

## Review of Call-in Process

Comparison of Southwark Council Call-in Process against 'The use of Call-in: Guidance for English Authorities' (Issued April 2023)

This document indicates the sections of the guidance the comparison to which the council's process is being made, but needs to be read in conjunction with the guidance.

CfGS Call-in guidance	Page/para ref	Current position	OSC PR ref	Additional comments / recommendation
<b>1. Introduction: the purpose of call-in</b>				
Section 1 of the guidance sets out the purpose of call-in, the council's obligation in respect of it, and how it fits with the wider governance framework.	Pages 5 - 8	<b>Note:</b> Section 1 does not translate for the purposes of comparison. See rest of the document for comparison of the council's call-in process against the guidance.		
<b>2. Where call-in rules should sit</b>				
The CfGS guidance indicates that in most authorities, call-in rules reside in the overview and scrutiny procedure rules, and that separate protocols or procedure	Page 9	Information relating to the council's call-in procedure is set out in the council constitution. OSC Procedure rules 16 – 19.	16 - 19	Information relating to the meeting process is covered in the scrutiny officer's report when a call-in is considered, and in the chair's meeting guidance note.

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notes serves to allow flexibility where needed in order to react to the requirements of the particular circumstances.		The procedure rules capture the decisions subject to, and not subject to call-in, the procedure to call-in a decision, including publishing the decision, call-in threshold and scope and form of a call-in request, the procedure following a request for call-in, deadlines and timescales to be observed, who should be invited to attend a call-in meeting, and the potential outcomes open to the meeting and the process to be followed.		<p>The call-in procedure would benefit from being set out in a separate protocol/procedure note for purposes of clarity, transparency and understanding, having regard to the call-in guidance. Further detail on aspects to be covered is set out throughout this document.</p> <p><b>Recommendation:</b> That a separate protocol / procedure note on the meeting process is developed and published.</p>
<b>3. Addressing what may be called in, how and why</b>				
3.a What decisions should be subject to call-in?	Page 10	OSC procedure rule16 sets out the decisions that are and are not subject to the call-in process.	16.1 & 16.2	<p>This is in line with what the guidance considers best practice.</p> <p>No proposed change recommended.</p>

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		<p>All executive decisions are subject to call-in with the follow exceptions:</p> <ul style="list-style-type: none"> <li>• recommendations on the budget and policy framework,</li> <li>• decisions for urgent implementation,</li> <li>• urgent decisions outside the budget or policy framework,</li> <li>• non-key decisions relating to contract standing orders</li> <li>• non-key decisions taken by officers.</li> </ul>		
<p>3b For how long should the implementation of a decision be delayed, to allow the time for a call-in to be requested?</p>	<p>Page 11</p>	<p>OSC procedure rule 17 sets out the time period for publishing the decision and call-in deadline</p> <ul style="list-style-type: none"> <li>• 2 days to give notice of decisions</li> <li>• 5 working days allowed for call-in</li> </ul>	<p>17.1 &amp;17.2</p>	<p>The call-in guidance does not stipulate what is considered best practice, however the timescales adopted by Southwark are those suggested in the 2001 Guidance, and the timescales adopted by most local authorities.</p> <p>No proposed change recommended.</p>

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3.c What exceptions should apply	Page 11/12			
Exception 1: Urgency	Page 12	<p>As referenced in the guidance, similar to some other councils, Southwark has within its constitution provision to operate a general exception, special urgency and urgent implementation process in circumstances where an urgent decision is required. The use of these provision waives the required notification processes for 'key decisions' to varying degrees and the requesting of the use of these provision requires clearance from the relevant strategic director/director. Use of the general exception notice requires notification to the chair of overview and scrutiny committee. Use of special urgency and urgent implementation provision requires approval from the chair of overview and scrutiny committee.</p>	<p>Access to Information Procedure Rule 17, 18, 19 and 20</p>	<p>No proposed change recommended.</p>

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		As indicated in the guidance, a report on the use of the special urgency and urgent implementation is submitted annually to the March meeting of Council Assembly.	Access to Information Procedure Rule 22.3	
Exception 2: Only one call-in per decision	Page 12	<p>Following a call-in meeting, if a decision is referred back to the decision maker for reconsideration, the subsequent decision is not subject to any further call-in.</p> <p>OSC procedure rule 19.4 'Referral back to the decision making person or body, contains a sentence which states 'The final decision shall take immediate effect, upon receipt of notice from the proper constitutional officer.</p>	19.4	No proposed change recommended.
Exception 3: A limit on the number of call-ins overall	Page 12	The council constitution does not stipulate a limit on the number of call-ins.	N/a	No proposed change recommended.

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3.d What will a “valid” call-in be?	Pages 13 - 16	<p>The guidance makes reference to the need for call-in to be subject to some form of restriction, and hurdles to clear for a call-in to be valid i.e.</p> <ul style="list-style-type: none"> <li>• Requiring a certain number of councillors to request a call-in for it to be valid.</li> <li>• Requiring that certain criteria be met (reasons for the call-in) for it to be valid.</li> <li>• Requiring that councillors have not had a prior opportunity to consider and debate the decision.</li> </ul> <p>The procedure to call-in a decision is set out at paragraph 17 of the council constitution. Paragraph 17.4 indicates the ‘call-in threshold’ (3 members of the overview and scrutiny committee).</p>	17.1 – 17.7	<p>Currently only members of the council’s overview and scrutiny committee can request the call-in of an executive decision. (This includes the voting education co-opted members in respect of education decisions). This has been the case since the introduction of executive arrangements.</p> <p>It is proposed that the call-in threshold is amended to ‘any five members of the council’ (including education co-opted members.....)</p>

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3.d What will a “valid” call-in be? cont.	Pages 13 - 16	<p>Paragraph 17.6 ‘scope and form of a call-in request’ states that a 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, set out in <a href="#">Article 1.3</a> of the constitution).</p> <p>Paragraph 17.7 indicates that the request for call-in must state whether or not the members believe that the decision is outside the policy or budget framework.</p> <p>OSC Procedure Rule 18 sets out the procedure following a call-in request.</p> <p>Paragraph 18.1(a) states ‘if the scrutiny officer is of the opinion that a request for a call-in may not be valid, <u>because of a breach of procedure or other reason under this constitution</u>, they shall inform the relevant members’....</p>	<p>17.7</p> <p>18.1</p>	Amendments to Article 1.3 is being recommended and Guidance providing explaining the principles of decision making in more detail.

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		<p>It is against the above conditions that the validity of a call-in is considered.</p> <p>A scrutiny call-in form is used to elicit and capture the necessary information when requesting a call-in, and to provide an audit trail of the call-in process.</p> <p>Where a call-in has been considered to be valid, the scrutiny officer notifies the decision maker and relevant chief officer, and the implementation of the decision is suspended pending the outcome of the scrutiny call-in.</p>		
3.e Who should determine that a call-in is valid?	Page 16	The council's scrutiny officer (Head of Scrutiny) determines whether a call-in is valid. In practice this is determined in consultation with a governance lawyer as appropriate.	18.1	<p>The CfGS is of the view that as a matter of general principle that the decision on validity should be made by the Monitoring Officer.</p> <p>As indicated, the current position is that the monitoring officer reviews the validity of a call-in if requested.</p>



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		<p>Reasons for the determination of a valid or invalid call-in are provided to the decision maker / requestors of a call-in.</p> <p>In circumstances where a call-in has been ruled invalid, the requestors of a call-in have the option to refer the matter to the monitoring officer for review.</p> <p>The decision of the monitoring officer is final.</p>	<p>18.1(a) / 18.2</p> <p>18.1(b)</p> <p>18.1(a)</p>	<p>Requests for call-in require a determination by 4pm on the second working day after the day that a request is received. Call-in requests can be complex and require careful consideration, which involves the review of available information (officer report and grounds for call-in), and sometimes there is a need to consult with other officers, to ascertain a better understanding of an issue in order to reach a view. A clear written explanation is then required to confirm why a request for call-in has been deemed valid or invalid. Given the timescales involved, the validity of call-ins require high prioritisation, and review of call-in requests can be intense and time consuming in order to meet the constitutional deadline. The monitoring officer is also required to review a call-in in a short timescale in order not to delay the arrangements for a call-in meeting or the implementation of a decision.</p> <p>The initial review by the head of scrutiny (in consultation with a governance lawyer) serves as a filter process, resulting in the monitoring officer only needing to be involved in the validity process if necessary.</p>

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				No proposed change recommended.
f. Should call-ins alleging that a decision was not within or contrary to the budget or policy framework be treated differently	Page 17	<p>When making a request for call-in the members are required to state whether or not they believe the decision is outside the policy or budget framework.</p> <p>If the request for call-in states that the reason for call-in is that the decision is outside the budget or policy framework, the monitoring officer and chief finance officer are notified by the scrutiny officer in order for a report to be prepared for the overview and scrutiny committee.</p> <p>At a call-in meeting, the overview and scrutiny committee will consider the call-in request, and in particular, whether or not the decision might be contrary to the policy framework or not</p>	<p>17.7</p> <p>18.2</p> <p>19.2</p>	<p>The process for decisions that are thought to be not within or contrary to the budget or policy framework, is set out in detail within the constitution.</p> <p>No proposed change recommended.</p>

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		<p>wholly in accordance with the budget.</p> <p>The overview and scrutiny committee may refer the matter to council assembly if the decision is deemed to be outside the policy or budget framework.</p> <p>The process for decisions referred by overview and scrutiny committee to council assembly is set out in the constitution.</p>	<p>19.3(b)</p> <p>19.5 – 19.9</p>	
<b>4. Process and the meeting</b>				
a. Outcome of mediation or round table discussions	Page 18	There is no provision within the constitution or formal procedure for mediation / round table discussions. Informal discussions may take place at member level, if this happens, such discussions are not administratively supported by officers currently.		No proposed change recommended.

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b. How should more than one call-in on the same decision be approached	Page 18	<p>The constitution is silent on the process to be followed if more than one call-in being received on the same decision.</p> <p>In practice, if more than one valid call-in request was received, then as indicated in the guidance, a merged approached would be taken to ensure that the reviewing overview and scrutiny committee can consider concerns holistically, and the separate groups of requestors being given the opportunity to make their case at the meeting.</p>	18.3 – 18.4	No proposed change recommended.
c. How might timescales and the council calendar be best managed for call-in?	Page 19	<p>The timescales for arranging a meeting to consider a call-in request are set out in the overview and scrutiny procedure rules. A meeting must be arranged to meet within ten clear working days of the call-in request, unless agreement is reached that a call-in meeting can be arranged outside of this timescale following</p>		<p>This timescale is in line with that proposed in the guidance.</p> <p>No proposed changed recommended.</p>

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		consultation with the monitoring officer, chief finance officer and relevant chief officer.		
d. Who drafts the report, and what should it say?	Page 19	The call-in report is drafted by the scrutiny officer, and the report content is in line with that described in the guidance.		No proposed change recommended.
e. What will the procedure be in the reviewing committee?	Page 20	OSC Procedure Rule 19 sets out the process to be followed. This is reflected in the scrutiny officer's covering report.	19.1 – 19.9	<b>Recommendation:</b> That the process is included in a separate protocol / procedure note on the meeting process and published.
(i) Who is invited to participate?	Page 20	<p>As a minimum, the decision maker or an appropriate substitute is invited to attend and speak at the call-in meeting (OSC PR 19.1).</p> <p>Only members of the overview and scrutiny committee can call-in a decision, therefore those requesting the call-in will be members of the committee and able to take part in the call-in meeting. In light of this, there is no direct meeting invite to the requestors of the call-in.</p>		The CfGS guidance indicates that many authorities do not normally allow those requesting the call-in to be members of the reviewing overview and scrutiny committee conducting the review.

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		<p>However, as part of the call-in meeting process, the requestors of the call-in are invited to state the grounds for call-in.</p> <p>Whilst not stipulated in the OSC procedure rules, relevant officers / ward councillors and individuals have been able to participate in the call-in meeting as appropriate, taking account of the matter under consideration.</p> <p>In terms of the role and purpose of call-in. The scrutiny officer's covering report sets out the potential outcomes available to the call-in meeting.</p>		<p><b>Recommendation:</b> That the potential outcomes available to the call-in meeting is included in the separate protocol / procedure note on the meeting process.</p>
(ii) The way discussion is conducted	Page 21	<p>The way discussion is conducted is set out in the Chairs Guidance note and relayed to the meeting.</p> <p>The call-in meeting is conducted along the lines indicated in the call-in guidance.</p>		<p>The CfGS guidance states that all authorities should have in place a published procedure that sets out in detail how call-in meetings will be carried out. This will be captured in the protocol / procedure note on the meeting process.</p>

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(iii) Taking the decision	Page 22	<p>The options available to the overview and scrutiny committee when taking a decision are set out in the OSC Procedure Rules</p> <p>These are in line with the guidance.</p>	19.3	No proposed change recommended
<b>5. The Outcome</b>				
a. Referral to full Council	Page 23	<p>The procedure for referring the matter to council assembly is set out in the OSC Procedure Rules.</p> <p>The procedural process (including timescales) and circumstances where a call-in can be referred onto the full Council is line with the guidance.</p>	19.5 – 19.9	No proposed change recommended
b. Referring back to the original decision maker	Page 23	The procedure for referring the decision back to the original decision-maker (including timescales) is set out in the OSC Procedure Rules.	19.4	

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		<p>The guidance makes reference to a circumstance where an individual decision maker (cabinet member or officer), may refer a decision to either the Leader or the Cabinet for reconsideration. The council's call-in process does not cover this eventuality. There is provision however in the constitution for a cabinet member to refer a decision to cabinet (Cabinet procedure rule 3.1.1(b)).</p> <p>Decisions taken on reconsideration of an issue are not open to further call-in.</p>		<p>No proposed change is recommended, however members may wish to amend the constitution to include this provision in the call-in process as an option for the decision maker.</p>