

Scrutiny call-in request form

This form has been designed to elicit the required information when making a call-in request and to ensure that officers have all the information required to consider the request, and also to provide an audit trail of the process.

The overview and scrutiny committee can 'call-in' any executive decision which has been made but not yet implemented by the following:

- the cabinet,
- an individual member of the cabinet,
- a committee of the cabinet,
- an executive decision taken by an individual member,
- a key decision taken by an officer with delegated authority.

This enables the overview and scrutiny committee to consider whether the decision is appropriate. There are certain decisions which are not subject to scrutiny call-in, these are set out in paragraph 16.2 of the overview and scrutiny committee procedure rules of the constitution.

Requests for call-in should normally only be made if there is evidence that the decision maker did not take the decision in accordance with the principles of decision making as set out in Article 1.3 of the constitution. [Link](#)

A valid request for call-in must contain the requisite number of signatures (minimum of 3 members of the overview and scrutiny committee) and give reasons for the call-in. In particular the request must state whether or not the members believe that the decision is outside the [policy or budget framework](#)¹.

¹ The council's revenue and capital budget in any one year together with certain major plans and strategies as determined by the government and the council, as described in part 4 of the constitution.

Potential outcomes available to the call-in meeting

Having considered the decision and all relevant advice, the overview and scrutiny committee may either:

- a) Refer it back to the decision making person or body for reconsideration,
- b) refer the matter to council assembly if the decision is deemed to be outside the policy and budget framework,
- c) not refer the matter back to the decision making person or body but decide to undertake a subsequent scrutiny review of a policy or service issue,
- d) not refer the matter back to the decision making person or body.

In the case of c) and d) the decision shall take effect on the date of the scrutiny meeting.

Full detail of the scrutiny call-in process is set out at paragraphs 16 – 19 of the overview and scrutiny committee procedure rules of the constitution. [Link](#)

To request a call-in, please complete section 1, arrange for the form to be countersigned by at least two voting members of the overview and scrutiny committee and email to everton.roberts@southwark.gov.uk before the end of the scrutiny call-in period indicated on the decision notification issued by the constitutional team.

SECTION 1

1. Title of decision to be called in (and decision taker)

Decision title: Dulwich Streetspace Review – outcome of experimental trial measures and decision on the next phase of measures

Decision taker: Cabinet Member for Transport, Parks and Sport

2. Have you [applicable to all councillors requesting the call-in] participated in taking the decision?

(Yes/No): No

Note: A member who participates in taking an executive decision shall not sign a call-in request on the same decision (thus avoiding any conflict of interests).

3. Does the request for call-in relate to a single recommendation in the report or the whole report?

Please specify: Whole report

4. Which of the principles of decision making in Article 1.3 of the constitution (listed below) has failed to be applied?

Mark all that you believe have failed to be applied and state reasons:

	(a) The link between strategy and implementation must be maintained Reason:
	(b) Decision making generally, whether by individual officers, individual cabinet members or the cabinet collectively, should have reference to the policy framework Reason:
	(c) Respect for human rights, law and probity Reason:

<p>x</p>	<p>(d) Due consultation and the taking of professional advice from officers</p> <p>Reason:</p> <p>OSC members received a very large number of representations from residents on this matter which suggests many in the local community do not feel they have had an opportunity to have their say or their voices heard.</p> <p>It is clear from residents' feedback that they don't feel there has been sufficient consultation or that it has been carried out in the most consistent way.</p> <p>We are particularly concerned that the consultation was carried out prior to the changes to the ULEZ and during the period after the easing of lockdown (and before the true impact of COVID could be known). Therefore the consultation cited in the report was conducted at an inappropriate time and has provided data to consultees which could not be correct or truly access the long-term impacts described. A further review is required once accurate data can be collected.</p> <p>We are concerned by evidence form One Dulwich that: “An apparent disregard for relevant statutory consultation processes at the time the second phase of closures were implemented. For example, FOI requests to TfL indicate that no TMAN notification was put in prior to the closures and, when TfL were notified a few days before the live date, their request for a minimum one-week delay in implementation was ignored. Much has been made of the context of the pandemic, but government guidance at the time made it clear that these requirements remained in place for experimental traffic orders such as these.”</p>
	<p>(e) Proportionality (i.e. the action must be proportionate to the desired outcome)</p> <p>Reason:</p>
	<p>(f) A presumption in favour of openness</p> <p>Reason:</p>
	<p>(g) Clarity of aims and desired outcomes</p> <p>Reason:</p>

X	<p>h) Consideration of the likely climate consequences and the likely equality (including socio-economic disadvantage and health inequality) consequences of the relevant decision and therefore reports for decision should include advice from officers of the likely climate and equality impacts of the decision</p> <p>Reason:</p> <p>A number of the solutions the Council are proposing are insufficient and indeed could go further in tackling the climate emergency and promoting sustainability.</p> <p>The report fails to quantify climate impact of the decision and sets no tangible targets to measure its success or how it supports council's climate and sustainability objectives.</p>
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5. Is the decision believed to be outside the policy or budget framework

(Yes / No): No

Signatures of those members requesting the call-in of the decision:

Note: each member must insert their own name in the table below. A separate email from the member communicating this is sufficient, but should be evidenced upon submission of the form.

<p>Councillor Victor Chamberlain</p> <p>Councillor Humaira Ali</p> <p>Councillor Maria Linforth-Hall</p>
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Section 2

To be completed by Head of Scrutiny (or officer of the scrutiny team)

6. Does the request meet the Call-in Threshold?

(All must apply for threshold to be met):

(a) Three members of the committee, (including education representatives for the purpose of education decisions only), have requested a decision to be called-in.	X
(b) A member (who is also a member of the overview and scrutiny committee) and participates in taking an executive decision has not signed a call-in request on the same decision.	X
(c) Evidence that the decision maker did not take the decision in accordance with the principles of decision making as set out in Article 1.3 of the constitution has been provided.	X
(d) The requisite number of signatures has been met and reasons given for the call-in. In particular, the request must state whether the members believe that the decision is outside the policy or budget framework.	X

7. Request for call-in considered valid?

(Yes / No): No.

Reasons:

In respect of due consultation – paragraph 26 of the decision making report sets out the consultation process that has taken place. The report states that 7542 responses were received during the consultation period. Paragraph 28 of the report provides a high-level summary of the representations and objections made at 6-month statutory consultation. Paragraph 29 of the report sets out indicative conclusions from the data and feedback collected and proposed further work and amendments as a result of the consultation.

Appended to the decision making report is the Dulwich Review Consultation Report (Appendix D) which details the methodology used and the key findings of the consultation, and through it the views of respondents to the consultation.

It can be seen from the report that residents have been consulted and a summary of those views are set out in the report and appendices and also

referred to in the 'representations received section' of the record of decision signed by the decision maker.

I have sought clarification/comment from officers on the points raised in respect of the timing of the consultation and the assertion that there has been disregard for the relevant statutory process. Officers have advised as follows (comments in table below:

- **Clarify why the consultation took place when it did, having regard to the context in which the concern has been raised**

Officer response

The consultation was undertaken as soon as practicable allowing for the constraints of pre-election protocols (March-May 2020), easing of lockdown measures, and the need to complete the overall process before the expiry of the Experimental Traffic Management Orders used to implement the schemes.

The introduction of ULEZ will complement the Dulwich Streetspace measures and potentially further reduce the number of vehicles on the network. However, as over 80% of vehicles are already ULEZ compliant, the overall effect is not likely to be significant.

As with all LTNs, the long term effects are not fully realised for some time after initial implementation. The initial results have shown a positive impact by increasing active travel measures significantly and reducing motor traffic. The measures have met the overall aspirations of the schemes. Monitoring will continue to assess the long term impacts of the schemes with reports potentially available to the Overview & Scrutiny Committee at future dates.

Please note Section 41 of review report "Expected outcomes and timeline".

- **Comment on the assertion that there was no TMAN prior to the closures, and confirm whether this was required in the circumstances**

Officer response

There are no statutory consultation processes required for Experimental Traffic Management Orders as set out in Sections 9 and 10 of the Road Traffic Regulation Act 1984.

TfL's TMAN (Traffic Management Act 2004 Notifications) usual process during 2020 required one-month notification for any relevant changes to the highway, which will or are likely to affect the SRN and TLRN. However, this was for standard schemes and not necessarily for streetspace schemes for which early engagement is the main requirement as opposed to any formal TMAN

submission.

Dulwich Phase 2 measures were implemented on 16/11/20 and comprised of timed access restrictions for general traffic travelling North or Eastbound through Dulwich Village except for Buses, Taxis and Cycles, between the hours of 08:00 – 10:00 and 15:00 – 18:00 from Monday to Friday. The locations were at Dulwich Village at the junction of College Road roundabout, Burbage Road at the junction of College Road roundabout, Burbage Road at the junction of Turney Road, Turney Road at the junction with Burbage Road and Townley Road at the junction with Calton Avenue. Advanced warning signage was installed to complement the restrictions, including along the A205 on Dulwich Common.

TfL were engaged on the proposed scheme since early August 2020.

The TMAN was submitted to TfL on 10/11/20. TfL required a monitoring plan for the TLRN and bus journey times before agreeing. The reason for the submission close to but in advance of the implementation date was to allow discussions between TfL/Southwark to agree any mitigating requirements to the scheme.

Once monitoring strategy was agreed, TMAN application was re-submitted in December and formally agreed by TfL on 12/01/21 noting that the scheme will not have an unduly adverse impact on the network (see letter from TfL).

No mitigation measures were required for the Dulwich Phase 2 schemes and the late submission had no adverse effect on the TMAN process.

The TMAN process is not government guidance but a TfL requirement intended as guidance for London Boroughs. Although not submitted a month before implementation, the TMAN was submitted in advance of the schemes going live and followed extended correspondence with TfL on the TMAN requirements.

In light of the above I am of the opinion that principle D of the decision making process 'Due consultation' has been applied.

In respect of principle of decision making h) Consideration of the likely climate consequences and the likely equality (including socio-economic disadvantage and health inequality) consequences of the relevant decision and therefore reports for decision should include advice from officers of the likely climate and equality impacts of the decision. As required by this principle, paragraph 52 of this report includes advice from officers on climate implications.

In light of the above I am of the opinion that principle H of the decision making process has been complied with.

Signed: Everton Roberts, Head of Scrutiny

Date: 11 October 2021

Note: If the call-in is considered to be valid, the scrutiny officer shall notify the decision taker and the relevant chief officer, who shall suspend implementation of the decision. The scrutiny officer shall a) refer the called-in decision to the next meeting of the overview and scrutiny committee, if that meeting is within ten clear working days of the receipt of the call-in request, or b) call an extraordinary meeting of the overview and scrutiny committee to consider the called-in decision, to take place as soon as possible and in any case within ten clear working days of the call-in request, or

c) if appropriate arrange an extraordinary meeting of the overview and scrutiny committee to consider the matter outside the normal timetable, unless in the view of the monitoring officer and/or the chief finance officer, in consultation with the relevant chief officer, the matter cannot wait and in which case it shall be considered in accordance with the timescale set out above.

Invalid Call-in Request

Where a call-in has been ruled invalid by the scrutiny officer, a request can be made by those requesting call-in for the monitoring officer to review the ruling. The request shall be made by 4pm on the second working day after the day of the notification of the decision by the scrutiny officer.

In the event of dispute, the decision of the monitoring officer shall be final.

Request for review of scrutiny officer ruling. Please send this form to Doreen Forrester-Brown, Monitoring Officer by 4pm, Wednesday 13 October 2021

(Email: Doreen.forrester-brown@southwark.gov.uk)

Section 3

To be completed by the monitoring officer upon receipt of request for review

I have reviewed the grounds for call-in and reasons given for an invalid request and conclude that the request for call-in is (Valid / Invalid): Invalid

Reasons:

(see monitoring officer review document contained at end of this form)

Doreen Forrester-Brown, Monitoring Officer

Dated: 13 October 2021

Call-in Request

Dulwich Streetspace Review - Cabinet Member for Transport, Parks & Sport

IDM – 1 October 2021

Decision

I uphold the decision of Everton Roberts made on 11th October 2021 that the request for call-in made on 7th October 2021 is **invalid**.

There is no appeal from my decision.

The Process

On 11th October 2021, Councillor Victor Chamberlain requested a review of the Monitoring Officer in respect of the decision by Everton Roberts that the call-in request, submitted by three Members of OSC, was invalid. Under OSC procedure rule 18.1(b), if there is a dispute in relation to a call-in, the request can be referred to the Monitoring Officer for final determination.

My Determination

I have carefully considered the call-in request and I uphold the decision of Everton Roberts that the request is invalid. In reaching my decision I have considered the following documents:

1. Written advice and reasons of Everton Roberts dated 11th October 2021;
2. IDM Report, Dulwich Streetspace Review;
3. Amended Constitution published on 21st July 2021. Introduction and Article 1.3 Principles of decision making;
4. Email from Councillor Chamberlain dated 11th October 2021.

I agree the request is invalid for the reasons detailed in the note from Everton Roberts.

As regards the point about the adequacy of consultation I note that reference was made in the report to the extensive consultation exercise that has taken place in relation to this matter, the significant numbers of responses received, and the consideration that has been given by officers to these responses in developing the scheme. Specific reference was made in the call-in request to the timing of the consultation and the suggestion that this should have awaited the implementation of the Ultra Low Emission Zone which is being extended on 25 October. I am satisfied that there was no requirement for this, and there was in any event a need to make a timely decision before the expiry of the experimental traffic orders.

Reference was also made in the call-in request to an “apparent disregard for relevant statutory consultation processes”. The only particular process identified was the assertion that a Traffic Management Notification (TMAN) was not put in to TFL prior to the closures. The call-in response from Everton Roberts included an explanation from highways officers as to how TFL had been involved in the Dulwich Streetspace discussions and clarified that the TMAN process is not government guidance and can not therefore be characterised as a statutory consultation process.

I do not consider that evidence has therefore been presented which justifies a call-in on the basis of inadequacy of consultation.

So far as the challenge on the adequacy of the climate consequences of the decision I agree with Everton Roberts’ conclusion on this issue too and note that throughout the report there is reference to the consideration of the impact on air quality and pollution in developing the proposals.

Doreen Forrester-Brown

Director of Law & Governance and Monitoring Officer

13 October 2021