legislative and Constitutional Framework

1. Call-in is a statutory safeguard within the Council's governance framework, enabling scrutiny of executive decisions prior to implementation.
2. Section 9F of the Local Government Act 2000 requires that councils maintain arrangements for the review of executive decisions.
3. Call-in is an exceptional mechanism. It is not intended to revisit the merits of a decision or to substitute the judgement of the Executive, but to ensure that decisions have been taken in accordance with proper process.

4. Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, only executive decisions may be called in.

Threshold for a Valid Call-In

5. A call-in request is valid if it:
 - a. Is supported by at least six non-Cabinet Members;
 - b. Relates to a decision that has been made but not yet implemented; and
 - c. Alleges a potential failure to comply with one or more Decision-Making Principles.
6. A call-in request is invalid if it:
 - a. Does not allege a procedural failing;
 - b. Seeks to challenge operational or financial management decisions rather than the decision itself; or
 - c. Simply requests further explanation without identifying a potential departure from the Decision-Making Principles.

Decision-Making Principles (Constitution Paragraph 1.35)

7. The relevant principles are:
 - a. Proportionality;
 - b. Due consultation and the taking of professional advice;
 - c. Respect for human rights and equality;
 - d. A presumption in favour of openness;
 - e. Clarity of aims and desired outcomes;
 - f. Explanation of options and reasons;
 - g. Relevant matters not ignored; and
 - h. Clarity and explanation of information provided.

THE DECISION UNDER CHALLENGE

8. The decision under challenge was taken by Cabinet on 17 September 2026. Cabinet considered a report updating it on the national SEND Reform Programme and Stockton-on-Tees' Local Area Reform Plan ("LARP"), which had been developed jointly with the North East and North Cumbria Integrated Care Board and submitted to the Department for Education in June 2026. The Department for Education's assessment was awaited and was expected in October 2026.

The report also proposed the use of £8.01 million of available High Needs capital resources across three schemes:

- a. a new 50-place Social, Emotional and Mental Health (“SEMH”) special school;
 - b. expansion of the Early Support Nursery by up to 10 places; and
 - c. 40 additional specialist primary places at Ash Trees Academy.
9. The proposals also included programme contingency and associated financial and delivery delegations. Cabinet was advised of the service and financial rationale for increasing local specialist capacity and reducing reliance on higher-cost independent and out-of-area placements.
10. At the meeting, an addendum containing two additional recommendations was circulated. These provided:
- a. a. authority for the Director of Children’s Services to act as the Council’s authorised representative in Spark of Genius LLP in connection with the SEMH Special School; and
 - b. b. delegated authority to the relevant Director or Assistant Director in respect of contract award and subsequent contractual decisions required to deliver the SEMH Special School project.
11. The published record confirms that the addendum was circulated at the meeting and describes the nature of the two additional recommendations. Cabinet agreed the recommendations, including the two additional recommendations.

SUMMARY OF GROUNDS RAISED IN THE CALL-IN

12. The call-in makes clear that the Members concerned support the objective of increasing local SEND capacity. Their challenge is directed principally towards whether Cabinet had sufficiently clear and complete information before approving the £8.01 million programme and the associated governance, financial and procurement arrangements.
13. The grounds raised may be summarised as follows:
- a. two substantive governance and procurement recommendations were introduced at the Cabinet meeting and questions arise concerning the opportunity available to Members to consider them and the professional advice underpinning them;
 - b. the formal resolution authorising a construction contract of up to £1.7 million refers to delivery of “recommendation 1”, although recommendation 1 does not concern the relevant construction project;

- c. the formal decision record states that no alternative options were considered and rejected;
 - d. the financial, governance and procurement delegations approved are sufficiently broad to warrant consideration of their limits and safeguards; and
 - e. the relationship between the capital programme and the pending Department for Education decision on the LARP was insufficiently clear.
14. Taken together, the call-in raises issues concerning the clarity and completeness of the information underpinning parts of the decision and the scope of some of the implementation arrangements approved by Cabinet

ASSESSMENT AGAINST DECISION-MAKING PRINCIPLES

Proportionality

15. The substantive decision concerned the Council's response to identified SEND sufficiency pressures and the creation of additional local specialist capacity.
16. The report set out the proposed expenditure, additional capacity and anticipated service and financial benefits associated with each scheme.
17. No substantive issue arises under this principle for the purposes of the validation assessment.

Assessment: Satisfied; does not support validity.

Due Consultation and Professional Advice

18. The principal issue raised under this principle concerns the two additional recommendations circulated at the Cabinet meeting.
19. These were substantive recommendations concerning governance and procurement arrangements rather than typographical or presentational amendments. The available record demonstrates that the recommendations were brought expressly to Cabinet's attention and were subsequently approved. The published decision record also identifies that an addendum was circulated at the meeting and describes its effect. The fact that an additional recommendation is introduced at a meeting does not, of itself, demonstrate a failure to take professional advice or a failure in the decision-making process.
20. However, given the nature of the first additional recommendation, including the authority to exercise the Council's rights as a member of Spark of Genius LLP, the call-in raises a reasonable question as to the professional advice and governance

framework supporting that arrangement and whether its scope and effect were sufficiently clear to Cabinet.

21. This assessment does not determine whether the professional advice was adequate. That would go beyond the validation function. It determines only that the issue is sufficiently connected to the Decision-Making Principle to be capable of scrutiny.

Assessment: Supports validity.

Respect for Human Rights and Equality

22. No substantive issues arise.

Assessment: Satisfied; does not support validity.

Presumption in Favour of Openness

23. The substantive SEND report was published and considered in public session. The additional recommendations were identified and explained during the public meeting and the published record states that an addendum containing them was circulated at the meeting.
24. The fact that additional recommendations were introduced at the meeting does not, of itself, establish a failure of openness.
25. No separate substantive issue therefore arises under this principle for the purposes of validation.

Assessment: Satisfied; does not support validity.

Clarity of Aims and Desired Outcomes

26. The overall aims and intended outcomes of the SEND Reform Programme and proposed capital investment were clearly identified.
27. These included increasing local specialist capacity, improving outcomes for children and young people, reducing reliance upon higher-cost independent provision and supporting the wider objectives of the Local Area Reform Plan. The published decision records those objectives.
28. There is therefore no substantive lack of clarity as to the overall purpose of the programme.
29. A separate issue does, however, arise concerning the wording of the formal resolution authorising a construction contract of up to £1.7 million. The resolution refers to

delivery of “recommendation 1”, although recommendation 1 does not concern the relevant construction project.

30. The wider context may make the intended project ascertainable. However, where a formal resolution confers authority for a contract of this value, an erroneous cross-reference is capable of creating uncertainty as to the precise authority conferred.
31. Scrutiny may therefore properly examine the significance of that error and whether clarification of the formal decision record is required.

Assessment: Satisfied; does not independently support validity.

Explanation of Options and Reasons

32. The formal decision record states “None” under the heading “Alternative Options Considered and Rejected”.
33. The constitutional principle does not require Cabinet reports to identify every conceivable alternative, nor to manufacture alternatives where none were considered viable. It does, however, require an explanation of the options which were considered and the reasons for the decision.
34. The substantive report explains the rationale for the three schemes recommended to Cabinet and the anticipated benefits of each. Nevertheless, given the proposed commitment of the available High Needs capital resources across the identified programme and the proposed partnership arrangements for the SEMH provision, the call-in raises a reasonable question as to what material alternatives, if any, were considered in developing the proposals and how the preferred arrangements were selected.
35. Scrutiny may therefore properly examine whether the options considered and reasons for the preferred approach were sufficiently explained to enable an informed decision.

Assessment: Supports validity.

Relevant Matters Not Ignored

36. The call-in identifies the pending Department for Education assessment of the Local Area Reform Plan as a potentially relevant dependency.
37. The Cabinet report and presentation expressly identified that the LARP had been submitted to the Department for Education and that its assessment was awaited, with an outcome expected in October 2026. The published decision also records that approval could result in High Needs Stability Funding of around £15.4 million,

equivalent to approximately 90% of the £17.13 million cumulative DSG High Needs deficit.

38. The conditional nature of that funding was therefore before Cabinet and was not ignored.
39. The relevant factual issue is whether approval or otherwise of the LARP had a direct bearing upon the availability or implementation of the separately identified £8.01 million capital programme.
40. That matter may appropriately be clarified during scrutiny as part of the financial context, but on the information presently available the existence of the outstanding Department for Education decision does not independently support validation on the basis that a relevant matter was ignored.

Assessment: Does not independently support validity.

Clarity and Explanation of Information Provided

41. This principle is engaged by several aspects of the call-in.
42. First, as identified above, the formal resolution concerning a construction contract of up to £1.7 million contains an apparently erroneous cross-reference.
43. Secondly, Cabinet approved a number of delegations concerning implementation of the capital programme, including financial, governance and contractual decision-making.
44. The existence of delegated authority is not itself a governance concern. Such arrangements may be necessary to enable implementation of a Cabinet decision.
45. However, the call-in raises a reasonable question as to whether the scope, financial limits, consultation requirements and other controls applicable to those delegations were sufficiently clear at the point the decision was made.
46. In particular, scrutiny may properly examine the relationship between the individual project budgets, programme contingency, overall £8.01 million capital envelope and the Council's established financial and procurement controls.
47. It may similarly examine the scope of the authority conferred upon the Council's representative within Spark of Genius LLP and the governance framework within which those rights are to be exercised.

48. These matters are sufficiently connected to the clarity and explanation of information provided to Cabinet to warrant further scrutiny. This conclusion does not imply that the delegations were inappropriate or insufficiently controlled; that is a matter to be considered on the evidence.

Assessment: Supports validity.

OVERALL VALIDITY DETERMINATION

49. The call-in satisfies the procedural requirements for submission and raises substantive and credible grounds for further scrutiny under the following Decision-Making Principles:
- a. Due consultation and the taking of professional advice;
 - b. Clarity of aims and desired outcomes, insofar as this relates to the erroneous cross-reference within the relevant contractual resolution;
 - c. Explanation of options and reasons; and
 - d. Clarity and explanation of information provided.
50. On this basis, the call-in request is valid.
51. The remaining Decision-Making Principles do not, on the information presently available, provide additional independent grounds for call-in.
52. In reaching this conclusion, I have not determined that any failure of the Decision-Making Principles occurred. The validation threshold is whether the matters raised, if supported by evidence, are reasonably capable of demonstrating such a failure. The determination of the substantive issues is for the Executive Scrutiny Committee.
53. In particular, the available evidence demonstrates that the additional recommendations were expressly brought to Cabinet's attention and approved. Similarly, the pending Department for Education assessment of the Local Area Reform Plan was identified to Cabinet. Those matters will form part of the factual context within which the validated grounds are considered.
54. The matters identified principally relate to the clarity and completeness of aspects of the decision-making process and associated implementation arrangements rather than the merits of the Council's substantive policy objective of increasing local SEND capacity.

SCOPE OF SCRUTINY

55. Having regard to the grounds which support validation, the Committee may properly consider:

- a. the intended project reference in the resolution authorising the construction contract of up to £1.7 million and whether the formal record requires clarification;
 - b. the professional advice and governance arrangements supporting the Council's participation in Spark of Genius LLP and the authority delegated to the Director of Children's Services to exercise the Council's membership rights;
 - c. what material alternative options were considered in developing the capital programme and associated delivery arrangements, and how the preferred approach was identified;
 - d. the financial and governance controls applicable to movements between individual project budgets, use of programme contingency and the overall £8.01 million programme envelope;
 - e. the scope and controls applicable to the procurement and contractual delegations approved by Cabinet; and
 - f. insofar as it assists the Committee in understanding the overall financial context, the relationship between the £8.01 million capital programme, the Local Area Reform Plan and the potential High Needs Stability Funding.
56. The purpose of identifying these matters is to focus the Committee's consideration upon those aspects of the call-in which engage the Decision-Making Principles. It does not prevent the Committee from considering relevant evidence necessary to understand those matters.

ATTENDANCE

57. The Committee will determine attendance at the call-in meeting. Officers will liaise with the Chair to ensure that appropriate Cabinet Members and Officers are available to assist the Committee.

SUPPORTING GUIDANCE

58. This assessment has had regard to:
- a. the Local Government Act 2000;
 - b. the Council's Constitution;
 - c. relevant statutory and sector guidance; and
 - d. Knowles on Local Authority Meetings.

BACKGROUND DOCUMENTS

- Cabinet Report – SEND Reform Programme – Education White Paper and Local Area Reform Plan Update, 17 September 2026
- SEND Reform Programme – Additional Recommendations
- Cabinet Decision Record – 17 September 2026
- Call-In Request
- Recording of Cabinet meeting – 17 September 2026

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