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OVERVIEW & SCRUTINY COMMITTEE

Thursday, 28 May 2020 at 6.00 pm

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(PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING)

Councillors : Susan Erbil (Chair), Tolga Aramaz, Guner Aydin, Sinan Boztas, Bernadette Lappage, Achilleas Georgiou (Vice-Chair), Edward Smith and Lee David-Sanders

Education Statutory Co-optees: 1 vacancy (Church of England diocese representative), Simon Goulden (other faiths/denominations representative), Tony Murphy (Catholic diocese representative), Alicia Meniru & 1 vacancy (Parent Governor Representative).

Support Officer – Susan O’Connell (Governance & Scrutiny Officer)
Stacey Gilmour (Governance & Scrutiny Officer)

AGENDA – PART 1

1. WELCOME & APOLOGIES

2. DECLARATIONS OF INTEREST

Members of the Council are invited to identify any disclosable pecuniary, other pecuniary or non-pecuniary interests relevant to the items on the agenda.

3. CALL-IN- IN-SOURCING OF THE ROAD GULLY CLEANING SERVICE (Pages 1 - 22)

To receive and consider a report from the Director of Law and Governance outlining details of a call-in received on the Cabinet Decision taken on in-Sourcing of the Road Gully Cleaning Service (Report No. 254)

The decision that has been called in was a Cabinet Decision taken on 13 May 2020 and included on the Publication of Decision List No: 80/19-20 (List

Ref: 3/80/19-20 issued on 15 May 2020.

It is proposed that consideration of the call-in be structured as follows:

- Brief outline of the reasons for the call-in by representative (s) of the members who have called in the decision
- Response to the reasons provided for the Call-in by a Cabinet Member responsible for taking the decision
- Debate by Overview and Scrutiny Committee and agreement of action to be taken.

4. UPDATE ON COMMUNITY RESILIENCE WORK UNDERTAKEN DURING COVID 19 (TO FOLLOW PAPER)

To receive a report from the Executive Director – Resources.

5. DATES OF FUTURE MEETINGS

To note the date of the next meeting as follows:

Thursday 4 June 2020 (please note that this will be a virtual meeting)

MUNICIPAL YEAR 2019/2020 REPORT NO. 254**MEETING TITLE AND DATE:**

**Overview & Scrutiny
Committee, 28 May 2020**

REPORT OF:

Director of Law & Governance

Contact officers and telephone
numbers:

Jeremy Chambers, Director Law and Governance

Tel: 020 8379 4799

Email: Jeremy.chambers@enfield.gov.uk

Claire Johnson, Head of Governance & Scrutiny

Tel: 020 8379 4239

E mail: claire.johnson@enfield.gov.uk

Agenda – Part: 1	Item:
Subject: Call- In – In Sourcing of Road Gully Cleaning Services	
Wards: All	
Cabinet Member consulted: N/A	

1. EXECUTIVE SUMMARY

1.1 This report details a call-in submitted in relation to the following decision:

Cabinet Decision (taken on 13/05/20):

1.2 Details of this decision were included on Publication of Decision List No. 80/19-20 (Ref. 3/80/19-20 – issued on 15 May 2020)

1.3 In accordance with the Council's Constitution, Overview and Scrutiny Committee is asked to consider the decision that has been called-in for review.

1.4 The members who have called-in this decision do not believe it falls outside of the Council's Policy Framework.

2. RECOMMENDATIONS

2.1 That Overview and Scrutiny Committee considers the called-in decision and either:

- (a) Refers the decision back to the decision-making person or body for reconsideration setting out in writing the nature of its concerns. The decision-making person or body then has 14 working days in which to reconsider the decision; or
- (b) Refer the matter to full Council; or
- (c) Confirm the original decision.

Once the Committee has considered the called-in decision and makes one of the recommendations listed at (a), (b) or (c) above, the call-in process is completed. A decision cannot be called in more than once.

If a decision is referred back to the decision-making person or body; the implementation of that decision shall be suspended until such time as the decision-making person or body reconsiders and either amends or confirms the decision, but the outcome on the decision should be reached within 14 working days of the reference back. The Committee will subsequently be informed of the outcome of any such decision.

3. BACKGROUND/ INTRODUCTION

3.1 Please refer to Section 3 in the Decision Report.

4. ALTERNATIVE OPTIONS CONSIDERED

None – Under the terms of the call-in procedure within the Council's Constitution, Overview & Scrutiny Committee is required to consider any eligible decision called-in for review. The alternative options available to Overview & Scrutiny Committee under the Council's Constitution, when considering any call-in, have been detailed in section 2 above.

5. REASONS FOR RECOMMENDATIONS

To comply with the call-in procedure within the Council's Constitution.

6. COMMENTS OF THE EXECUTIVE DIRECTOR RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

The financial implications relating to the called-in decision have been detailed in Section 6.1 of the Cabinet Decision Report.

6.2 Legal Implications

S 21, S 21A-21C Local Government Act 2000, s.19 Police and Justice Act 2006 and regulations made under s.21E Local Government Act 2000 define the functions of the Overview and Scrutiny committee. The functions of the committee include the ability to consider, under the call-in process, decisions of Cabinet, Cabinet Sub-Committees, individual Cabinet Members or of officers under delegated authority.

Part 4, Section 18 of the Council's Constitution sets out the procedure for call-in. Overview and Scrutiny Committee, having considered the decision may: refer it back to the decision-making person or body for reconsideration; refer to full Council or confirm the original decision.

The Constitution also sets out at section 18.2, decisions that are exceptions to the call-in process.

6.3 Property Implications

The property implications relating to the called-in decision have been detailed in Section 6.3 of the Shareholder Board Decision Report.

7. KEY RISKS

The key risks identified relating to the called-in decision have been detailed in the Shareholder Board Decision Report.

8. IMPACT ON COUNCIL PRIORITIES - CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

The way in which the called-in decision impacts on the Council priorities relating to good homes in well-connected neighbourhoods, sustain strong and healthy communities and build our local economy to create a thriving place have been detailed in the Shareholder Board Decision Report.

9. EQUALITIES IMPACT IMPLICATIONS

The equalities impact implications relating to the called-in decision have been detailed in the Shareholder Board Decision Report.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

The performance management implications identified relating to the called-in decision have been detailed in the Shareholder Board Decision Report.

11. HEALTH AND SAFETY IMPLICATIONS

The health and safety implications identified relating to the called-in decision have been detailed in the Shareholder Board Decision Report.

12. PUBLIC HEALTH IMPLICATIONS

The public health implications identified relating to the called-in decision have been detailed in the Shareholder Board Decision Report.

Background Papers

None

APPENDIX 1

Call-In: In-Sourcing of the Road Gully Cleaning Services

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MUNICIPAL YEAR 2019/2020 REPORT NO. 252

MEETING TITLE AND DATE:Cabinet: 13th May 2020**REPORT OF:**Director of Environment and
Operational Services**Agenda – Part: 1****Item: 8****Subject:** In-Sourcing of Road Gully Cleaning Service**Wards: All****Key Decision No:** KD5118**Cabinet Member consulted:** Cllr. Guney Dogan, Cabinet Member for Environment & SustainabilityContact officer and telephone number:
Stephen Skinner 020 8132 0752Email: Stephen.skinner@enfield.gov.uk**1. EXECUTIVE SUMMARY**

- 1.1 Highway Services currently instructs Ringway Jacobs to undertake routine and reactive highway maintenance work, including activities such as the repair of highway defects, winter maintenance (gritting), gully cleaning and responding to emergencies.
- 1.2 Officers are looking at options for the delivery of this work after the expiry of the contract on 31st March 2021, including the viability to in-source all, or part, of these activities.
- 1.3 This report relates to the road gully cleaning services and recommends in-sourcing that service on, or as soon as possible after, 1st July 2020.
- 1.4 Past performance has often been poor/ mixed and gully cleaning has often been behind programme. This lack of maintenance can lead to serviceability issues on the highway network and problems with budgetary control.
- 1.5 The current contractor's performance provides cleaning of circa 15,000 gullies per year. With the introduction of modern technology and data intelligence now used in this industry our highways engineers have estimated that by managing the service in-house, the performance of this service could be significantly improved with up to 20,000 gullies cleaned per year. This represents a 30% improvement in service.
- 1.6 There is also further opportunities for the gully service to operate more commercially, generating additional income through servicing and cleaning gullies on housing land, educational premises, private developments and privately managed industrial estates.

- 1.7 The budget of £160k to operate this service will be from the highways service as set out in paragraphs 3.8 - 3.10.
- 1.8 The service will be managed as part of the Council's Public Realm Services, based at Morson Road depot.

2. RECOMMENDATIONS

- 2.1 To approve the in-sourcing of the road gully cleaning service and deliver the service from within Public Realm Services based at Morson Road with effect from 1st July 2020, or as soon as practicable after this date.
- 2.2 To develop the business as set out in this report to be the provider for gully and drainage services to Housing Services.

3. BACKGROUND

- 3.1 As a highway authority, Enfield Council has a duty to maintain its highways and associated assets. As part of this duty, Highway Services instructs Ringway Jacobs to undertake routine and reactive maintenance work, including activities such as the repair of highway defects, winter maintenance (gritting), gully cleaning and responding to emergencies.
- 3.2 The contract with Ringway Jacobs is due to expire on 31st March 2021 and officers are considering the viability of delivering all, or part, of the routine and reactive maintenance work in-house as part of the Council's current initiative to self-deliver more services, after the end of the contract.
- 3.3 There are approximately 25,000 road gullies in the borough and Highway Services adopts an asset management approach to maintaining these. Road gullies on principal roads are currently cleaned twice each year, whereas gullies on borough roads are cleaned once every 3 years. This is less than in previous years due to budget reductions over recent years. In addition, a Highway Inspector may need to instruct the contractor to clean a gully to deal with a blockage or local flooding problem. Officers agree cleaning programmes with the contractor and performance is managed through joint meetings, recording those gullies cleaned and those missed due to parked cars etc. The contractor receives payment based on a rate per gully cleaned.
- 3.4 The contractor generally provides one gully cleaning gang (a specialist vehicle and two operatives) in the borough at any time, however past performance has often been poor/ mixed and gully cleaning has often been behind programme. This lack of maintenance can lead to serviceability issues on the highway network and problems with budgetary control.
- 3.5 It is therefore proposed to in-source road gully cleaning as soon as possible after 1st July 2020, and before the end of the contract. The function will be managed within Public Realm Services, specifically, under the Council's Street Cleansing Service,

based at Morson Road depot. Staff within Highway Services and Public Realm Services will work together to develop and agree cleaning programmes benefitting from officers' local knowledge of the road network and ensuring arrangements are in place to deal with requests for emergency call-outs etc.

- 3.6 Discussions have taken place with Ringway Jacobs who have offered a flexible and supportive approach to in-sourcing this activity. Staff currently employed by the contractor to deliver this work will have TUPE rights. Enfield's Fleet Operations Manager will procure an appropriately equipped gully cleaning vehicle, there may be an option of taking on the contractor's vehicle on an interim basis.
- 3.7 At times Highway Inspectors may still need to employ a contractor to undertake more extensive investigatory and repair work to deal with problems that cannot be addressed through normal gully cleaning techniques.
- 3.8 It has been estimated that a viable in-house service comprising of one gully cleaning gang, being operational for 52 weeks a year in order to maximise the use of the vehicle would cost approximately £160,000. (This cost is based on LBE staff T&Cs, a purpose-built specialist gully cleaning vehicle and associated costs).
- 3.9 Highway Services' current annual budget for the cleansing of highway gullies is £149,500. We have costed an inhouse service which equates to £160,000.
- 3.10 It is therefore proposed to transfer from Highways budget £160,000 to Public Realm, Street Cleansing budget to deliver an improved performance service. Highway Services will accommodate the additional £10,500 from existing budgets through income associated with highway licences and street works permits/traffic orders
- 3.11 It is estimated that one gang being fully operational over a full year is likely to be able to clean up to 20,000 gullies, i.e. greater than the current 15,000 per year commissioned through the contractor. Therefore, although additional funding of £10,500 is required, the Council will benefit from an increased level of service.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Delaying the opportunity to in-source the gully cleaning service until the end of the Ringway Jacobs contract will be a missed opportunity to achieve an improved service as soon as possible.
- 4.2 Gully cleaning could be tendered as a specific activity or as part of a wider highway maintenance contract, however this will deprive the Council of the benefits of direct service provision.

5. REASONS FOR RECOMMENDATIONS

- 5.1 In-sourcing the gully cleaning service will enable to Council to have greater control and flexibility of this activity by directly setting and monitoring cleaning programmes and priorities. An in-house gully cleaning gang will be able to respond to emergencies quicker and facilitate more direct feedback and liaison with monitoring officers within the Environmental Services. 1.6 There is also further opportunities for the gully service to operate more commercially, generating additional income through servicing and cleaning gullies and develop a drainage

service on housing land, educational premises, private developments and privately managed industrial estates.

- 5.2 This activity can easily be accommodated under existing management arrangements within the Environmental Services' Public Realm Services teams based at Morson Road depot. This will also provide an opportunity for existing staff within the service who have HGV driving licences to provide additional support, subject to appropriate training, thereby improving the resilience of the service.
- 5.3 The in-sourcing of the gully cleaning activity in advance of the end of Ringway Jacobs contract will provide an opportunity for a 'test run' for a potential larger service transfer at the end of Ringway Jacobs contract on 1st April 2021.

6. COMMENTS FROM OTHER DEPARTMENTS

6.1 Financial Implications

- 6.1.1 This report seeks the in-sourcing of Road Gully Cleaning Service, it has been estimated that a viable in-house service will cost £160k per annum (including an allowance for contingencies).

Summary of Costs	
Staffing Costs (inc standby and call outs)	£ 108,295.98
Vehicle Costs (inc fuel)	£ 28,060.00
Operational Costs	£ 13,000.00
Gully Asset Inventory Recording System	£ 3,000.00
Misc. Expenses/Contingency	£ 7,617.80
Total	£ 159,973.78

- 6.1.2 It is therefore proposed to transfer an additional £10.5k from other budget areas within Highway Services so that the full level of required funding can be transferred to Public Realm Services to run this service. This additional funding will be provided from increased income associated with highway licences and street works permits/traffic orders.

6.2 Legal Implications

- 6.2.1 Section 1 of the Localism Act 2011 permits the Council to do anything that individuals generally may do provided it is not prohibited by legislation and subject to public law principles.
- 6.2.2 The Council has a duty under Section 41 of the Highways Act 1980, to maintain the highways within its boundaries. The Council's duties in respect of highways under the Highways Act 1980 extends to the cleaning of road gullies within its area.
- 6.2.3 The Council will need to ensure that the process for in-sourcing of the gully cleaning work is carried out in accordance with any variation or change control mechanism set out in the Contract it has in place with Ringway Jacobs.
- 6.2.4 The Council also needs to ensure that it complies with its obligations under the Transfer of Undertakings (Protection of Employment) Regulations 2006 in respect of any staff who may potentially transfer to the Council.

6.2.5 The decision to in-source this service is a Key Decision and the Council must comply with its governance process in respect of Key Decisions.

6.3 Property Implications

6.3.1 LBE has a dedicated depot located at Morson Road where the Depot manager has confirmed that the depot is more than capable of accommodating this additional requirement.

6.3.2 The Depot at Morson Road is effectively built for purpose and is a leased in property. As such, LBE should look to utilise the Depot as much as possible in order to extract best value.

7. KEY RISKS

<i>Risk Category</i>	<i>Comments/Mitigation</i>
<i>Strategic</i>	Risk: Does not align with Council's strategic vision. Mitigation: The Council's administration has a strong drive to in-source services where appropriate.
<i>Operational</i>	Risk: Service failure. Mitigation: Service failure due to the breakdown of plant will be minimised through established plant hire arrangements. Staffing shortages will be minimised by having additional suitably trained staff within the wider Public Realm Service. Additional resilience will be available through current and on-going contractual relationships. Risk: Reduced Service Delivery due to current COVID restrictions. Mitigation: Reduction in service delivery through the current COVID restrictions will be minimised by ensuring safe working practises are deployed and targeted cleaning regimes are utilised on less residentially populated roads throughout the borough
<i>Financial</i>	Risk: Cost escalation / overspend Mitigation: Costs will be managed as part of the existing service management arrangements. Expected costs for labour and plant etc have been benchmarked with contractor's costs and a further contingency has been allowed for.
<i>Reputational</i>	Risk: Poor delivery of the cleaning programme. Mitigation: The Public Realm Team has arrangements in place to performance manage street cleaning programmes. Highway Services staff have a lot of local knowledge and will work jointly with the Public Realm team to set and agree cleaning schedules and provide expertise.
<i>Regulatory</i>	Risk: Failure to comply with statutory requirements. Mitigation: Experienced staff will ensure compliance with all environmental, street works and health and safety requirements.

8. INTERNAL DEPARTMENT IMPLICATIONS/CONSULTATION

This proposal has been developed in consultation with Public Realm Services and Housing Services.

9. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

9.1 Good homes in well-connected neighbourhoods

An adequately maintained highway network will contribute to the aim of creating good homes in well-connected neighbourhoods. This new service will also benefit the Councils' Housing Service by providing clean surface water gullies and drainage in off public highway areas.

9.2 Sustain strong and healthy communities

The direct provision of this service will provide opportunities for the direct employment of local labour.

9.3 Build our local economy to create a thriving place

There will be a potential opportunity to develop the in-house road gully cleaning service into a commercially based enterprise that will provide gully cleaning and drainage services to premises such as Council buildings, industrial estates, hospitals, and other local businesses.

10. EQUALITIES IMPACT IMPLICATIONS

The council has a legal duty to have due regard to the need to eliminate discrimination, advance equality and foster good relations on the basis of protected characteristics. An EQIA screening of this proposal did not identify any potential adverse impact on groups sharing protected characteristics.

11. PERFORMANCE AND DATA IMPLICATIONS

11.1 This in-sourcing proposal will enable improved performance management through direct control and a greater ability to prioritise resources to respond to any performance issues.

11.2 The current service delivered by a contractor (with the current budget) allows for approximately 15,000 gully cleans per year. This equates to road gullies on principal roads being cleaned twice per year and those on non-principal roads being cleaned once every three years: with limited capacity for targeted cleans for known problem locations and also reactive, unscheduled cleans.

11.3 An in-sourced service is estimated to be able to clean approximately 20,000 gullies per year. This would equate to road gullies on principal roads being cleaned twice per year and those on non-principal roads being cleaned once every two years, with

an increased capacity for targeted cleans for known problem locations and also reactive, unscheduled cleans.

- 11.4 An appropriate IT system will be required to assist with the performance management of gully cleaning. Ringway Jacobs have recently started using a piece of software called MAP16 which appears to be ideal. Alternatively, it may be possible to build the required functionality into the BARTEC Waste Management software.

12. HEALTH AND SAFETY IMPLICATIONS

Appropriate risk assessments, safe working procedures and training arrangements will be developed and implemented in order to ensure the health, safety and welfare of the work force.

13. HR IMPLICATIONS

- 13.1 If the Gully Cleaning Service is insourced, there are direct HR implications for the Council, as follows:
- 13.2 This is likely to result in the transfer of a small number of contractor employees into the Council under the Transfer of Undertakings Regulations (TUPE) on their existing terms and conditions of employment. It is anticipated that this would include 2 individual members of staff.
- 13.3 In the event of an in-sourced service model, Procurement and Property will need to work closely with the HR Service to ensure that all legal requirements of TUPE are met and legal advice on the implications is recommended.
- 13.4 A meaningful consultation process will need to take place ahead of any transfer. This includes review of terms and conditions and consideration of measures relating to the transfer of staff to the Council.

14. PUBLIC HEALTH IMPLICATIONS

The regular maintenance of road gullies is an essential element of the duty to maintain highways to ensure they are safe for users of Enfield's highway network. This is particularly relevant to pedestrians and cyclists.

Background Papers

None

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APPENDIX 2

**Call-in request form submitted by 7 members of
the Council**

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CALL-IN OF DECISION

(please ensure you complete all sections fully)

Please return the completed original signed copy to:
Claire Johnson, Democratic Services Team, 1st Floor, Civic Centre

TITLE OF DECISION: In sourcing of Road Gully cleaning Services

DECISION OF: CABINET

DATE OF DECISION LIST PUBLICATION: 15 MAY 2020

LIST NO: 3/80/19-20 KD 5118

(* N.B. Remember you must call-in a decision and notify Democratic Services Team within 5 working days of its publication).

A decision can be called in if it is a corporate or portfolio decision made by either Cabinet or one of its sub-committees, or a key decision made by an officer with delegated authority from the Executive.

(a) COUNCILLORS CALLING-IN (The Council's constitution requires seven signatures or more from Councillors to call a decision in).

(1) Signature: *A. F. Berger* Print Name: A. F. BERGER

(2) Signature: *M. Alexandrou* Print Name: M. ALEXANDROU

(3) Signature: *S. Ioannou* Print Name: S. IOANNOU

(4) Signature: *A. Milne* Print Name: A. MILNE

(5) Signature: *C. Vince* Print Name: C. VINCE

(6) Signature: *L. Rawlings* Print Name: L. RAWLINGS

(7) Signature: *M. Riff* Print Name: M. RIFF

LEAD - (8) Signature: *J. Laban* Print Name: J. LABAN
LEAD: J. LABAN

(b) SCRUTINY PANEL RESOLUTION (copy of minute detailing formal resolution to request call-in to be attached).

NAME OF PANEL:

DATE OF PANEL:



(1) Reason why decision is being called in:

1. The report states that 20,000 gullies will be cleaned with an in-house team in comparison with the 15,000 that the current contractor carries out. However, there is no evidence in the report how many gullies could be cleaned if we paid a contractor another £11,000? The report only states how many more gullies could be cleaned by an in-house team with an increased budget, it fails to provide a comparison using a contractor with the same increased budget?
2. The report states that an in-house team will be better because there will be more performance management but does not explain why the same performance management has not been applied to Ringway Jacobs? The report provides no explanation about the fact that LBE has been in charge of the contract and performance management of Ringway Jacobs, so it is the fault of the council if the contractor was not delivering. How will it be any better with the in-house team as it is the same department in charge of performance? The report does not state whether increased performance management could be included in a new contract with Ringway or any other company or whether it was even considered.
3. The report provides no competition on price or delivery. We do not know that in-house is the most cost effective, or the most comprehensive it is just taken as a given. How do we know that in-house is best tax payer value? The report does not show whatsoever, if in house is the best economically in comparison to any outside provider. It is just an assumption.
4. The financial implications section does not mention the fact that we are agreeing an increase in cost when currently our finances are uncertain.
5. The key risk section does not mention what the impact would be if there was a second wave of COVID-19 over the next year. There is only a small mention of Coronavirus.
6. The report states that Ringway Jacobs has in the council's opinion provided a poor service but it is likely we will TUPE across the same staff that are delivering that level of service. The report does not state the actual cost of TUPE or how we would make sure the staff improve to deliver a better service?
7. The report also states that there will be some additional IT required. However, further into the report it mentions a MAP16 system but does not refer as to where that is in the costings, there is a potential further cost.
8. The report fails to mention whether there is a cost to in-sourcing prior to the end of the contract with Ringway Jacobs?
9. The report does not explain how bringing the gully cleaning service inhouse delivers healthier communities [which is a council priority] just

that there will be in-house labour which in itself does not deliver healthier communities.

10. The report states that the council's priority is to build our local economy yet does not explain why it discounted using local businesses to deliver this service which would support and build the local economy which would be helpful to businesses post COVID-19?

(2) Outline of proposed alternative action:

Refer back to Cabinet to review the decision.

(3) Do you believe the decision is outside the policy framework?

No

(4) If Yes, give reasons:

For Governance Use Only:

Checked by Monitoring Officer for validation –

Name of Monitoring Officer:

Date:

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APPENDIX 3

**Briefing Note in response to called in decision
(To-Follow Paper)**

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