



Scrutiny Committee – 2 April 2014

Call-In Procedure

Purpose of report

This report details the current provisions for call-in by the Scrutiny Committee at the council and proposes amendments to the call-in procedure in accordance with the committee's previously expressed aspirations.

1.0 Background

1.1 The most recent amendment to the Constitution has established a new Governance and Audit Committee, which has assumed the Scrutiny Committee's former responsibility for monitoring internal audit. In addition to this, at its meeting on 11 December 2013 (minute 291 refers), the committee discussed the need to review the call-in procedure when the constitutional amendments had been implemented. This report sets out the current call-in procedure and its usage, and proposes amendments in line with committee members' aspirations.

2.0 What is Call-In?

2.1 At the end of the last century, the majority of local authorities adopted Executive governance arrangements (i.e. a Mayor and Cabinet or Leader and Cabinet model). East Northamptonshire Council opted to retain the committee system that had been the only model of local authority governance since the late nineteenth century. Under the terms of the Local Government Act 2000, which consolidated local government modernisation, authorities operating the committee system were labelled as fourth option councils. Whilst the scrutiny process had existed under local arrangements prior to 2000, the Act required authorities to formally establish a Scrutiny Committee and, since that time, the scrutiny function has developed its own sense of purpose that fits local circumstances.

2.2 The call-in procedure is a provision of the Local Government Act 2000 which allows the Scrutiny Committee to compel decision-makers to reconsider any decision made, but not yet implemented, where it considers there to be compelling grounds for review.

2.3 Both in the spirit of the legislation and in local practice, call-in is intended to be used only "in exceptional circumstances"¹. The procedure is seen as a last resort through which a Scrutiny Committee and/or councillors may demand scrutiny of a decision that they consider to be contrary to the authority's decision-making principles. It is a mechanism that necessarily causes delay and can be confrontational in nature. Since the legislation was introduced, the national picture suggests that call-in has been little used, despite the numerous variations in interpreting call-in on a local level across the country.

3.0 How does it work at East Northamptonshire Council?

3.1 In East Northamptonshire, the call-in procedure is set out within Scrutiny Procedure Rules 13 and 14. The Constitution states that:

Members of the Scrutiny Committee may 'call-in' a decision in accordance with the procedure set out in Rule 14.3. Members who call in a decision and propose an

¹ Local Government Act 2000, Section 16

alternative decision should have good reason to believe that the appropriate policy committee did not take the decision in accordance with the principles set out in Article 12. The names of the Members implementing the call-in procedure and the reasons for call-in will be disclosed on the published agenda.

3.2 Decisions made by any policy committee or sub-committee are published and sent to all councillors within three working days of the meeting at which the decision was made. Members of the Scrutiny Committee then have five clear working days from the date that the decision notice was published to request a call-in. The decision can only be called in if:

- it was made without due process being followed
- it was not made in accordance with one of more of the general principles set out in Article 12.02 of the Constitution
- it fails to represent natural justice
- it falls outside the agreed budget
- it represents a significant change in council policy

If the decision meets one or more of these criteria, Members must also provide details of the issues that the decision maker did not fully address when considering the proposal.

3.3 When a call-in is received, a meeting of the Scrutiny Committee must be held within ten working days of the date of the call-in and the decision cannot be implemented until the recommendations of the Scrutiny Committee have been considered. The Scrutiny Committee may resolve to:

- recommend that the appropriate policy committee reconsider the decision, in which case the matter would be referred back for further consideration before adopting a final decision having regard to the Scrutiny Committee's concerns; or
- refer the decision (if it considered to be contrary to the policy framework or not in accordance with the budget) to the full Council to confirm or otherwise.

If the Scrutiny Committee does not meet in the ten day period, or does but does not refer the matter back to the decision making body or the council, the decision takes effect on the date of the Scrutiny Committee meeting or the expiry of the ten working days after the call-in is received.

3.4 As it is call-in of a decision of a committee or sub-committee, the Chairman of the decision-making body has the right to attend and takes responsibility for presenting the report and the reasons for the decision and answering any questions. The Chairman of the Scrutiny Committee, or a committee member nominated by the chairman, has a similar right and responsibility when the policy committee or council reconsiders the issue.

3.5 The call-in procedure in East Northamptonshire has striking similarities to the procedure for call-in at many Executive governance authorities. The procedure has been used sparingly, in recent years but this should not be viewed as a failure of the call-in process or the scrutiny function. As referred to earlier in this report, call-in should be an avenue of last resort and not the first port of call when seeking more information in respect of a proposal. Members should always be encouraged to contact the relevant Head of Service in respect of any decision that they wish to call-in to establish all of the relevant facts before instigating the call-in process. A report elsewhere on this agenda proposes an approach for members to become more informed in respect of proposals being considered by policy committees. This informal approach to pre-decision scrutiny will serve to confirm the call-in procedure as the absolute last resort.

4.0 Proposed Amendments to the Call-In Procedure

- 4.1 At the last meeting, during consideration of the proposals to establish the Governance and Audit Committee and reduce the membership of the Scrutiny Committee, reference was made to the need to change the call-in process. With the amendments having been made to the constitution in January 2014, it is now recommended that the number of members required to initiate a call-in be reduced from four to three to reflect the reduced size of the Scrutiny Committee.
- 4.2 It is also considered appropriate to remove the current constitutional restriction on the Chairman of the Scrutiny Committee which prevents him or her from initiating or supporting a call-in request. This provision is no longer considered proportionate given the reduced size of the committee. It is also a provision that very few other local authorities have adopted.
- 4.3 If members are in agreement with the proposal outlined in paragraph 4.2 above, the current procedure will also require amendment to include the Vice-Chairman to be consulted on call-in requests where the Chairman is absent or has initiated or supported a request. This proposed amendment will ensure that there is formal provision for member oversight of a call-in request.

5.0 Equality and Diversity Implications

- 5.1 There are no equality and diversity implications arising from the proposals.

6.0 Legal Implications

- 6.1 Call-in is a statutory process under section 16 of the Local Government Act 2000 and was originally set out in the Modular Constitution for England at that time. There are a number of variables which local authorities have moulded to fit their local circumstances since that time. The proposals within this report constitute a change to the variables of the call-in process and will ensure that the council continues to operate within the meaning of the legislation.

7.0 Risk Management

- 7.1 The call-in process is itself a risk management tool in that it provides an opportunity to review significant decisions taken by the council's policy decision-making bodies. The proposals within this report ensure that the process is more robust and provide for adequate and proportionate challenge.

8.0 Financial Implications

- 8.1 There are no financial implications arising from this report.

9.0 Constitutional Implications

- 9.1 If the committee is minded to accept the proposals, an amendment to Scrutiny Procedure Rule 14.3 would need to be agreed by the Council by way of a recommendation from this committee to the Council meeting on 23 April 2014.
- 9.2 The suggested wording of Scrutiny Procedure Rule 14.3 is set out below, with changes highlighted:

*Call-in shall only be used in exceptional cases. To prevent the procedure being abused, only three in each 3 month period in a municipal year can be called in. Call-in shall be effected by the Chief Executive, or his designated nominee in consultation with the Chairman, **or where the Chairman is absent or has initiated or supported a call-in request, the Vice-Chairman** of the Scrutiny Committee, on receipt of a written request (which may be in electronic form) for call-in of a specified decision from at least four members of the Scrutiny Committee ~~(which must not include the~~*

~~**Chairman – because of the initial consultation on call-in and the power to exercise a casting vote at the meeting in the event of an equal number of votes for and against.**~~ The request must set out the reasons why the decision is being called-in, which can only be because the decision falls into any of the following categories:

- i. it was made without due process being followed, or
- ii. it was not made in accordance with one or more of the general principles set out in Article 12.02 of the Constitution, or
- iii. it fails to represent natural justice, or
- iv. it falls outside the agreed budget, or
- v. it represents a significant change in council policy

The call-in must include details of the issues which the Scrutiny Committee members believe the appropriate policy committee or sub-committee did not fully address.

10.0 Corporate Outcomes

10.1 The proposed amendment will contribute to the corporate outcome of Strong Community Leadership in that the council will have strengthened its arrangements for the accountability of decision-making.

11.0 Recommendation

11.1 If Members are in agreement with the proposal, the committee should resolve to recommend the Council to amend the Constitution accordingly:

1. That the number of members of the Scrutiny Committee required to initiate the call-in procedure be amended from four to three councillors.

(Reason – to reflect the reduction in the membership of the Scrutiny Committee.)

2. That the call-in shall be effected by the Chief Executive, or his designated nominee, in consultation with the Chairman or, where the Chairman is absent or has initiated or supported a call-in, the Vice-Chairman.

(Reason – to remove the exclusion of the Committee Chairman from initiating or supporting a call-in request.)

3. That the provision excluding the Chairman from initiating or supporting a call-in request be deleted.

(Reason – to empower the Committee Chairman to initiate or support a call-in request.)

Legal	Power: Local Government Act 2000				
	Other considerations:				
Background Papers: N/A					
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Date: 19 March 2014					
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