

Report to Overview & Scrutiny Review Task & Finish Panel

Date of meeting: 14 February 2013

Report of: Assistant to the Chief Executive

Subject: Call in Procedures

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Recommendations:

To formulate any proposals concerning the Council's arrangements regarding the "call in" of Executive decisions by Overview & Scrutiny (OS).

Report:

1. This report sets out the legal and constitutional background to the "call-in" process together with points which have arisen during consultation, details of previous reviews and comments made at the scoping meeting.

Legal & Constitutional Requirements

Legal

2. The Council must ensure that their Overview and Scrutiny Committees (OSCs) have the power:

- (a) To review or scrutinise decisions, or any action that is the responsibility of the Executive;
- (b) To make reports or recommendations to the Executive on matters that are the responsibility of the Executive.

3. OS Committees have the power to recommend that any decision by another Council body or responsibility of the Executive made but not implemented to be reconsidered by the person or body which made the decision. An OSC may also arrange for the full Council to review or scrutinise a decision and decide whether or not to recommend that the decision be reconsidered.

EFDC Constitution

4. The Overview and Scrutiny Committee will review and/or scrutinise decisions made or actions taken in relation with the Council's functions including the Executive.

5. The Overview and Scrutiny Committee has the right to call-in for reconsideration decisions made but not yet implemented and can delegate the review to be carried out with a Standing Panel or a 'Task and Finish' Panel.

6. Three members of the Overview and Scrutiny Committee or any five members of the Council have the right to call-in an Executive decision. Requests to call-in will be in writing and referred in person to the Proper Officer.

7. If the Overview and Scrutiny Committee, having considered the decision, has concerns, then it may refer it back to the decision making person or body for reconsideration within 5 working days

8. Decisions by the Executive deemed as urgent are not subject to the call-in process at the discretion of the Chairman of the Council (or the Vice-Chairman). A decision will be urgent if any delay is likely to be caused by the call-in process would seriously prejudice the Council's or the public interest.

Feedback from Consultation

9. The "Call-in" procedure is currently working well, but it is not a perfect procedure for OS business and alternatives should be explored to ensure more pro-active approach to cabinet business should be found.

10. Pre scrutiny of Cabinet proposals (through the Forward Plan) is preferable to calling in decisions after they are made.

11. When a decision is called-in the discussion is not balanced in that up to five signatories responsible for the call in can speak, whereas there is only one portfolio holder who can reply.

12. Other cabinet members should be able to support decisions made collectively by the Cabinet or the Portfolio Holder.

13. The timetable for the call in is too restrictive.

Suggestions:

14. The call in timescale of five days should be extended as members signing the call-in may be in disparate geographical locations and may wish to discuss whether the "call in" is appropriate or the precise terms of the proposed "call-in".

15. Call-ins should be for the bigger and more important issues and not for small insignificant detail.

16. The Chairman of the OSC, should meet with the relevant Portfolio Holder and lead Councillor for the "call-in" to deal with questions about how he/she intends to handle issues at an OSC meeting

Previous Reviews

17. That the "Call in" protocol be amended to remove the first stage of the process to allow a full hearing of the substance of the call-in in one stage.

18. That consideration of "call-ins" be the responsibility of the Overview and Scrutiny Committee which will decide whether to consider the issue itself or direct a Panel to undertake it and report back to the decision maker.

Discussions at Scoping Meeting

19. The present Call-in system worked well, but was a five day deadline long enough?

20. Was there a procedure for “calling back a call-in”?– For example, if the lead member of a “call-in”, has met with the relevant Portfolio Holder and having come to a mutually agreeable solution, could a “call-in” be withdrawn?

21. That there was some concern over the arrangements on how call-ins were heard. The Portfolio Holder had to wait for the lead member of the call-in to speak and then had to wait for any other member of the call-in to add their comments, which was potentially five other speakers, who could speak before the Portfolio Holder had a chance to put their view across.

Reason for decision:

22. As determined at the scoping meeting.

Options considered and rejected:

23. None

Consultation undertaken:

24. Previous consultation was carried out with members and officers. The feedback was included in the scoping report to the first meeting of this Panel. Further consultation has been agreed once provisional recommendations on the review have been compiled.

Resource implications: None

Community Plan/BVPP reference: None

Relevant statutory powers:

Local Government Acts 2000 and 2007 and Localism Act 2011.

Background papers: consultation responses.

Environmental/Human Rights Act/Crime and Disorder Act Implications: none

Key Decision Reference: none