

Scrutiny call-in – guidance for members

Any five Councillors can request the call-in of an executive decision which has been made but not yet implemented. Decisions that have been called-in are considered by the council's overview and scrutiny committee, which can recommend that a decision maker reconsiders its decision. The call-in process provides an opportunity to explore matters of concern raised around a particular decision.

Set out in this document is guidance for members on requesting the call-in of an executive decision, and the call-in meeting process.

Requesting the call-in of an executive decision

Why might you want to request the call-in of a decision

You may have been approached by a group of residents, parents or stakeholders who are unhappy, or have concerns in relation to a particular decision.

You may feel that a particular decision reached was fundamentally flawed, or that there might possibly be a better course of action.

You have concerns that the interests of a particular group(s), or the impact of a decision may not have been sufficiently considered or addressed in a decision making report and seek for the decision to be further discussed / reconsidered prior to implementation.

Decisions that can be called-in

A request for a 'call-in' can be made in relation to an 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 appropriate¹.

Requirements

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 (description and explanation contained at end of this document).

A valid request for call-in must contain the requisite number of signatures (five members of the council²) 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 framework³.

Things to consider when thinking about requesting the call-in of a decision.

In order for an executive decision to be called-in for scrutiny, the requestors of the call-in need to demonstrate that there has been a failure in applying the council's principles of decision making or a failure in complying with the council's procedure rules set out in the council constitution.

A scrutiny call-in request form has been created to elicit the required information, and to provide an audit trail of the process. It is not mandatory for a request to be made using the form, however its use is recommended to ensure that the required information is obtained. Failure to provide the required information by the call-in deadline may invalidate the call-in request.

The validity of a call-in request is considered solely against the information provided (grounds for call-in) in the call-in request. If a call-in request is considered valid, the call-in meeting's main focus will be on the grounds for call-in that are deemed to be valid. Members requesting a call-in should be mindful of this when making a request as if their main concern is not covered in the request, then that aspect might not be considered at the call-in meeting.

¹ 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 procedure rules.

² Including voting education representatives for the purpose of education decisions only.

³ 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.

There is no guarantee that a request for call-in will be deemed valid. If the request has been deemed invalid, then the decision will not be called-in and can be implemented. If a member has concern about an upcoming decision then it is recommended that they make representations (or advise the public to make representation) to the decision maker ahead of the decision being taken, either through written representation or the requesting of a deputation⁴. This will ensure that views and concerns are made known to the decision maker ahead of the decision being taken. This does not rule out the requesting of a call-in at a later stage.

Valid / Invalid call-in requests

If the call-in is considered valid, the scrutiny officer will notify the decision taker and the relevant chief officer, who in turn will suspend implementation of the decision. The scrutiny officer will then either 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.

Where a call-in has been ruled invalid by the scrutiny officer, the members requesting the call-in will be notified. A request can be made by those requesting call-in for the monitoring officer to review the ruling. In the event of dispute, the decision of the monitoring officer is final.

Call-in meeting process

What happens at the meeting

The decision maker or an appropriate substitute will be invited to attend and speak at the call-in meeting. The members who requested the call-in will also be invited to the meeting to present the case for call-in. Other stakeholders will be invited to the meeting as appropriate to give evidence / answer questions.

On meeting, the overview and scrutiny committee will consider the call-in request.

⁴ A deputation is a request to speak at a council meeting from a group of people resident or working in the borough about an issue of local concern.

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 procedure rules](#) of the constitution.

Note: In referring back to the decision maker, the decision maker may amend the decision or not, before adopting a final decision, which shall take immediate effect, upon receipt of notice from the proper constitutional officer.

If you need help

Email the scrutiny team: scrutinyteam2@southwark.gov.uk

'Principles of decision making' explained

ALL decisions of the Council should be made in accordance with the Principles of Decision Making which are set out in Article 1.3 of the Constitution which are listed and explained below:

a. The link between strategy and implementation must be maintained

There should always be a clear explanation as to how a decision fits with Southwark Council's overall strategy such as Southwark 2030, Future Southwark or the Council Delivery Plan. This principle ensures that the Council is able to achieve its corporate aims and focuses decision making so that it aligns with the current strategy. A decision making report should make clear the connection between its recommended actions and the Council's strategy.

b. Decision making generally, whether by individual officers, individual cabinet members or the cabinet collectively, should have reference to the policy framework

The plans and strategies comprising the policy framework are set out in Part 3A of the constitution. Where relevant, any decision-making report should make reference to the following documents and plans:

[Council Delivery Plan](#)

[Southwark Plan 2022 - Southwark Council](#)

[Treasury management strategy \(including prudential borrowing arrangements\)](#)

[Southwark Climate Strategy](#)

c. Respect for human rights, law, probity and our constitution

Clear reference should be made to any relevant human rights implications of a decision and the legal basis on which the decision is made. Reference may be made to these issues in the legal implications paragraph or the body of the decision making report.

The concurrent from the Monitoring Officer will address any governance issues and highlight any legal duties of the decision-maker. Decision-makers need to ensure that proper consideration is given to any potential conflicts of interests and to avoid any appearance of bias or having pre-determined views when making a decision.

Decision-makers should also satisfy themselves that the decision making process within the Constitution has been followed.

d. Reasonable and proportionate consultation

Some decisions require consultation by law ('statutory consultation') while others may not. Where consultation is not a legal requirement, the necessity to consult is dependent on whether it is:

- **reasonable** to expect consultation; and,
- **proportionate** to carry out consultation for that particular decision.

The reasonable expectation of consultation may come about where there has been an established practice of consultation, or in exceptional circumstances where not consulting would lead to unfairness.

Where consultation is required by statute then any relevant legal requirements must be satisfied and sufficient time should be provided for the consultation to be carried out properly.

There must be clarity about the issues being consulted on these should be outlined in the decision-making report. The results of consultations should be clearly set out in the report, including any response to the points being made so that the decision-maker can demonstrate that they have conscientiously taken the consultation into account.

e. The taking of reasonable and appropriate professional advice from officers

Advice from relevant officers should be obtained at a formative stage of decision making, report writing or policy development for the duration of the project.

Every decision-making report should include the advice of relevant officers, including the strategic director of finance and the Monitoring Officer who will provide financial and legal concurrents respectively, together with any other relevant professional officer advice.

f. Proportionality (i.e. the action must be proportionate to the desired outcome)

The decision being made should achieve the desired outcome in the least impactful way both on the community and financially. If other less impactful methods could achieve the same outcome then they should be explored and the reasons why they were not implemented should be explained. A decision making report must have an options appraisal outlining alternative measures that have been considered.

g. A presumption in favour of openness

Reports should contain all relevant and appropriate information and material to enable a properly informed decision. Reasons for the proposed decision should be set out adequately and intelligibly so that they can be easily understood. The recommendations should be clearly worded to avoid any ambiguity. All decisions must have a clear recommendation and, where appropriate, relevant

and reasonable background papers as evidence of information taken into account to inform the decision and decision-maker.

There are particular circumstances when decisions can be made based on closed reports in accordance with the statutory criteria, but wherever possible closed reports should be avoided.

h. Clarity of aims and desired outcomes, including a summary of the reasonable options considered

Reports for relevant decisions should clearly set out the aims and desired outcomes arising from the decision together with all necessary supporting information and evidence. The report should identify all relevant evidence to be taken into account in the appendices and background papers sections.

i. 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 that decision.

Reports should include reference to any climate consequences of the decision, and if relevant, references to the council's climate change strategy and action plan (linked above).

Consideration should always be given to the Public Sector Equality Duty ('PSED') contained in section 149 of the Equality Act 2010. The decision-maker will need to have due regard to the need to eliminate discrimination, advance equality of opportunity, and to foster good relations between people with protected characteristics and others in accordance with the PSED.

Although not required by statute, the council has also decided that the socio-economic and health impacts of decisions will be taken into account and where relevant these should be evidenced in any decision-making report.