

# Agenda Item 4: Appendix 1

## Call-in in the New Constitution

The process of call in of decisions made but not yet implemented, as set out in the previous constitution is largely unchanged. The current call-in provisions are included here for reference.

### 16. Call-in

- 16.1 Call-in is a process by which Overview and Scrutiny Committees can recommend that a decision made (in connection with executive functions) but not yet implemented be reconsidered by the body which made the decision, or recommend that the full Council consider whether that body should reconsider the decision. Call-in does not provide for the Overview and Scrutiny Committee or the full Council to substitute its own decision, but merely to refer the matter back to the decision-maker. A decision maker can only be asked to reconsider any particular decision once.
- 16.2 Call-in should only be used in exceptional circumstances – for example where Members have evidence that a decision was not taken in accordance with Article 13 of the constitution ('Decision making'). Day to day management and operational decisions taken by officers may not be called-in.
- 16.3 Any decision made by the Cabinet, a Cabinet Member, or a key decision made by an officer under delegated powers from the Executive shall be published by means of a notice at the main offices of the Council and where possible by electronic means, normally within 2 working days of being made. All Members of Overview and Scrutiny will be sent, if possible by electronic means, copies of all such decision notices at the time of publication.
- 16.4 Any decision made by the Cabinet, a Cabinet Member, or a key decision made by an officer under delegated powers from the Executive may be called in up to five working days from the date of the meeting at which the decision was taken.
- 16.5 During this period, any Member of Overview and Scrutiny or any 6 Members of the Council may request that a decision be called-in for Scrutiny by the relevant Overview and Scrutiny Committee. Such a request shall be made in writing to the Chief Executive and shall include the reason(s) for the request and any alternative decision proposed. The Chief Executive may refuse to accept a request which in his/her opinion is frivolous, vexatious or defamatory, or where no reason is given.
- 16.6 If the Chief Executive accepts the request he/she shall call-in the decision. This shall have the effect of suspending the decision coming in force and the Chief Executive shall inform the decision maker e.g. Cabinet, Executive Member, Executive Committee or officer and the

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relevant Chief Officer(s) of the call-in. The Chief Executive shall then call a meeting of the relevant Overview and Scrutiny Committee as appropriate to scrutinise the decision, where possible after consultation with the relevant Chairman, and in any case within 7 working days of accepting the call-in request, unless a meeting of the appropriate Committee is already scheduled to take place within this period.

- 16.7 In deciding whether or not to refer a decision back, the relevant Overview and Scrutiny Committee shall have regard to the criteria for Scrutiny reviews set out at paragraph 4.2 of these rules. In addition it may take into account:
- any further information which may have become available since the decision was made
  - the implications of any delay; and
  - whether reconsideration is likely to result in a different decision.
- 16.8 If, having scrutinised the decision, the relevant Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns. If it considers the decision is contrary to the policy framework or budget agreed by the Council, the matter may be referred to the full Council to determine whether or not it should be referred back to the decision making body in accordance with the Budget and Policy Framework Procedure Rules at Part 4 of this constitution.
- 16.9 If the relevant Overview and Scrutiny Committee does not meet within 7 working days of the Chief Executive accepting a call-in request, or does meet but does not refer the matter back to the decision making body or to the Council, the decision shall take effect on the date of the Overview and Scrutiny meeting, or the expiry of the period of 7 working days from the call-in request being accepted, whichever is the earlier.
- 16.10 If the decision is referred back to the decision making body, that body shall then reconsider, either at its next programmed meeting or at a special meeting called for the purpose, whether to amend the decision or not before reaching a final decision and implementing it.
- 16.11 If the relevant Overview and Scrutiny Committee refers the matter to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision making body, together with the Council's views on the decision. In this case the decision making body shall consider, either at its next programmed meeting or at a special meeting convened for the purpose, whether to amend the decision or not before reaching a final decision and implementing it.

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16.12 If the Council does not meet within two weeks of the matter being referred to it, or if it does meet but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of that two week period, whichever is the earlier.

16.13 If a key decision is to be taken by an officer under the scheme of delegation, all Members and Overview and Scrutiny Committees will have the same rights to information and to use the procedures set out above for the call-in of those decisions.

### 17. Call-in and urgency

17.1 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet, a Cabinet Member, or a key decision made by an officer under delegated powers from the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state if in the opinion of the decision making body the decision is an urgent one and subject to the agreement of the Chief Executive, or in his/her absence the officer acting for him, such a decision shall not be subject to call-in. The Chief Executive or the Officer acting on his/her behalf shall consult the leaders of the Political Groups before agreeing to the exemption. Any decision to which the call-in process does not apply for reasons of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

17.2 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted (via the Governance Committee) to Council with proposals for review if necessary.

### 18. Call In and Joint Committees

18.1 The principle of call in applies to decisions made by Joint Committees on which the Council is represented. The detailed arrangements relating to call in of Joint Committee decisions shall be agreed between the constituent authorities and included in the Constitution of the Joint Committee.