

Joint Scrutiny Committee

Report of Head of Legal and Democratic Services

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To: JOINT SCRUTINY COMMITTEE

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Scrutiny Call In Arrangements

RECOMMENDATION

That the committee notes the Scrutiny call in arrangements approved by both Councils in December 2015 and refers any comments to the Joint Constitution Review Group for consideration.

PURPOSE OF REPORT

1. At the request of the co-chairman, Councillor Debby Hallett, this report sets out the current call in arrangements.

STRATEGIC OBJECTIVES

2. The constitution underpins all of the council's areas of activities and, therefore, contributes to the achievement of all its strategic objectives.

BACKGROUND

3. In December 2015, both Council meetings considered proposed amendments to the constitution recommended by the Joint Constitution Review Group which comprises three councillors from each council.
4. The relevant extract of the report is attached at Appendix A. Both Councils resolved to authorise the head of legal and democratic services to make the necessary amendments to the constitution to amend the Scrutiny call-in procedures and the definition of key decisions.
5. Councillor Debby Hallett, co-chairman of this committee, has requested a report be submitted clarifying how the call in arrangements apply to the joint scrutiny committee in view of some confusion as to how the arrangements apply to this committee.

6. Under the current arrangements, the chairman of each district's scrutiny committee or any three members of the council (one of whom must be a member of the scrutiny committee) can call-in a key decision. As South Oxfordshire and Vale of White Horse district councils are distinct legal entities, such decisions can only be taken by either council's Cabinet, individual cabinet member or officer acting under delegated authority. Even when both councils make what appears to be a joint decision, each council must issue its own decision which can only be called in by the chairman of that council's scrutiny committee or any three members of the council (one of whom must be a member of the scrutiny committee), rather than by the co-chairmen of the joint committee or any three members of either council (one of whom must be a member of the joint committee).
7. Each council's scrutiny committee procedure rules (see South Scrutiny Procedure Rule 24 and Vale Scrutiny Procedure Rule 29) provide that if a decision is called in, then the chairman of the district scrutiny committee may refer the matter to the joint scrutiny committee for consideration. This therefore makes provision for the joint scrutiny committee to consider a call in when it relates to a matter that would affect both councils jointly.

FINANCIAL IMPLICATIONS

8. There are no financial implications arising from this report.

LEGAL IMPLICATIONS

9. Section 37 of the Local Government Act 2000 requires the Council to keep its constitution under review. Any proposed amendments to the current call in arrangements would be made in the light of advice from the head of legal and democratic services and following a recommendation to Council by the Joint Constitution Review Group.

BACKGROUND PAPERS

10. None

Extract from report to South and Vale Councils, December 2015

Scrutiny Call in arrangements

1. The current constitution has the following arrangements for the call-in of decisions by the Scrutiny Committee:

“When a decision is made by the cabinet, an individual cabinet member, a committee of the cabinet, or a key decision is made by an officer with delegated authority from the leader of council, the decision shall be published, within two working days of being made. During the five working day period following publication of a notice, the proper officer shall call-in a decision for scrutiny by the scrutiny committee if so requested by the chairman or any five members of the scrutiny committee, or any ten councillors, and shall then notify the decision-taker of the call-in. ... and the decision shall not be implemented until the scrutiny committee has considered it. “

2. This creates significant difficulties not necessarily foreseen at the time these rules were put into place at the council. Since the provisions were last reviewed, Council has agreed that the Scrutiny Committee shall be chaired by a councillor appointed by Council or the Scrutiny Committee with no requirement that this should be an opposition councillor. The committee is currently chaired by a councillor from the ruling group (previously it was with the opposition). Therefore, no opposition numbering less than 10 councillors can call-in an executive decision.
3. At the current time, this means that the opposition do not have a method of calling items into Scrutiny. Although the role of Scrutiny is not group political, it is questionable whether good governance would suggest that an opposition with less than 28 percent of members are unable to call a decision into Scrutiny without the consent of the ruling group. In terms of future proofing, this does not only affect the current make-up of the council, but could have implications for future configurations of the council.
4. The issue of which decisions should be available for call-in was also reviewed, and clarity sought on what constituted a “key decision”. The review group considered that it was essential that major decisions should be open to scrutiny call-in, but that the effective running of the council could be hampered if every single decision was potentially open to call-in. Advice from the Centre for Public Scrutiny is that where The Act (Local Government Act 2000, as amended) refers to “decisions”, these should be considered as “key decisions”. The definition of key decision below is consistent with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, but defines the financial limit (on which the regulations are silent) as £75,000. It also adds the grant limit of £25,000.

5. The Review Group considered a range of options, based on research on what other councils do and the needs of this council. It concluded that it would recommend to Council:
- that the chair of the Scrutiny Committee **or** any three members of the council (one of whom must be a member of the Scrutiny Committee) should be permitted to call-in a decision.
 - to use the following definition of a “key decision”: “A key decision is a decision of the cabinet, individual cabinet member or an officer acting under delegated powers which is likely: (a) to incur expenditure, make savings or to receive income of more than £75,000; (b) to award a revenue or capital grant of over £25,000; or (c) to agree an action that, in the view of the relevant strategic director, would be significant in terms of its effects on communities living or working in an area comprising more than one ward in the area of the council. (this is consistent with the current South Oxfordshire definition but includes “make savings” in order to properly reflect the legislation).
 - that call-in should apply only to key decisions made by councillors and officers and not to day to day decision which are not key decisions.