

**REPORT FROM: CORPORATE DIRECTOR**

**TO: COUNCIL**

**DATE: 4<sup>th</sup> AUGUST 2022**

**Report Author: Philip Mousdale**

**Tel. No: 01282 661634**

**E-mail: Philip.mousdale@pendle.gov.uk**

**CALL IN PROCEDURE**

**PURPOSE OF REPORT:**

As requested at Annual Council to provide information on the operation of the call in procedure and suggest improvements.

**RECOMMENDATION**

That the Group Leaders and Corporate Director scrutinize the reasons given in call in notices to ensure that a call in is appropriate and the procedure is consistent and transparent.

**REASON FOR RECOMMENDATION**

To improve the call in procedure.

1. At the Annual Council meeting the Council requested a report to this meeting on possible improvements to the call in procedure for decisions of the Policy and Resources Committee.
2. The following is an extract from the report to the Council in May 2017 on the change from executive arrangements to a committee system specifically on the retention of a call in procedure:
  - *A Committee System is fundamentally different to an Executive as regards finality and certainty of decision making.*
  - *The legal position with an Executive is that, subject to call in, it can get on with taking decisions and managing the Council within the framework set by the Council. Only where there is a proposal to go beyond that framework i.e. to change or depart significantly from a framework policy or incur significant expenditure outside the approved budget is it necessary for the matter to go to full Council.*

- *Under a Committee system all the decisions of the Policy and Resources Committee would potentially be capable of being overturned or altered at Council and this is the case even though on the face it the Council has delegated full decision making.*
  - *Clearly this has the potential to lead to delay and confusion and reticence to take action on decisions when there is a difference of political opinion at the Committee meeting and the possibility of a different decision at the Council meeting.*
  - *The Governance Working Group considers that this can be mitigated by having a call in procedure similar to what the Council has now under scrutiny arrangements. A refinement would be that the call in notice would have to be signed by members from at least two of the political groups.*
  - *The call in would be discussed with the three Group Leaders. If necessary a meeting would be convened with the callers in to explore the merits of the issue.*
  - *Such an arrangement would give more certainty. The expectation would be that if a decision is not called in then there would be no attempt to overturn or change it at Council and this expectation should be embodied in the Constitution. At the same time numerous calls in and resultant meetings would be cumbersome and lead to delay and Members would need to guard against this.*
3. This is the call in procedure as it currently appears in the Council constitution.

***'When a decision is made by the Policy and Resources Committee, the decision shall be published by electronic means normally within 1 day of being made. All members of the Council will be notified of all decisions within the same timescale by the Corporate Director.***

***That notification will specify that the 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 is called in. Within 3 days of notification any three members of the Council (representing at least two of the political groups) may sign and deliver to the Corporate Director a call-in notice stating why they feel that the decisions should be considered further.***

***The Corporate Director will then consult with the Group Leaders and will obtain each of their views as to whether it is appropriate for the decision to be referred back to the Policy and Resources Committee for re-consideration or that no further action be taken on it. If necessary a meeting would be convened with the callers in to explore the merits of the issue.***

***If the majority view of the Group Leaders is that it be referred back to the Policy and Resources Committee for re-consideration the Corporate Director will arrange for this to be done to the next meeting. All action on the matter will be suspended until the decision has been confirmed or otherwise by the Policy and Resources Committee.***

***This procedure shall not apply where the decision is urgent. A decision will be urgent if any delay likely to be caused by the call-in procedure would seriously prejudice the Council's or the public interest.***

***The record of the decision shall state that in the opinion of the Policy and Resources Committee it is an urgent one and therefore not subject to call-in. The Corporate Director must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.'***

4. The new Committee system was implemented in May 2018. Since then there have been 45 meetings of the Policy and Resources Committee. There have been 14 decisions on which call in has been triggered as follows:
- (i) Community Investment Fund
  - (ii) Development Brief for the Extension of Lomeshaye Industrial Estate
  - (iii) Disposal of Property Interests
  - (iv) Future Provision of Grit Bins
  - (v) Holt House, Colne – Community Asset Transfer Request
  - (vi) Income Review 2018/19 – Disabled Facilities Grants and Bulky Household Waste
  - (vii) Land at Thomas Street, Colne
  - (viii) Enforcement of Cemeteries Regulations
  - (ix) Land at Bold Street, Colne
  - (x) Planning application 19/0763/HHO – 2 St Paul’s Road, Nelson
  - (xi) Planning application 20/0450/HHO – 3 Clegg Street, Brierfield
  - (xii) Investment in Leisure Facilities
  - (xiii) Trees at Klondyke
  - (xiv) Lorry Park, West Close Avenue
5. Of the 14 call in notices four did not proceed due to a change in circumstance or lack of support from Group Leaders. Three led to a change to the original decision and seven led to no change. It is worth noting that between May 2018 and May 2021 the Council was under no overall control. As such there was arguably more scope for changes of opinion and decision.
6. It is however also worth noting that the call in procedure does sometimes lead to little more than a restatement of the same arguments at the two Policy and Resources meetings and the call in meeting. Call in notices sometimes contain only a cursory explanation of the reasons why the callers wish to do so. The reasons for the call in should add value e.g. because of a perceived deficiency in the way the original decision has been arrived at, or due regard was not given to the evidence, and/or the evidence was not weighed or analysed appropriately.
7. Councillors are also reminded of the decision taken at Annual Council to move back to executive arrangements in May 2023. Under the Localism Act 2011 executive arrangements must include provision for the appointment of at least one Overview and Scrutiny committee which must have the power to review or scrutinise decisions made or action taken by the Executive.
8. In summary therefore it is recommended that for the remainder of the municipal year the call in procedure stays substantively the same but that more scrutiny be paid by the Corporate Director and Group Leaders to the reasons given to ensure that a call in is appropriate and the procedure is consistent and transparent.

## **IMPLICATIONS**

**Policy:** None arising directly from the report.

**Financial:** None arising directly from the report.

**Legal:** A council operating executive arrangements must appoint an overview and scrutiny committee which has the power to recommend changes to a decision which has been made but not yet implemented (known as “call in”). A council operating a committee system is not required to do appoint such a committee and Pendle has not done so. However it has put in place the procedure set out above.

**Risk Management:** None arising directly from the report.

**Health and Safety:** None arising directly from the report.

**Sustainability:** None arising directly from the report.

**Community Safety:** None arising directly from the report.

**Equality and Diversity:** None arising directly from the report.

## **APPENDICES**

None

## **LIST OF BACKGROUND PAPERS**

None