

BRIEF TO ADVISE

QUERIST: BELFAST CITY COUNCIL (“the Council”)

RE: CALL-IN OF A DECISION RELATING TO THE ARMED FORCES COVENANT

Introduction

1. I am asked to provide my opinion on a decision which has been called-in pursuant to section 41 of the Local Government Act (NI) 2014 (“the 2014 Act”). The decision, which rejected a proposal to sign up to the Armed Forces Covenant, was made by the Council on 03 February 2025.
2. The completed call in requisition form was received on 12 February 2025. The decision has been called in on the procedural ground only, pursuant to section 41(1)(a) of the 2014 Act.
3. Section 42 of the 2014 Act requires the clerk of the Council to obtain an opinion of a practising barrister or solicitor where an opinion is called on community impact grounds (pursuant to section 41(1)(b)). There is no similar requirement to obtain an opinion when a decision is called in on procedural grounds. However the City Solicitor does have discretion to seek advice and has asked that I consider the issues raised and advise accordingly.

Background

4. The subject motion reads as follows:

“That this Council recognises the unique skills that are held by Armed Forces services leavers; recognises that many veterans can face disadvantages compared to the general population, arising from military life, when accessing services and as such, this Council commits to signing up to the Armed Forces Covenant immediately.”

5. The motion was first considered by the Council’s Standards and Business Committee on 21 November 2024. The Committee agreed that the motion *“be referred, in the first instance, to the Strategic Policy and Resources Committee (SP&R).”* I am instructed that the referral was made with reference to Standing Order 13(I), which provides:

“No notice of motion seeking to commit the Council to expenditure not previously agreed through the committee process will not be considered but shall instead be referred to the appropriate Committee for consideration and report.”

6. The motion was placed on the agenda of the SP&R Committee on 13 December 2024. Councillors discussed the potential for a report be prepared and brought back to Committee. However a proposal was made not to proceed with the motion at all.

That proposal was voted on and carried. The minutes of the meeting therefore record the decision *“to reject the motion and that no further action be undertaken.”*

7. The minutes of the SP&R Committee on 13 December 2024 were placed on the agenda of the next Council meeting for approval and adoption. The full Council meeting took place on 09 January 2025. It was proposed by Alderman Lawlor that the SP&R Committee minute under the heading *“Notice of Motion-Armed Forces Covenant”* be rejected, and that the Council adopt the motion, subject to equality screening. The proposal was voted on and carried.
8. Equality screening was duly carried out. The matter was placed on the agenda of the SP&R Committee again on 27 January 2025. A report was presented to the Committee with the outcome of the draft equality screening exercise. A proposal was made that the Council adopt the motion and sign up to the armed forces covenant. A vote was taken and the proposal was lost. The minute records *“Accordingly, the Committee agreed to reject the motion and that no further action be undertaken.”*
9. The minute of the SP&R Committee of 27 January 2025 was placed on the agenda of the next Council meeting, which took place on 3 February 2025, for approval and adoption. Alderman Lawlor proposed that the minute of the meeting under the heading *“Notice of Motion-Armed Forces Covenant”* be rejected, and that the motion be adopted by the Council to sign up to the armed forces covenant. The proposal was voted upon and was lost. The relevant minute of the SP&R Committee was therefore approved and adopted.

The call-in request

10. The requisition for call in outlines 3 procedural reasons:
 - “1. The motion was incorrectly referred to SP&R at the Standards and Business Committee citing financial implications. There were no financial implications attached to the motion.*
 - 2. The Motion was passed at the January 2025 Full Council Meeting and due to there being no finance or resource implications, was not required to go back to SP&R as a fresh motion.*
 - 3. The motion should have been proposed for adoption, debate at full council or rejection at the Standards and Business Committee.”*
11. Reasons 1 and 3 are related and can be considered together. The crux of the complaint here appears to be that the Standards and Business Committee should never have referred the motion to the SP&R Committee, as it had no financial implications.

12. Reason 1 contends that it was incorrect for the Standards and Business Committee to refer the motion to SP&R. Standing Orders 37(h) provides that the purpose of the Standards and Business Committee is:

“to receive and review all Notices of Motion and using the Committee’s delegated power to recommend either adoption or debate at the next Council meeting.”

Whilst, if read in isolation, that provision may suggest that the Standards and Business Committee only has the power to refer directly to the Council, it must in fact be read with Standing Order 13(n) which states:

“The Standards and Business Committee will refer all Notices of Motion directly to a standing committee when the matter to which the Notice of Motion refers falls within the remit of that Committee. At Council, the Lord Mayor will indicate that the Notice of Motion was received and rereferred. There will be no speakers on such Notices of Motion at Council.”

13. The Standards and Business Committee evidently considered that it did fall within the remit of SP&R. SP&R Committee is responsible for *“ensuring effective use of resources and value for money for rate payers”*. Whilst the requisitions contend that there were no financial implications to the motion, that is something which may not have been known until the motion was subject to a report on that particular matter. Arguably, the financial implications of a motion are not evident until it has been considered by officers to ascertain what is involved in the motion and what commitments would be required by the Council. It is only once that step is taken that the existence or not of financial implications can be known. Indeed, this is demonstrated by the report which was later presented to SP&R on 27 January 2025, which noted, under the heading *“financial and resource implications”*: *“none associated with this report as the Motion only commits to signing the Armed Forces Covenant”*.
14. It may well be that in some cases, the absence of financial implications will be obvious. But where it is not clear it is arguably prudent to relevant Committee for a report on that matter.
15. I do not therefore consider that there was an obvious procedural error in the Standards and Business Committee referring the matter to the SP&R Committee.
16. I now turn to the second reason for call-in, that the matter did not require to go back to the SP&R Committee after the Council decision in January 2025. The Council decision was to approve the motion *subject to equality screening*. Standing Orders do not specify the procedure to be adopted in circumstances where the Council makes a decision contingent on further work being carried out. There is therefore a discretion to choose the appropriate course. What is appropriate must be considered in light of the particular circumstances of each matter.

17. It is important to note that when this matter did go back to SP&R Committee on 27 January 2025 it was for a report on the equality screening outcome. I note that Standing Order 37(a) lists one of the functions of the SP&R Committee as

“Developing and implementing the organisation’s Good Relations and Equality Strategies.”

18. It appears to me that a report on the equality screening outcome was an arguably legitimate basis for returning the matter to the Committee given the above remit. I also note that the report which was placed before the SP&R Committee on 27 January 2025 notes the purpose of the report to be to set out the financial and resource implications of the proposal. That chimes with the SP&R Committee’s role in ensuring effective use of resources and value for money for ratepayers. As I have addressed above, the requisitioners claim that there were no financial resource implications, but that was only known for sure once the report was prepared and the matter assessed.

19. I therefore consider that there was a reasonable basis upon which to return the matter to SP&R Committee following the Council’s decision because of:

- i. The lack of specific direction in Standing Orders as to what should happen in the circumstances which arose.
- ii. The remit of the SP&R Committee.

20. But even if I am wrong about that, and taking the requisitioners claims at their height for the sake of the fullest consideration of this issue, even if there was a procedural error, it is hard to see what difference it would have made if the matter was returned to the Council directly. Requisitioners state that the matter should, instead of going to SP&R, have returned directly to the Council. Had that occurred, the motion would have been discussed and voted upon at Council. The reality is that the Council did in discuss and vote upon the motion again, notwithstanding the fact that it was recommended for rejection by SP&R Committee. That opportunity arose as a result of Councillor Lawlor’s proposal to amend the minute to reject the SP&R Committee’s recommendation and to agree to the notice of motion and to sign up to the Covenant. That proposal was discussed and voted upon at the 03 February 2025 meeting. The vote was lost. The import of that is, in my view, that even if there was a procedural error in the route which the motion took to make it back to the Council, it did ultimately make it back on the Council’s agenda and was duly discussed and considered and voted upon. In other words, there was no ultimate procedural detriment.

Conclusions

21. For all the reasons outlined above, it is my view that no obvious procedural error has occurred. I do consider it important to note that, even if a procedural error did occur, the Council still had a full opportunity to consider the matter and no procedural detriment arose.

22. I trust that the above is of assistance. Should any queries arise, instructing solicitors should not hesitate to contact me.

Denise Kiley
The Bar Library
27 March 2025