

ITEM 11

Review of Call In Process

Report of the Call In Panel Lead Member, Councillor C Dowden.

Recommended:

1. **That the Chairman and/or the Vice Chairman of Overview and Scrutiny Committee attend all Cabinet meetings and report back to the Committee as required or delegate attendance to a member of the Committee.**
2. **That Cabinet allow Overview and Scrutiny members to speak to agenda items to help Committee members to understand information/discussion resulting in Cabinet decisions and to avoid unnecessary call-in.**
3. **To amend the Call In threshold and criteria as set out in the report.**
4. **To approve the Call In form as set out in the Annex to the report.**

SUMMARY:

- To review the Call In process.

1 Introduction

- 1.1 Sections 21(2)(a) and (3) of the Local Government Act 2000 mean that a Local Authority's executive arrangements must 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 recommend that the full Council consider whether that person should reconsider the decision.
- 1.2 Following implementation of the Local Government Act 2000, Local Authorities were required to make provision in their executive arrangements and standing orders, for procedures by which members of the Local Authority can request that a meeting of an Overview and Scrutiny Committee be held 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. Day-to-day management and operational decisions taken by officers should not be subject to any call-in procedure.

- 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 have not been reviewed since that date.

2 Background

- 2.1 In July 2016 members of Overview and Scrutiny Committee (OSCOM) held an Away Day in the Andover Guildhall where the day focused on reviewing current practices and looking at how OSCOM could operate in the future.
- 2.2 From the action plan six groups were identified to research and explore options to take the Overview and Scrutiny function forward, one of these groups was established to review our Call In arrangements.
- 2.3 The group met to discuss the current Call In process (as set out in Annex 2) and felt that to help the members of OSCOM having a clearer understanding of Cabinet business and decisions, the Chairman and/or Vice Chairman or other nominated OSCOM member should attend all Cabinet meetings. It was felt this will help OSCOM with their work programme and encourage a greater degree of co-operative working between OSCOM and Cabinet.
- 2.4 The group also felt that to help OSCOM members to get a better understanding of the information/discussion resulting in Cabinet decisions and to avoid unnecessary Call in Cabinet should in turn allow the OSCOM representative to address Cabinet on Cabinet agenda items.
- 2.5 In addition, in order to make the process of Call In simpler and more straight forward the group recommends changes to the Threshold and Criteria in Part 4 of the Constitution – Overview and Scrutiny Procedure Rules, as follows:

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;~~ 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 and/or the process leading to the decision, was incomplete or inaccurate.

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.

- 2.6 To establish a simple format for all members to use for the process of Call In the Panel suggest that the Committee agree the Call In form as set out in the annex to the report.

3 Legal Implications

- 3.1 Any changes to the Constitution will require a Council decision.

4 Conclusion

- 4.1 In order to simplify the call in process the Committee are requested to consider and agree the recommendations as set out above.
- 4.2 Officers having had consideration to the amendments conclude that the proposed changes are within the legislation. 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.

- 4.3 Whilst it is proposed to retain the criteria whereby half of all Members can call in a decision for any reason, Members are asked to consider whether this contradicts the essence of the new criteria. Call-in should not be a blocker on decisions for the sake of it nor should it be prevented from being implemented where genuine concerns exist.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
<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:	1		
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