



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	(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 an 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.
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 10 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, 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 Martin Fodor Cllr Lorraine Francis Cllr Tom Hathway Cllr CHRISTINE Townsend. Cllr Tom Wye.
--	---

Date and time request submitted :	5:00pm 12/03/2024
-----------------------------------	-------------------

Details of Executive (or officer acting under delegated power)	Councillor Ellie King, Cabinet Member with responsibility for Public Health and Communities
--	---

Decision number and date	05/03/2024 – Cabinet Item 16 – Allotment Rents and Water Charges
--------------------------	--

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>	<ol style="list-style-type: none"> 1. Approves the revised allotment rent and charges as set out in Appendix A1. 2. Approves a phased introduction of the revised allotment rent and charges over a two-year period in 2025/26 and 2026/27 as outlined in this report. 4. Note the consultation outcome as set out in this report and Appendix B.
---	--

State which principle(s) in Article14 of the Constitution you believe the executive has breached and set out any evidence to support this.	<ol style="list-style-type: none"> 1. Due consultation Inadequacy of Consultation - Key issues: <ol style="list-style-type: none"> (i) Rent increase proposals were very complex and mixed in with the proposals for the New Rules (ii) Many relevant people were not notified – e.g members of
--	--

Community Groups and Co-Workers - who are not, as individuals, Council Tenants.

- (iii) Many tenants never received the information about the consultation (info. from BAR's own recent survey)

The consultation didn't adhere to the Gunning Principles which are applicable to Local Authority Consultations. The Gunning Principals have not been met:

- a. 'proposals are still at a formative stage' – new rental figures were given prior to any consultation, without any alternatives or discussion with the Forum or tenants
- b. 'there is sufficient information to give 'intelligent consideration'' – insufficient information was given, particularly in relation to budgets
- c. 'there is adequate time for consideration and response' – key information wasn't supplied until Cabinet papers went online, and these were posted late
- d. 'conscientious consideration' must be given to the consultation responses before a decision is made – the results of the consultation in relation to the rent increases were completely ignored –

Survey: Results ignored

The Legal Advice in the Report states that 'the consultation responses must be conscientiously taken into account when finalising the decision'.

The Council has failed to show that it has taken consideration of these responses in that they have proceeded with increases against a survey showing only 13% agree with them and 78% disagree.

2. A presumption in favour of openness –

Late or inadequate provision of essential information.

- (i) Allotment holders had to do FOI requests to get budget info. for 2017-2022 but no budgets have been provided for 22/23 or 23/24, even though Cllr King said in the relevant Cabinet meeting that 'There were two sets of figures that were released... The first set showed the income and expenditure which is currently going on in the service, and the second set is the income and expenditure which we want to achieve over the next fifteen years.' – *no current expenditure figures have been made available – only income figures* – thus making it impossible to scrutinise the projected budget
- (ii) The Report, including the results of the Survey and the Equalities Impact Assessment, were posted 'out of time' for the Cabinet meeting on 5th March. It was all a day late; an extension was granted for submission of questions to 29 Feb, but there was no extended deadline for statements. On 28 February the Council's

website went down, so people couldn't access papers at a crucial time.

- (iii) Lack of transparency re. Expenditure: One justification for the increases is a proposed increase in expenditure on Buildings and Infrastructure. Ignoring 'maintenance', this shows an 8-fold increase to £233K on works, annualised over 15 years to £3.5M and yet Parks have not identified a single site or project that will benefit from this money. Allotment holders were advised that the figure was based on 'recent works' but no details have been supplied.

3. Due regard to public sector equality aims

Inadequacy of the Equalities Impact Assessment

- (i) In the 2022 Equality Impact Assessment regarding a 25% allotment rent rise, BCC said that there would be a negative impact on disabled people, older people and black and asian people. However, in the new EIA it's stated there will be 'no disproportionate impact' on those groups, despite the rents increasing by much higher percentages.
- (ii) The only protected characteristic which includes any text at all about potential impacts is disability - and the text does not describe any potential impacts (just a statement regarding the number of disabled persons who participated in the consultation). Similarly, under socio-economic status, the text relating to potential impacts does not actually describe any impacts that the rent increases will have on people of different socio-economic groups
- (iii) The statement that no disproportionate impact for people with protected characteristics does not consider the consultation responses. Free text responses to the consultation included responses that the rent increases would negatively impact the ability of older people, young people, women, people on maternity leave, people from minority ethnic backgrounds, LGBT people, and people with religions/beliefs.
- (iv) No information about the demographics of tenants has been made available, nor of where the sites are. An FOI request from allotment holders revealed that no information is collected about the age, gender, ethnicity, or Disabled status of tenants – so how can BCC say that there will be no impact on people with protected characteristics? Mapping shows most sites are in areas of greatest food poverty & social deprivation – yet this was not in the EIA.
- (v) 79% of respondents to the consultation who live in the two most deprived deciles of the city said that they either disagreed or disagreed strongly with the rent rises – this wasn't reflected in EIA

- | | |
|--|--|
| | <p>(vi) 79% of disabled people who responded to the consultation said that they either disagreed or disagreed strongly with the rent rises – this wasn't reflected in EIA</p> <p>(vii) Some of the mitigations listed are not things which will mitigate the impact of rent increases on persons with protected characteristics. For example - contacting individuals about the consultation by post is not a mitigation against the impact of rent increases.</p> |
|--|--|

Signed by Councillors

..... Martin Fodor
..... L. Kencs
.....
.....
.....

CLLR MARTIN FODOR.
CLLR LORRAINE FRANCIS
CLLR TOM HATHWAY
CLLR Christie Townsend
CLLR Tim Wye