

# Overview and Scrutiny Board - Call-In protocol

## 1.Call-In

1.1. The concept of 'overview and scrutiny' was originally introduced to English and Welsh local authorities by the Local Government Act 2000 and consolidated in schedule 2 of the Localism Act 2011. That legislation gave the power for Executive decisions made but not yet implemented to be 'called in' for consideration by scrutiny. This includes decisions taken by the Executive (collective or individual) or key decisions delegated to Chief Officers.

1.2. The responsibility for consideration of Call-Ins will rest with the Overview and Scrutiny Board (OSB).

## 2.Which decisions can be Called-In?

2.1. A decision taken collectively by the Mayor and Executive.

2.2. A decision taken by the Mayor or an individual Executive Member.

2.3. A key decision taken by an officer under delegated powers.

## 3.Which decisions cannot be Called-In?

3.1. Non-Executive decisions e.g. those taken by Council or a Council Committee or are considered regulatory e.g. Planning Committee, Licensing, Standards, Audit Committee, Health and Well Being Board.

3.2. A non-key decision taken by an officer – an operational decision.

3.3. A decision that has been deemed urgent and grounds for urgency has been supported by the Chair of Overview and Scrutiny.

3.4. A decision that has previously been called in e.g. reconsidered following OSB's recommendations.

3.5. A decision that relates to the formulation of a policy or budget matter which requires full Council approval.

3.6. A decision that has been implemented by the Executive following a scrutiny recommendation.

## 4.Publication of decisions

4.1. When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, or Council the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council by the second working day following the day of the decision.

4.2. All Members will generally be sent notice (electronically) of all such decisions within the same timescale, by Democratic Services. A record of the decision(s) will also appear on the Council's website.

4.3. That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, after the fifth working day following the publication of the decision, unless the decision becomes subject to the Call-In procedure.

4.4. During that five working days following the day of the publication of the decision, any five members of the Council including voting co-opted members in respect of education matters may request that the Monitoring Officer calls in a decision for scrutiny by the Overview and Scrutiny Board.

## 5. Triggering a call in

5.1. Triggering a call in should be an exceptional step to be used when Members consider it to be a proportionate step, which will be of benefit to the delivery of services under the Budget and Policy Framework or will improve the decision-making process.

5.2. Call-In is not intended to be a mechanism for voicing objection to, or dislike of, any particular decision or to admonish officers. It should only be used where there is evidence to show that one of the following may apply:

(i) That there has been inadequate consultation with stakeholders prior to the decision being made;

(ii) That there was inadequate/inaccurate evidence on which to base a decision and that not all relevant matters were fully taken into account;

(iii) That the decision materially departs from the budget and policy framework;

(iv) That the decision is disproportionate to the desired outcome;

(v) That the decision has failed to take into account the provisions of the Human Rights Act 1998 and or the public sector equality duty;

(vi) That the decision maker has failed to consult with and take professional advice from relevant officers including the Monitoring Officer and the Chief Finance Officer, as appropriate, or has failed to have sufficient regard to that advice; or

(vii) That the decision exceeds the powers or terms of reference of the decision-Maker responsible for the decision.

5.3. Those Members triggering the Call-In will need to demonstrate that they are exercising the use of Call-In appropriately by following each step detailed within the prescribed Call-In form before submitting the relevant form and triggering the calling in of a decision

5.4. Members should where possible:

(i) Discuss their concerns with the relevant officer(s) and decision taker Executive Member to ensure they are aware of all the relevant information and have an opportunity to discuss their concerns informally;

(ii) Contact the Chair of the Overview and Scrutiny Board to discuss their concerns as this issue may have already been considered by an Overview and Scrutiny Panel; and

(iii) Seek advice from Democratic Services Officers who will be able to provide further advice and guidance on the process.

## 6. Call-In Validity

6.1. In order for a Call-In to be valid members must:

- (i) Use the prescribed Call-In form (Appendix A) which must be completed and returned to Democratic Services by 4pm on the fifth working day following publication of the decision;
- (ii) Explain why they believe the decision is contrary to the principles of good decision making;
- (iii) Describe any perceived defects in the decision-making process;
- (iv) Describe any adverse effects which are likely to arise from the decision being implemented;
- (v) Provide any evidence to support their reasoning; and
- (vi) Identify alternative course of action or recommendation that they wish to propose.

6.2. The Call-In form is available from Democratic Services and:

- i) Must be signed by at least 5 members; (1 proposer and 4 supporters)
- ii) Must be returned to Democratic Services by 4pm on the fifth working day following publication of the decision.

6.2. The Call-In form is available from Democratic Services and:

- i) Must be signed by at least 5 members; (1 proposer and 4 supporters)
- ii) Must be returned to Democratic Services by 4pm on the fifth working day following publication of the decision.

6.3. A form that is submitted after the deadline, or is not submitted on the prescribed form, will not trigger a call in meeting.

6.4. On receipt of a completed form the Head of Democratic Services will liaise with the Monitoring Officer.

6.5. The Monitoring Officer, in consultation with the Chair of the Overview and Scrutiny Board, will determine the validity of the Call-In as soon as possible following receipt. The Monitoring Officer may, if appropriate, reject a request for call in if, in their opinion (subject to the above consultation), it fails to meet any of the grounds listed above, or if they consider it is in any way vexatious, frivolous or otherwise inappropriate.

6.6. Examples include but are not limited to:

- (i) It is not clear what the grounds for the Call-In and which would prohibit effective debate by OSB;
- (ii) The cited grounds bear no relevance to the decision that is identified for Call-In;
- (iii) The requisition cites grounds for which no relevant evidence is produced in support;
- (iv) The Call-In includes material which could be defamatory;

(v)The requisition is being used for improper purposes (e.g. to admonish an officer); or

(vi)The decision is in accordance with the advice or recommendations provided to the decision maker by a scrutiny panel.

6.7. Democratic Services will notify the decision-taker and all members of the Call-In and will call a meeting of the Overview and Scrutiny Board on such date as they may determine, where possible after consultation with the Chair of the Overview and Scrutiny Board, and in any case no sooner than 10 working days of the decision to Call-In.

6.8. Early liaison with Democratic Services by Members wishing to Call-In the decision will provide an opportunity for any procedural issues to be addressed ahead of the Call-In deadline

## 7.Call to account

7.1. If the proposer/supporters who initiated the Call-In want a person/s who is a Member or an officer of the authority to appear as a witness, then the permission of the Chair of the Overview and Scrutiny Board (who will agree with the appropriate Director of Service) must be sought at least five clear working days prior to the date of the Call-In meeting, or with the permission of the chair of OSB within 3 working days in exceptional circumstances in order to allow for members/officers to be called.

7.2. Any Members attending as a witness or as part of OSB may wish to consider the nature of the Call-In and where relevant, their duty to declare an interest.

7.3. When providing the names of potential witnesses the proposer should provide information as to the relevance of the witness to the Call-In to enable the Chair of the OSB to consider whether their attendance is appropriate. Paragraphs 13 and 14 of the Overview and Scrutiny Procedure rules shall apply equally to Call-Ins.

7.4. OSB may also wish to call other Members or Officers to provide information or give account at the Call-In meeting.

7.5. Those invited to appear as a witness should be treated with respect. The Call-In procedure enables an Executive decision to be examined/challenged, it should not be used as form to admonish an officer's personal performance as other more appropriate mechanisms are available for this.

7.6. Any person appearing at a Call-In as a witness may only provide factual information.

## 8.The Call-In meeting

8.1. If the Overview and Scrutiny Board holds a quorate meeting to consider the Call-In, the meeting may be adjourned to allow additional information to be obtained; or (with the agreement of the Chair presiding at the meeting or the relevant Executive Member, as appropriate) for additional witnesses to attend. This should only happen in exceptional circumstances; every effort should be made to deal with the Call-In in one meeting. If a meeting is adjourned a date for the meeting to continue must be specified and the decision will be held in abeyance until the Board has made a decision at the reconvened meeting. If the committee does not hold a quorate meeting on that date, the decision will take immediate effect.

8.2. If, having considered the decision, the Overview and Scrutiny Board is concerned about it, then it may refer the decision back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns. If a decision is so referred, then the decision

maker shall reconsider the decision within a further 10 working days, amending the decision or not, before adopting a final decision.

8.3. If the recommendations of the Overview and Scrutiny Board are not accepted in full, then the decision maker should notify the Overview and Scrutiny Board and give reasons for not accepting the recommendations.

8.4. If following an objection to the decision, the Overview and Scrutiny Board does not meet within 17 working days of the publication of the decision, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of that 17 working day period, whichever is the earlier.

8.5. If the matter is referred to full Council by the Overview and Scrutiny Board, on the grounds that the Board consider the decision in question to be contrary to the policy framework or contrary to or not wholly in accordance with the budget, and the Council does not object to the decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. .

8.6. However, if the Council does object to the decision, on the grounds that it is contrary to the policy framework, or contrary to or not wholly consistent with the budget the Council will refer that decision back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.

8.7. Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened within 10 working days of the Council in order to reconsider the request of the Council. Where the decision was made by an individual, the individual will reconsider their decision within 5 working days of the Council's request. If the recommendations of the Council are not accepted in full, then the decision maker should notify the Council and give reasons for not accepting the recommendations.

8.8. If the Council does not meet within six weeks, 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 expiry of the six week period or upon the date of the Council meeting, whichever is the earliest.

8.9. The Call-In procedure set out above shall not apply where the decision being taken by 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 interests of the Council or the public. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to Call-In.

8.10. The Chair of Overview and Scrutiny Board should agree that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair of Overview and Scrutiny Board, the Vice-Chair's consent shall be required. In their absence, the Head of Paid Service or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported quarterly to the Council by the chair of OSB, together with the reasons for urgency.