

ITEM 11

Review of Call in Process

Report of the Head of Legal and Democratic Services (Portfolio: Corporate)

Recommended:

That the Constitution be amended as set out in Paragraph 2.3.

SUMMARY:

- To review the Call In process.

1 Introduction

- 1.1 Sections 21(2)(a) and (3) of the Local Government Act 2000 require a Local Authority's executive arrangements to ensure that Overview and Scrutiny Committees have specific powers in respect of functions which are the responsibility of the executive, to recommend that a decision made but not yet implemented be reconsidered by the person who made the decision or to arrange for full Council to exercise the scrutiny function in relation to the decision.
- 1.2 Following implementation of the Local Government Act 2000, Local Authorities are required to make provision in their executive arrangements and standing orders for procedures enabling members of the Local Authority to request that a meeting of an Overview and Scrutiny Committee be convened to consider whether or not to use these powers in respect of a decision made but not yet implemented (a so called call-in procedure).
- 1.3 These provisions should 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 full council. The provisions should ensure that a decision maker could only be asked to reconsider a decision once.
- 1.4 Test Valley's Call In procedure rules were originally agreed at Council on 25 February 2000 and amended to the current arrangements on 30 January 2001. They were reviewed for the first time earlier this year, by an OSCOM task and finish panel.

2 Background

- 2.1 A task and finish panel of OSCOM has comprehensively reviewed the Council's Call In procedure rules contained within the Constitution. OSCOM endorsed the Panel's recommendations on 22 March 2017 and referred them to Cabinet for consideration on 21 June 2017. Cabinet comments were referred back to OSCOM and the proposed amendments which appear below are endorsed by both Cabinet and OSCOM.

2.2 As the changes being proposed to the Call In procedure require a change to the Constitution, Council is requested to consider the amendments to the Call In threshold and criteria as set out below. Subject to approval, the Constitution will be amended in accordance with paragraph 2.3 below. For clarity, all proposed amendments are shown in bold and italics. Text that is struck through will be removed.

2.3 **15. Call-in**

(a) 'Call-in' by whom

~~*An individual Member may, with the support of another Member who is a member of the Overview and Scrutiny Committee, and with the agreement of the Chairman and Vice-Chairman of the Overview and Scrutiny Committee, call-in a decision of the Cabinet.*~~

~~*Alternatively,*~~ **a** At least 3 Members acting together may call-in a decision not specifically ward-related or an individual Member may call-in a decision ~~*of the Cabinet*~~ if it directly concerns his/her ward, provided the call-in request meets the criteria under (c) below.

(b) 'Call-in' to whom

A request for a decision of the Cabinet to be "called-in" will be made in the first instance to the Democratic Services Manager who will notify the Monitoring Officer who will decide whether a request falls within the criteria. No judgement on the merits, or otherwise, of the request will be made.

Where a call-in request is to be rejected, the Chairman of the relevant Overview and Scrutiny Committee shall be consulted before a final decision is reached.

(c) 'Call-in' Criteria

A Cabinet decision will be called-in if the Member(s) calling it satisfies the Monitoring Officer that one of more of the following conditions apply:

- (i) the decision has been made without compliance to Standing Orders;
- (ii) the decision is outside the Terms of Reference of the Cabinet **or the delegated authority of the decision maker**;
- (iii) the decision is in conflict with existing policy or the Corporate Plan;
- (iv) there is no budget, or insufficient budget provision to implement the decision;
- (v) ~~*that information contained within the report, and/or considered by the Cabinet, which would have been likely to have affected the decision was incomplete or inaccurate.*~~

- (v) **that the information contained within the report leading to the decision was incomplete or inaccurate or that the process leading to the decision did not comply with the relevant legal requirements.**

In all cases the Member(s) must provide reasons to support the belief which has given rise to the call-in request, or, if the belief is that the information was inaccurate or incomplete, must provide details of the alleged inaccuracies or missing information.

It will not be possible normally to call-in a decision simply because a Member or Members do not agree with it.

However, a decision may be called-in for this reason, or any other reason, if the request for call-in is made by one-half Members collectively. Decisions called in on this basis will be referred to full Council and not to an Overview and Scrutiny Committee.

3 Consultations/Communications

- 3.1 The proposed amendments have been considered and endorsed by OSCOM and Cabinet whose views have been sought and changes made as can be seen in paragraph 2.3.

4 Resource Implications

- 4.1 There are no resource implications arising from the recommendations in this report.

5 Legal Implications

- 5.1 The proposals contained within this report accord with the provisions of Local Government Act 2000.

6 Conclusion

- 6.1 In order to simplify the call in process the Council are requested to consider and agree the recommendations as set out in paragraph 2.3.
- 6.2 As Centre for Public Scrutiny have advised, call-in should, be regarded as a measure that is only needed in exceptional circumstances, rather than day-to-day. It sits in the context of a range of other tools at scrutiny's disposal to influence decision-making.

Subject to Members' approval it is proposed to retain the existing provision whereby half of all Members can call in a decision for any reason.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
None			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	0	File Ref:	
(Portfolio: Corporate) Councillor M Flood			
Officer:	Karen Dunn	Ext:	8401
Report to:	Council	Date:	6 September 2017