

## **Review of Call in Process - OSCOM Recommendations**

Report of the Corporate Portfolio Holder

### **Recommended that:**

**The proposals contained in the table in paragraph 2.3 of this report be referred to OSCOM for consideration.**

#### **SUMMARY**

- **An OSCOM task and finish group has met to review the Council's Call in procedure rules, contained within the Constitution. OSCOM, at its meeting in March 2017, endorsed the group's recommendations and referred them to Cabinet for consideration.**

### **1 Introduction**

- 1.1 A task and finish panel of OSCOM has carried out a review of the Council's Call in procedure rules, contained within the Constitution. Cabinet, at its meeting in April, asked that consideration of the proposals be made and a report be submitted to its June meeting.
- 1.2 The report that was presented to OSCOM is appended to this report for information.

### **2 OSCOM's Recommendations**

- 2.1 The Recommendations of OSCOM are as follows:
  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.

2.2 I am very grateful to OSCOM for undertaking the review of the Council's Call-in criteria. Having carefully considered the recommendations I feel able to propose the adoption of OSCOM's recommendations subject to amendments to Recommendations 2 and 3. I have outlined my views below, adjacent to the individual OSCOM recommendations:

2.3

<b>OSCOM recommendation</b>	<b>Portfolio Holder's comments</b>
<p>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.</p>	<p>I am fully supportive of this proposal.</p>
<p>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.</p>	<p>I consider that the participation of OSCOM members at Cabinet meetings is to be welcomed. Convention currently allows for any member of the Council to address Cabinet, at the invitation of the Chairman. It is standard practice that the Chairman's permission is sought prior to the commencement of the meeting. In the normal course of events non-Cabinet members are invited to address Cabinet at the beginning of consideration of the item in question. As a result, I suggest that OSCOM is advised that the current arrangements already allow for Overview and Scrutiny members to speak to agenda items and that these provisions remain satisfactory, in Cabinet's view.</p>

<p>3. To amend the Call In threshold and criteria as follows:</p> <p>(a) <b>'Call-in' by whom</b></p> <p><b>It is proposed to delete the following text:</b></p> <p>“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.”</p>	<p>I am fully supportive of the proposal to delete this paragraph from the Constitution in order to simplify the Call-in arrangements.</p>
<p>4. (continued)</p> <p>To amend the Call In threshold and criteria by adding in the following text highlighted in red italics:</p> <p>c) <b>'Call-in' Criteria</b>  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:</p> <ul style="list-style-type: none"> <li>(i) the decision has been made without compliance to Standing Orders;</li> <li>(ii) the decision is outside the Terms of Reference of <i>the Cabinet or the delegated authority of the decision maker</i>.</li> <li>(iii) the decision is in conflict with existing policy or the Corporate Plan;</li> <li>(iv) there is no budget, or insufficient budget provision to implement <i>the decision</i>;</li> </ul>	<p>I am supportive of these proposed textual amendments. They seek to highlight that in addition to Cabinet, Portfolio Holders and officers may from time to time also make “executive decisions” which are subject to Call-in under legislative provisions.</p> <p>Other references (in Paragraph 15 of the threshold and criteria chapter in Part 4 of the Constitution) which currently only refer to Cabinet will also require amendment to take into account that Portfolio Holders and officers may also make “executive decisions”. Specifically these are in the first line of paragraph 15 (b) and the first line of paragraph 15 (c).</p>

<p>5. (continued) To amend the Call In threshold and criteria as follows:</p> <p>Delete the following:</p> <p><i>“(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.”</i></p> <p>Replace with the following</p> <p>“(v) That the information contained within the report and/or the process leading to the decision, was incomplete or inaccurate.”</p>	<p>It is the responsibility of the Monitoring Officer to decide whether a request falls within the Call-in criteria. I consider that the additional words proposed by OSCOM, namely that the “...process leading to the decision was incomplete or inaccurate” would make it very difficult for the Monitoring Officer to decide whether a request falls within the Call-in criteria or not as they do not provide a framework for decision. As a result I suggest, as an alternative, the inclusion of the following:</p> <p><b><i>“(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.”</i></b></p> <p>The advantage of my proposed amendment to OSCOM’s wording is that the Monitoring Officer will be able to decide whether the process leading to a decision was satisfactory by considering it in the context of the relevant legislative framework.</p>
<p>4. To approve the Call In form as set out in the Annex to the report.</p>	<p>I am supportive of this proposal.</p>

**Resource Implications**

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

**3 Legal Implications**

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

#### 4 Conclusions

- 4.1 I have now had the opportunity to consider OSCOM's proposals in respect of the Council's Call-in procedure rules. As a result of this consideration, I have formulated the recommendations contained in this report as a proposed Cabinet response to OSCOM. I commend them to Cabinet for endorsement and suggest that they are referred to OSCOM in the first instance, prior to onward submission to Council as necessary.

<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:	1	File Ref:	
(Portfolio: Corporate) Councillor Flood			
Officer:	Andrew Ferrier	Ext:	8121
Report to:	Cabinet	Date:	21 June 2017