

Extract from Buckinghamshire Council Constitution – Call In

Call-In Procedure

- 2.60. Call In procedure is a statutory right which can be applied to any decision which has been taken but not yet implemented (Section 21(3) LGA 2000). Call In is a procedure whereby councillors may question decisions taken by the Cabinet in exceptional circumstances and therefore may hold the Cabinet to account.
- 2.61. When a decision is a key decision made by the Cabinet or an individual Cabinet Member, or an executive decision made by an officer with delegated authority, or any committee 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 working days of being made. The Chairman of the relevant Select Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision unless the decision taker has certified that the decision is urgent and to be implemented immediately.
- 2.62. 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 three working days after the publication of the decision, unless either the decision maker has certified that the matter is urgent and requires implementation urgently or a call-in request has been received by, at the latest, 5.00pm on the third working day after the decision has been made in accordance with Rule 2.67. If a call-in request is received the decision will not be implemented until the call-in process is complete, unless the decision is urgent.
- 2.63. A decision which has been taken and implemented may still be reviewed by the Select Committees, but such a review will not delay the implementation of the decision.
- 2.64. A decision may only be called in once and a decision may not be called in where the substance of the decision has already been subjected to scrutiny by a Select Committee unless there have been substantial changes to the decision or where the Section 151 Officer has certified that a delay in the implementation of a decision will result in significant additional cost to the Council.
- 2.65. The grounds for a Call-In Request are:
- a. The decision has not been made in accordance with this Constitution, Council policies or Council procedures and processes;
 - b. The decision is outside of the Council's policy framework or the budget approved by the Council;
 - c. The decision is outside of the powers of the Council;
 - d. The decision is unlawful.
- 2.66. Once a recommendation for a decision is published, any member of the relevant Select Committee may ask to see the papers to be considered (except insofar as they contain confidential or exempt information) and take preliminary advice from

officers supporting the Select Committee about the implications of the decision.

- 2.67. At least 15% (rounded up) of councillors representing the number of councillor seats on the Council must notify the Monitoring Officer within three working days of the publication of the decision of an intention to request the Select Committee to examine the decision and of any requirement for the attendance by a Cabinet Member or any Officer. Within two working days of the notification of the call in request the same number of councillors must confirm whether they wish to proceed with the Call In Request and if so, provide the required details via the form.
- 2.68. The Monitoring Officer will decide whether the Call In Request is valid in accordance with paragraph 2.69 below within two working days (timescale). Once validated a Call In Request will be treated as a Call In Notice.
- 2.69. The Monitoring Officer will determine the call in request to be invalid if:
- a. It relates to a matter which is to be determined by the Council or a Committee of the Council;
 - b. It relates to a decision of the Cabinet/Cabinet Member taken as a matter of urgency and the Chairman of the appropriate Select Committee or such other person as detailed in the urgency rules had been consulted or a Select Committee had previously agreed the need for urgency;
 - c. It relates to a matter where the associated report has already been considered by a Select Committee;
 - d. if it has not been made in accordance with this procedure;
 - e. is not completed correctly;
 - f. it does not identify the decision;
 - g. it does not detail a valid ground for call in;
 - h. it does not provide clear written reasons why one of the valid grounds for call in applies;
 - i. is not signed by the required number of councillors;
 - j. The call-in form is received after the specified deadline;
 - k. The reason for the call-in is unclear or does not relate directly to the decision specified on the call-in form;
 - l. The reason for the call-in is a question, the answer to which can be found in the report relating to the decision which is being called in.
- 2.70. A call-in may only be withdrawn by notification in writing or electronically submitted to the Monitoring Officer from all the councillors who requested the call-in.
- 2.71. Once the deadline for requesting calling in items and the determination of the validity of call-ins has passed, the Monitoring Officer will inform all councillors of the call-in and will arrange for it to be considered at the next meeting of the appropriate Select Committee. The agenda for that meeting will show the written

reasons given for the call-in, the councillors who signed the call-in, and enclose the relevant documents.

- 2.72. Select Committee shall discuss the Call In Notice at its next regular meeting or at a Special Meeting whichever is sooner provided that the required five clear days notice of the meeting can be given.
- 2.73. At least two of the councillors who called in a decision must be present and at least one of whom will present their reasons for call-in at the meeting of the Select Committee which considers the call-in. If two councillors do not attend, the call-in will fail.

Call-In Notice

- 2.74. At the meeting where the Select Committee is considering the Call In Notice it should first take advice as to whether the request to call in the decision is valid, consider whether there is a case for the decision to be called in and whether any further information is required by hearing from one of the councillors who signed the call in request (and witnesses) and the decision maker who will explain the reasons for the decision. Once the Committee have considered the evidence provided during the meeting they will decide whether to uphold or reject the call-in Notice.
- 2.75. If, following discussion, the Select Committee agrees that the matter should be called in they may proceed either to examine the decision at that meeting or adjourn to investigate the decision at another meeting. Upon calling-in a decision, a Select Committee may recommended to the Cabinet, Cabinet Member or officer as appropriate:-
 - a. Whether the decision should be reconsidered and if so, they can also recommend an alternative decision, actions or options or what matters or issues should be considered;
 - b. That they are satisfied with the original decision;
 - c. Whether any future action should be taken in light of a decision so as to ensure the better implementation of that decision;
 - d. Whether any further action should be taken in light of that decision so as to improve the manner or quality of future decision making;
 - e. Refer to full Council.

Consideration of decision after Call-In Notice

- 2.76. The Select Committee will have at its disposal the information which has been submitted to the Cabinet or Cabinet Member. They can require the relevant Cabinet Member(s) and appropriate officers to attend the meeting to answer questions about the issue. If the Select Committee accepts the original decision by the Cabinet or Cabinet Member it becomes immediately effective. If the Select Committee makes a recommendation to the Cabinet or Cabinet Member to amend a decision, this will be considered by the Cabinet at its next meeting or by the Cabinet Member as soon as reasonably practicable.

- 2.77. If the Cabinet or Cabinet Member disagree with the recommendation of the Select Committee to amend a decision they will inform the Select Committee. In such circumstances, the Select Committee may refer the matter to the next meeting of the Council for decision. In these circumstances the Council will have before them the views of both the Select Committee and the Cabinet or Cabinet Member. If the Cabinet or Cabinet Member decides further work needs to be done, they may defer the item for this to be carried out.
- 2.78. If the Committee agrees that further investigation or information is required, the Cabinet or Cabinet Member may agree to extend the time in which a final view may be expressed.
- 2.79. If, having considered the decision, the Select 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 he or she shall then reconsider within a further five working days, amending the decision or not, before adopting a final decision.
- 2.80. If the decision taker requires more time to consider, the Select Committee's recommendations the time may be extended by the Chairman of the Select Committee after agreement by one other member of the Committee.
- 2.81. If the decision taker is, after reconsideration, not able to make changes to the decision in accordance with the Committee's concerns the decision taker shall write to the Committee setting out reason why the decision taker is unable to accede to the Select Committee concerns.
- 2.82. If following an objection to the decision, the Select 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 Select Committee meeting, or the expiry of that further five working day period, whichever is the earlier.
- 2.83. 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. However, if the Council does object, it has no power to 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. Unless that is the case, 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, 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.
- 2.84. 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.
- 2.85. The councillor who has put the matter on the agenda may address the Committee

on the matter.

Call-In – Urgent Decisions

- 2.86. Decisions of the Cabinet or any Cabinet Member which are urgent (i.e. any delay likely to be caused by the call-in process would prejudice the Council's or the public's interest) will not be subject to call-in.
- 2.87. The records of such decisions will reflect the reasons for urgency and state that therefore they are not subject to call-in.
- 2.88. The Chairman of the appropriate Select Committee must agree the need for urgency unless the Select Committee has already given its approval to a decision being taken urgently so that call-in does not apply. In the absence of the Chairman the Chairman of Council or the Vice-Chairman will be invited to perform this role.
- 2.89. Any reports on which urgent decisions have been made are to be reported to Select Committee for it to understand the need for urgency, but this will not delay implementation of the urgent decision itself.