

**Wiltshire Council****Overview & Scrutiny Management Committee****6 September 2012**

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**Future Call-in Procedures**

The overview and scrutiny procedures includes the ability to call-in executive decisions. This is a statutory power and the relevant extract from the constitution is set out below. The revised overview and scrutiny arrangements agreed by Council in May show the responsibility for call-in rests with the new Management Committee as part of its overarching role. Council also authorised the Solicitor to the Council to make consequential changes to the Constitution arising from the new arrangements. The extract currently indicates that responsibility for call-in is with the “appropriate overview and scrutiny committee”.

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**Call-in**

- 1. Call-in should only be used in exceptional circumstances. This is where members of the appropriate overview and scrutiny committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles of decision making in the constitution.*
- 2. When a decision is made by the cabinet, an individual member of the cabinet or a committee of the cabinet, or a key decision is made by an officer with delegated authority from the cabinet, or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two days of being made. The chair of the overview and scrutiny committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.*
- 3. That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless an overview and scrutiny committee objects to it and calls it in.*
- 4. During that period, the designated scrutiny officer shall call-in a decision for scrutiny by the committee if so requested by the chair or any three members of the committee, and shall then notify the decision-maker of the call-in. He/she shall call a meeting of the committee on such date as he/she may determine, where possible after consultation with the chair of the committee, and in any case within five days of the decision to call-in.*
- 5. If, having considered the decision, the overview and scrutiny committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns, or refer the matter to Full Council. If referred to the decision-maker they shall then*

*reconsider within a further five working days, amending the decision or not, before adopting a final decision.*

6. *If, following an objection to the decision, the overview and scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of that further five working day period, whichever is the earlier.*
7. *If the matter was referred to Full Council and the council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. The council will refer any decision to which it objects back to the decision-making person or body, together with the council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the cabinet as a whole or a committee of it, a meeting will be convened to reconsider within five working days of the council request. Where the decision was made by an individual, the individual will reconsider within five working days of the council request. The council cannot make decisions in respect of a cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget.*
8. *If the council does not meet, or if it does, but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the council meeting or expiry of the period in which the council meeting should have been held, whichever is the earlier.*
9. *Where a cabinet decision has been taken by an area committee then the right of call-in shall extend to any other area committee which resolves to refer a decision which has been made but not implemented to a relevant overview and scrutiny committee for consideration in accordance with these provisions. An area committee may request the designated scrutiny officer to call-in the decision only if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call-in shall apply as if the call-in had been exercised by members of a relevant overview and scrutiny committee.*

### **Call-in and urgency**

10. *The call-in procedure set out above shall not apply where the decision being taken by Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person or body, the decision 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 in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman the vice-chair's consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the council, together with the reasons for urgency.*

11. *The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to council with proposals for review if necessary.*

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The Management Committee is asked to consider how it wishes to operate the call-in provision in future bearing in mind it's exceptional nature and tight prescribed timescales. Options include:

- (1) Exercise full responsibility over all call-ins
- (2) Delegate responsibility to the select committees (corporate matters being the responsibility of the Management Committee) similar to before
- (3) The Chairman and Vice-Chairman of the Management Committee to be authorised to apply some flexibility over the appropriate route depending on the subject

A call-in has recently been exercised by the Chairman of the Environment Select Committee in respect of a stopping up order of a public footpath following representation to him by the local member. In this instance (and in the absence of clear guidance on any revised procedure at the time) this was taken through the Environment Select Committee route with the agreement of the Chairman and Vice-Chairman of the Management Committee. It is therefore opportune to define the procedure for the future.

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