

OVERVIEW AND SCRUTINY

CALL-IN

PROTOCOL

DRAFT

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OVERVIEW AND SCRUTINY CALL IN PROTOCOL

1. Introduction

One of the key roles of Overview and Scrutiny is to hold decision makers to account for their decisions. This this seeks to promote accountability and transparency and give an influential and important role to **backbench Councillors non Executive Members**. One of the ways in which this holding to account role can be undertaken is through the Call In process. This protocol gives guidance to Members and officers on how the Call In process is conducted undertaken.

2. What is a Called In Decision?

Where Overview and Scrutiny Members believe there have been defects within the decision making process or there are specific negative impacts likely to arise from the decision they may “Call-In” a decision within a specified timescale (the Call-In period). During this time implementation of the decision is suspended whilst it is re-examined by the Overview and Scrutiny Management Committee (OSMC). Overview and Scrutiny Members cannot change the decision but they can request the Executive (or in certain cases where the decision is wholly or partly outside the Budget and Policy framework) full Council review and reconsider the decision in light of any recommendations.

3. Which decisions can be Called In?

Decisions taken by *the Executive*, these are:-

- A decision taken collectively by the Mayor and Cabinet.
- A decision taken by the Mayor or an individual Cabinet Member.
- A key decision taken by an officer under delegated powers.

4. Which decisions cannot be Called In?

- Non - Executive decisions e.g. those taken by Council or a Council Committee or are considered regulatory or quasi judicial e.g. Planning Committee, Licensing, ~~Employee Relations~~, Elections and Democratic Structures, ~~Standards~~ **Audit Committee**, **Health and Well Being Board**.
- A non key decision taken by an officer – an operational decision.
- A decision that has been deemed urgent under Rule 16 of the Constitution and grounds for urgency has been supported by the relevant Overview and Scrutiny Chair.
- A decision that has previously been called in e.g. reconsidered following OSMC’s recommendations.
- A decision that relates to the formulation of a policy or budget matter which requires full Council approval

5. When can decisions be Called in?

There is a specific time when decisions can be called in. This is *the call in period*. A decision taken by the Executive (Mayor and/or Cabinet or a key

decision taken by an officer) will be circulated to Members **generally** within 2 working days.

Following the circulation of the decision there will be a period of 7 working days within which the call in of the decision can be triggered.

A meeting of OSMC will need to be convened within 10 working days of the end of the call in period to consider the called in decision.

6. What do I need to consider before triggering a Call In?

Call-In is ultimately about improving decision making, it should not be used as a means of obstructing or slowing down the decision making process.

The Constitution states:

Call-In is 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.

Having taken account of all the available information Members will need to consider whether delaying and reviewing the decision through Call-In is appropriate and reasonable. Call-In should not be used routinely or as a means of gaining information or discussing general concerns.

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 Call In form attached at Appendix A.

7. How is the Call In process triggered?

The completion of the necessary form (see Appendix A) signed by either

- i) Any ~~at least five Members, not all from the same political group~~ **or**
- ii) Any ~~seven non-executive~~ **four** members of the Council (**provided they are not all from the same political group** ~~who may be from the same political group~~) and submitted within the correct timescale to the Governance Manager or his/her Deputy.

Those Members signing the form are confirming that they support the action to call in the decision and support the reasons for call in.

If more than one decision is being called in at any time a separate Call In form is required for each decision.

Where a Member believes they may wish to consider Calling In a decision they are advised to speak to the **Governance and Member Services Manager or officers in the Governance Services Team** ~~Scrutiny Manager~~ at the earliest opportunity for further advice and guidance.

8. What action needs to be undertaken before submitting the Call In form?

Before submitting the relevant form and triggering the calling in of a decision Members will need to:

- i. Discuss their concerns with the relevant officer(s) and ~~decision-taker~~ **Cabinet 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 relevant Overview and Scrutiny Panel/OSMC to discuss their concerns as this issue may have already been considered by an Overview and Scrutiny Panel/OSMC.
- iii. Seek advice from the ~~Scrutiny~~ **Governance Manager or officers in the Governance Team** – who may be able to provide further advice and guidance on the process.

9. What are legitimate grounds for calling in a decision?

Call in is ultimately about improving decision making. The decision to trigger a call in meeting should focus around the decision making process and outcomes rather than personal or political reasons. When triggering a Call In Members will need to clearly identify why they believe

- the decision is contrary to the principles of good decision making and/or
- there are defects in the decision-making process and/or
- any adverse effects are likely to arise from the decision being implemented.

Article 13 of the Constitution identifies some clear principles for Decision Making by full Council and these principles can be applied to decision making generally. Where Members believe that a decision made is contrary to these principles this may give rise to a challenge through the Call In process. **To ensure the process is robust Members must clearly state the reasons why and how they believe the decision is inconsistent with these principles as this then forms the basis of the debate and discussion at OSMC.** ~~These principles of decision making are detailed at Appendix D.~~

10. Decisions outside the budget and Policy Framework

The Policy Framework is made up of those plans and strategies, including the budget identified under Article 4 of the Constitution.

If the Committee is of the opinion that the decision is or if made would be contrary to the policy framework, or contrary or not wholly in accordance with the budget, the Committee shall seek advice from the Monitoring Officer and/or Chief Finance Officer. If the decision has been taken but not yet implemented and the Monitoring Officer/Chief Finance Officer concludes there is or may be a departure, the Committee may refer the decision to a full Council meeting. No further action is to be taken on the decision until the Full Council has met and considered the matter.

11. Where and when do I need to submit the Call In form?

~~A Call In Form (see Appendix A) completed signed by either at least five Members, not all from the same political group or any seven non-executive members of the Council, will trigger a meeting of the OSMC which will be held within ten working days of the end of the call in period.~~

~~The form must clearly state why those Members believe there are just grounds for calling in the decision. All five Members, not all from the same political group or any seven non-executive members of the Council must agree to the reasons for Call In and that they are relevant to the specific decision, to allow this to proceed.~~

The Call In form should be correctly completed and submitted to the **Member Support and Scrutiny Manager Governance Manager** or a Member of the Governance Team before the end of the Call In period.. **A form that is submitted after the deadline will not trigger a call in meeting.**

12 What happens after the Call In form has been submitted?

On receipt of a completed form the Governance Manager will liaise with the Monitoring Officer who will determine whether the reasons for Call In are valid and the process has been correctly followed. Where the Call In form has not been completed in accordance with the Call In protocol or the reasons for Call In are unclear, vexatious or frivolous the Monitoring Officer may reject the Call In. Early liaison with the Governance Manager 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.

Upon completion of a valid Call In form the Scrutiny Manager Monitoring Officer will arrange to notify the Mayor and Cabinet, Chief Executive and Directors, the Chair/Vice Chair and Members of OSMC, and those Members triggering the Call In.

Arrangements will be made to convene **an extraordinary** meeting of OSMC as soon as reasonably practical but within 10 working days of the end of the call in period.

Relevant Directors and Assistant Directors will need to consider how best to brief the Executive Member(s) and how to present any relevant information to the Committee to help inform the meeting.

Those Members triggering the Call In will also need to consider how they will present their reasons for Call In to OSMC.

13. How is the OSMC meeting conducted?

An Extraordinary meeting of OSMC is convened to consider the called in decision. The decision taker **and relevant** officers and those Members triggering the call in meeting are invited to attend. The meeting is a formal **public meeting of the Committee conducted in public** and Appendix B details the format of the meeting. **Any requests by those calling in the decision to**

allow individuals with specific knowledge or others to attend should be made to the Chair at least 3 working days in advance of the meeting.

The meeting will have regard to the usual principles for operation of Scrutiny Committees in that the proceedings shall be undertaken in a way that is inclusive, transparent, non-partisan, democratic and deliberative. The meeting will seek to achieve a balanced view of the issues and may provide an opportunity for ~~expert witnesses~~ individual's with specific knowledge to attend. In managing the meeting the Chair will allocate time for the various attendees to speak. Those wishing to speak are asked to contribute constructively and avoid repetition or personal or political statements. The focus of the meeting will be to consider the reasons identified for calling in the decision therefore those Members Calling in the decision may wish to identify a spokesperson to speak on behalf of the group and further clarify these reasons.

14. What are the possible outcomes from the Call In meeting?

There are four possible outcomes that may arise from the Call In meeting

- i. Defer the decision back to the Executive for reconsideration.
(The Committee need to clearly state the reasons for doing this.)
- ii. Request that the decision be deferred until the OSMC or the Panel has considered the relevant issues and made recommendations to the Executive.
(The Committee need to clearly identify the relevant issues that need to be given further consideration and whether there are any specific time constraints or other implications affecting the proposed implementation of the decision.)
- iii. Take no action in relation to the Called-In decision but consider whether issues arising from the Call-In need to be added to the Work Programme of any existing or new Overview and Scrutiny Standing Panel/OSMC.
(The Committee need to clearly identify the issues to be added to the Work Programme.)
- iv. If, but only if (having taking the advice of the Monitoring Officer and/or the Chief Finance Officer), the Committee determines that the decision is wholly or partly outside the Budget and Policy Framework refer the matter, with any recommendations, to the Council after following the procedure in Rule 8 of the Budget and Policy Framework Procedure Rules. Only in this case is there a continuing bar on implementing the decision.

15. What happens after the Call In meeting?

The outcome of the meeting will be notified to the Executive as soon as possible after the meeting but within 2 working days.

If any recommendations are agreed by OSMC these will be considered by the Executive. ~~will consider OSMC's recommendations~~ should it decline to follow any the of OSMC's recommendations of OSMC it shall clearly state the reasons why. The Executive will normally consider the outcome of the Call in at a formal Cabinet meeting however, there may be occasions (e.g. due to

urgency etc) where the Executive may formally write to the Chair of OSMC informing of its decision.

Once the Executive has agreed its response to OSMC the decision cannot be subject to further call in. The decision can be implemented following consideration of the issue at a Cabinet meeting or following receipt of a written correspondence from the Executive to the Chair of OSMC.

Where OSMC's decision is to recommend no further action be taken in respect of the called in decision the decision can be implemented immediately.

16. How is the outcome of the Called in Decision reviewed?

OSMC will review and reflect on any called in decisions at its next ordinary meeting. This provides an opportunity to ensure Members are clear of the outcome and to identify whether the Call In process has been used effectively and that the process and procedures remain robust

17. Conclusion

Call-In provides the opportunity for Overview and Scrutiny Members to hold decision makers to account. This protocol seeks to advise Overview and Scrutiny Members, OSMC, the Executive and officers on the arrangements for considering and determining a called in decision.

Contact Details

If you require any further information or advice in respect of the Call-In process please do not hesitate to contact the Governance & Member Services Manager Overview and Scrutiny Manager Governance Team Tel. 734354.

FREQUENTLY ASKED QUESTIONS

1. Will the OSMC meeting be held in public?

Wherever possible an OSMC meeting will be held in public however, should the Committee need to consider exempt or confidential information all or part of the meeting may need to be held in private. Wherever possible the onus will be on holding the meeting in public to ensure openness and transparency.

2. Can The Chair or a Member of OSMC sign the Call In form and participate in the meeting?

~~Yes. Signing the Call In form triggers a meeting of OSMC. It is right that any Member of the Committee should be able to raise their concern over a decision that has been taken but not yet implemented.~~ **No. Members of the Committee should attend the meeting with an open mind and formulate their opinions and views on the evidence and information they receive at the meeting. In view of this it would not be appropriate for a Member of the Committee to sign the Call In form and participate in the meeting.**

Any OSMC Member who wished to trigger a Call In may do so but would have to participate as a Member of the Call In group at the meeting and not as a Member of the Committee.

3. Can an Invitee or a Co-Opted Member sign the Call In form?

No. Only Councillors may trigger the call in of a decision. Invitees or Co-optees may however discuss, their concerns with Councillors who may wish to trigger a Call In or may request to speak at the meeting if this relates to an issue that is relevant to their role as an Overview and Scrutiny Member.

4. Can a decision be called in that has previously been considered by the OSMC or an Overview and Scrutiny Panel?

Yes. Each decision will be considered on an individual basis however if a decision has previously been considered by the OSMC or one of the Standing Overview and Scrutiny Panels prior to its implementation and this has resulted in recommendations being made to the Executive, Members triggering the Call-In **may will** need to identify:

- Why having already been considered by Overview and Scrutiny, this issue needs to be reconsidered?
- Are there any issues that were not taken account of during Overview and Scrutiny's initial consideration?
- Are there any significant changes or revisions that have taken place since Overview and Scrutiny's initial consideration?

If a call in is used to reiterate issues previously discussed at a scrutiny meeting this seeks to duplicate rather than add value to the Scrutiny process and would not be appropriate.

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OVERVIEW AND SCRUTINY CALL- IN FORM

(To be completed by ~~five~~ four Members, not all from the same political group or any ~~seven~~ five non-executive members of the Council who may be from the same political group). Members are requested to refer to the Overview and Scrutiny Call-In Protocol to assist with the completion of this form.

1. DECISION

Title:

Tracking Reference No.:

Date taken:

Implementation Date:

Decision Maker:

Implementer:

Relevant O&S Body:

REASONS FOR CALL-IN

An effective decision should be made in accordance with the following principles:

1. Has been taken in accordance with the Mayor's Scheme of Delegation.
2. Is consistent with the Council's Constitution.
3. Is consistent with the budget and policy framework.
4. Is consistent with the codes of conduct for Members and Employees.
5. Includes objectives and outcomes which are clear and defined.
6. Seeks to further the achievement of the Council's Strategic objectives (e.g. Borough strategy and Corporate Plan).
7. Seeks to promote equality and the elimination of unlawful discriminations.
8. Seeks to promote the economic, social and environmental well-being of the Borough.
9. Seeks to promote the reduction of crime and disorder.
10. Is rational, based on sound judgement, all relevant issues taken into account and all irrelevant issues disregarded. This includes consideration of any alternative options and any significant risks and assumptions.
11. Encourages openness and accountability through consultation and participation.
12. Takes account of and ensures ethical and financial probity and the good management of financial, human and physical resources.
13. Seeks to pursue lawful, proportionate and reasonable decision making taking into account all relevant factors and having regard to the European convention on human Rights.

3. HAVE YOU CONTACTED THE RELEVANT OFFICER(S) REGARDING YOUR CONCERNS OVER THIS DECISION?

Yes ___

Date _____

No ___

If no please explain why.

4. HAVE YOU CONTACTED THE RELEVANT EXECUTIVE MEMBER(S) REGARDING YOUR CONCERNS OVER THIS DECISION?

Yes ___

Date _____

No ___

If no please explain why.

5. HAVE YOU CONTACTED THE CHAIR OR VICE CHAIR OF OSMC/THE RELEVANT OVERVIEW AND SCRUTINY COMMITTEE IN RESPECT OF YOUR CONCERNS?

Yes ___

Date _____

Who: _____

No ___

If no please explain why.

FORMAT OF AN OSMC CALL IN MEETING

A meeting of OSMC to consider a Called in decision will usually be conducted as follows:

1. The Chair will outline the format of the meeting.
2. **If required**, an officer ~~from the Scrutiny Team~~ will give the background to the called in decision.
3. Those Members triggering the Call-In will be given an opportunity to present their reasons for Call-In which are stated on the form (a maximum of 10 minutes), or on behalf of the Call-In Group a representative may present the reasons for Call-In.
4. The Executive Member(s) and/or officers will be given an opportunity to respond (10 minutes).
5. If appropriate the Chair may allow ~~expert witnesses~~ **any individual(s) with specialist knowledge** (e.g. partners or stakeholders) an opportunity to speak (10 minutes).
6. OSMC Members will be given the opportunity to question the Executive Members, **individuals with specialist knowledge** and Members who triggered the Call-In and both parties will be given the opportunity to respond. This will be the main focus of the meeting. ~~At this stage OSMC may wish to raise concerns as to whether the reasons identified for Call-In are reasonable and members have acted in accordance with this protocol.~~
7. Following OSMC's questioning other Members in attendance **may** be given an opportunity to speak on this matter e.g. up to a maximum of 20 minutes in total.
9. OSMC Members will be given further opportunity to speak after hearing these additional views and the Chair may request a response from the relevant attendees where appropriate.
10. OSMC will ask the Call-In Members or if appropriate representatives from the Call-In Group to provide a brief closure statement.
11. The Executive Member(s) and officers will also be given an opportunity to provide a final response.
12. Having heard all contributions OSMC will consider which recommendation it wishes to propose having taken account of all relevant factors.