



Bristol City Council

Call in of a decision taken by the Executive

Overview and Scrutiny Rule OSR17 states that where **non-executive councillors** have evidence which suggests that the executive did not take the decision in accordance with Article 14 (Decision Making) of part 2 of the Council’s Constitution, at least **five non-executive members** may ask the proper officer to call-in a decision for scrutiny using the appropriate call-in form (attached). The decision making principles in article 14 are set out below and the members seeking the call-in should identify those principles in Article 14 of the Constitution which they believe have been breached.

Proportionality	The action must be proportionate to the desired outcome.
Due consultation	<p>(a) It may be appropriate to consult with communities, businesses and other third parties who have an interest in the matter. In some cases minimum consultation requirements are prescribed in law.</p> <p>(b) The council is required to act in the interests of the public as a whole so the decision desired by consultees may not necessarily be the right decision to make.</p>
Taking of professional advice from others	Professional advice from the council’s legal, financial and other specialist staff is always essential for the executive.
Respect for human rights	The Human Rights Act 1998 is of great importance to local authorities. Any decision which may breach and article or protocol of the Act should be subjected to “anxious scrutiny” and professional advice sought.
A presumption in favour of openness	Decisions taken by executive members or officers should be taken under this presumption. Access to material contributing to a decision should be made available to anyone with a legitimate interest in it unless this would involve disclosing exempt or confidential information
Clarity of aims and desired outcomes	Decision makers must be clear as to what they are seeking to achieve and why. This will often require thoughtful consideration of other options.
Due regard to public sector equality aims	The Equalities Act 2010 requires that all decisions taken must have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited under the Act; (b) advance equality of opportunity between equality groups and (c) foster good relations between equality groups.

Procedure

1. Where a decision is made by the executive or a key decision is made by an officer with delegated authority from the executive, or under joint arrangements the decision will come into force, and may then be implemented on the expiry of five clear working days from the date the decision was taken unless the decision is called-in. The 5 clear working days run from 8.30am on the day **after** the decision was taken and exclude any day when the Council’s offices are shut - i.e. weekends and bank holidays.

2. The proper officer will first satisfy themselves that the following requirements have been met:
 - (i) the call-in notice has been received within the prescribed timescales
 - (ii) the decision taker's decision has been properly identified and described
 - (iii) the members seeking the call-in have identified those principles of Article 14 of the constitution which they believe have been breached.

3. If the requirements are met the proper officer will call-in the item and within five working days of the request, give notice as to the date on which the call-in will be considered by a Call-In Sub Committee, which will be held within 5 days of the request for call-in being approved by the Proper Officer. If a debate at Full Council is decided by the Call-In Sub-Committee then this will be held within ten days at an extraordinary meeting of the full Council or at the Lord Mayor's discretion.

The following points relate to established working practice in relation to call in:

- The call-in procedure should not be abused or used to unduly delay decisions or slow down the process of decision making
- Members should try to avoid calling in matters which are already within the agreed work programme of a scrutiny commission
- To give notice of a call in, councillors **must use** the form attached to these notes. It should be detached and completed and **send to the Proper Officer (i.e. Shahzia Daya, Service Director – Legal and Democratic Services.)** Members are strongly recommended to deliver their notice in person, or to email the form
- The form must be filled in fully - members must explain in detail how in their view, the decision taken breaches any of the principles in Article 14 of the Constitution. They must also be meticulous in identifying which part of any executive decision they are referring to. Failure to do so could result in the suspension of a complex decision, when in fact the callers in only wish to object to a small part of it.
- The Proper Officer will review all call ins and may reject or refer back to members, any call in notice which does not fully meet the requirements specified in the Constitution

Early submission of a call in is advised. This will maximise the time available to the executive to formulate a response and for arrangements to be made for appropriate representatives of an executive to attend the Call In Panel which will discuss the decision called in.

Bristol City Council

Request to the Proper Officer to call in an Executive Decision

This form should only be completed after the accompanying guidance notes have been read. It should be completed fully in order that the Proper Officer has an adequate basis upon which to call in the decision.

Please return the call-in form to Shahzia Daya, Proper Officer

Email shahzia.daya@bristol.gov.uk

Names of the non-executive members requesting the proper officer to call the decision in :	Cllr Tim Kent Cllr Graham Morris Cllr Harriet Clough Cllr Steve Jones Cllr Gary Hopkins
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Date and time request submitted :	
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Details of Executive (or officer acting under delegated power)	Cabinet Decision by the Mayor and Cllr Paul Smith.
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Decision number and date	Cabinet Decision 7 th March: Agenda Item 11: Hengrove Park and Hartcliffe Campus Housing Delivery
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Description of decision or part of decision <i>(if you only quote the subject then everything in the decision could be suspended pending the Call In Sub meeting)</i>	Call in of entire decision recommendations 1-10.
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<p>State which principle(s) in Article 14 of the Constitution you believe the executive has breached and set out any evidence to support this.</p>	<p>The decision has breached the following articles of the constitution:</p> <p>Consultation:</p> <p>The report to the Cabinet referred to external consultation having taken place with the Hengrove and Stockwood neighbourhood Partnership, the Hengrove and Whitchurch Park Planning Forum and some local interested bodies.</p> <p>The report did not give any indication of the result of the feedback, the amount of people involved nor the strength of feeling of those involved.</p> <p>During the Cabinet debate the relevant Cabinet member for Housing stated that he believed the ‘residents of Hartcliffe and Hengrove supported the proposals and cited evidence of this belief that 200 people are not here waving placards.’</p> <p>He nor relevant officers present did not inform the meeting that around 150 residents attended the September Neighbourhood Partnership meeting and were strongly opposed to the proposals presented. He also did not inform the meeting that at a meeting of the Hengrove and Whitchurch Park Planning Forum around 50 residents called for the current proposals for Hengrove Park to be halted and for the development of a full master plan be adopted instead.</p> <p>The failure to inform the Cabinet about the outcome of previous consultations within the community and to mislead the Cabinet into thinking there was not strong public opinion that had already been expressed to the council undermined the proper decision making process.</p> <p>Clarity of aims and desired outcomes</p> <p>The report is contradictory and its aims are not clear.</p> <p>The report claims that Hengrove Park will have 1000-1500 units subject to consultation, ground conditions, planning etc yet Appendix 3 states that there is 31ha of developable area (excluding the Kier proposal) and section 4.4.3 states the site would deliver c1400 units plus Kiers 259 units.</p> <p>The report also goes on to state that there is a potential to create a range of parkland/open space totalling 29ha at Hengrove Park (this would replace the agreed policy of 30ha from 2005).</p> <p>The decision is unclear as it sets a maximum size for park at 20ha, gives a density for development at 54 units per ha but implies that the total number of units could fluctuate between 1000 and 1500. Only at a delivery of around 1500 units would the density and park figures be achievable.</p> <p>It would seem the claim that the final number of units is not yet fixed is misinformation. In addition, at the meeting the relevant Cabinet Member tweeted to the Evening Post that the unit numbers were ‘1700 – 300 on Hartcliffe Campus’.</p> <p>A14.03 Decisions reserved to the full council</p> <ul style="list-style-type: none"> (b) Key Decisions (ii) A decision Taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules (EPR) set out in part 4 of this
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constitution

A4.02 Functions of the full Council section (d)

Only Full Council can make a decision about a matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework...

The decision taken by the Cabinet was in conflict with the Council's own adopted policy framework. In particular, the local plan. A specific conflict recognised at the meeting was that the local plan states that future development plans for Hengrove park are to include playing fields but the decision by the Cabinet is to relocate the current playing field facilities off Hengrove Park. The local plan requires a large, high quality park but the feasibility plan proposes severing open land into 3 or 4 smaller pockets not one singular large high quality park as stated in the local plan. The local plan estimates 1,000 homes and uses throughout the document a formula of 50 units per hectare. This would mean the local plan authorises development of up to 20 ha not the 31 proposed.

The decision taken is in conflict with the local plan, an adopted policy of the council, so was not a lawful decision that the executive could take.

Signed by Councillors

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