

## **LEGAL FRAMEWORK FOR CALL-IN AND NEXT STEPS IN THE PROCESS**

### **Purpose**

1. A request for call-in, relating to a decision taken by Cabinet on 12<sup>th</sup> June 2025 on a “Protocol for Flying Flags at County Hall”, was made on 14<sup>th</sup> June 2025 and determined by the council’s Chief Executive to be validly made.
2. The purpose of this guidance note is to set out the legal and constitutional framework for how call-in operates and to clarify the next steps in the process.

### **Legal Framework**

3. The phrase “call-in” is not used in legislation, but is a mechanism created by the Local Government Act 2000 to enable rigour, scrutiny and accountability to the Cabinet’s decision-making process.
4. The Centre for Governance and Scrutiny describe call-in as a “mechanism for councillors to intervene when they feel that a decision being made by the executive needs to be revisited (or possibly changed)” [CfGS “Good Scrutiny Guide 2019”] Call-in cannot overturn or reverse a decision but can result in a recommendation that a decision be reconsidered or withdrawn. It is best regarded as an urgent and serious request from councillors to the executive decision maker that they should think again [CfGS “The use of call-in: guidance for English authorities”].
5. There is a two-step legal process for the establishment of call-in at law.
  - (i) s9F(2) of the Local Government Act 2000, as amended. This provides the general power for overview and scrutiny committees to review or scrutinise executive decisions.
  - (ii) s9F(4) of the same Act, which provides a specific power to review or scrutinise a decision made but not implemented.
6. This second power itself provides scrutiny with the basis for further powers:
  - (i) To recommend that the decision be reconsidered by the person who made it.
  - (ii) To arrange for the call-in to be considered further by a meeting of full Council.

### **Constitution**

7. Rule 14 of the Overview and Scrutiny Procedure Rules sets out the procedure to be followed for the call-in of key decisions. This rule is appended to this guidance note. Councils set their own definition of what is a key decision

within the parameters set by national legislation. Each council also has its own rules, set out in its constitution, for how call-in operates.

### Budget and Policy Framework

8. Article 4.02 (b) of the Council's Constitution confirms that only the full County Council may approve the Policy Framework.
9. Article 4.02(c) confirms that only the full County Council may make decisions about any matter discharging an Executive function which is covered by the Policy Framework where the decision-maker is minded to make it in a manner which would be contrary to the Policy Framework. It is the view of officers that the decision of the Cabinet made on 12 June revoking the flag flying protocol, agreed by the political Group Leaders in the last Council, is not a decision that is contrary to the Policy Framework.

### Next Steps

10. The Commission can agree one of the following three actions:

A.	The Commission decides <u>not to refer the matter back</u> to the Cabinet for reconsideration	The decision shall take effect on the date of the Scrutiny Commission meeting.
B.	The Commission decides <u>to refer the matter back</u> to the Cabinet for reconsideration. The Commission will be required to set out the nature of its concerns in writing and any recommendations for the Cabinet in reconsidering the decision.	The Cabinet must meet within 10 working days to reconsider the decision – it may amend the decision or decide to proceed as planned.
C.	The Commission decides <u>to refer the Cabinet decision to full County Council</u> , setting out the nature of its concerns in writing.	<p>The matter will be added to the County Council agenda for the meeting on 2 July. The County Council can decide as follows:</p> <ol style="list-style-type: none"> <li>1. That the County Council does not object to the call-in decision. In this case no further action is necessary and the Cabinet decision can be implemented on the same date.</li> <li>2. That the County Council objects to the decision, giving its views, and refers it back to the Cabinet for reconsideration. Cabinet will then meet within 10 working days of the full County Council's request to reconsider the decision, take a final decision and proceed to implement it.</li> </ol>

### Background Papers

The County Council's Constitution

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=1187&MId=8155&Ver=4&Info=1>

The Equality, Diversity and Inclusion Strategy 2024 – 28

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=134&MId=7389&Ver=4>

## **APPENDIX**

### **Call-in (Rule 14 of the Overview and Scrutiny Procedure Rules in the Council's Constitution)**

#### **RULE 14** ***Call-in***

- (a) Call-in should only be used in exceptional circumstances. To ensure that call-in is not abused, nor causes unreasonable delay, it will only apply to Key Decisions and will also be subject to the conditions described in this Rule.
- (b) When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a Key Decision is made by an officer with delegated authority from the Executive or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at County Hall normally within 2 days of being made. Chairmen of all overview and scrutiny committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (c) That notification of the decisions will bear the date on which it is published and will specify that a Key Decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless it has been called in under this Rule. Those decisions which are Key Decisions but which will require further consideration by the Executive at a later stage prior to implementation, may be proceeded with immediately (as in the case for example of a decision to proceed with consultation on a proposal). Those decisions which are not Key Decisions are not subject to call in under this Rule and may be implemented immediately.
- (d) During that period, the Chief Executive shall call-in a relevant Key Decision for scrutiny by a relevant overview and scrutiny committee only if so requested in writing by any four members of the Council, at least two of which must be members of the Scrutiny Commission. The written request shall include a cogent explanation of the reasons for the call-in.
- (e) The call-in notice can be withdrawn at any time in writing by the four members who originally invoked the call-in procedure.
- (f) The Chief Executive shall notify the decision-taker (where the decision was taken by the Executive, the Leader) of the call-in.
- (g) The Chief Executive shall call a meeting of the relevant overview and scrutiny committee on such date as he/she may determine, where possible after consultations with the chairman of the committee, and in any case the meeting shall be held within 10 working days of the decision to call-in.
- (h) If, having considered the decision, the overview and scrutiny committee is still concerned about it, then it may refer it back to the decision-making person or

body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full County Council. If referred to the decision maker, he/she/it shall then reconsider the decision within a further 10 working days, amending the decision or not, before adopting a final decision.

- (i) If following a call-in, the overview and scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter either back to the decision making person or body, or to the County Council, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of the 10 day period referred to in (g) above, whichever is the earlier.
- (j) If the matter is referred to full County Council and the County Council does not object to the called-in decision, then no further action is necessary, and the decision will be effective in accordance with the provisions below.
- (k) The Chief Executive will consult with the Leader to determine whether the nature of the called-in decision requires that an extraordinary meeting of the County Council be convened or whether the next ordinary meeting of the County Council will be appropriate.
- (l) The County Council has no power to make final decisions in respect of an Executive decision, unless that decision is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless that is the case, the County Council can only refer any decision to which it objects back to the decision-making person or body, together with the County Council's views on the decision, leaving the final decision to the decision maker. That decision making body or person will choose whether to amend the decision or not, before reaching a final decision and implementing it.
- (m) Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider within 10 working days of the County Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the County Council request.
- (n) If the County Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the County Council meeting or expiry of the period in which the County Council meeting should have been held, whichever is the earlier.
- (o) Where an Executive decision has been taken by an area committee then the right of call-in shall extend to any other area committee which resolves to refer a decision which has been made but not implemented to a relevant overview and scrutiny committee for consideration in accordance with these provisions. An area committee may only request the Chief Executive to call-in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call in shall apply as if the call in had been exercised by members of a relevant overview and scrutiny committee.

*[Note: the County Council decided, with the concurrence of the Executive, that no individual member of the Executive will be authorised to take an executive decision; such decisions will be taken either by the Executive collectively at a properly convened meeting or by professional officers under the published schemes of delegation.]*

*The County Council has yet to decide to appoint any area committees. The provisions in this Rule will, therefore, not apply to area committees until such time as they are appointed and, even then, only when they are given any delegated powers]*