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Marjorie Toward,
Councillor Ben Bradley MP,
Councillor John Cottee,
Councillor Boyd Elliot,
Councillor Glynn Gilfoyle
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Delivered via Email

14th September 2023

Pre-Call In: SCHOOL MEALS – CHARGES TO SCHOOLS

Dear Marje and Cllrs Bradley, Cottee, Elliot and Gilfoyle,

I am writing to inform you as the relevant Proper Officer, Leader, Cabinet Member and Overview and Scrutiny Chairs, that it is the intention of the signatories of this letter to initiate the Council's Call-In procedure for a Decision taken on Thursday 7th September regarding the increase to school meal prices.

The purpose of this letter is therefore both to action the pre-call-in procedure, as per page 110 of the Council Constitution, to outline our areas of concern, and to indicate our intention to proceed with a Call-In, should the outcome of this Pre-Call-In process leave concerns unresolved.

As outlined in the Constitution, we seek to Call-In this decision under the following principles:

- a. Compliance with the law;
- b. proportionality (i.e., the action must be proportionate to the desired outcome);
- c. due consultation and the taking of professional advice from officers;
- d. respect for human rights;

and

f. where required by law or this Constitution, describing options considered and giving reasons for the decision

I have included further detail under each principle below:

A. Compliance with the law

The Decision, added to the current Forward Plan on 6th July 2023 states:

“To seek approval for new prices for school meals to be charged for the new academic year from 1st September 2023.”

The Decision Taken record states:

“To seek approval for new prices for school meals to be charged for the new academic year from 16 October 2023.”

Paragraph 46 on page 73 of the Council Constitution states:

“Notice that a Key Decision is to be taken will be published at least 28 days in advance in the Forward Plan, subject to the Access to Information Rules in Section 2.”

It is evident from the above that the decision taken is not the decision published in the Forward Plan.

I refer below to the following regulations found in The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000:

Under ‘Publicity in connection with key decisions’, regulation 12b states:

“that a plan (to be known as the “forward plan”) containing particulars of the matters in respect of which those decisions are to be made, will be prepared on a monthly basis by the local authority”

As aforementioned, it is evident that the particulars of the matters in respect of this decision were not commensurate with the particulars in the Forward Plan.

Under ‘General exception’, regulation 15 states:

“Where the inclusion of a matter on the forward plan is impracticable and the matter would be a key decision, that decision shall only be made—

(a) where the proper officer has informed the chairman of the relevant overview and scrutiny committee or, if there is no such person, each member of the relevant overview and scrutiny committee by notice in writing, of the matter about which the decision is to be made;”

I request to see evidence of the Proper Officer contacting the Chairman of the overview and scrutiny committee in writing to inform that the key decision was to be amended, and that this communication was made after the publication of the Forward Plan and prior to the Decision Taken.

B. Proportionality (i.e., the action must be proportionate to the desired outcome)

Paragraph 26 of the Report states:

“At the end of July 2023, the Council forecast an overspend for the Service for 2023-24 of £2.18m. The increase in the prices proposed in paragraph 6. are expected to increase income in 2023/24 by approximately £232,900.”

This decision does not account for the remaining £1,947,100 forecast overspend and the report does not indicate how this overspend will be accounted for.

This decision appears to be disproportionate in that it will only partially address the forecast overspend, and does not make clear what other measures will be taken to address the overspend.

I request confirmation the additional decisions are set to be taken to address this forecast overspend, what they are likely to be, and why they have not been referred to in this report.

C. Due consultation and the taking of professional advice from officers;

Paragraph 7 of the Decision report states:

“For context, it is understood that Derbyshire County Council will be increasing its paid school meal price to £3.25, and Universal Free School Meals to £2.53.”

I am aware of other neighbouring Local Authorities charging significantly less than both Derbyshire and Nottinghamshire County Councils and this report does not make clear whether this information was also provided to the Cabinet Member to make an informed decision.

I would like confirmation from the Leader and Cabinet Member as to whether this information has been provided to them by officers, and that if so, this decision was made in full knowledge that other Local Authorities have made the decision to prioritise affordable meals for children at school.

D. Respect for human rights

The United Kingdom has a long and proud history of respecting human rights.

We are an inaugural member of the United Nations and a signatory to the Universal Declaration of Human Rights.

The right to food is recognized in the declaration as part of the right to an adequate standard of living.

Article 25.1 of the Universal Declaration of Human Rights states:

“Everyone has the right to a standard of living adequate for the health and well-being of him/herself and of his/her family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his/her control.”

The UK is a signatory to the International Covenant on Economic, Social and Cultural Rights (ICESCR) treaty, adopted by the General Assembly Resolution 2200A (XXI) on 3 January 1976.

The 'right to adequate food' is listed in Part 3 Article 11 of the ICESCR treaty.

On 12 May 1999, the UN Committee on Economic, Social and Cultural Rights adopted General Comment 12 'The right to adequate food'.

the introduction to General Comment 12 states:

"The human right to adequate food is recognized in several instruments under international law."

Paragraph 4 states:

"adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights."

Paragraph 6 states:

"The right to adequate food is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement."

The above outline expressly that every individual child has an inalienable right to access, at all times, adequate food or the means for its procurement, and that this right is indivisibly linked and essential to the fulfilment of other human rights enshrined in International law via the numerous treaties of which the United Kingdom is signatory to.

I request confirmation that this decision was taken in the full knowledge that it will make access to adequate food or the means of its procurement more difficult for children.

F. Where required by law or this Constitution, describing options considered and giving reasons for the decision

Paragraph 20 of the report refers to '*Other options specifically considered*'. Of the three options listed, the option to reallocate funds from other areas of Council spending to prioritise the wellbeing of children was considered.

I request confirmation from the Leader and Cabinet Member whether they had considered this option and why it was not included as an option in the report.

It is also not clear from the report as to the reasoning of how an increase of specifically 15.7% was reached, as this is higher than inflation and pending pay award increases referenced.

I request further information on how the figure of 15.7% has been reached.

I wait in expectation that the issues raised above will be acknowledged in your response.

Sincerely,



**Councillor Michelle Welsh
Labour Group Lead Spokesperson for Children & Families**

Additional Call-In Signatories



**Councillor Mike Pringle
Labour Group Deputy Leader**



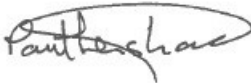
**Councillor Anne Callaghan
Labour Group (Lead Spokesperson –
EDAM & Communities)**



**Councillor Errol Henry
Labour Group (Business Manager)**



**Councillor Penny Gowland
Labour Group Member (Lead
Spokesperson – Transport)**



**Councillor Paul Henshaw
Labour Group (Lead Spokesperson –
ASCPH)**



**Councillor Sybil Fielding
Labour Group Member**