

REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL SERVICES

SCRUTINY CALL-IN RULES

Reason for this Report

1. To allow the Committee to consider a change to the rules governing scrutiny call-ins, which has been suggested by the Scrutiny Chairpersons.

Background

2. Scrutiny Committees have statutory power to make reports or recommendations to the authority or the Cabinet with regard to the discharge of any functions which are the responsibility of the executive ('Executive Functions'); and to review and scrutinise decisions made, or other action taken, in connection with the discharge of such functions. This means they may review or scrutinise executive decisions before or after they are made. If a decision has been made but not yet "implemented", the Scrutiny Committee may recommend that the decision maker should reconsider it, or ensure that full Council reviews the decision (Section 21 of the Local Government Act 2000).
3. Cardiff's Scrutiny Procedure Rules (in Part 4 of the Constitution) reflect the statutory provisions and set out the relevant procedures.
4. Rule 12 of the Scrutiny Procedure Rules deals with 'Call-In' (scrutiny of Executive decisions after they have been taken). Under the Rules, any non-Cabinet member of the Council (or a co-opted member of the Children and Young People Scrutiny Committee in the case of a decision relating to an education matter), may call-in any Executive decisions made, but not yet implemented, by the Cabinet and designated senior officers, for scrutiny by the relevant Scrutiny Committee. The call-in request must be made in writing to the Operational Manager of Scrutiny Services within the call-in period (seven clear working days after publication of the decision).
5. 'Call-in' is a mechanism to hold to account the Cabinet and officers taking Executive decisions. It enables a Scrutiny Committee to consider whether a decision is appropriate, having regard to the relevant policy, financial and legal framework. The Scrutiny committee may question the decision-taker on the decision and actions taken, and may decide to refer the

decision back to the decision maker for reconsideration. A called-in decision cannot be implemented until it has been considered by the relevant Scrutiny Committee.

6. For Members' information, outline information about scrutiny call-ins considered during recent years is appended as **Appendix A**.
7. At the last meeting of the Constitution Committee (on 25th October 2017), in the Constitution Review report, the Committee noted that a recommendation had been made by the Scrutiny Chairpersons to amend the current Call-In rules in relation to matters which have been subject to pre-decision scrutiny. The Committee agreed to receive a further report to consider this matter. This is that further report.

Issues

8. Within their terms of reference, Scrutiny Committees set their own work programmes and may make proposals to the Cabinet regarding policy and service development. This is referred to as 'pre-decision' scrutiny (in contrast with the scrutiny and review of decisions made, or actions already taken, which are scrutinised under 'call-in' procedures). In Cardiff, all Cabinet decisions are rated as Red, Amber or Green; and a Red rating requires the decision to be considered by Scrutiny before the Cabinet decision is made ('pre-decision scrutiny'). Pre-decision scrutiny is the main tool for Scrutiny Committees to improve service delivery and policy development, informed by detailed, evidence based reviews.
9. The Chairpersons of the 5 Cardiff Scrutiny Committees meet regularly at a Scrutiny Chairs Liaison meeting. At the Scrutiny Chairs Liaison meeting in August, the Chairs discussed the current Call In rules. The Chairs agreed that, where a matter had been subject to pre-decision scrutiny, Call-In of a decision should only be permitted if there is significant new or additional information, which had not been previously considered by the Scrutiny Committee, so as to avoid unnecessary duplication of work already undertaken. It was agreed that the Constitution Committee should be asked to consider amending the call-in rules to this effect.
10. The Scrutiny Procedure Rules, marked to show the proposed amendments to the Call-In Rules (Rule 12), are appended at **Appendix B**.
11. Members may recall (as reported previously in the Constitution Review report considered at the last meeting), that the Wales Audit Office (WAO) is undertaking a national, themed review of the scrutiny function, 'Scrutiny – Fit for the Future'. The purpose of the review is to consider how Councils are responding to current challenges, including the Well-being of Future Generations Act and scrutiny of public service boards. Any recommendations relating to constitutional issues which may arise from WAO's review of the scrutiny function will be reported to the Constitution Committee for consideration in due course.

Legal Implications

12. Under the Constitution Committee's terms of reference, the Committee is responsible for reviewing the Constitution and making recommendations on any appropriate changes to full Council (except for certain specified changes which the Committee may approve itself). The proposed amendments to the Scrutiny Procedure Rules require the approval of full Council.
13. Other relevant legal provisions are referred to in the body of the report.

Financial Implications

14. There are no financial implications arising from the report

RECOMMENDATIONS

The Committee is recommended to agree the proposed amendments to the Scrutiny Procedure Rules, as shown in **Appendix B**; and recommend these amendments to full Council for approval.

DAVINA FIORE
DIRECTOR OF GOVERNANCE AND LEGAL SERVICES
20 December 2017

APPENDICES

- APPENDIX A: Call-Ins 2015/16 to date – Summary Information
- APPENDIX B: Scrutiny Procedure Rules – proposed draft amendments

Background papers

Constitution Committee report, 'Constitution Review', 25th October 2017