



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	(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. (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.
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. Tim O'Gara, 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 Tim O’Gara, Proper Officer

Email Tim.OGara@bristol.gov.uk

Names of the non-executive members requesting the proper officer to call the decision in :	CLlr Steve Smith CLlr Richard Eddy CLlr John Goulandris CLlr Claire Hiscott CLlr Mark Weston
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Date and time request submitted :	Tuesday, 9 th February 2021 16.30
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Details of Executive (or officer acting under delegated power)	CLlr Craig Cheney – Designated Deputy Mayor for Finance, Governance & Performance
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Decision number and date	Agenda item 5 Wednesday, 3 rd February 2021
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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>	<p>Housing Revenue Account Budget Proposals for 2021/22 Cabinet:</p> <p>7. Authorises the Executive Director of Growth and Regeneration, in consultation with the Section 151 Officer and the Cabinet Member for Finance, Governance and Performance (with appropriate legal and procurement advice), to implement the HRA Development Programme set out in Appendix A3 giving authority to:</p> <ul style="list-style-type: none">• Commit funding of up to £103.7m on the HRA Development programme;• Allocate funding between the ‘developer-led’, ‘land-led’, property conversions and estate regeneration programmes as appropriate;• agree sites for the programme;• agree financial expenditure and tenure;• authorise bidding and accept Homes England grant where deemed applicable;• appoint all contractors and professional services associated with the proposed development through a procurement compliant process, subject to progress reports on the HRA Development Programme being brought back to Cabinet on a quarterly basis; and <p>8. approve deals for ‘developer-led’ schemes with all deals to be reported as part of the Officer Executive Decision process.</p>
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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><u>Proportionality</u></p> <p>It is clearly unreasonable to relax the requirements, rules or regulations governing tendering processes when contracting with potential developer(s). These standard stipulations are normally strictly applied to every other contract/tender for goods or services and set at predetermined threshold levels.</p> <p><u>A presumption in favour of openness</u></p> <p>The move to devolve or delegate decision-making for significant HDP [indicative budget of £40m] contracts and, with particular reference to 'developer-led' schemes to a senior officer -without scrutiny oversight - is not conducive to transparency in decision-making nor is it usually regarded as an example of good practice for obvious reasons (i.e undue influence, bias etc). Even consultation with political leads before tendering does not provide sufficient safeguards due to recognised imbalances in specialist knowledge and experience. Such arrangements have failed local taxpayers in the past – as highlighted by external auditors in their recent review of governance in respect of Bristol City Council subsidiaries.</p> <p><u>Due regard to public sector equality aims</u></p> <p>Delegated authority in procurement is also stated as a positive move in the EqIA as this will result in greater efficiencies and expedite work programmes without the need for 'additional approvals'. This ignores the important role of multiple auditing layers or trails in procurement processes.</p>
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Signed by Councillors










