

To the Chair and Members of the Council

Amendment To Overview and Scrutiny Procedure Rule 9 - Call In Process

EXECUTIVE SUMMARY

1. Council is asked to approve a revision to the Overview and Scrutiny Procedure Rule 9 to include:
 - i. A proposed change to the number of Members required to trigger the Call in of a decision to reflect the reduction in the number of Councillors from 63 to 55; and
 - ii. That the Monitoring Officer will rule on the validity of a request for Calling in a decision to ensure clarity over the reasons and compliance with the agreed process.

RECOMMENDATIONS

2. That Council:
 - i. Agree the following Constitutional amendment to Overview and Scrutiny Procedure Rule 9 (d):

At any time during the call-in period any 4 Members of the Council (provided that not all the Members are from the same Political Group), or any 5 Members of the Council from the same Political Group, may trigger a call in by satisfactorily completing and signing a form approved by the Council for this purpose and delivered to the Monitoring Officer within the required timescales. The Monitoring Officer will rule on the validity of the Call In.
 - ii. Note the revised Call In Protocol attached at Appendix B
 - iii. Approve the revised Call In form detailed at Appendix A of the Call In Protocol.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

3. Elected Members are able to act on the concerns of the citizens and communities they represent through Call In to enable them to hold decision makers to account. The proposed revision to the Call In procedure will ensure that the process remains robust and the trigger remains proportionate to the number of Councillors currently elected.

BACKGROUND

4. The decision making process incorporates a number of opportunities for Members to raise concern, seek information or clarification in respect of future decisions as:
 - All Key decisions are published on the Council's Forward Plan 28 days in advance unless there are specific grounds for urgency.
 - Reports which provide the detail behind each proposed decision are publicly available (unless part of the report is confidential or exempt or the decision is taken under special urgency grounds) 5 working days before the meeting.
5. Prior to the decision being taken any issues may be raised with officers, the decision maker or Overview and Scrutiny. If concerns are raised once the decision has been taken, Call In enables elected Members not on the Executive, to put the implementation of the decision on hold whilst a meeting of OSMC is triggered to review and where appropriate make recommendations to the Executive to reconsider the decision. Call In is therefore a key mechanism for holding decision makers to account but should not be used purely as a means of slowing down Executive decision making.

Revised Call In Protocol and Form

6. At its meeting on 11th February 2015 OSMC agreed a number of changes to improve and clarify the Call In process. In the main these revisions sought to clarify and strengthen the processes already in place. A brief summary of these changes is attached at Appendix A for Members' information. The updated Call In Protocol and form is attached at Appendix B, the recommendations proposed within this report have been incorporated into the Protocol and are shown as **highlighted text**.
7. In addition to amending the Protocol OSMC recommended that Council make the necessary changes to Overview and Scrutiny Procedure Rule 9 to reduce the number of Members required to trigger a Call In and for the Monitoring Officer (MO) to rule on the validity of the Call In before a meeting of OSMC is convened. These proposed changes require Council approval as they are Constitutional changes. Council is also asked to agree the Call In form attached as Appendix A to the Protocol as this form must be submitted to Governance Services within the required timescale in order to trigger a Call In.

Amending the Call In Trigger

8. Following the reduction in the number of Councillors from 63 to 55 from May 2015 it is proposed that the trigger for Call In be amended to *any 5 Members or any 4 Members provided they are not all from the same political Group*. This amendment reduces the current threshold of any 5 Members of the Council (provided that not all the Members are from the same Political Group),

or any 7 Members of the Council from the same Political Group).

Validating A Call In

9. Guidance on the use of Call In is contained in the Modular Constitutions for English Local Authorities (issued by the former Department for Environment Transport and the Regions). It encourages each local authority to make Call In arrangements that are best suited to local circumstance. To ensure there is robustness in the process OSMC recommended that the Call In form with the required signatures should be correctly completed and submitted and the Monitoring Officer would confirm the validity of the Call In. If the Monitoring Officer rejected a Call In the Chair of OSMC and Members wishing to trigger the Call In would be informed and notified of the grounds upon which the Call In was rejected. If a Call In is rejected Members may be able to make appropriate amendments, depending on the reasons for rejection (e.g. lack of clarity) and resubmit the form providing this can be undertaken before the end of the Call In period.
10. Throughout the Call In period the Monitoring Officer and Governance and Member Services Manager and his/her team are available to provide advice and guidance to Members to help support and advise on the completion of the call in form and the Call In process. It is anticipated that the instances in which a form would be rejected could include: late submission, did not have the required number of signatures or the reasons stated for Call In were frivolous, vexatious or irrelevant.

OPTIONS CONSIDERED

Call In Trigger

11. Amend the Call In Trigger to reflect the reduction in the number of elected Members from May 2015.
12. Do not amend the Call In trigger – this does not reflect the reduction in the number of elected Members.

Validating the Call In

13. Detailed below are the options considered for validating a Call In. Where appropriate an example of an Authority using this process is indicated.
 - Option 1: Continue with the current process and do not have an explicit validation process – this does not give clarity and leaves the Call In process open to frivolous or vexatious Call Ins that impact negatively on the robustness of the Council's decision making process.
 - Option 2: Allow the Chair of OSMC to rule on the validity of a call In (Barnsley) – concerns could be raised that the Chair is acting politically when determining the validity of any proposed call Ins.
 - Option 3: Allow the committee to determine whether the Call In is valid

(Kirklees) - To convene a meeting of the Committee to determine the validity of the Call In adds an additional step to the process and may further delay decision making.

- Option 4: The Monitoring Officer (Merton Council) (or relevant Director of Legal & Democratic Service – Nottingham City Council) determines the validity of the Call In.

REASONS FOR RECOMMENDED OPTION

Call in trigger

14. A reduction in the call in trigger recognises the reduction in Members and provides two options for Members to Call In the decision i.e. 5 Members from the same group or 4 Members provided they are not all from the same political group.

Validating a Call In

15. Option 4 - The Monitoring Officer (MO) is well placed to consider the validity of the Call In as one of his/her key roles is to monitor the decision-making processes within the authority and review any proposal, decision or omission by the authority to ensure that the authority is not guilty of maladministration, and does not breach any statute, any statutory code of practice or any “rule of law”. Ensuring there is an opportunity for Members to re-examine an Executive decision where there are clear and specific concerns sits well with the role of the MO. If the Monitoring Officer considers the reasons for call in are vexatious, frivolous, unclear or the agreed process has not been followed he/she could deem the Call In invalid.

IMPACT ON THE COUNCIL’S KEY OUTCOMES

16.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster’s vital services</i> 	
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing</i> 	

	down the cost of living	
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
	Council services are modern and value for money.	
	Working with our partners we will provide strong leadership and governance.	The Overview and Scrutiny function has the potential to impact upon all of the council's key objectives by holding decision makers to account, reviewing performance and developing policy. In turn this will help strengthen the Council's governance arrangements by providing greater clarity and understanding of important issues.

RISKS & ASSUMPTIONS

17. To maximise the effectiveness of the Overview and Scrutiny function it is important that protocols and procedures are fit for purpose, clear and robust. Failure to achieve this can reduce the overall impact of Overview and Scrutiny thereby weakening the decision making process and the Council's governance arrangements.

LEGAL IMPLICATIONS

18. Local Government Act 2000 as amended by the Localism Act 2011 provides for Overview and Scrutiny where an authority operates Executive arrangements. Part 1A, Chapter 1 9F(4) provides for Call In arrangements. Overview and Scrutiny Procedure rules state that "Overview and Scrutiny Management Committee will establish and agree an Overview and Scrutiny protocol to assist in the operation of its functions".
19. Overview and Scrutiny Procedure Rule 9 details the Call In process and any change to the Call In trigger will require a Constitutional change agreed by Council. Changes to the protocol have been approved by OSMC. The proposed changes to the Call In trigger and validation process will be incorporated in to the revised protocol and form once they are approved by

Council.

20. This report seeks to incorporate these changes in to the Constitution to ensure the function remains fit for purpose.

FINANCIAL IMPLICATIONS

21. There are no specific financial implications associated with this report.

HUMAN RESOURCES IMPLICATIONS

22. There are no specific human resources issues associated with this report.

TECHNOLOGY IMPLICATIONS

23. There are no specific technology implications associated with this report.

EQUALITIES

24. There are no specific equality issues associated with this report. Equality issues are considered by Overview and Scrutiny when it considers individual work plan issues. Any Members who are unable to complete the Call In process or form e.g. through disability will receive assistance from officers within Governance Services.

CONSULTATION

25. Consultation on the proposed revisions has been undertaken with:

Chairs and Vice Chairs of Overview and Scrutiny
Mayor Ros Jones and Group Leaders
Overview and Scrutiny Management Committee

BACKGROUND PAPERS

26. - Overview And Scrutiny Call-In Protocol (2011)
- Centre For Public Scrutiny Practice Guide 4 – Key Decisions And Powers Of Call In
- Doncaster Council Constitution.
- Report To OSMC 11th February 2016 “Review And Refresh Of The Call In Process

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REVIEW & REFRESH OF CALL IN PROCESS

PROPOSED CHANGE TO O&S PROCEDURE RULES (COUNCIL APPROVAL REQUIRED)		
Proposed Revision	Comment	Outcome/Benefit
1. O&S Procedure Rule 9(d). Revise the Call In Trigger to: Any 5 Members OR any 4 Members provided they are not all from the same political group.	This is a proposed change to current arrangements. Current trigger is any 7 Members or 5 Members provided they are not from the same political group.	Ensure non Exec Members are able to exercise their democratic right to Call In. Lowering of the threshold reflects the reduction of Members (from 63 to 55) eligible to trigger Call In following the Boundary Commission Review.
2. O&S Procedure Rule 9(d) The Monitoring Officer will rule on the validity of the Call In.	This provides clarity on current arrangements. The Constitution states that to trigger Call In the correct form must be “satisfactorily completed and delivered to the proper officer”. Where the 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.	Officers would not wish to interfere with Members exercising their democratic right to Call In a decision. However, if allowing the Call In to go ahead does not demonstrate good governance e.g. non - compliance with the process, uncertainty over reasons for call in etc - it may be rejected. The Call In period allows 7 working days for Members to seek advice and guidance to ensure the form can be completed correctly and meet the requirements – there is no proposal to reduce this timescale
CHANGES TO CALL IN PROTOCOL AGREED BY OSMC		
3. Section 7. Each decision called in should be supported by a separate Call In form.	This clarifies current guidance. Previously 2 decisions have been included on one Call In form.	Provides clarity and avoids confusion during debate. Each issue is considered on its own merits and considered separately.
4. Section 9 Members must clearly state the reasons why and how they believe the decision is inconsistent with the principles of decision making detailed in the Constitution.	This strengthens current guidance and supports OSMC’s recommendation of 23 rd January 2015 that Members must demonstrate “clear and explicit reasons for triggering Call In”.	This will ensure greater clarity at the Call In meeting. Ensures focus on improvements to the decision making process, service delivery and outcomes for the public.
5. Section 12. Call Ins will be considered at an extraordinary meeting of OSMC (rather than being included as an agenda item at an ordinary meeting).	This is a proposed change to current arrangements. If an ordinary meeting is scheduled the Call In meeting could begin immediately before or after a scheduled meeting.	Raises the profile of the meeting. Enables the Chair to manage the meeting more effectively and give sufficient time to consider all items of business.

Proposed Revision	Comment	Outcome/Benefit
<p>6. Section 13 Any requests to allow individual's with specific knowledge to speak should be made to the Chair 3 days prior to the meeting.</p>	<p>This is additional guidance to assist the Chair in effectively managing the meeting. The term "expert witnesses" has been changed to "individuals with specific knowledge" as this better reflects these attendees.</p>	<p>Supports better management of the meeting. Avoids any confusion amongst those in attendance, and ensuring there is an opportunity for OSMC to consider a wide range of views.</p>
<p>7. FAQs 2 Chair or Members of OSMC may not trigger the Call In and participate as a member of the Committee.</p>	<p>This amends current guidance. This ensures there is a clear demarcation between a Member triggering a Call In and their role on the Committee.</p>	<p>This would ensure greater transparency and accountability within the process. The Committee can conclude its business based on the evidence received.</p>
<p>8. Call In Form Section 2 Calling In a decision previously considered by OSMC.</p>	<p>This re-emphasises current guidance. Members wishing to Call In a decision previously considered by OSMC should identify why it should be reconsidered e.g. new evidence available, issues not taken into account at initial meeting or the proposals have changed.</p>	<p>This would avoid duplication of Member/Officer time. Helps avoid undermining the value of Scrutiny. Enables the meeting to focus on the specific areas of concern.</p>
<p>9. Call In Form Sections 3,4 and 5 Providing the date of any contact with the Cabinet Member, Officer and Chair of OSMC prior to Calling in the decision.</p>	<p>This is a proposed change to the Call In form. This provides a record of when concerns or issues have been raised. It should be noted that there may be occasions where it has not been possible to raise these concerns e.g. Cabinet Member on holiday or ill etc.</p>	<p>By providing the date of any communication or correspondence Members are clear that concerns have been raised and the relevant Cabinet Member(s), Scrutiny Chair and officer(s) have been contacted.</p>