

Northampton Borough Council Overview and Scrutiny



Northampton Borough Council Call-in Guidance

Appendix A to this guidance sets out a call-in checklist, and Appendix B provides a protocol for the running of the call-in hearing. Provided at Appendix C is the call-in request form.

What is a call-in?

Where there is concern about a decision which has just been taken, there is a formal procedure to allow it to be “called-in” so members of the Overview and Scrutiny Committee can review it before the decision is implemented. It is a key way of holding the Cabinet to account. A called-in decision cannot be implemented until it has been considered by the Overview & Scrutiny Committee, which can examine the issue and question the decision-taker on the actions taken.

Call-in is intended to be used only in exceptional circumstances, the procedure being seen as a last resort through which Councillors may demand scrutiny of a decision they believe to be contrary to the authority’s decision making principles.

Who can call in a decision?

Any Councillor who is not a member of the Cabinet can start the call-in procedure. Decisions can be called in by:

- The Chair of the Overview and Scrutiny Committee

Ttiff/protocol/call in

OR

- Two Members of the Council

Should either of the Call In Authors be a Member of the Overview and Scrutiny Committee considering the Call In Request, they will be present in the capacity as Call In Author and not as a Member of the Overview and Scrutiny Committee. They should not sit on the Committee, take part in the debate or vote, as this could be seen as a conflict of interest. The Call In Author should therefore send a substitute for the Call In Hearing.

What can be called-in?

Call-in powers relate to executive (Cabinet) functions. Subject to the exceptions listed below, any decision made by the Cabinet or a key decision made by an officer with delegated authority from the Cabinet may be called-in.

What cannot be called-in?

The following categories of decision cannot be called-in:

- a decision which is not a key decision, and which has been taken by an officer

Northampton Borough Council Overview and Scrutiny

under delegated powers. A non-key decision taken by the Leader or a Portfolio Holder under delegated power

- a decision which the decision-taker has certified as urgent (giving reasons) in accordance with the Council's Rules of Procedure;
- a decision relating to a matter which has already been the subject of a call-in during the previous six months;
- any decision relating to a non-Cabinet function, whether taken by a Committee or an officer under delegated powers;
- a decision by, or to be taken by, Council; or
- a decision taken at stage 4 of the call-in procedure.

The Overview and Scrutiny Committee cannot scrutinise individual decisions made by, or on behalf of, the Regulatory Committees of the Council, for example, decisions relating to development control, licensing, registration, consents and other permissions.

Although they may be key decisions (and included in the Forward Plan), decisions taken by the Cabinet when preparing annual budgets or new policy proposals for submission to Council will not be subject to call-in. In these circumstances the Council is responsible for the final decision.

When can a decision be called-in?

It is important that the call-in process is not abused, nor causes unreasonable delay; the main tool of the Overview and Scrutiny Committee is to improve the delivery of policies and services through detailed reviews, rather than call-ins.

A decision can be called-in when Members:

- believe it may be contrary to the normal

Ttiff/protocol/call in

requirements for decision-making

- believe it may be contrary to the Council's agreed policy framework and/or budget
- need further information from the decision-taker to explain why it was taken

Call-in checklist

The above rules and criteria can be brought together in the checklist of questions (or tests) which appears at Appendix A to this document. Members can use this checklist when they are considering a call-in.

How does Call-in work?

Every decision which is subject to potential call-in cannot be implemented until the end of the call-in period. The call-in period lasts for **three working days** after the minutes of Cabinet have been published.

The call-in procedure itself follows four stages.

STAGE 1

A valid call-in request must be submitted in accordance with the current rules in the Constitution. The request must say who is making the call-in and to which decision it relates. It must also give brief reasons why the decision is being called in. A pro-forma is available from the Overview and Scrutiny Officer (copy attached at Appendix C).

Requests may also be submitted by electronic mail or fax. If the call-in is to be submitted by e-mail, only one Member need submit the actual form. However, individual e-mails (or letters) in support of the request must also be submitted by the other Member specified on the form before the end of the call-in period.

Northampton Borough Council Overview and Scrutiny

STAGE 2

When the officers receive a valid call-in request with respect to a decision, then that decision may not be implemented until that decision has completed the call-in procedure. Once a request to call-in has been properly made then a meeting of the relevant Overview and Scrutiny Committee should be convened to deal with the matter unless it will be quicker to place the matter on the agenda of a scheduled meeting of the Overview and Scrutiny Committee.

Members who have requested the call-in will have the right to address the Committee when it deals with the issue.

STAGE 3

The Overview and Scrutiny Committee will consider the called-in decision and decide to take one of the following courses of action (the Overview and Scrutiny Committee's decision should not be adjourned or delayed without an exceptional reason):

- to allow the decision to be implemented without further delay;
- to refer the decision back to the Cabinet (irrespective of who the original decision-taker was) together with the observations of the Overview and Scrutiny Committee. The Cabinet will then take the final decision, and that decision may not be called in.
- to request the Cabinet to allow further time for the Overview and Scrutiny Committee to consider the issue and make observations at a later date;
- to seek the advice of the Monitoring Officer as to whether the decision is contrary to, or not wholly in accordance with, the policy framework or the budget and, if applicable, to refer the matter to

Ttiff/protocol/call in

Council for a final decision.

STAGE 4

Reference back to Cabinet

Where the Overview and Scrutiny Committee decides to refer the decision back, the Cabinet must reconsider the decision in the light of any observations of the Overview and Scrutiny Committee.

Where the Overview and Scrutiny Committee has requested more time to consider an issue, the Cabinet must have regard to the urgency, and to the Budget and Policy Framework Rules, when deciding whether to implement the decision.

Reference to the Monitoring Officer/Chief Finance Officer

The Overview and Scrutiny Committee may refer any called-in decision to the Monitoring Officer and/or the Chief Finance Officer if it considers it to be contrary to the policy framework or budget. The officer(s) will then submit a report on the matter to the next meeting of the Cabinet. A copy of this report will be sent to all Members of the Council. No action may be taken in respect of the decision or its implementation pending that meeting.

If, in that report, the Monitoring Officer and/or the Chief Finance Officer is of the opinion that a decision referred to him/her by the Overview and Scrutiny Committee is not a departure from the policy framework or budget, the decision may be implemented immediately. A report to this effect will be submitted to the Overview and Scrutiny Committee for information. If, however, a referred matter is deemed to be a removal from the policy framework or the budget by the Monitoring Officer and/or the

Northampton Borough Council Overview and Scrutiny

Chief Finance Officer, the Cabinet has two options:-

- It may choose to adjust its decision to bring it within the policy framework or budget, in which case it can then be implemented. In these circumstances, the Cabinet would submit a report to the next meeting of the Overview and Scrutiny Committee explaining its actions.
- If the Cabinet does not wish to adjust its original decision, it must prepare a report for the Council. This report must include the views of the Overview and Scrutiny Committee. No action may be taken in respect of the decision or its implementation until the Council has met to consider the matter.

Reference to Council

Subject to the provisions above, the Overview and Scrutiny Committee may

require that any called-in matter which has been deemed to be (and remains) contrary to the policy framework or budget is referred to the full Council. The report to Council will set out the views of the Cabinet and the Overview and Scrutiny Committee and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may:

- decide that the decision is within the existing policy framework and/or budget (in which case it can be implemented); or
- amend the financial regulations or policy concerned to encompass the decision (in which case it can be implemented); or
- agree that the decision is contrary to the policy framework or budget and require the Cabinet to reconsider the matter in accordance with the advice of the officer(s).

Northampton Borough Council Overview and Scrutiny

Appendix A



Call-in Checklist

1. Can the decision actually be called-in?	If the answer to any of questions 1(a)-(g) is “yes” then the decision CANNOT be called-in.	
	a) Does it relate to a non-executive function?	
	b) Was it a non-key decision taken by an officer under delegated powers?	
	c) Was it classified as an urgent decision?	
	d) Has this issue been called-in in the last 6 months?	
	e) Does the decision relate to an existing call-in (ie decisions taken in relation to a reference back)?	
	f) Does the decision relate to the formulation of a policy or budget matter which requires full Council approval?	
	g) Was it a decision taken by, or to be taken by, full Council?	

Northampton Borough Council Overview and Scrutiny

2. Was the decision in accordance with the Council's policy framework?	a) What is the relevant policy or strategy?	
	b) Is the decision contrary to that policy?	
	c) If yes, how?	
3. Was the decision in accordance with the agreed budget or budget procedures?	a) Is there funding for the proposal in an agreed budget/capital programme?	
	b) If no, have the rules for virement and supplementary estimates been observed?	
4. Was the decision taken in accordance with the principles of good decision-making?	a) Does the decision comply with the Council's Constitution, ie <ul style="list-style-type: none"> • Articles of Constitution • Scheme of Delegation • Rules of Procedure • Codes and Protocols 	
	b) Was the decision reasonable within the common meaning of the word, ie rational, based on sound judgement?	
	c) Was the decision reasonable within the legal definition of "reasonableness", ie was everything relevant taken into account, and was everything irrelevant disregarded?	
	d) Was the decision proportionate, ie is the action proportionate to the desired outcome?	
	e) Was the decision taken on the basis of due consultation?	

Northampton Borough Council Overview and Scrutiny

	f) Was the decision taken on the basis of professional advice from officers?	
	g) Were Human Rights respected and/or will the decision give rise to any Human Rights implications, ie, without discrimination, the right of an individual to: <ul style="list-style-type: none"> • liberty and security • the enjoyment of their property • a fair trial • respect for private and family life • freedom of thought, conscience and religion • freedom of expression • freedom of assembly and association • etc. 	
	h) When the decision was taken, was there a presumption in favour of openness?	
5. Has the decision been well explained, ie do you need more information?	a) Was it clear what the reasons for the decision were?	
	b) Was it clear what the desired outcomes were?	
	c) Was it clear what alternative options (if any) were considered?	
	d) Was it clear why the alternative options were not chosen?	
	e) Do you need any more information/clarification?	

Northampton Borough Council Overview and Scrutiny

Appendix B



Call-in Protocol

The following protocol is intended to formalise the conduct of call-in hearings and the preparation work carried out in the run-up to such a hearing. It should be noted, however, that the protocol may be varied by the Chairman of the Overview and Scrutiny Committee to meet the requirements of any particular circumstances.

Prior to the Call-in

1. A decision-taker's statement will be published with the agenda for the meeting.
2. A caller-in's statement will be published with the agenda for the meeting, should the caller-in wish to provide such a statement.
3. The caller-in and decision-taker will be invited to the meeting, together with any other parties relevant to the decision-making process, for example Chairmen of other Committees or Panels, Portfolio Holders or officers.
4. Any other relevant internal or external witnesses will be invited to the meeting.
5. It will be endeavoured to give seven days' notice of a request to attend the meeting to all witnesses. If a question plan is to be produced, it will be endeavoured to give seven days' notice of the questions planned to witnesses.
6. Prior to the meeting any Member who may have a conflict of interest, for example Overview and Scrutiny Members who may be scrutinising a decision they were involved in taking, will be given relevant advice by the Monitoring Officer.

Members and Officers giving account

1. There will be an expectation by the Committee that a Councillor or officer (or his/her deputy) must attend unless they have reasonable grounds for refusal, such as ill health, holiday or prior personal or business commitments which are inescapable or which it would be contrary to Council procedure or practice to cancel or rearrange. Where, in exceptional circumstances, the Councillor or officer is unable to attend on the required date, then the Chief Executive shall, in consultation with the Chairman and Vice-Chairman of the Committee and the Councillor/officer arrange for an alternative date for attendance. In exceptional circumstances, and with the agreement of the Chairman and

Northampton Borough Council Overview and Scrutiny

Vice-Chairman substitutes may attend on behalf of the Councillor and officer who would otherwise be expected to attend.

2. The Committee shall defer consideration of a call-in on one occasion only if no signatory to the call-in attends the meeting to which it is submitted.
3. Subject to the rules in respect of confidential or exempt information, all questions will be put and answered in public.
4. Questioning must be conducted in an atmosphere of mutual respect and trust consistent with the Codes of Conduct and in a manner that avoids negative or undermining, interrogation or open or implied criticism.
5. Questions must be directly relevant to the subject matter of the call-in.

Officer Support

1. The Overview and Scrutiny Officer will provide support to the Chairman and Vice Chair throughout the call-in process.
2. The Borough Solicitor or a member of his staff will provide legal advice to the Chairman and Vice-Chairman throughout any call-in process.
3. The Chief Officer of the appropriate directorate will arrange:-
 - (a) For the Executive whose decision has been called in to have support throughout the call-in process.
 - (b) For the Councillors who have instigated the call-in to have support throughout the call-in process. Any officer providing such support shall act independently and impartially in advising those Councillors.

The Call-in meeting

1. The call-in will be the first item of business on the agenda, in order that witnesses are not kept waiting.
2. Whilst waiting to be called to speak, witnesses should be seated in the public gallery. Once the witness has finished what they wish to say, they will be requested to leave the table.
3. The Chair will introduce the meeting, outlining the reasons for call-in and explain the procedure.
4. The caller-in will be invited to make a presentation outlining his or her main reasons for calling in the decision. A question and answer session will follow. Should either of the Call In Authors be a Member of the Overview and Scrutiny Committee considering the Call In Request, they

Northampton Borough Council Overview and Scrutiny

will be present in the capacity as Call In Author and not as a Member of the Overview and Scrutiny Committee. They should not sit on the Committee, take part in the debate or vote, as this could be seen as a conflict of interest. The Call In Author should therefore send a substitute to sit on the Committee for the Call In Hearing.

5. The decision-taker will be invited to make a presentation outlining his or her main reasons for making the decision. A question and answer session will follow.
6. The Overview and Scrutiny Committee will ask questions of the Leader and/or Portfolio Holder and invite them to make presentations outlining their reasons for any recommendations to Cabinet on the issue concerned.
7. The Overview and Scrutiny Committee will then invite relevant employees to give evidence and respond to the Overview and Scrutiny Committee's questions. The Officers will be asked to give their reasons for any recommendations or advice to Members. A question and answer session will follow.
8. Any other relevant internal or external witnesses will be invited to make a presentation to the Committee without interruption, following which there will be a question and answer session.
9. The Committee will discuss the written evidence and responses to questions and may ask further questions for clarification.
10. Witnesses will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.
11. The caller-in will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.
12. The Chairman will sum up the findings regarding the Cabinet decision. If there are still concerns, the Chairman will lead in the determination of the recommendations with reasons for consideration by Cabinet.
13. At the conclusion of the debate and following responses to all relevant matters raised, the Chairman will ask the Committee to vote to determine whether or not it upholds the decision of the Executive/ decision maker.
14. The Chair and Vice Chair will produce a report of the Committee's findings, with .

Outcome

If the Committee does not uphold the decision of the Executive/decision taker it can refer it back to the decision maker for reconsideration, setting out in writing the nature of its concerns or further recommendations. It can refer the matter to full Council if considered not to be in accordance with the budget or Policy Framework.

Northampton Borough Council Overview and Scrutiny

The action the Council takes if a call-in is referred to it is detailed in the Council's Constitution.

The decision is notified to all interested parties and included on the Council's document management system.

Northampton Borough Council Overview and Scrutiny

Appendix C



Call in Request Form

Decision taken by Cabinet
Delegated decision by

Date of the decision

Item Number

Title of the agenda item/report.....
.....

Reasons for Call in
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Is the decision taken considered to be inside or outside of the policy or budget framework agreed by the Council?

(Delete as applicable) YES/NO

Northampton Borough Council Overview and Scrutiny

Explanation if Yes (optional)

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Proposed alternative course of action (optional)

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Proposed Documentation and witnesses for the call in (optional)

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Signed Cllr.....

Signed Cllr.....