


Agenda Item No:	7	
Committee:	Council	
Date:	23 March 2017	
Report Title:	Constitutional Amendment – Changes to the Overview and Scrutiny Call in Procedure	

1 Purpose / Summary

To receive a recommendation from Overview and Scrutiny to reduce the number of Members required to call-in a decision from 10 Members to 5 Members.

2 Key issues

- During the full Council meeting in December 2016 a question arose relating to the current Call-In arrangements outlined in the constitution and whether they are commensurate with neighbouring authorities. The Overview and Scrutiny Committee considered this question at their meeting on 20 February 2017 having conducted research regarding how neighbouring authorities operate the Call-In procedure; see attached paper.
- As a result, the Overview and Scrutiny Committee recommend that, a constitutional amendment should be made to reduce the number of Members required to affect a Call-In of an executive decision from 10 Members to 5 Members. Members of the Overview and Scrutiny Committee agree that all other aspects of the existing Constitution in respect of Call-In remain relevant and therefore should remain unchanged.
- The Local Government Act 2000 provides the legislative framework in relation to Call-In, which provides for Scrutiny to have the power to review or scrutinise key decisions made but not yet implemented by the Executive. The legislation also includes a power to recommend that the key decision be reconsidered by the person who made it.
- Call-In provides a mechanism for Councillors to intervene when they feel that a decision being made by the Executive needs to be revisited (or possibly changed).
- The Centre for Public Scrutiny advises that Call-In should be regarded as a mechanism for use in exceptional circumstances, rather than the day to day. It sits in the context of a range of other tools at scrutiny's disposal to influence decision making. This is particularly relevant in a Fenland District Council context as the Overview and Scrutiny Committee is increasingly involved in the overview of key policies and decisions in advance of any Cabinet decision.
- Since 2011 the Overview and Scrutiny Committee has considered the Call-In of 4 key decisions. In all cases the Overview and Scrutiny Committee supported the original Cabinet decision. This is in line with the national picture which since 2009 has seen a decline as a percentage in the total number of decisions subject to Call-In.
- The number of Call-Ins varies significantly from Council to Council. Research undertaken by the Centre for Public Scrutiny (CfPS) in 2014 concluded that a large number of Council's do not receive any Call-Ins and many had received none at all

for many years, therefore the number of Call-Ins received at Fenland is in line with the national picture

3 Recommendations

- The Overview and Scrutiny Committee recommend that Rule 5 of the Constitution - Overview and Scrutiny Procedure Rules article 18 Call –In, paragraph 18.4 be deleted and replaced with:

During that period the Chief Executive shall call in a decision for scrutiny by the appropriate panel if so requested by: a Chairman or Vice Chairman of any panel, or three members who are members of the Overview and Scrutiny Function, or any **five** members of the Council and shall then notify the decision maker of the call – in.

- Council to agree, if necessary, for the Monitoring Officer to update the Constitution to reflect the Council decision.

Wards Affected	All
Forward Plan Reference	
Portfolio Holder(s)	Councillor Fred Yeulett – Chairman of the Overview and Scrutiny Committee
Report Originator(s)	Anna Goodall, Head of Governance and Legal Services, agoodall@fenland.gov.uk 01354 622357
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Background Paper(s)	Fenland District Council Constitution Overview and Scrutiny Call in Procedure report 20 February 2017

Agenda Item No:	8	
Committee:	Overview & Scrutiny Panel	
Date:	20 February 2017	
Report Title:	Overview and Scrutiny Call-In Procedure	

4 Purpose / Summary

To advise Members of the current Call-In Procedure as outlined in the Constitution in relation to the Overview and Scrutiny Committee and consider as a result of a question which arose during Full Council in December 2016 whether or not the current Call-In arrangements are commensurate with neighbouring authorities.

5 Key issues

- The Local Government Act 2000 provides the legislative framework in relation to Call-In, which provides for Scrutiny to have the power to review or scrutinise key decisions made but not yet implemented by the Executive. The legislation also includes a power to recommend that the key decision be reconsidered by the person who made it.
- Call-In provides a mechanism for Councillors to intervene when they feel that a decision being made by the Executive needs to be revisited (or possibly changed).
- The Centre for Public Scrutiny advises that Call-In should be regarded as a mechanism for use in exceptional circumstances, rather than the day to day. It sits in the context of a range of other tools at scrutiny's disposal to influence decision making. This is particularly relevant in a FDC context as the Overview and Scrutiny Committee is increasingly involved in the overview of key policies and decisions in advance of any Cabinet decision.
- Since 2011 the Overview and Scrutiny Committee has considered the Call-In of 4 key decisions. In all cases the Overview and Scrutiny Committee supported the original Cabinet decision. This is in line with the national picture which since 2009 has seen a decline as a percentage in the total number of decisions subject to Call-In.

6 Recommendations

- Members are asked to note the current Call-In procedure as outlined in the Fenland District Council Constitution;
- Members are asked to note the Call-In procedures in relation to neighbouring authorities;
- Members are asked to consider whether the current Call-In arrangements are commensurate with neighbouring authorities and make a recommendation to Full Council if a change is required.

Wards Affected	All
Forward Plan Reference	
Portfolio Holder(s)	

Report Originator(s)	Anna Goodall, Head of Governance and Legal Services, agoodall@fenland.gov.uk 01354 622357
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Background Paper(s)	Fenland District Council Constitution

7 Background

- 7.1 A question arose during the December 2016 meeting of Full Council regarding whether or not a review of the existing Call-In procedure should be conducted in order to align the Fenland District Council Call-In procedure more closely with our neighbouring authorities.
- 7.2 Call-In provides the mechanism to provide further debate on topics of contention and acts as a check and balance to Executive decision making powers. Call-In is however just one of the options within the Overview and Scrutiny toolkit in relation to influencing decision making. For example the Overview and Scrutiny Committee have changed the emphasis of more recent meetings to provide the opportunity to focus on the overview of emerging policies and efficiency projects as well as up and coming key decisions. This allows Scrutiny to be increasingly proactive in its approach which lessens the need for Call-In.
- 7.3 The Fenland District Council constitution states that the Chief Executive shall Call-In a decision for scrutiny by the appropriate panel if so requested by: a Chairman or Vice Chairman of any panel, or any three members who are members of the Overview and scrutiny Function, or any 10 members of the Council and shall then notify the decision maker of the Call-In.
- 7.4 The Call-in procedures has been exercised on four separate occasions since 2011 and in all instances the Overview and Scrutiny Committee agreed with the original Cabinet decision.
- 7.5 Different Councils have different requirements regarding who can exercise Call-In powers. There appears to be no trend relating to these requirements when compared to neighbouring authorities and this reflects the wider national picture.
- 7.6 The table below outlines the requirements regarding who can exercise Call-In powers across our neighbouring authorities.

Authority	Call In Requirements	Additional notes
Cambridgeshire County Council	The decision Review procedure can be initiated by 8 Members of the Council. The matter if agreed for Review is referred to the General Purposes Committee for consideration.	CCC operate a Committee structure in relation to Governance.
Cambridge City Council	The majority of members of the relevant Overview and Scrutiny Committee may by written notice requisition a special meeting of the committee, the business of the meeting shall be to review or scrutinise the decision.	Cambridge City Council under take advanced scrutiny of all key decisions and selected decisions which fall to be made by members of the Executive.

East Cambs District Council	Three Members can call in a decision of the Policy Committee/ sub-committee within 5 working days of the meeting where the decision was reached. Call in should be made in writing to the Chief Executive on the designated call in form. Formal acceptance or refusal of the call in will be given to the members calling in the decision within 5 working days of its receipt. Any refusal will give the reasons for refusal. If a call in is accepted it will be considered by the next meeting of Full Council. No action on the decision will be taken until Full Council has considered the decision and made a final decision.	ECDC do not have an Overview and Scrutiny Committee. ECDC operate a Committee system style of governance and not a Leader and Executive model.
Huntingdonshire District Council	The Head of paid service shall call in a decision for scrutiny by a panel if so requested by any three members of a relevant panel and shall notify the decision taker of the call in. A Member of a relevant panel who has a qualifying DPI in a decision under the Code of Conduct for members shall be prohibited from requesting that the decision be called in.	
South Cambridgeshire District Council	The Chairman of the Overview and Scrutiny Committee, the Overview and scrutiny Committee or any 5 Councillors in certain circumstances can request 'call in' of a decision which has been made by the Executive but not yet implemented.	The Chairman of the Overview and Scrutiny Committee has discretion to refuse a call in if the reasons for the requested call in do not satisfy the criteria set out in the constitution

7.7 The Centre for Public Scrutiny in their guidance from 2014 state that different councils have different requirements. For example, Basildon and Derby requires three members of the Council to request a call-in for it to be valid. In Bracknell Forest, the Chairman and two additional members of an overview and scrutiny committee, or any five other members of the Council, are required for a valid call-in. In Wigan, six committee members are required to agree for there to be a call-in. There is no trend relating to these requirements when compared across urban or rural, district, county or unitary, Conservative, Labour or Liberal Democrat authorities.

7.8 The Centre for Public Scrutiny also point out that Government guidance in both England and Wales, makes clear that call-in should be exercised only rarely and that councils should act to ensure that their local protocols and procedures meet this end.

8 Constitutional Changes

8.1 In the event that the Overview and Scrutiny Committee conclude that the existing Call-In requirements should be amended, a recommendation outlining the specific amendments to the Council's Constitution to Full Council would be required.