



Call-In Process Proposals

1 Purpose

- 1.1 This report sets out the actions taken since September 2020 on the matters relating to the call-in process and asks that Members agree the recommendations set out in the report.

2 Background

- 2.1 In September 2020, the Co-ordinating O&S Committee agreed to a set of proposals for engaging Members and officers in a review of Overview and Scrutiny arrangements, to strengthen cross-party engagement in Scrutiny and ensure Scrutiny's place in the good governance of the Council. This included an agreement to consider recommendations with regards to call-in.
- 2.2 Call-in is a statutory right for Councillors / Members sitting on Scrutiny Committees to delay the implementation of a decision which has been made (but has not yet been implemented) to allow a Committee to consider the decision (Local Government Act 2000, Sections 9F(2)(a) and 9F(4)).
- 2.3 This Committee has previously considered amendments to the call-in process; most recently in June 2019 (see [Co-ordinating O&S Committee agenda, 14th June 2019](#)) where Members agreed to revise aspects of the call-in process, including around attendance at meetings, roles during a call-in and provision for what happens when an Executive decision is withdrawn following a call-in.
- 2.4 The [Peer Review](#) of O&S and Committee Services, completed in 2019, made one recommendation with regards to call-in:
- “Tighten up on rules around call-in criteria in line with MHCLG guidance and develop a robust informal resolution process.”**
- 2.5 The peer reviewers raised concerns that the number of call-ins at the Council were disproportionately high, “mainly because the criteria for call-ins are not rigorous enough to ensure that only serious concerns are reviewed. Backbenchers said that they lacked confidence that O&S recommendations would be followed up, hence their use of critical motions and call-in.”
- 2.6 Suggestions included that Members should be expected to provide a written explanation for their reasons for call-in as Directors and Cabinet Members often have to attend call-in meetings without knowing exactly why the call-in was instigated. They also said that the reasons for the call-in should be better explained.
- 2.7 Given this feedback, there are three issues for Members to consider:
- Are the call-in criteria sufficiently robust?
 - Should Members requesting a call-in be required to provide a written explanation of the reasons for the request?



- Should an informal resolution process be adopted to resolve issues at an earlier stage?

3 Activity Since September 2020

- 3.1 Following the Co-ordinating O&S Committee meeting in September 2020, a cross-party group of Members (Cllr Carl Rice, Cllr Sir Albert Bore, Cllr Debbie Clancy, Cllr Roger Harmer, and Cllr John Cotton representing the Executive) then developed some proposals for consultation. These were endorsed by the Co-ordinating O&S Committee, then circulated to all Members and drop in sessions were held for Members to feedback their views.
- 3.2 Members at the drop in sessions raised the following issues in relation to call-in:
- There was general agreement that more detail on call-in forms would help the process run more smoothly;
 - There was concern that any informal mechanism would be done outside meetings and therefore not transparent;
 - Whilst there was some discussion of timescales, there were no proposals to change, recognising that whilst it is difficult to set up meetings in the short time allowed, any extension would result in delays to decision-making;
 - Members said that it was a lack of pre-decision scrutiny that often led to a request for call-in, as that then became the best route to get information;
 - The number of call-ins that resulted in some manner of changes was noted, pointing to the beneficial impact of the call-in process for the Council.
- 3.3 These comments, along with those of the Committee, are taken into account in the recommendations set out below.

4 Proposal 1: Amendment to Call-In Criteria

- 4.1 The criteria for call-in, as in the Constitution, are set out in Appendix 1. A summary of call-ins and call-in requests made by criteria are summarised in Appendix 2.
- 4.2 In discussions with Members of the Peer Review team, they suggested that two of the criteria were extremely wide and should be re-considered:
- 6 – the decision has already generated particular controversy amongst those likely to be affected by it or, in the opinion of the Overview and Scrutiny Committee, it is likely so to do;
 - 7 – the decision appears to be particularly “novel” and therefore likely to set an important precedent.
- 4.3 Analysis of the last 12 decisions that were called-in by an O&S Committee shows that although the first of these two criteria were a reason given in four cases, in each of these cases, other criteria were also cited in those decisions. Criteria 7 has not been used to call-in a decision. The working



group agreed that criteria 7 was very wide and open to interpretation and could be deleted with no impact on the strength of the call-in process. Criteria 6 however should stay.

- 4.4 More recently, a call-in heard by the Resources O&S Committee (concerning a decision to implement Clean Air Zone Infrastructure on 25th August 2020) which raised governance issues, and the working group agreed that the ninth criteria be amended to add the word “governance” after “financial”:
- 9 – the decision appears to give rise to significant legal, financial, governance or propriety issues.

Recommendation:

1. That Members recommend to Council Business Management Committee that criteria 7 “the decision appears to be particularly “novel” and therefore likely to set an important precedent” is deleted as a criteria for call-in;
2. That Members recommend to Council Business Management (CBM) Committee that criteria 9 is amended to read “the decision appears to give rise to significant governance, legal, financial or propriety issues”.

5 More Information on the Request for Call-In Form

- 5.1 Currently, Members are only required to tick one or more of the criteria when submitting a request for call-in. and not give further explanation of the request for a call-in meeting.
- 5.2 Members considered whether the main reasons for the call-in should be set out in more detail, to enable the better management of the call-in process. This would allow Committee Members, officers and Cabinet Members to better prepare for the call-in. It can be the case that matters are raised in the call-in meetings that cannot be adequately addressed by the Executive, or questioned by other Committee Members, as the criteria used for call-in requests are insufficiently informative, particularly where specific or technical detail would assist Members in making their decision. Plus, given the time limited nature of call-ins, this would help the process run more smoothly.
- 5.3 This could be done by adding a column to the list of criteria requiring an explanation for the choice of each criteria – see Appendix 3. This would take the form of a short concise statement of one or two sentences. The procedure note would state that call-ins without this information would not proceed.
- 5.4 This would give the Cabinet Member and officers the opportunity to respond ahead of the meeting with additional information.
- 5.5 It is also proposed that the Chair, in consultation with the Head of Scrutiny Services, could ask for that information if they feel the call-in form does not give sufficient clarification.
- 5.6 This would not require a change to the Constitution, but if the change is agreed by this Committee and by CBM, then the procedure note would be updated, and Members informed of the change.



Recommendation:

3. That Members recommend to Council Business Management Committee (CBM) that a column is added to the request for call-in form, requiring a short, concise, explanation as to the reason for the request for call (as shown in Appendix 3).

6 Informal Resolution

- 6.1 The Peer Review Group suggested that Birmingham considers an informal resolution mechanism; however, the working group were concerned that this would introduce an additional step that would have implications for the timing of call-in meetings and would be done outside of a formal committee process, which would not be transparent. This reflected the concerns of Members in the drop-in sessions.
- 6.2 However, it was agreed that, if recommendation 3 above were adopted, with regards to more information on the call-in form, then this would give the Cabinet Member and officers the opportunity to respond ahead of the meeting with additional information, which may in turn lead those who have requested the call-in meeting to re-consider the need for a meeting.
- 6.3 If at that point, those Members wished to withdraw the request for call-in, then the meeting to consider the call-in would not go ahead but the matter would be reported to the next scheduled meeting of the relevant O&S Committee.
- 6.4 The working group considered that this would be sufficient and that a mechanism such as that used by Leeds City Council is not required.
- 6.5 This would not require a change to the Constitution, but the procedure note on call-in would be updated to reflect this.

Recommendation:

4. That the Procedure Note on Call-In be amended to say that if a situation arises whereby Members wish to withdraw a request for call-in, then the meeting to consider the call-in would not go ahead but the matter would be reported to the next scheduled meeting of the relevant O&S Committee.

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Appendix 1: Current Call-In Criteria and Proposed Amendments

	(a) Is the Executive decision within existing policy?
1	the decision appears to be contrary to the Budget or one of the 'policy framework' plans or strategies;
2	the decision appears to be inconsistent with any other form of policy approved by the full Council, the Executive or the Regulatory Committees;
3	the decision appears to be inconsistent with recommendations previously made by an Overview and Scrutiny body (and accepted by the full Council or the Executive);
	(b) Is the Executive Decision well-founded?
4	the Executive appears to have failed to consult relevant stakeholders or other interested persons before arriving at its decision;
5	the Executive appears to have overlooked some relevant consideration in arriving at its decision;
6	Proposed deletion: the decision has already generated particular controversy amongst those likely to be affected by it or, in the opinion of the Overview and Scrutiny Committee, it is likely so to do;
7	the decision appears to be particularly "novel" and therefore likely to set an important precedent;
8	there is a substantial lack of clarity, material inaccuracy or insufficient information provided in the report to allow the Overview and Scrutiny Committee to hold the Executive to account and/or add value to the work of the Council.
	c) Has the Executive decision been properly taken?
9	the decision appears to give rise to significant legal, financial, governance or propriety issues.
10	the notification of the decision does not appear to have been in accordance with council procedures;



Appendix 2: Call-In Criteria Used

Call-In Criteria Used for Decisions Called In

Call-in Criteria:	1	2	3	4	5	6	7	8	9	10	Outcome
8 Feb 21, Resources O&S Committee, Provision of Legal Advice for the Birmingham Smithfield Development					✓						Decision amended
3 Feb 21, Economy & Skills O&S Committee, Conservation Areas Update and Proposals					✓	✓		✓			Decision confirmed
25 August 20, Resources O&S Committee, Implementation of CAZ									✓		Decision confirmed (also noted governance issues)
10 February 20, Resources O&S Committee, Single Contract Negotiations - Clean Air								✓	✓		Report withdrawn by Cabinet
25 October 19, Sustainability and Transport O&S Committee, A34 Perry Barr Highway Improvement Scheme FBC									✓		Decision confirmed after consideration of petition by Full Council
12 June 2019, Resources O&S Committee, Disposal of Surplus Properties (Brindley place)				✓	✓			✓			Decision confirmed (following provision of additional information)
02 May 2019, Children's Social Care O&S Committee, Travel Assist Policy for 0-25 Year Old					✓	✓			✓		Decision confirmed
08 April 2019, Resources O&S Committee, Driving Housing Growth - Land Appropriation Report				✓		✓		✓			Decision confirmed
15 February 2019, Co-ordinating O&S Committee, Waste Management - Industrial Action Update					✓	✓		✓			Decision confirmed
05 February 2019, Health and Social Care O&S Committee, Enablement Service					✓	✓		✓			Decision withdrawn by Cabinet member
10 January 2019, Resources O&S Committee, Waste Disposal Contract Interim Arrangement Agreement	✓	✓	✓	✓	✓	✓		✓	✓		Decision confirmed



Call-In Criteria Used for Requests for Call-In (Decisions Not Called-In or Withdrawn)

	1	2	3	4	5	6	7	8	9	10
5 Feb 21, Co-ordinating O&S Committee, Investing in our Future				✓	✓	✓		✓		
3 Feb 21, Education & Children's Social Care O&S Committee, Proposal to Close Hunters Hill College				✓	✓	✓		✓		
29 January 21, Sustainability and Transport O&S Committee, Birmingham Clean Air Zone (CAZ) Update to Cabinet	✓	✓		✓	✓	✓	✓	✓	✓	
29 January 21, Sustainability and Transport O&S Committee, City Centre Public Realm – Phase 1 FBC					✓				✓	
18 February 2020, Health & Social Care O&S Committee Draft Day opportunities Strategy				✓	✓	✓		✓	✓	
25 October 2019, Sustainability & Transport O&S Committee, Workplace Parking Levy				✓	✓	✓	✓	✓		
18 July 2019, Resources O&S Committee, Procurement Strategy to Support the Fleet Replacement Strategy for Waste Management Service				✓	✓	✓			✓	
10 July 2019, Sustainability and Transport O&S Committee, Clean Air Zone: Charging Order				✓		✓				
12 April 2019, Co-ordinating O&S Committee, Waste Management – Commission of an Independent Review of Waste Services	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
22 February 2019, Sustainability and Transport O&S Committee, CWG Perry Barr Highway Infrastructure - Options Appraisal Report Call-in					✓	✓	✓	✓	✓	
09 January 2019, Children's Social Care O&S Committee, Travel Assist Service					✓	✓		✓	✓	
08 January 2019, Sustainability and Transport O&S Committee, Birmingham Clean Air Zone Submission					✓	✓		✓	✓	



Appendix 3: Proposed Changes

Request for Call In – Pro-forma – proposed amendments

Date:

Please arrange for a meeting of the

O&S Committee

to be called to discuss the following executive decision:

Title:

Taken By:

On:

Reason for request:

Criteria	Yes/No	Brief Explanation
<i>(a) Is the Executive decision within existing policy?</i>		
1. the decision appears to be contrary to the Budget or one of the 'policy framework' plans or strategies	<input type="checkbox"/>	
2. the decision appears to be inconsistent with any other form of policy approved by the full Council, the Executive or the Regulatory Committees	<input type="checkbox"/>	
3. the decision appears to be inconsistent with recommendations previously made by an Overview and Scrutiny body (and accepted by the full Council or the Executive)	<input type="checkbox"/>	
<i>(b) Is the Executive decision well-founded?</i>		
4. the Executive appears to have failed to consult relevant stakeholders or other interested persons before arriving at its decision	<input type="checkbox"/>	
5. the Executive appears to have overlooked some relevant consideration in arriving at its decision	<input type="checkbox"/>	
6. the decision has already generated particular controversy amongst those likely to be affected by it or, in the opinion of the Overview and Scrutiny Committee, it is likely so to do	<input type="checkbox"/>	
7. there is a substantial lack of clarity, material inaccuracy or insufficient information provided in the report to	<input type="checkbox"/>	



allow the Overview and Scrutiny Committee to hold the Executive to account and/or add value to the work of the Council		
<i>(c) Has the Executive decision been properly taken?</i>		
8. the decision appears to give rise to significant legal, financial, governance or propriety issue	<input type="checkbox"/>	
9. the notification of the decision does not appear to have been in accordance with council procedures	<input type="checkbox"/>	