

**SCRUTINY COMMITTEE**  
**16 FEBRUARY 2015:**

**Call-in procedure**

**Responsible Officer**      Head of Communities & Governance and Monitoring  
Officer

**Reason for Report:** To provide members of the Scrutiny Committee with details of the call-in procedure

- 1.1 Call-in by Scrutiny Committee should only be used in exceptional circumstances.
- 1.2 These are where members of the Scrutiny Committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 12 (Decision Making).
- 1.3 A decision cannot be called in because Members do not like it.
- 1.4 The following items are attached as appendices:
  - Appendix A - Article 12 – decision making
  - Appendix B - Scrutiny Committee, Audit Committee and Policy Development Group Procedure Rules section 18 – call in
  - Appendix C – flow diagram of the call-in process
- 1.5 If Members require any further information about the call-in process please contact the Monitoring Officer.

**Article 12 - Decision Making**

**12.01 Responsibility for Decision Making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

**12.02 Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must not be oppressive or excessive, having regard to the issue being considered and the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption on favour of openness; and
- (e) clarity of aims and desired outcomes;
- (f) compliance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 by explaining in relation to key decisions what options were considered and the reasons for the decision;
- (g) in reaching decisions, Councillors shall have regard to the general principles of conduct contained in the members' Code of Conduct.

**12.03 Types of decision**

- (a) Decisions reserved to full Council.

Decisions relating to the functions listed in Article 4.01 will be made by the full Council and not delegated.

- (b) a key decision means an Cabinet decision which is likely:
  - (i) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates, or
  - (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.
    - NB the District Council's Financial Rules set £50,000
    - NB The Local Authorities (Cabinet Arrangements) (Meetings and Access to Information) (England) Regulations 2012 para 8.
- (c) A decision taker may only make a key decision in accordance with the requirements of the **Cabinet Procedure Rules (CPR)** set out in part 4 of this constitution.

#### **12.04 Decision making by the full Council**

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.05 Decision making by the Cabinet**

Subject to Article 13.08, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.06 Decision making by Scrutiny Committee, Policy Development Groups and Audit Committee**

Scrutiny Committee, Audit Committee and Policy Development Groups will follow the Scrutiny Committee, Audit Committee and Policy Development Group Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.07 Decision making by other bodies established by the Council**

Subject to Article 13.08, other bodies will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution apply to them.

#### **12.08 Decision making by Council bodies acting as Tribunals**

The Council, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations of the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

#### **12.09 Decision making by Officers**

Officers may have delegated powers by the full Council or by the Cabinet to take managerial and operational decisions – see Part 3, Responsibilities for Functions.

#### **12.10 Key decisions – the two tests**

Whether or not a decision is key depends upon the statutory test as set out above in Article 13.03

##### **(1) Significant expenditure or savings**

To result in a local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates.

NB The District Council's Financial Rules set £50,000

##### **(2) Significant effect on communities**

*The following guidance should be taken into account:*

- (a) Decisions should be treated as key where they are likely to have a significant impact on communities in two or more wards. For example, a council should regard as key a decision to amend the system for collecting recyclable waste

or providing a new leisure facility in a neighbourhood, notwithstanding the thresholds of financial significance.

- (b) Where a decision is only likely to have a significant impact on a very small number of people the decision maker should ensure that those people are nevertheless informed of the forthcoming decision and sufficient time for them to exercise their rights to see the relevant papers and make an input into the decision making process.
- (c) In considering whether a decision is likely to be significant, the decision maker will need to consider the strategic nature of the decision and whether or not the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality affected. Regard should be given to the underlying principles of accountable decision making to ensure that there is a presumption toward openness. Local authorities should seek, through consultation with other local authorities of the same type and size, to ensure there are not large variations in the level of openness between authorities in the future.

**Scrutiny Committee, Audit Committee and Policy Development Group  
Procedure Rules**

**18 Call-in**

Call-in by Scrutiny Committee should only be used in exceptional circumstances. These are where members of Scrutiny Committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 12 (Decision Making).

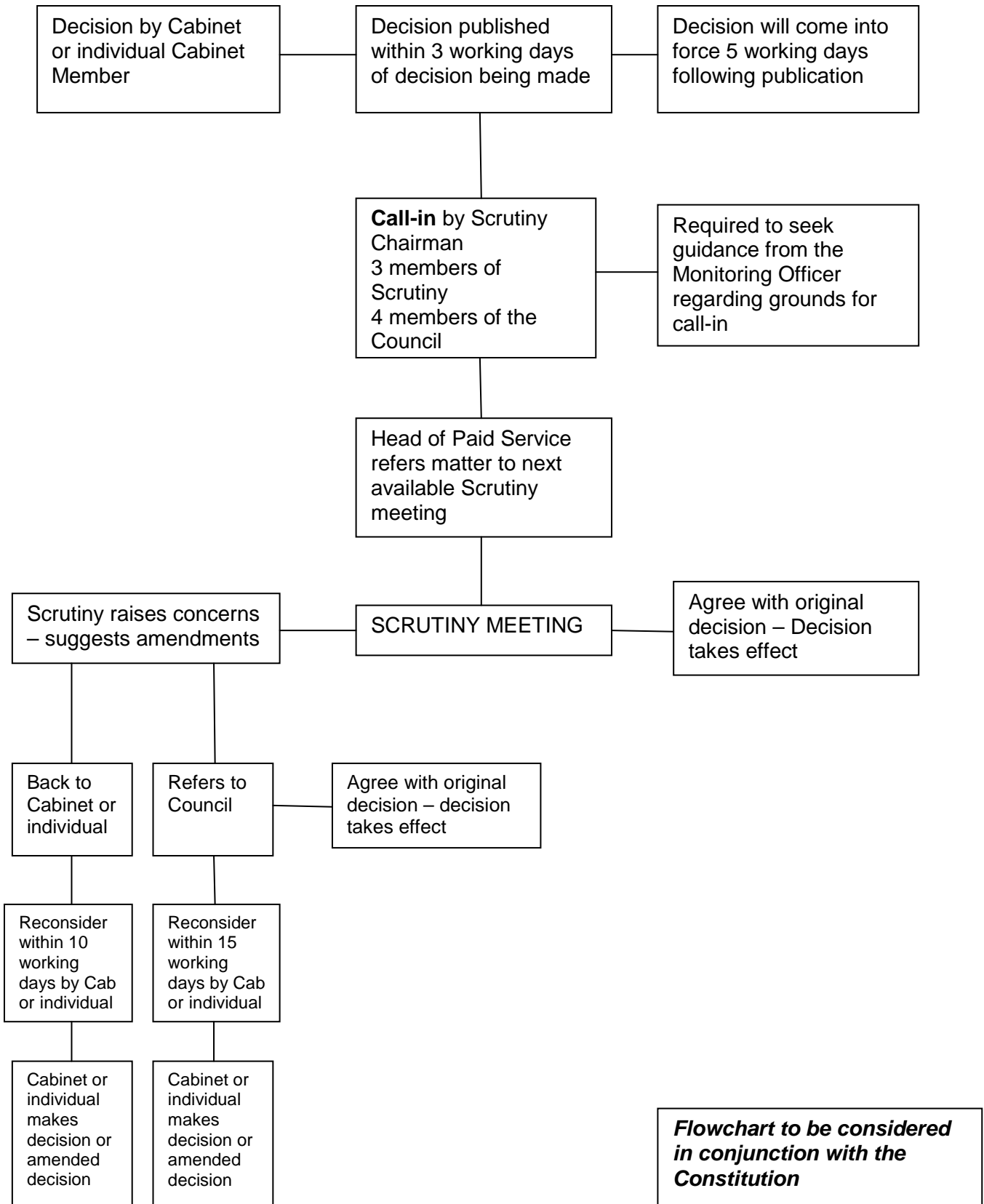
- (a) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.
- (b) The process begins with the distribution of the Cabinet agenda which will give all councillors the opportunity to examine items for discussion and clarify issues before meetings
- (c) When a decision is made by the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or 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 three working days of being made. Decisions will be sent to all councillors within the same timescale.
- (d) The decisions will indicate the date on which decisions will come into effect unless:
  - (i) called-in;
  - (ii) they are adjudged to be not in accordance with the Council policy or budget framework (see Budget and Policy Framework Procedure Rules – paragraphs 2 and 3) and the decision falls to be referred to Council or is urgent and otherwise satisfies paragraph 4 of the Policy and Budget Framework Procedure Rules or where paragraph 7 of those Rules has been triggered.
- (e) A decision will normally come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless Scrutiny Committee objects to it and calls it in (except in cases of urgency and special urgency as defined in the Access to Information Procedure Rules).
- (f) During that period, the Head of Paid Service shall call-in a decision for scrutiny by Scrutiny Committee if so requested by the Chairman or any three members of Scrutiny Committee or four other councillors of the Council, and shall then notify the decision-taker of the call-in. Members who wish to call-in a decision are required to seek guidance from the Monitoring Officer on the veracity of their stated grounds for the call-in and demonstrate that they have been mindful of the advice they have received when deciding whether or

not to proceed. The Head of Paid Service shall refer the matter to the next available meeting of the Scrutiny Committee.

- (g) Those councillors calling-in will need to specify the reasons for the call-in.
- (h) When the relevant Cabinet minutes are put before the Scrutiny Committee, together with the advice from the Monitoring Officer on the grounds for the call-in, the councillors who called in the decision shall have the right to attend and speak. The Leader of the Council and/or relevant Cabinet members shall be invited to attend to explain the basis for the decision but may then be asked to leave. They may choose also to make submissions in writing. Relevant officers shall also be invited to attend.
- (i) If, having considered the decision, Scrutiny 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 the next full Council meeting or, if urgent to a Special Council meeting. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.
- (j) If following an objection to the decision, Scrutiny Committee meets but does not refer the matter back to the decision making person or body or refer it to full Council, the decision shall take effect on the date of the Scrutiny Committee meeting, whichever is the earlier.
- (k) 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 in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an 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 15 working days of the Council request.
- (l) If Council 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.
- (m) The call-in procedure set out above shall not apply where the decision being taken is urgent as defined in the Access to Information Procedure Rules. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

**Call in**

Call in by Scrutiny Committee should only be used in exceptional circumstances. These are where members of the Scrutiny Committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 12 (Decision Making).



***Flowchart to be considered in conjunction with the Constitution***