

ARUN DISTRICT COUNCIL

REPORT TO THE CONSTITUTION WORKING PARTY ON 30 NOVEMBER 2020

SUBJECT: REQUESTS FOR CALL-INS

REPORT AUTHOR: Nigel Lynn Chief Executive
DATE: 30 November 2020
EXTN: 37600
PORTFOLIO AREA: Corporate Support

EXECUTIVE SUMMARY:

This report proposes an amendment to Part 6 Section 2 of the Scrutiny Procedure Rule 13.4 to allow a broader range of Members to initiate in call-in requests.

RECOMMENDATIONS:

It is recommended to Full Council that:

Council agrees to amend the Council's Constitution at Part 6, Section 2, Scrutiny Rule 13.4 as follows with immediate effect

"13.4. If a request for a call-in is received by the Group Head of Policy within the period between the publication of the decision and the effective date, he/she shall call-in the decision for scrutiny by the Committee. For it to be valid, the request must be:

- a) in writing and identify the lead Member of the call-in,*
- b) specify the relevant decision, which is to be the subject of the call-in,*
- c) satisfy at least one of the criteria set out in paragraph 13.8, and*
- d) be supported by at least any five Members of the Council "*

2. BACKGROUND

The purpose of the Cabinet (Executive) Model of Government was that the political management systems of councils were to encourage strong leadership from a small group of Councillors held to account by strong Overview and Scrutiny committee practised by a wider group of Councillors. The Arun Constitution has translated this purpose in relation to calls in's by requiring that call-in are initiated by Members from more than one political group in the following words:

CONSTITUTION v9.6, PART 6, SECTION 2

13.4. If a request for a call-in is received by the Group Head of Policy within the period between the publication of the decision and the effective date, he/she shall call-in the decision for scrutiny by the Committee. For it to be valid, the request must be:

- in writing and identify the lead Member of the call-in,
- specify the relevant decision which is to be the subject of the call-in,
- satisfy at least one of the criteria set out in paragraph 13.8, and
- be supported by any five Members of the Council who do not have pecuniary interests with regards to the subject of the call-in PROVIDED that the Members represent more than one political party.

Recent events have drawn attention to the possibility that the underlined part of the Arun Constitution has not kept pace with political composition of the Council which now comprises Members who have chosen not to be treated as a part of a political grouping or political party. These events have triggered the need for amending this provision in order to make Scrutiny procedures accessible to all members.

Officers have carried out a rapid review of how other Councils operate call-in procedures. Many Councils broadly follow the national model constitutions template which simply provides for a specified number of councillors' to sign a call in. However a study by the Centre for Public Scrutiny (CfPS) (2014) on "calls- ins" has shown that some local authorities for their own local reasons have diverged from the model. The study states:

"Who can exercise call-in powers? The English "New council constitutions" guidance, and the Welsh guidance, suggest that two councillors on a given overview and scrutiny committee might be required to submit a request for a call-in, or that multiple scrutiny chairs may need to be involved in certain circumstances. Different councils have different requirements, however. Basildon and Derby requires three members of the Council to request a call-in for it to be valid. In Bracknell Forest, the Chairman and two additional members of an overview and scrutiny committee, or any five other members of the Council, are required for a valid call-in. In Wigan, six committee members are required to agree for there to be a call-in. There is no trend relating to these requirements when compared across urban or rural, district, county or unitary, Conservative, Labour or Liberal Democrat authorities. However, in some authorities, the requirements on who can and cannot exercise a call-in acts as a "de facto" bar to call-in being exercised at all. For example, a council's constitution may require that three councillors on a given committee must request a call-in where the maximum number of opposition councillors on any committee is two, or may require that the chair of a committee "sign off" a call-in request, when all of those chairs are members of the majority party.

Following the rapid review and having regard to the views of Leading Members officers have now produced four options for consideration. These are set out in the next paragraph.

3. OPTIONS:

Members have four options to consider

Option 1

Do nothing as the Scrutiny Procedure Rules cease to be part of the constitution in May 2021.

Option 2

Council agrees to amend the Council's Constitution at Part 6, Section 2, Scrutiny Rule 13.4 as follows with immediate effect

~~Adopt the option which recognises the existence of Individual Members and Independent Groups which are not political groups as well as Independent Political Groups as follows~~

~~"13.4. If a request for a call-in is received by the Group Head of Policy within the period between the publication of the decision and the effective date, he/she shall call-in the decision for scrutiny by the Committee. For it to be valid, the request must be:~~

- ~~a) in writing and identify the lead Member of the call-in,~~
- ~~b) specify the relevant decision, which is to be the subject of the call-in,~~
- ~~c) satisfy at least one of the criteria set out in paragraph 13.8, and~~
- ~~d) be supported by any five Members of the Council who do not have related pecuniary interests with regards to the subject of the call-in~~
- ~~e) the group submitting the call-in request comprises EITHER~~

~~Members from more than one political group as defined by Section 8 of The Local Government (Committees and Political Groups) Regulations 1990 OR individual members from one or more political Groups as defined, along with **individual independent** members who are not part of any political party or group."~~

Option 3

Adopt the option which is closer to the Model Constitution promoted by central government as follows:

~~"13.4. If a request for a call-in is received by the Group Head of Policy within the period between the publication of the decision and the effective date, he/she shall call-in the decision for scrutiny by the Committee. For it to be valid, the request must be:~~

- ~~a) in writing and identify the lead Member of the call-in,~~
- ~~b) specify the relevant decision, which is to be the subject of the call-in,~~
- ~~c) satisfy at least one of the criteria set out in paragraph 13.8, and~~
- ~~f) be supported by at least any five Members of the Council who do not have related pecuniary interests with regards to the subject of the call-in and not excluding Cabinet Members"~~

Option 4

Adopt the option which ensures that call-ins are not solely from members of groups represented in the Cabinet as the aim of the legislation was to ensure Scrutiny of Executive decisions.

“13.4. If a request for a call-in is received by the Group Head of Policy within the period between the publication of the decision and the effective date, he/she shall call-in the decision for scrutiny by the Committee. For it to be valid, the request must be:

- a) in writing and identify the lead Member of the call-in,*
- b) specify the relevant decision, which is to be the subject of the call-in,*
- c) satisfy at least one of the criteria set out in paragraph 13.8, and*
- d) be supported by at least any five Members of the Council*
- e) the Members supporting the call-in request are not all grouped in the political group or groups with seats in the cabinet.*

4. CONSULTATION: Consultation has taken place with Leading Members and option 3 appears to be the preferred option.

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council	NA	
Relevant District Ward Councillors	NA	
Other groups/persons (please specify)	NA	
5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial		NO
Legal		NO
Human Rights/Equality Impact Assessment		
Community Safety including Section 17 of Crime & Disorder Act		NO
Sustainability		NO
Asset Management/Property/Land		NO
Technology		
Other (please explain)		

6. IMPLICATIONS:

None beyond those appearing in the recommendation

7. REASON FOR THE DECISION:

The Council has a duty of continuous improvement and the recommended amendment improves the ability of all Councillors to initiate scrutiny call ins. It has immediate effect which means that members can get the benefit immediately even though a decision has been taken to not have a scrutiny function from May 2021.

8. BACKGROUND PAPERS:

The Council's Constitution and the Full Council agenda of 11 November 2020.

