

**Report to:** Overview and Scrutiny Coordinating Committee  
Children, Young People & Families Scrutiny Committee  
Building Stronger Communities Scrutiny Committee  
Adult, Health and Wellbeing Scrutiny Committee  
Economy, Environment, Culture & Housing Scrutiny Committee

**Date:** 20 July 2009  
23 July 2009  
27 July 2009  
28 July 2009  
29 July 2009

**Subject:** New Scrutiny Arrangements and Consequential Amendments to the Call-in Procedure

**Report of:** SERVICE DIRECTOR BOROUGH SOLICITOR

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**Purpose / summary:** To remind Members of the new scrutiny arrangements and clarify the consequential changes to the call-in arrangements.

**Alternative options considered and reason for selecting the one recommended:** None

**Recommendation / decision:** Members are provided with an opportunity to aid their understanding of the revised arrangements and to note the provisions currently in place.

**Key Decision:** This report does not involve a key decision. The decision made as a result of this report will be published within **48 hours**

**Risks / Implications:**

Financial:	None
Staffing:	None
Policy:	Wigan Council's Constitution
Equal Opportunities - Has a Diversity Impact Assessment been conducted?	No, a diversity impact assessment is not necessary at this stage, however, equality and diversity implications have been considered

Wards affected: when producing this report.  
All

**Property Implications– Does the proposal involve a reduction, addition or change to the Council’s asset base or its occupation?**

No

**If yes have the property implications been agreed with the Corporate Property officer?**

**Does this proposal have significant implications for the Council and the local population?**

No

**Does this proposal involve a new policy or procedure or significant changes to an existing policy or procedure?**

No

Has the Service Director Borough Solicitor confirmed that the recommendations within this report are lawful and comply with the Council’s Constitution? **Yes**

Has the Service Director Corporate Services confirmed that any expenditure referred to within this report is consistent with the Council’s budget? **N/A**

Are any of the recommendations within this report contrary to the Policy Framework of the Council? **No**

**For Cabinet reports only :**

Categorisation of the report:	<b>x</b>		<b>x</b>
Discussion leading to a decision		Discussion	
Monitoring		Decision	
Sharing for corporate understanding		Information	

**Tracking/Process:**

	Consultation	Ward Members	Partners
Panel	Overview & Scrutiny	Cabinet	Council
	All 5 Scrutiny Committees		

List of Background Papers in accordance with Section 100D of the Local Government Act 1972:

Document	Date	File Reference	Place of Inspection
Wigan Council Constitution			Town Hall, Library Street, Wigan

Proper Officer Kevin Lawson

Date 10 July 2009

**Background:**

1. As part of the introduction of modernised scrutiny arrangements from the beginning of the current municipal year, a number of information, training and workshop sessions have been held for members. In the course of these a number of members have sought clarification around the way in which the call-in procedure has changed.
2. As a result, the attached note has been prepared for circulation to all members. It is brought before the committee to provide an opportunity for members to ask questions and aid their understanding of the changes.
3. The committee is reminded that the new arrangements and processes are to be kept under review and revised as appropriate in the light of learning from their operation and other best practice.

**Conclusions:**

4. Members are provided with an opportunity to aid their understanding of the revised arrangements and to note the provisions currently in place.

## WIGAN COUNCIL

### New Scrutiny Arrangements and Consequential Amendments to the Call-in Procedure

#### Background:

1. As part of the introduction of modernised scrutiny arrangements from the beginning of the current municipal year, a number of information, training and workshop sessions have been held for members. In the course of these a number of members have sought clarification around the way in which the call-in procedure has changed. This note has been prepared for circulation to all members of the council to provide clarity and aid understanding of the revised arrangements.
2. On the whole, changes to call-in arrangements are fairly minor, with the main one being that call-in may now be exercised by the chairman and vice-chairman of the relevant scrutiny committee or by any six scrutiny members. Call-ins will be considered by the scrutiny committee within whose terms of reference the subject matter falls.

#### The New Scrutiny Arrangements

3. Attached as Appendix One is a summary of both the old and new scrutiny arrangements. The appendix enables Members to compare the new provisions with the old.
4. Attached as Appendix Two is the amended Call-In Protocol which gives further information in relation to call-ins of executive decisions.

#### Guidance of the Secretary of State Regarding the Exercise of Call-In

5. Members are reminded that the guidance issued by the Secretary of State on the operation by local authorities of executive arrangements under the Local Government Act 2000 provides:

*“Call-in should only be used in exceptional circumstances. Local Authorities should ensure that the executive arrangements ensure that any call-in procedure is not abused or used unduly to delay decisions or slow down the process of decision making. In particular the executive will, from time to time, need to take decisions which need to be implemented quickly. Local authorities will need to develop local conventions and protocols to prevent abuse of an overview and scrutiny committee’s power to recommend that a decision made, but not yet implemented, be reconsidered. Local authorities should keep the operation of any call-in arrangements under review to ensure that they are not abused with an associated negative effect on the efficiency of executive decision making.”*

#### Conclusions:

6. The appendices set out the provisions currently in place, for members’ information.

## **Appendix One – Summary of the Previous and the New Scrutiny Arrangements**

### **Previous Scrutiny Arrangements:**

#### **Overview and Scrutiny Committee**

- 23 Elected Members (12 Labour and 11 Opposition)
- 3 Co-opted Members from Religious Denominations
- 3 Co-opted Members from Parent Governors
- Labour Chairman
- 2 Vice-Chairmen One Labour and One Opposition
- Met Every Four Weeks
- Exercised Power to Call-in decisions of Cabinet and Key Decisions taken by Officers
- Call-in exercisable by Chairman or any 6 Members of the Committee

#### **Four Select Committees**

- 3 Ad-Hoc Select Committees to carry out reviews relevant to any function of the Council (eg. Teenage pregnancy, adoption of streets)
- 1 Heath Select Committee
- Each Select Committee had a Labour Chairman

#### **Five Advisory Panels**

- Regeneration Panel
- Community Protection Panel
- Environment Panel
- Children and Young People's Panel
- Adult Services Panel
  
- Each Panel had a Labour Group Chairman (Cabinet Member)
- 12 Elected Members on each (7 Labour and 5 Opposition)
- Terms of Reference:
  - Review of Council Policies
  - General Monitoring of implementation and performance
  - Made recommendations to Cabinet on policy, implementation and performance
  - Related to and consulted with the supporting partnerships

## **New Scrutiny Arrangements**

### **Overview and Scrutiny Coordinating Committee**

- 15 Elected Members (8 Labour and 7 Opposition)
- 3 Co-opted Members from Religious Denominations
- 3 Co-opted Members from Parent Governors
- Labour Chairman, Opposition Vice-Chairman
- Meets Every Eight Weeks (Four weeks if necessary)

### **Four Scrutiny Committees**

- The four Scrutiny Committees mirror the four thematic and delivery partnerships of the Local Strategic Partnership (Wigan Borough Partnership), namely:
  - Children Young People and Families Scrutiny Committee
  - Adult Health and Wellbeing Scrutiny Committee
  - Building Stronger Communities Scrutiny Committee
  - Economy Environment Culture and Housing Scrutiny Committee
- 15 Elected Members on each (8 Labour and 7 Opposition)
- Each Select Committee required to review its need for Co-opted Members
- Labour Chairman, Opposition Vice-Chairman
- Meet Every Eight Weeks

### **Powers in Relation to Call-In, Petitions and Councillors Call for Action**

- Call-ins, Petitions and Councillors Call for Action to be referred to the relevant Scrutiny Committee, or the Overview and Scrutiny Coordinating Committee if general in nature
- Power of Call-in lies with:
  - the relevant Chairman and Vice-Chairman, or
  - any 6 Members who sit on the Overview and Scrutiny Coordinating Committee or one of the four Scrutiny Committees
- The Chief Executive to decide which Committee is the relevant one for call-in in relation to any particular decision and also petitions and Councillors Call for Action

### **Terms of Reference of the Overview and Scrutiny Coordinating Committee and the Four Select Committees**

- To prepare an annual workplan of scrutiny reviews
- Hold Portfolio Holders to account for the services within its area
- Review the overall benefit to the public from services provided by the Council and other organisations within its area
- Review the Council's policies on functions within its area
- The general monitoring of the implementation and performance of the Council's services within its area
- Receive regular performance feedback on areas for improvement/concern and to make recommendations to Cabinet on the policy, implementation and performance of the Council's functions within its area
- Review and Scrutinise decisions made by the corresponding Thematic Partnership insofar as they relate to Council resources
- The Overview and Scrutiny Coordinating Committees will undertake all of the above in relation to matters that do not fit into the work only of one Select Committee

## **Two Select Committees**

- To carry out reviews relevant to any function of the Council
- 9 Members on each (5 Labour and 4 Opposition)
- Labour Chairman
- Opposition Vice-Chairman
- Meet as and when required

## **Appendix Two - 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.