

Amendments to the Council's Call-In Procedure

SUMMARY

- 1.1 At the meeting of the Resources & Governance Overview and Scrutiny Board, a recommendation was made for the Monitoring Officer to undertake a review of the procedural guidance in respect of the Council's Call-In Procedure as it is currently within the Council's Constitution..
- 1.2 The Board made a recommendation for the Monitoring Officer to prepare amendments of the procedure and obtain the views of the Leader of the Council and Group Leaders for the Conservatives and Liberal Democrats before reporting her findings to the Board on 19th August 2013
- 1.3 At the time of preparing this report, the views of the Group Leaders for the Conservatives and the Liberal Democrats are awaited. The Leader of the Council has reviewed the draft Call-In procedure as attached at Appendix Two of this report and has indicated his consent to this revised procedure.

RECOMMENDATION

- 2.1 To consider the revised Call-In Procedure as prepared by the Monitoring Officer in terms of its fitness for purpose
- 2.2 To recommend to Council that consideration is given to supporting the amendment to the Call-In procedure

REASONS FOR RECOMMENDATION

- 3.1 Three call-in meetings have recently been convened and the Chairs of the respective Board meetings have requested additional clarity in the procedural guidelines so as to ensure a consistent and fair approach

SUPPORTING INFORMATION

- 4.1 Call-In affords Members of the Council an opportunity to challenge a key decision made by Council Cabinet. Where Members of the Council are of the opinion that the Council Cabinet has not made a key decision in accordance with Article 13 of the Constitution (principles of decision making) Members can make a written request to the Monitoring Officer to call-in the decision for scrutiny.
- 4.2 Written Call-In requests signed by up to three signatories are submitted to the Monitoring Officer who must then notify the Council Cabinet and convene a meeting of the relevant Scrutiny Board who will hear the Call-In.
- 4.3 The amendment to the procedure to be used by the Chair of the Board at a Call-In meeting does not fetter Members democratic right to exercise their ability to call-in a Cabinet decision.

OTHER OPTIONS CONSIDERED

- 5.1 The Board may give consideration to retaining the existing procedure as prescribed in the Council's Constitution.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Janie Berry, Director of Legal & Democratic Services, Monitoring Officer Phil O'Brien, Head of Democratic Services
For more information contact: Background papers: List of appendices:	Janie Berry 01332 643616 janie.berry@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Draft Revised Call-In Procedure

IMPLICATIONS

Financial and Value for Money

1.1 None

Legal

2.1 The Call-In process is prescribed by the Council's Constitution.

Personnel

3.1 None

Equalities Impact

4.1 There is a need for the Council's procedures detailed within the Constitution to reflect transparency and equality and to support the democratic process without causing unfairness.

Health and Safety

5.1 None

Environmental Sustainability

6.1 None

Property and Asset Management

7.1 None

Risk Management

8.1 None

Corporate objectives and priorities for change

9.1 The Council is committed to ensuring its democratic processes and procedures promote fairness and transparency

Draft Meeting Procedure for a Call-in of a Council Cabinet Decision

The role of the Chair

1. This procedure shall be implemented at the discretion of the Chair. The Chair will advise attendees at a Call-in meeting of any reasonable intention to deviate from the procedure at the start of the meeting where possible.
2. In the absence of the Chair, the meeting will be led by the Vice-Chair. In the absence of both, the Monitoring Officer or their representative shall facilitate a vote of members so that a Chair shall be appointed. The appointed member will chair for the duration of the meeting or until the Chair or Vice-Chair is present.
3. Where the Chair is in attendance, the Vice-Chair shall be treated in the same way as every other member of the board.

Role of signatories to the Call-in notice and the Council Cabinet member

4. Signatories to the Call-in notice and the Council Cabinet member will be invited to provide evidence to the board, both in terms of a presentation and by answering questions put to them by the board.
5. There is no provision for either party to question the other, either directly or through the Chair.

Role of officers in attendance

6. Supporting officers will be present from Constitutional Services (providing procedural advice to the Chair and board as required and recording decisions) and Overview and Scrutiny (advising the Chair and the board as required on relevant scrutiny of the decision under consideration). The Monitoring Officer or their representative may also be present and may undertake any of these duties in addition to providing any legal advice if required.
7. Chief officers, directors or heads of service may provide support to the Council Cabinet member and contribute to the meeting as required by advising the board on the strategic, technical or operational basis of decisions taken or considerations given relevant to the Call-in, or by responding to questions deferred by the Council Cabinet member to them.

Procedure at the meeting

8. The signatories to the Call-in notice will be invited to address the board on the Call-in, and will be expected to focus on justifying why they considered the council's decision making principles to have been breached as raised in the signed call-in notice lodged with the Monitoring Officer. The order in which signatories are invited to speak will be at the discretion of the Chair. Signatories should limit their contributions to the matter to the reasons for the call-in.
9. After all signatories have made their contributions, members of the board will be invited to put questions to the signatories and receive responses to those questions.
10. The Council Cabinet member will then be invited to address the board on the Call-in by the Chair, and will be expected to respond to the assertions relating to the council's decision making principles as set out in the Call-in notice.
11. After the Council Cabinet member has made his/her contribution, members of the board will be invited to put questions to the Council Cabinet member. The Council Cabinet member shall be entitled to defer questions put to them to the officers supporting them.
12. One nominated signatory shall be invited to make a further statement to the board, lasting no more than five minutes, summarising the signatories' case and responding to any further points raised by the Council Cabinet member at Points 9 and 10.
13. The Council Cabinet member shall be invited to make a further statement to the board, lasting no more than five minutes, responding to the Call-in notice and any points raised by the nominated signatory at Point 11.
14. There shall be no further contributions from signatories to the Call-in notice, the Council Cabinet member or officers attending in support of the Council Cabinet member.

Contributions by members of the board

15. The Chair shall invite members of the board to make any contributions they may wish prior to the vote being taken. Each member of the board shall be permitted to make one speech lasting no more than five minutes.

Voting on whether decision making principles have or have not been breached

16. The Chair shall then ask each member in turn to state whether they consider the decision making principles identified in the Call-in notice were or, were not, breached

giving reasons. Where a member considers that a principle has been breached, they will be required to state which principles they consider to have been breached at this stage. This information shall be recorded by the Monitoring Officer or his/her representatives.

17. The Chair may, at their discretion, state whether they believe the decision making principles identified in the Call-in notice were or were not breached, giving reasons.

Finding of no breach

18. In the event that a majority of members consider that there was not a breach, the Chair will state that the board has resolved that the Council Cabinet decision identified in the Call-in notice was not breached and close the meeting.

Finding of a breach

19. In the event that a majority of members consider that there was a breach in the decision making procedure, the Chair will invite the Monitoring Officer or their representative to address the board. The Monitoring Officer or their representative will state which decision making principles were individually identified by board members as having been breached, and which of those principles were identified by a majority of members present as having been breached.
20. The Chair will declare the outcome of the vote and the resultant resolution and close the meeting referring the decision back to the next meeting of the Council Cabinet.

Consideration of multiple Call-in notices in relation to one decision of Council Cabinet

21. In the event that more than one Call-in notice is received in relation to a single matter, the Chair will use their discretion to vary the procedure accordingly to afford signatories to all Call-in notices equal opportunity to state their case.