

## PART D RULE 5 - OVERVIEW AND SCRUTINY PROCEDURE RULES

Call-in should only be used in exceptional circumstances. These are where members of the appropriate scrutiny panels have evidence which suggest that the cabinet or decision maker did not take the decision in accordance with the principles set out in Article 13 of the Constitution. (Call-in is of a decision made, but not yet implemented).

- (a) When decisions are made by the cabinet, an individual member of the cabinet or a committee of the cabinet, or a key decision is made by an officer under delegated authority (or under joint arrangements), those decisions shall be published, including wherever possible by electronic means, and shall be available at the main offices of the council normally within two working days of being made.
- (b) Chairmen and vice-chairmen of all scrutiny panels will also be sent copies of the records of all such decisions within the same timescale by the person responsible for publishing the decision, i.e. the proper officer of the council or his representative.
- (c) On publication of decisions in accordance with the council's executive arrangements, those decisions which can be subject to call-in as detailed in paragraph D5.22 (a) will come into force and may then be implemented on the expiry of two working days after publication, unless a scrutiny panel objects to a particular decision and calls it in.
- (d) During the period referred to in (c) above, the Director: Governance and Partnerships shall call in a decision for scrutiny by the relevant scrutiny panel if so requested by the chairman or any two members of any scrutiny panel, and shall then notify the decision taker of the calling in of a particular decision. The request shall also give clear reasons why the decision has been called in. (A proforma is available electronically from the Service Manager: Democracy).
- (e) Where a decision has been called in, any action to implement that decision will be suspended until it may be made in accordance with the following provisions of this procedure rule.
- (f) In consultation with the chairman of the relevant scrutiny panel, the Director: Governance and Partnerships shall call a meeting of that panel on such a date and at such time to be determined within five working days of the decision to call-in. The relevant cabinet member (together with the Chief Executive and/or Director(s)) shall be requested to be available to attend the meeting in order to respond to any questions from the panel on or relevant to the decision.
  - An agenda for the meeting to consider the called in decision will be sent to members of the scrutiny panel with a copy of the request for call-in, a copy of the decision and a copy of the report on which the decision was based.

- At the meeting of the panel the chairman or a nominee of the members who have requested the call-in, shall be required to present the reasons why the decision has been called in and initiate any questioning of the relevant cabinet member(s), together with the Chief Executive and/or Director(s), on or relevant to the decision.
  - The chairman shall then invite other members of the panel to ask the relevant cabinet member (together with the Chief Executive and/or Director(s) any further questions on or relevant to the decision.
  - The panel will then consider whether it has sufficient material before it on which to decide the next course of action i.e. to take no further action on the decision, refer it back to the decision maker for reconsideration or (in limited circumstances) to refer it to the council (see paragraphs (g) - (m) below).
  - If the panel decides that it needs further information and/or the attendance of particular persons in order to reach a decision it shall arrange a further meeting to enable the information and/or persons to be available.
  - The decision will remain suspended until the scrutiny process has been completed and one of the outcomes set out in paragraph (g) has been achieved.
- (g) If, having considered the decision, the relevant scrutiny panel is still concerned about it, then it may -
- (i) recommend (with any representations), that the decision be reconsidered by the body or person that made it, or
  - (ii) arrange for the full council to consider the decision and, where necessary, ask the executive or decision maker to reconsider it.
- If the decision is referred back to the decision maker or decision making body, that decision should be reconsidered within a further five working days.
- (h) Where the decision maker or decision making body reconsiders the decision it could -
- (i) confirm the original decision, or
  - (ii) agree to change that decision having considered the representations made by the scrutiny panel.
- (i) If, following an objection to a particular decision, the panel does not meet, or does meet but does not refer the matter back to the decision

making person or body, that decision shall take effect on the date of the scrutiny meeting, or the expiry of that further five working day period referred to in paragraph (f) above, whichever is the earlier.

- (j) The relevant scrutiny panel may exercise its power in section 21(3)(b) of the Local Government Act 2000 to refer a matter to the council only if the panel considers that the decision is contrary to the policy framework or contrary to, or not wholly in accordance with the budget.
- (k) If a matter is referred to the full council in accordance with paragraph (j) above, the Director: Governance and Partnerships in consultation with the Mayor shall call an extraordinary meeting of the council within seven working days.
- (l) If the council does not object to a decision which has been made, then no further action is necessary and the decision will become effective on the date of that council meeting. However, if the council does object it has no power 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 its views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the cabinet as a whole or a panel of it, a meeting will be convened to reconsider that decision within five working days of the council request. Where the decision was taken by an individual cabinet member, that individual should reconsider the decision within five working days of the council request.
- (m) If the council does not meet, or if it does but does not refer the decision back to the decision making person or body, that decision will become effective on the date of the council meeting or expiry of the period in which the council meeting should have been called, whichever is the earlier.
- (n) The call-in procedure set out above shall not apply where the decision being taken by the Executive 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 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. In the case of a key decision the provisions of Part D Rule 2.17 must be observed before the decision is taken. Such key decisions taken as a matter of urgency must be reported in accordance with Part D Rule 2.18 (2).
- (o) 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.

- (p) In order to ensure that call-in is not abused, nor causes unreasonable delay, but at the same time to ensure that there is an appropriate balance between effectively holding the Executive to account, being able to question decisions before they are implemented and allowing effective and efficient decision making by the Executive within the policy framework and budget agreed by the council, the following limitations have been placed on its use -
- (i) Call-in of any Executive decision must be within two working days of the publication of a decision.
  - (ii) The chairman or any two members of any overview and scrutiny panel are needed for a decision to be called in.
  - (iii) Overview and scrutiny panels may call-in fifteen Executive decisions in total in the twelve month period, annual meeting to annual meeting.

(An illustrated version of the 'Call-in' procedure is set out for ease of reference in Table two at the end of these procedure rules).

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**Table Two**

**'CALL IN' OF DECISIONS  
MADE BUT NOT IMPLEMENTED (AND NOT URGENT)**

**PUBLICATION OF EXECUTIVE DECISION**  
(within 2 working days of it being made)  
- 'CALL IN' of any Executive decision must be within 2 working days of the date of publication by the chairman or any 2 members of any Scrutiny Panel. Decision maker to be notified.

15 Executive Decisions in total may be 'called-in' in the twelve month period annual meeting to annual meeting.

Meeting of the relevant scrutiny panel to be arranged within 5 working days of the notice to 'call in' the decision.

**Action 1**  
If the scrutiny panel does not meet or does, but does not refer the decision to Council \* or back to the decision maker then the decision will take effect on the date of the Panel meeting or expiry of the 5<sup>th</sup> day whichever is the earliest  
(or)

**Action 2**  
Decision referred to Council \* if considered to be contrary to the policy framework or contrary to or not wholly consistent with the council's budget.  
If so, an extraordinary meeting of the Council to be called within 7 working days  
(or)

**Action 3**  
Decision referred back to the decision maker and must be re-considered within 5 working days and either  
(i) confirms the original decision  
(ii) agrees to change the decision having considered the representations made by the Scrutiny Panel.



**Action A**

If the Council does not object to the decision then no further action is necessary and the decision will become effective on the date of the council meeting or if it does not meet on the expiry of the 7<sup>th</sup> day whichever is the earliest

**Action B**

If the Council does object to the decision, (it has no power to make a decision on an executive decision unless it is contrary to the policy framework or not wholly consistent with the budget) - the council will refer it back to the decision maker with its views. A meeting must then be held on the decision within 5 working days and can either choose to amend the decision or not before reaching a final decision and implementing it.