

Briefing Note on 'Call In'

Under the Local Government Act 2000 the Council must have a process whereby executive decisions can be 'called in' for scrutiny prior to their implementation. The process is essentially a power to delay a decision and make the executive 'think again' about the decision.

The rules relating to 'call in' at Horsham District Council are found at part 4c. 14 of the Constitution and follow a national model 'call in' process that has been adopted by most Councils in England.

What decisions can be 'called in'?

All executive decisions made by the Cabinet collectively and decisions made by Cabinet Members (or the Leader) individually can be 'called in'. No other decisions can be 'called in'.

What is the process for 'call in' at Horsham District Council?

When the Cabinet (or a Cabinet Member/Leader) makes an executive decision it cannot be implemented until 5 working days after publication of the decision (unless the decision was made subject to special urgency). That period of 5 working days is known as the 'call in' window during which time the decision can be 'called in'.

When a decision is 'called in' the matter needs to be debated at a meeting of the Overview and Scrutiny Committee within 7 working days (often a Special meeting of Overview and Scrutiny will need to be arranged).

The Overview and Scrutiny Committee can make 1 of 3 resolutions in relation to the decision; they can take no further action (in which case the decision is effective immediately), refer the decision back to Cabinet (or Cabinet Member/Leader as appropriate) for reconsideration (setting out the concerns of the Committee) or refer to Full Council if they consider the decision was outside of the Budget and Policy framework.

Who can request a 'call in'?

1. The Chairman (or in their absence the Vice Chairman) of Overview and Scrutiny Committee; or
2. Any five non-Cabinet Members of Council (At least one of the Members will need to present the reasons for calling in the decision)

What are the criteria?

The grounds in support of a request for 'call in' are cited at part 4c. 15.

In brief they are:-

- a) Inadequate consultation

- b) Inadequate evidence
- c) Decision outside the Budget and Policy Framework
- d) Decision not proportionate to the desired outcome
- e) Decision open to challenge on human rights
- f) Insufficient Legal and Financial consideration
- g) Decision not within the power of the Decision maker.

In effect the 'call in' request would need to demonstrate it is reasonable to 'call in' the decision. It is for the Chairman of Overview and Scrutiny to assess what is reasonable.

Exceptional Circumstances

'Call in' should be used sparingly and indeed the rules state it should only be used in exceptional circumstances. The rules also provide a maximum of 5 'call ins' per year which further illustrates that the 'Call in' process should not be used routinely.

The above sets out the statutory and constitutional provisions relating to the call-in process. Officers are preparing a procedure note to assist members in the future and this will draw on these aspects but will also propose that greater clarity should be sought from those promoting a call in to establish what aspects of a particular Cabinet decision they would wish to see changed as a result of a reference back. The note will be prepared in consultation with the Chairman and Vice Chairman and will be circulated prior to the committee's next meeting.