

Report of the Head of Scrutiny and Member Development

Report to Scrutiny Board (Sustainable Economy and Culture)

Date: 23rd April 2012

Subject: Call In Briefing Paper

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. In accordance with the Council's Constitution, an officer decision has been Called In. The background papers to this particular decision are set out as a separate agenda item and appropriate witnesses have been invited to give supporting evidence.
2. This report advises the Scrutiny Board on the procedural aspects of Calling In the decision.
3. The Board is advised that the Call In is specific to the report considered under the officer delegation decision scheme and issues outside of this decision, including other related decisions, may not be considered as part of the Board's decision regarding the outcome of the Call In.

Recommendations

4. The Scrutiny Board is asked to note the contents of this report and to adopt the procedure as detailed within it.

1 Purpose of this report

- 1.1 In accordance with the Council's Constitution, an officer decision has been Called In. The background papers to this particular decision are set out as a separate agenda item and appropriate witnesses have been invited to give supporting evidence.
- 1.2 This report advises the Scrutiny Board on the procedural aspects of Calling In the decision.

2 Background information

- 2.1 The Call In process provides the facility for Scrutiny Board Members to require a decision taker to reconsider a decision within a specified time period. This is a separate function from the Scrutiny Board's ability to review decisions already taken and implemented.
- 2.2 The eligibility of an Executive Board decision for Call In is indicated in the minutes; the eligibility of an officer decision for Call In is indicated by the Director on the Delegated Decision Form; and the eligibility of an Area Committee decision for Call In is indicated by the publication of a decision notification form.

3 Main issues

- 3.1 The Board is advised that the Call In is specific to the report considered under the officer delegation decision scheme and issues outside of this decision, including other related decisions, may not be considered as part of the Board's decision regarding the outcome of the Call In.

Reviewing the decision

- 3.2 The process of reviewing the decision is as follows:
 - Members who have requested the Call In invited to explain their concern/reason for Call In request.
 - Relevant Officer(s) asked to explain decision.
 - Further questioning from the Board as appropriate.

- 3.3 Members are reminded that it is only the decision Called In that the Board can make any recommendation on.

Options available to the Board

- 3.4 Having reviewed the decision, the Scrutiny Board will need to agree what action it wishes to take. In doing so, it may pursue one of three courses of action as set out below:

Option 1- Release the decision for implementation

- 3.5 Having reviewed this decision, the Scrutiny Board may decide to release it for implementation. If the Scrutiny Board chooses this option, the decision will be immediately released for implementation and the decision may not be Called In again.

Option 2 - Recommend that the decision be reconsidered.

- 3.6 The Scrutiny Board may decide to recommend to the decision maker that the decision be reconsidered. If the Scrutiny Board chooses this option a report will be submitted to the decision maker.
- 3.7 In the case of a delegated decision, the report of the Scrutiny Board will be submitted to the appropriate Officer within three working days of this meeting. The Officer will reconsider his/her decision. Where the Director believes that the original decision should be confirmed, they will refer the matter to the next Executive Board for a decision.
- 3.8 Where the Director agrees with the views of Scrutiny a new delegated decision form will be submitted indicating ineligible for call In.
- 3.9 In cases where the Director believes that the original decision should be confirmed, and in their view urgency prevents them from submitting the decision to Executive Board, the approval of the relevant Executive Board Member will be required before implementation. This Executive Member approval together with the reasons for urgency will be included in the new delegated decision form.
- 3.10 The Director and relevant Executive Board Member will also be required to attend and give their reasoning to the relevant Scrutiny Board.

Option 3 - Recommend that the decision be reconsidered and refer the matter to full Council if recommendation not accepted.

- 3.11 This course of action would only apply if the Scrutiny Board determined that a decision **fell outside the Council's Budget and Policy Framework** and this determination were confirmed by the Council's Section 151 Officer (in relation to the budget) or Monitoring Officer (in relation to other policies).
- 3.12 If, at the conclusion of this meeting, the Scrutiny Board forms an initial determination that the decision in question should be challenged on the basis of contravening the Budget and Policy Framework, then confirmation will subsequently be sought from the appropriate statutory officer.
- 3.13 Should the statutory officer support the Scrutiny Board's determination, then the report of the Scrutiny Board will be presented in the same manner as for Option 2. If the decision maker accepts the recommendation of the Scrutiny Board in these circumstances, then the revised decision will be published in the same manner as for Option 2 and the decision may not be Called In again. If, however, the decision maker does not accept the recommendation of the Scrutiny Board, then the matter will be referred to full Council for final decision. Decisions of full Council may not be Called In.
- 3.14 Should the appropriate statutory officer not confirm that the decision contravenes the Budget and Policy Framework, then the report of the Scrutiny Board would normally be progressed as for Option 2 (i.e. presented as a recommendation to the decision taker) but with no recourse to full Council in the event that the decision is not varied. As with Option 2, no further Call In of the decision would be possible.

- 3.15 However, the Scrutiny Board may resolve that, if the statutory officer does not confirm contravention of the Budget and Policy Framework, then it should be released for implementation in accordance with Option 1.

Failure to agree one of the above options

- 3.16 If the Scrutiny Board, for any reason, does not agree one of the above courses of action at this meeting, then Option 1 will be adopted by default, i.e. the decision will be released for implementation with no further recourse to Call In.

Formulating the Board's report

- 3.17 If the Scrutiny Board decides to release the decision for implementation (i.e. Option 1), then the Scrutiny Support Unit will process the necessary notifications and no further action is required by the Board.
- 3.18 If the Scrutiny Board wishes to recommend that the decision be reconsidered (i.e. Options 2 or 3), then it will be necessary for the Scrutiny Board to agree a report setting out its recommendation together with any supporting commentary.
- 3.19 Because of the tight timescales within which a decision Call In must operate, it is important that the Scrutiny Board's report be agreed at the meeting.
- 3.20 If the Scrutiny Board decides to pursue either of Options 2 or 3, it is proposed that there be a short adjournment during which the Chair, in conjunction with the Scrutiny Support Unit, should prepare a brief statement proposing the Scrutiny Board's draft recommendations and supporting commentary. Upon reconvening, the Scrutiny Board will be invited to amend/ agree this statement as appropriate (a separate item has been included in the agenda for this purpose).
- 3.21 This statement will then form the basis of the Scrutiny Board's report (together with factual information as to details of the Called In decision, lists of evidence/witnesses considered, Members involved in the Call In process etc).
- 3.22 The Scrutiny Board is advised that there is no provision within the Call In procedure for the submission of a Minority Report.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Prior to submitting a Call In, a nominated signatory must first contact the relevant officer or Executive Member to discuss their concerns and their reasons for wanting to call in the decision. Part of this discussion must include the Member ascertaining the financial implications of requesting a Call In. The details of this discussion should be referenced within the Call In Request Form.
- 4.1.2 The background papers to this particular decision will make reference to any internal or external consultation processes that have been undertaken in relation to the decision.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The background papers to this particular decision will make reference to any impact on equality areas, as defined in the Council's Equality and Diversity Scheme.

4.3 Council Policies and City Priorities

- 4.3.1 The background papers to this particular decision will make reference to any Council Policies and City Priorities relevant to the decision.

4.4 Resources and Value for Money

- 4.4.1 The background papers to this particular decision will make reference to any significant resource and financial implications linked to the decision.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 This report does not contain any exempt or confidential information.
- 4.5.2 The background papers to this particular decision will make reference to any legal implications linked to the decision.

4.6 Risk Management

- 4.6.1 The background papers to this particular decision will make reference to any risk management issues linked to the decision.

5 Conclusions

- 5.1 In accordance with the Council's Constitution, an officer decision has been Called In. This report advises the Scrutiny Board on the procedural aspects of Calling In the decision. In particular, the Board is advised that the Call In is specific to the report considered under the officer delegation decision scheme and issues outside of this decision, including other related decisions, may not be considered as part of the Board's decision regarding the outcome of the Call In.

6 Recommendations

- 6.1 The Scrutiny Board is asked to note the contents of this report and to adopt the procedure as detailed within it.

7 Background documents¹

- 7.1 Council Constitution – Scrutiny Board Procedure Rules

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.