

SCRUTINY CALL-IN GUIDELINES

DRAFT VERSION

The following guidelines have been written in order to assist those planning and taking part in a call-in meeting. The process for the calling in of a Cabinet decision is described in the Council Constitution (Part 4: Overview and Scrutiny Procedure Rules), as well as in Standing Orders 26(4) and 35.

(1) FORM OF CALL-IN

A call-in should conform to the requirements in Standing Order 35(1), i.e:

- it should be submitted, on the prescribed form, to the Head of Legal and Member Services within five working days of the publication of the decision in question;
- it should be signed by the appropriate member(s), namely a party leader **or** a deputy leader **or** any five members of the Council (but electronic signatures are acceptable);
- the call-in notice should specify the reasons why the member(s) believe(s) that the decision should be considered by the overview and scrutiny committee.

(2) EFFECT OF CALL-IN

On receipt of a valid call-in, the Head of Legal and Member Services will notify the chief officer concerned and all members of the Council. No action will be taken to implement the Cabinet decision until the call-in procedure has been completed.

(3) SCHEDULING OF THE MEETING

The meeting to consider the call-in must be held within 15 working days of the receipt of the call-in. The Head of Legal and Member Services is responsible for summoning the meeting. The date should be arranged in consultation with the Chair of and party spokespersons for the relevant committee. (*Standing Order 26 deals with the calling of special meetings*). Once the date of the meeting has been set, the relevant chief officer and all Council members will be notified of the date.

If it is necessary to adjourn a meeting that is considering a call-in, it must be reconvened, and the scrutiny process completed, within 10 working days, provided that that is practicable (*see also paragraph (7) below*).

(4) PREPARATION FOR THE MEETING

A suitable venue will be selected, taking into account the approximate number of members of the public that are likely to attend. Where the Chair considers it appropriate, the meeting may be held elsewhere than the Town Hall.

A list of witnesses, and the order in which they are likely to be called, will be established and agreed with the Chair of the meeting. Witnesses may be nominated by both those submitting the call-in notice and the relevant Cabinet member. The complete list should be available in sufficient time give formal notice to each witness at least three working days before the meeting (though it is to be hoped that they would have been given some indication beforehand). The Committee Services Section will co-ordinate the witness list and will formally invite those people to the committee meeting on behalf of the Chair.

Since the terms of the O&S Rules indicate that the decision as to whether or not to seek the views of any person is a matter for either the Chair or the committee itself, it follows that it would be reasonable for the Chair or the committee to ascertain in advance the credentials of any person that has been proposed as a witness. The list of proposed witnesses should therefore include details of each witness's particular expertise or knowledge in relation to the matter, and the members of the committee will then be able to prepare appropriate questions for them.

The relevant Cabinet member and any council officer required to answer questions on the matter must attend the meeting when requested to do so by the Chair of the committee. Other persons requested to attend as witnesses can choose whether or not to do so.

(5) SUGGESTED STRUCTURE FOR THE MEETING

An example of a suggested procedure for the handling of a call-in item on a committee agenda is detailed in Appendix 1 of these Guidelines.

(6) PARTICIPANTS IN THE MEETING

Only members of the committee (or designated deputies) will be able to ask questions of the witnesses or take part in the subsequent debate.

A member of the committee can not also act as a witness.

(7) WITNESSES

A witness must be given at least 72 hours notice (3 working days) that he/she is required to attend to give evidence.

Witnesses should act under the direction of the Chair (i.e. not of the person

that originally submitted their names). Each witness, once called, can be questioned by any member of the committee, but all questioning should be conducted through the Chair.

Witnesses may leave the meeting having given their evidence, but it is open to the committee to recall them (if necessary at a subsequent meeting) in order to establish points of information (if, for example, a later witness produces counter-evidence).

Where, in exceptional circumstances, a member or officer acting as a witness is unable to attend on the required date, the committee, in consultation with the member or officer, can arrange an alternative date to hear the evidence within a maximum of 15 working days from the date of the original request or their submission can be considered in writing.

(8) EXEMPT REPORTS

There might be a call-in of a decision that followed the Cabinet's consideration of an exempt report. This could present problems in relation to the openness of the scrutiny process and to how much of the proceedings witnesses, and the public, can be admitted. If the committee considers it necessary to exclude the public at any stage of the meeting (the term 'public' includes all witnesses except when they are invited in to give evidence), it will have to pass a specific resolution.

The first question it should ask is whether all or any part of the report under consideration is still exempt. Having done so, it would have the following options:

(a) It could exclude the public at the start and call witnesses into the meeting, one at a time, to be questioned; **or** the meeting could commence with an explanation, for the benefit of those present, of the implications of the report without divulging any of the exempt information, then carry on as above.

(b) If the meeting decides that the report should not remain exempt, then copies would have to be made available to the public, who can remain in the meeting. It may be possible, though, to produce an edited version of the report, leaving out any paragraph that can definitively be said still to be exempt under the Access to Information Rules. If the discussion shifts to the exempt information, the public could then be excluded temporarily.

On balance the Committee should err on the side of openness.

(9) DECISION OF THE MEETING

The meeting must conclude by agreeing to a recommendation. *The following points are taken mainly from paragraph 16 of the Overview and Scrutiny*

Procedure Rules:

If the Overview and Scrutiny Committee disagrees with the original decision, it may either ask the Cabinet to reconsider the decision, or refer it to the Council for consideration if it believes that the decision is contrary to the policy framework or not in accordance with the budget. The Chair of the overview and scrutiny committee will have the opportunity to explain its views to the Cabinet or Council, as appropriate.

If the overview and scrutiny committee recommends that the matter should be referred back to the Cabinet for reconsideration, all members who signed the call-in notice will be invited to the relevant Cabinet meeting.

If the overview and scrutiny committee agrees with the decision, it will become effective immediately at the close of the committee meeting and the relevant chief officer may implement that decision. If the committee proposes any variation to the decision, the matter will be referred back to the Cabinet for a final decision.

(10) MINORITY REPORTS

If any political group does not agree with the majority decision of the committee, it may submit a written minority report for consideration by the Council at the same time as the minutes of the committee are being considered. Any such report must be handed to the Head of Legal and Member Services in accordance with Standing Order 12(2). The Leader of the relevant group or his/her representative will have an opportunity to explain the minority report to the Council, and the Council may discuss and vote for or against such a report without prejudice to any decision already implemented.

APPENDIX 1

WIRRAL COUNCIL

Agenda – xxx OVERVIEW AND SCRUTINY COMMITTEE - at 6.00pm on xxx

Venue: Committee Room 1.

[DETAILS OF CALL-IN - duplicate wording from call-in form]

- 1 Chair's opening remarks**
- 2 Chair asks for any declarations of interest, including whether or not any whipping arrangements apply**
- 3 Explanation of the call-in by lead signatory**
- 4 Evidence from call-in witnesses:**
 - 1
 - 2
 - 3
 - 4
 - 5
 - 6
 - etc.
- 5 Evidence from Cabinet member's witnesses**
- 6 Summing up by mover of the call-in**
- 7 Summing up by Cabinet member:**
- 8 Committee debate**
- 9 Committee decision**