

**Extracts from the Overview and Scrutiny Procedure Rules Relating to Call-In**

**14. Members and officers giving account**

- (a) Any Overview and Scrutiny Coordinating Committee, Scrutiny Committee or Select Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require the Leader, any member of the Executive, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:
- (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance.
- and it is the duty of those persons to attend if so required.
- (b) Where any member or officer is required to attend an Overview and Scrutiny Coordinating Committee/Scrutiny Committee under this provision, the Chair of that Committee will inform the Head of Paid Service. The Head of Paid Service shall inform the member or officer in writing giving at least 5 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where information is received that the member or officer is unable to attend on the required date, then the Chairman of the Overview and Scrutiny Coordinating Committee/relevant Scrutiny Committee shall, in consultation with the Vice Chairmen, either;
- insist on the member/officer's attendance on the required date; or
  - amend the original request to attend by deciding to arrange an alternative date for attendance; or
  - amend the original request to attend by deciding to accept a substitute member or officer to attend on the original required date; or
  - revoke the original request to attend and decide that the Overview and Scrutiny Coordinating Committee/Scrutiny Committee shall proceed with the review of the decision in the absence of the member or officer or a substitute.

## **15. Attendance by Others**

- (a) The Overview and Scrutiny Coordinating Committee/Scrutiny Committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. The Overview and Scrutiny Coordinating Committee/Scrutiny Committee has no power to compel such people to attend.
- (b) Where information is received that any such person is unable or unwilling to attend on the required date, then the Chairman of the Overview and Scrutiny Coordinating Committee/relevant Scrutiny Committee shall, in consultation with the Vice-Chairmen either:
- if the person is willing to attend on an alternative date, arrange an alternative date for attendance; or
  - amend the original request to attend by deciding to accept a substitute person to attend on the original required date; or
  - revoke the original request to attend by deciding that the Overview and Scrutiny Coordinating Committee/Scrutiny Committee shall proceed with the review of the decision in the absence of the person or a substitute.

## **16. Call-In**

- (a) 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 under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. The Chairs of the Overview and Scrutiny Coordinating Committee and the four Scrutiny Committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) 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, on the expiry of 5 working days after the publication of the decision, unless the Overview and Scrutiny Coordinating Committee/Scrutiny Committee objects to it and calls it in.
- (c) During that period, the Head of Paid Service shall call-in a decision for scrutiny by the Committee if so requested by the Chair and Vice-Chair of the Overview and Scrutiny Coordinating Committee or the relevant Scrutiny Committee (whichever the Head of Paid Service considers applicable in relation to any particular decision) or any six of the total members who sit on the Overview and Scrutiny Coordinating Committee and the four Scrutiny Committees, and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the relevant Committee on such date as he/she may determine, where possible after consultation with the Chair of the Committee, and in any case within 15 working days of the decision to call-in

- (d) If, having considered the decision, the Overview and Scrutiny Coordinating Committee/Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If the decision is referred back to the decision maker then the decision maker shall review the decision taking account of the comments or recommendations of the Overview and Scrutiny Coordinating Committee/Scrutiny Committee and shall either confirm or amend the decision.
- (e) If following an objection to the decision, the Overview and Scrutiny Coordinating Committee/Scrutiny Committee does not meet in the period set out above, 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 further 15 working day period, whichever is the earlier.
- (f) If the matter was referred 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, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. If the decision is referred back to the decision maker then the decision maker shall review the decision taking account of the comments or recommendations of the Council and shall either confirm or amend the decision.
- (g) If the Council does not meet, or if it does 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 the period in which the Council meeting should have been held, whichever is the earlier.

#### **PREVENTION OF ABUSE OF CALL-IN**

- (h) In order to ensure that call-in is not abused, nor causes unreasonable delay, a limitation is placed on its use. This is that 6 members of the total members who sit on the Overview and Scrutiny Coordinating Committee and the four Scrutiny Committees are needed for a decision to be called in;

## **CALL-IN AND URGENCY**

- (i) The call-in procedure set out above shall not apply where the decision being taken 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 under joint arrangements 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 or an individual's interests. 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. The Mayor must agree both 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 Mayor the Deputy Mayor's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
  
- (j) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **CALL-IN PROTOCOL**

1. Purpose of Call-In and the Protocol
  - 1.1. The purpose of the Call-In process is to identify issues, explore them fully and make informed recommendations based upon a proper consideration of all relevant issues.
  - 1.2. It is vital that a Call-In is perceived to be not only searching and transparent but also equitable, fair and not oppressive. All stakeholders and parties to the process must feel that they have been fairly treated. If they do not then the process and any recommendations arising from it will be diminished.
  - 1.3. A well conducted Call-In process should make everyone feel that they have contributed rather than just been questioned.
  
2. The Decision to Call-In
  - 2.1. The right to Call-In applies to a decision made by the Cabinet, an individual member of the Cabinet or a Key Decision taken by an officer under delegated authority. In Wigan Key Decisions are taken by the Executive meeting collectively. Individual Executive Members and officers should not be taking Key Decisions unless the situation is one of urgency. Records of Decisions are provided to the Chair of Overview and Scrutiny within two days and they may not be implemented until the expiry of five working days after the publication of the Decision. During that five-day period the Chair and Vice-Chair of the Overview and Scrutiny Coordinating Committee or the relevant Scrutiny Committee (whichever the Head of Paid Service considers applicable in relation to any particular decision) or six of any of the total Members who sit on the Overview and Scrutiny Coordinating Committee and the four Scrutiny Committees may require a Call-In. The requirement may manifest itself in two ways, by written notification to the Chief Executive or by a formal motion at Committee which is seconded and supported by four Members in addition to the proposer and seconder. There are urgency exceptions to the right to Call-In. The Chief Executive will endeavour to assist Members of the Committee in requests for information about decisions which could be the subject of a Call-In.
  - 2.2. The written notification or formal motion requiring a Call-In shall specify reason(s) for the Call-In to assist the Decision Taker and Committee Members in preparing for the Committee Meeting.
  - 2.3. Once a decision to Call-In has been properly taken then a meeting of the Overview and Scrutiny Coordinating Committee or the relevant Scrutiny Committee should be convened to deal with the matter unless it will be more expeditious to place the matter on the agenda of a scheduled Committee.

3. Issues to be addressed before the Overview and Scrutiny Coordinating Committee/Scrutiny Committee Meeting

- 3.1. The Decision Taker will be invited to submit a written statement for consideration by the Committee. The written statement will specify the decision, the reasons for it and all matters/factors taken into account in making the decision.
- 3.2. The Decision Taker must be able to call in support whomsoever they feel appropriate. The Decision Taker shall notify the Chairman as soon as reasonably possible of the witnesses it wishes to be called in support of the decision and any such persons shall be called as witnesses, if the Chairman, after consultation with the vice-Chairmen, considers it appropriate to do so.
- 3.3. In addition to that the Overview and Scrutiny Coordinating Committee/Scrutiny Committee will have a view about who they wish to interview. When a decision to Call-In is taken at Committee then the Committee can indicate simultaneously who they wish to interview. Where the decision is taken outside the Committee it might not be realistic to have another Committee meeting to decide who to interview. In these circumstances the Chairman shall consult with the Vice Chairmen and those Members who were a party to the Call-In as to whether any additional witnesses are to be called and any nominations made by Members on that consultation may be called as witnesses, if the Chairman considers it appropriate to do so.
- 3.4. Where any person called to be a witness is unable or unwilling to attend on the required date, then the Chairman of the Overview and Scrutiny Coordinating Committee/Scrutiny Committee shall, in consultation with the Vice-Chairmen, either:
  - if the person is a Member of the Executive or an officer, insist on the member/officer's attendance on the required date; or
  - if the member, officer or other person is willing to attend on an alternative date, amend the original request to attend by deciding to arrange an alternative date for attendance; or
  - amend the original request to attend by deciding to accept a substitute member, officer or other person to attend on the original required date; or
  - revoke the original request to attend and decide that the Overview and Scrutiny Coordinating Committee/Scrutiny Committee shall proceed with the review of the decision in the absence of the member, officer or other person or a substitute.
- 3.5. The Decision Taker's statement should be published with the agenda of the meeting at which interviews are to take place. It should be an open item unless there are valid press exclusion reasons. Where a decision has been treated as a press excluded item previously then advice will be given upon the relevant issues for the Committee to consider as to whether there are valid press exclusion reasons.
- 3.6. If the Chief Executive or the Service Director Borough Solicitor believe that dealing with a Call-In as an open item could cause any officer to publicly disclose any matter which would be prejudicial to the Council, or prejudicial to a third party or in breach of a duty of confidentiality

then either of them may instruct the officer to give such evidence only in the press and public excluded part of the meeting.

4. Decision as to which Process to follow

- 4.1. The Committee may elect to follow an Informal Process or a Formal Process
- 4.2. The Committee will decide which Process to adopt when it makes a decision to Call-In. When the Call-In decision is taken outside the Committee then the Chairman may determine which process to follow in consultation with the six Members proposing the Call-In.
- 4.3. Whichever process is adopted the Committee will first need to receive advice on whether the Executive Decision was compliant with the Budget and Policy Frameworks. If a Decision was contrary to the Policy Framework or not consistent with the Budget Framework then, should the Committee decide to refer the issue to Council, Council has powers to override the Decision.

5. Informal Process

- 5.1. Following the giving and consideration of legal/financial advice an informal dialogue could follow which must be courteous and relevant. The Chairman has discretion to conduct proceedings.
- 5.2. At the conclusion of the informal dialogue the Committee should consider which of the following resolutions they wish to adopt:-
  - (i) Support the Decision
  - (ii) Support the Decision with recommendations
  - (iii) Refer to Cabinet
  - (iv) Refer to Council

6. Formal Process

- 6.1. All those to be interviewed should be present throughout but seated away from the Committee table. It is important that when someone is interviewed they have a full understanding of the Committee's concerns and what other interviewees have said. If someone is not present throughout then they will be disadvantaged in this regard. The process will not have been fair to them and their contribution will be diminished as will any decision of the Committee. There may be some interviewees whose involvement is peripheral and who may leave after interview if they wish and the Committee agrees.
- 6.2. Legal and financial advice should be given and considered.
- 6.3. The proposer of the Call-In may if he/she wishes make a presentation outlining his/her main concerns to help focus issues
- 6.4. Interviewees are to be called to the Committee table one at a time and allowed to make a presentation of up to 5 minutes without interruption. Thereafter Members of the Committee may ask questions. The questions must be courteous and relevant. If an interviewee does not possess knowledge or information to answer a question then he or she must not be pressed.
- 6.5. At the conclusion of each interview the interviewee should be asked if there is anything he/she wishes to add/clarify and should be allowed so to do.

- 6.6. At the conclusion of all interviews all interviewees should be asked if they wish to add or clarify anything and should be allowed so to do.
- 6.7 The Committee considers all relevant matters, debates the issues and decides which of the resolutions set out in 5.2 i) to iv) they wish to adopt.