

Rother District Council

Report to	-	Overview and Scrutiny Committee
Date	-	15 June 2020
Report of the	-	Executive Director
Subject	-	Call-In and Urgency Procedures

Recommendation: It be **RESOLVED:** That the report be noted.

Introduction

1. In accordance with Overview and Scrutiny Rule 17 (b) of the Constitution, the operation of the provisions relating to call-in and call-in and urgency shall be monitored annually and a report submitted to Council, via the Overview and Scrutiny Committee (OSC) with proposals for review, if necessary.
2. Attached at Appendix A are extracts from the Constitution of the Overview and Scrutiny Procedure Rules 16 (Call-in) and 17 (Call-in and Urgency). This report covers the meetings of the Executive from 11 March 2019 up until 10 February 2020. In total there have been 11 Executive meetings held during this period.
3. One Executive decision has been called-in during the period to which this report relates, and one decision of Cabinet, within the approved budget and policy framework, has been deemed and resolved as an urgent decision.

Call-In

4. As Members will be aware, the call-in procedure is the mechanism by which the OSC can review or challenge decisions made by the Executive, but which are not yet implemented. Executive decisions are now published within three days of the meeting (following the move to evening Cabinet meetings under the new administration) and those decisions that are subject to the call-in procedure are contained within Part II of the minutes. The Executive minutes are published electronically via the website and email notification is sent to all Councillors.
5. Executive decisions come into force and may then be implemented following the expiry of five working days following publication of the minutes, unless the OSC objects to a decision and calls it in.
6. Any two non-Executive Members, one of whom must have been present at the Cabinet meeting, or the Chairman of the OSC can request that a matter be called in. Once a decision is called in, its implementation is held in abeyance until the call-in procedure has been exhausted.
7. Following a call-in request, the OSC is required to meet within five working days in accordance with the procedure. It is worth noting here that the date and time of the call-in meeting is set by the Head of Paid Service in consultation with the Chairman of the OSC and key service officers. Call-ins have been considered by both the calling of additional meetings and the scheduled meetings coinciding within the prescribed timescales.

8. The call-in during this period was in relation to a decision made by Cabinet at its meeting on 10 February 2020 in respect of the redevelopment of the existing Bexhill Leisure Centre. This decision was called-in at the request of the Chairman of the OSC in his own right.
9. The OSC met on 26 February and after discussion, it was agreed that Cabinet be requested to reconsider their decision and approve the recommendations in the original Cabinet report. Cabinet gave further consideration to the request at their subsequent meeting held on 9 March and following clarification a number of the original recommendations were agreed, but not all of those requested by the OSC.

Call-In and Urgency

10. Members will be aware that the call-in procedure does not apply to recommendations to Council nor Executive decisions that have been agreed as urgent by the Chairman of Council. Urgent decisions that are taken outside of the approved budget and policy framework are also excluded from the call-in arrangements. In agreeing any decision as urgent, the Chairman of Council must be satisfied that any delay in the implementation of that decision would seriously prejudice the Council's or the public's interest. The potential time delay between an Executive decision being made, called-in, meeting the requirements of the call-in procedure and finally being implemented could be significant, and, in a worst case scenario, could be as long as six weeks.
11. During the period covered in this report one Executive decision inside the budget and policy framework has been designated and resolved as urgent and therefore outside the call-in arrangements. The decision was in relation to the Proposed Main Modifications of the Development and Site Allocations (DaSA) Local Plan, to allow the Council to publish the DaSA for consultation purposes the day after the Cabinet meeting. The table below gives details of the numbers previously designated as urgent in the last two municipal years:

Period	Number of Decisions
March 2017 – February 2018	2
March 2018 – February 2019	4
March 2019 – February 2020	1

12. When preparing reports for the Executive, consideration is given by officers to whether the decision needs to be taken as a matter of urgency having regard to the possible delays that could occur in the implementation of that decision, if it were subject to the call-in procedure. In advance of the Executive Agenda publication, officers endeavour to identify any decision which needs to be taken as urgent, to seek the Chairman of Council's permission for this, and to include rationale for the decision being treated as urgent within the report itself.
13. All decisions that are deemed as urgent, and therefore outside the call-in procedure, are reported to full Council at the next available meeting.

Conclusions

14. The call-in procedure continues to operate well, therefore it is not considered necessary to amend the current procedure. Non-Executive Members should continue to have trust and confidence in the call-in process.

15. There has been one occasion, during the period to which this report relates, where it has been necessary to use the urgency provision.
16. It is not considered necessary to amend the call-in provisions and the OSC are recommended to note the report. Should Members wish to amend the procedure this would require a recommendation to Council, via Cabinet, as a change to the Council's Constitution and operating procedures.

Dr Anthony Leonard
Executive Director

Risk Assessment Statement

Failure to monitor the operation of the provisions relating to call-in and urgency is in breach of the Constitution and could leave the Council open to criticism.

16. CALL-IN

- (a) When a decision is made by the Executive or a key decision is made by an officer with delegated authority from the Executive, or an area committee 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 two working days of being made. The person responsible for publishing the decision will send all Members of the Council copies of the records of all such decisions within the same timescale.
- (b) That record of the decisions will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the Overview and Scrutiny Committee or any two non-Executive Members objects to it and calls it in.
- (c) During that period, the Head of Paid Service shall call-in a decision for scrutiny by the Committee if so requested by the Chairman or any two non-Executive Members, one of whom must have been present at the Cabinet meeting and shall then notify the decision-taker of the call-in. The request for the call-in must state the reasons for the call-in. The Head of Paid Service shall call a meeting of the Scrutiny Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Committee, and in any case within five working days of the decision to call-in.
- (d) If, having considered the decision, the Overview and 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 Council. 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.
- (e) If following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting, or the expiry of that further five working day period, whichever is the earlier.
- (f) If the matter was referred to 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 Executive 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 Executive as a whole, a meeting will be convened to reconsider within 5 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 working days of the Council request.
- (g) If the Council does not meet, or if it does but 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 or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

17. **CALL-IN AND URGENCY**

- (a) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted, via the Overview and Scrutiny Committee, to Council with proposals for review if necessary.