

BABERGH DISTRICT COUNCIL

FROM: Head of Corporate Services

REPORT NUMBER: **G228**

TO: OVERVIEW AND SCRUTINY
(STEWARDSHIP) COMMITTEE

DATE OF MEETING: 18 March 2008

REVIEW OF THE CALL-IN PROCEDURE

1. **PURPOSE OF REPORT**

- 1.1 In December 2006, a Joint Meeting of the Overview and Scrutiny Committees agreed a revised Call-In Procedure and Protocol. It was also agreed that the procedure should be reviewed after one year in operation. This report sets out the findings of the follow-up review.

2. **RECOMMENDATION**

- 2.1 That the Committee give consideration to the matters raised within this report and, if minded to suggest alterations, request the Officers to draft the necessary amendments to the Call-In Procedure in the Constitution for submission to the Council.

3. **FINANCIAL IMPLICATIONS**

- 3.1 There are no identifiable financial implications in this report.

4. **RISK MANAGEMENT**

- 4.1 This report is most closely linked with the Council's Significant Business Risk No. 4, Political Leadership and Governance. Key risks are set out below:

Risk Description	Likelihood	Seriousness or Impact	Mitigation Measures
Inappropriate Call-in arrangements delay decisions and creates public perception of weak leadership	Significant	Critical	The adoption of arrangements that balance the need to hold decision-makers to account with efficiency

5. **KEY INFORMATION**

- 5.1 The Call-In Procedure was previously reviewed at a Joint Meeting of the Overview and Scrutiny Committees on 11 December 2006 at which a procedure, including the Protocol, was agreed. The Procedure was based on the deliberations of a Working Group, which had compared the Council's call-in arrangements with those operated by other "Fourth Option" Councils. It was agreed that the Procedure should be reviewed after one year. There has been one Call-In item (29 January 2008) during this period.

5.2 The Call-In rules are set out in paragraphs 38 – 43 inclusive of the Overview and Scrutiny Procedure Rules in Part 4 of the Council's Constitution. The rules cover the issues considered previously by the Working Group, including –

- The number and identities of signatories required to trigger a Call-In
- The initial determination of whether an item satisfies the Call-In criteria
- The method for submitting a Call-In request
- The period within which a Call-In might be requested
- The Protocol (appended to the Procedure Rules), which clarifies the type of evidence required to justify a Call-In
- The identification of the most appropriate Committee to hear the Call-In
- Rights to attend and ask questions
- The referral of items following their consideration by an Overview and Scrutiny Committee

5.3 The Call-In on 29 January proceeded according to these rules.

5.4 In order to inform this report, Members were requested to submit views on the way the Call-In operated. In response, there was just one suggestion, which stated that all Call-In items ought to be referred direct to the Council, rather than via an Overview and Scrutiny Committee. It is therefore concluded that generally:-

- The Call-In meeting successfully followed the process laid down in the Constitution
- The process was conducted fairly and diligently and operated satisfactorily.

5.5 Discussion on the item lasted around one hour and twenty minutes, which was appropriate for the subject matter and the processes involved.

5.6 Procedurally, Call-In comprises four stages. The first stage requires the submission of the Call-In request form after which the Head of Corporate Services, in consultation with the Chairman and the Monitoring Officer, determines whether the Call-In request is valid and appears to meet the necessary standard to warrant scrutiny of the item by the Committee. **The Committee is asked to consider whether the means of submitting the request form are appropriate, and whether, for example, it would be better for all Members to be provided with a digital signature.**

5.7 Stage 2 of the process involves the Committee in reaching a determination as to whether the matter should be further considered. If it decides to proceed, the Committee also decides which of the reasons given in the Call-In request may be valid grounds for further scrutiny. This, in turn, determines the focus of the evidence that the Committee will hear. This stage is understood but is not explicit in the Procedure Rules, which could be amended to include a paragraph to describe the role of the Committee at this point. Similarly, although the Agenda for the meeting on 29 January 2008 helpfully set out the order of appearance of officers, Members and other witnesses, it did not specify each discrete stage of the process and this may have proved helpful. **The Committee is asked to consider whether there may be a case for:-**

- **The Call-In Procedure Rules to be amended by the addition of a paragraph to the “Order of Appearance” specifying that the Committee will identify the issues that it wishes to focus on in considering the Call-In request and identify the evidence it wishes to receive, either orally or in writing;**

- **Each stage of the process to be set out on the Agenda for the meeting as indicated in the example attached at Appendix 1 to this report.**

5.8 The third stage is where the Committee hears the evidence and questions witnesses. At the meeting in January the Chairman successfully involved Members of the Committee, whilst directing that the evidence given, and the questions asked, were in line with the Committee's decision at Stage 2. It is appropriate to ask, under the review, whether the order of appearance is correct. Although it did not occur at the January meeting, since the whole process should be evidence-based, **the Committee is asked to consider whether the Procedure Rules should specify that a member of the Committee should only be permitted to participate if they are present for the whole item under consideration.**

5.9 The final stage is where the Committee evaluates the evidence it has heard and reaches its decision, which can, if it is still concerned about the decision, be to refer it back to the Strategy Committee for reconsideration, or to refer it to the Council for a final determination or referral back to Strategy. The Rules are silent about what should happen if the Committee does not believe that the decision is in any way faulty or if the Committee believes, on balance, that a decision has been arrived at correctly but has reservations about it. There was discussion at the meeting on 29 January about whether "concurrence" with the decision of the Strategy Committee adequately reflected the Overview and Scrutiny Committee's views. **The Committee is asked to consider whether it would be appropriate to add a term such as "accept," "raise no objection to," "make no comment on," or "express reservations but not refer back" to the options available to the Committee having considered its decision.**

6. APPENDIX

Appendix 1 Sample Agenda for a Call-In meeting

CONTACT: Ray Amesbury
Senior Democratic Services Manager

DIRECT LINE: 01473 825891

Specimen agenda for Call-In items. Additions are shown in italics and bold type

COMMITTEE: **OVERVIEW AND SCRUTINY
(STEWARDSHIP)**

VENUE: **Council Chamber, Council
Offices, Corks Lane,
Hadleigh**

DATE/TIME:

<u>Members</u>		
Mr J C Brand	Mr D G Grutchfield	Mr D M Walton
Mr D M Busby	Ms J A Jenkins	Mr G S White
Mr J R B Cave	Mr C A Roberts	Mr L H Young

A G E N D A

ITEM

BUSINESS

PART I

1 **SUBSTITUTES AND APOLOGIES**

Any Member attending as an approved substitute to report giving his/her name and the name of the Member being substituted.

To receive apologies for absence.

2 **DECLARATION OF INTERESTS**

Members to declare any interests as appropriate in respect of items to be considered at this meeting.

3 **MINUTES**

To confirm and sign the Minutes of the meeting held on as a correct record.

4 **PETITIONS**

The Head of Corporate Services to report, in accordance with Council Procedure Rule No. 13, the receipt of any petitions submitted to the Chief Executive.

5 **QUESTIONS FROM MEMBERS**

The Chairman to answer any questions on any matters in relation to which the Council has powers or duties which affect the District and which fall within the terms of reference of the Committee of which due notice has been given in accordance with Council Procedure Rule No. 15.4 – (a) and (b).

6 WHIPPING DECLARATIONS

In accordance with Call-In Procedure Rule 42.3, Members to declare in respect of items where a party whip has been applied.

7 CALL-IN: STRATEGY COMMITTEE MEETING HELD ON 10 JANUARY 2008 – CAPITAL PROGRAMME 2007/08

Paper No. The Head of Corporate Services to advise that following the Decision Notice circulated on 11 January 2008 outlining decisions taken by the Strategy Committee on 10 January 2008, a Call-In request has been submitted, and this is attached as Paper .

Paper No. In accordance with the procedures on Call-Ins, a copy of the report the subject of the Call-In, Paper , is attached. Any updated information considered relevant will be provided to the meeting.

Stage 1

The Decision has been called-in by 5 Members. It is for the Committee to decide if the matter should be considered further.

The Committee's discussion should focus on the reasons given for the Call-In, which are contained in the Protocol for the Use of the Call-In Procedure and are set out in abbreviated form below
–

- (i) There is reasonable concern over the lawfulness of the Decision***
- (ii) The Decision appears to be –***
 - (1) contrary to the budget, or policy framework or strategies***
 - (2) inconsistent with any other policy agreed by the Council or Strategy Committee***
 - (3) inconsistent with previous recommendations of an Overview and Scrutiny Committee that have been accepted either by Council or the Strategy Committee***
- (iii) The Strategy Committee has or appears to have –***
 - (1) overlooked some relevant and material consideration***
 - (2) acted unreasonably in failing to consult relevant stakeholders on some relevant and material issue***
 - (3) taken the Decision contrary to the decision-making principles of Article 12 of the Constitution***
 - (4) taken the Decision outside its Terms of Reference***

If the reason for referral does not meet one or more of the above conditions, the Decision must be accepted.

If there is cause to consider the Decision further, the Committee will move on to Stage 2.

Stage 2

The Committee to hear evidence relating to the Decision.

The Committee will seek to determine if there is evidence of any potential failing identified at Stage 1.

The following will be the usual order of appearance:-

- (a) The author of the call-in report notifies Members of Overview and Scrutiny Committee of the updated position.
- (b) The “call-in” Members (one or all) make a presentation of their reasons for call-in.
- (c) Members of Overview and Scrutiny Committee may question them.
- (d) The Chairman of the Strategy Committee (or his or her nominated representative) explains why the decision was made.
- (e) Members of Overview and Scrutiny Committee may question him/her.
- (f) Any other contributions from representatives from outside the Council.
- (g) Members of Overview and Scrutiny Committee may question him/her.
- (h) The author of the report presents his/her papers with or without comments. The Officer is not expected to make a further presentation.
- (i) Members of Overview and Scrutiny Committee may question him/her.
- (j) Member of the Strategy Committee (as above) to respond.
- (k) Discussion takes place ***and the Committee moves on to Stage 3.***

[Note: The Chairman of the Overview and Scrutiny Committee will have the discretion to operate the above process flexibly where it is considered that changes would be conducive to the effective performance of the Scrutiny role.]

Stage 3

The Committee to assess the evidence and determine whether or not the Decision should be referred back to the Strategy Committee or to the full Council.

Having discussed the evidence, the Committee will vote either to –

- (a) accept the Decision, or***
- (b) request that the Decision be reconsidered, and give reasons for the reconsideration, which must fall within one of the categories set out in the Protocol for Use of Call-In Procedure, or***

if the Strategy Committee Member has indicated that he/she is prepared to take the matter back to the Committee, that will be noted and referred to together with the reason.