

		AGENDA ITEM 4
		EDE/01/11
Committee:	Economic Development and Environment Policy & Scrutiny Committee	
Date:	24 February 2011	
CALL IN PROCEDURE: CHANGES IN THE COUNCIL'S CONSTITUTION		
Enquiries to:	Christine Sharland, Governance Officer 01245 430450 christine.sharland@essex.gov.uk	

At the Full Council meeting in December 2010 (Minute 94) various changes were made to its Constitution including a variation of the Call-In provision. Article 9.5 of the Constitution now states that -

'Each Overview and Scrutiny Committee shall exercise the function of call-in of a decision made by a Cabinet Member which falls within its remit in order to consider whether:

- (i) to refer the decision back to the person who made it; or
- (ii) to refer the matter to the full Council to decide whether to refer the decision back to the person who made it.'

A copy of the new Call In Procedure is now attached at the Appendix to this report for the Committee's information.

Action required by the Committee:

To note the change to the Council's Constitution in respect of the call-in of decisions, and the Procedure for dealing with call-ins.

Extract from the Overview and Scrutiny Committee Procedure Rules set out in the Essex County Council Constitution

20.14 Call-In

- (i) Call in should only be used in exceptional circumstances. Day to day management decisions taken or routine operational decisions should not be subject to call in.
- (ii) Any Overview and Scrutiny Committee may call in a decision made by a Cabinet Member which falls within its remit. A member of the Overview and Scrutiny Committee may call in a decision by notifying the proper officer in writing.
- (iii) Where a decision is made by the Cabinet or an individual Cabinet Member the decision shall be published (including where possible by electronic means) and shall be available at the main offices of the Council within three clear working days of being made. Members of the relevant Overview and Scrutiny Committee shall be sent copies of the notice of all such decisions also within three clear working days.
- (iv) The notice publishing such decision shall bear the date upon which it is published and will specify that the decision will come into force and may then be implemented on the expiry of three clear working days after publication unless called in.
- (v) During the period specified in (d) above, the proper officer shall call in the decision for scrutiny by the relevant Overview and Scrutiny Committee , if so requested in writing by a member of that Committee. The member will set out in writing the reasons for calling in the decision. The proper officer shall then call a meeting of the Committee on such date as he or she decides (where possible after consultation with the Chairman of the Committee) and in any case within ten clear working days of the request to call in.
- (vi) On receipt of a notice of call-in the Governance Officer will:
 - (a) arrange for the notice to be acknowledged in writing;
 - (b) for the decision taker to be formally notified in writing of the receipt of a notice of call-in; and
 - (c) for the Chairman of the Overview and Scrutiny Committee to be informed where the Chairman is not a party to the call-in.

- (vii) Prior to the meeting of the Committee arranged under (e) above, the Chairman may, with the agreement of the Member calling the matter in, arrange an informal meeting between him, the Member calling in the decision and the decision taker to discuss the issue.
- (viii) Where the call-in has been made as the result of representations from a Member who is not a member of the Committee, that Member will be invited to attend the informal meeting. The Governance Officer will attend the informal meeting and will within 24 hours produce a note for circulation to all parties to the meeting for approval.
- (ix) Where at the informal meeting stage assurances are given by, or agreements reached with Cabinet Members, then those assurances or agreements must subsequently be confirmed in writing.
- (x) A report of any call-ins that are withdrawn as a result of an informal meeting will be included on the Agenda for the next meeting of the Committee.
- (xi) If the call-in is not withdrawn as a result of the informal meeting or an informal meeting is not held it will go to the Committee. The Committee should meet within 10 clear working days of the notice of call-in. Wherever possible scheduled meetings of the Committee will be used. Where this is not possible the Governance Officer will liaise with the parties concerned and the Group Spokespersons on the Committee to arrange a special meeting.
- (xii) The Governance Officer will liaise with the parties concerned on behalf of the Chairman of the Committee to ensure that all those with a reasonable interest in the decision have an opportunity to be represented at the meeting, including any Member whose representations have led to the call-in.
- (xiii) Having considered the decision, the Committee may refer it back to the decision taker setting out in writing its concerns or refer the matter to the full Council also with a record of its concerns. Upon a referral to a decision taker, the decision shall be reconsidered within five clear working days amending the decision or not before adopting a final decision.
- (xiv) If the Committee does not refer a decision to either the decision taker or the Council, the decision shall take effect at the conclusion of the meeting of the Committee.
- (xv) Following consideration of a call-in by the Committee, the Governance Officer will liaise with the Chairman and Group Spokespersons to agree the formal notification of its decision to go to the interested parties and, if

the call-in is referred to Council, to agree the wording of the report to Council.

- (xvi) If, following a reference of a decision from an Overview and Scrutiny Committee, the Council objects to that decision it will be referred to the decision taker together with the Council's views. The decision taker will reconsider the decision within five clear working days deciding whether or not to amend the decision before implementing it.
- (xvii) If the Council does not refer a decision to a decision taker then the decision shall take effect at the conclusion of the meeting of the Council.
- (xviii) A request to call in a decision may be withdrawn at any time by those making the request.
- (xix) The call-in procedure set out above does not apply where the decision being taken is urgent. A decision is urgent if any delay is likely to prejudice the Councils, the public or individual's interests. The record of a decision and the notice by which it shall be made public shall state whether in the opinion of the decision taker (if an individual) or the Leader of the Council it is an urgent one and therefore not subject to call in. The Chairman of the Council must agree both that the decision proposed is reasonable and that it should be treated as a matter of urgency. In the absence of the Chairman the Vice-Chairman's agreement is required. In the absence of both, the agreement of the Head of the Paid Service (or his nominee) must be obtained. Decisions taken as a matter of urgency shall be reported to the next available meeting of the Council together with the reasons for urgency.

All parties will be advised of this procedure each time an executive decision is called in.
