

Request for Call-In from Cabinet 16 August 2023

Advice from the District Solicitor & Monitoring Officer

I have received a request for Call-In from Cllr Rachel Gilmour as Chairman of Scrutiny Committee, thus meeting the threshold in rule 19(f) of the Scrutiny Committee etc. Procedure Rules.

The overarching rules of call-in must still be observed, namely:

1. Call-in by Scrutiny 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 15 (Decision-making) (rule 19 preamble);
2. 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 (rule 19 (f)); and
3. 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 (rule 19 (h)).

The principles of decision-making – Article 15

Article 15.2 provides that all decisions of the Council will be made in accordance with the following principles:

- (a) Proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) Due consultation and the taking of professional advice from officers;
- (c) Respect for human rights;
- (d) A presumption in favour of openness;
- (e) Clarity of aims and desired outcomes;
- (f) Consideration of any alternative options; and
- (g) The giving of reasons for the decision and the proper recording of those reasons

Call-In – 3 Rivers Options Appraisal Report

The above rules and principles apply. In this instance, I can see that the reason put forward is that the decision is outside of the budget (Budget and Policy Framework Procedure Rules – 7.0) i.e. the Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to or not in wholly accordance with the Council's Budget.

As to whether the concern is an exceptional circumstance, I will leave that to the Committee. I would confirm that there is sufficient reason in accordance with the constitution for this decision to be called in.

Maria de Leburne

23 August 2023