

REPORT TO CABINET

Open		Would any decisions proposed :			
Any especially affected Wards	Operational	Be entirely within Cabinet's powers to decide		YES /NO	
		Need to be recommendations to Council		YES/ NO	
		Is it a Key Decision		YES /NO	
Lead Member: Cllr Stuart Dark E-mail: cldr.stuart.dark@west-norfolk.gov		Other Cabinet Members consulted: None			
		Other Members consulted: CPP 3 October 2022			
Lead Officer: Monitoring Officer E-mail: alexa.baker@west-norfolk.gov.uk Direct Dial:		Other Officers consulted: None			
Financial Implications YES/ NO	Policy/ Personnel Implications YES/ NO	Statutory Implications YES/ NO	Equal Impact Assessment YES /NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/ NO	Environmental Considerations YES /NO
If not for publication, the paragraph(s) of Schedule 12A of the 1972 Local Government Act considered to justify that is (are) paragraph(s)					

Date of meeting: 8 February 2023

CALL-IN OF OFFICER DELEGATED DECISIONS

Summary

The ability for Overview & Scrutiny Panels to call in decisions of the Executive is required by legislation, but the detail of the procedure for call-in is a locally determined matter for each Council. This Council's constitution does not list officer delegated decisions as decisions that can be called-in. It is recommended that they should be added to this list and Standing Orders duly amended.

Recommendation

That Standing Orders 12 and 30 be amended as set out in this report.

Reason for Decision

To ensure the Council's call-in procedure aligns with legislative requirements and best practice.

1 Background

1.1 This Council has a Cabinet & Leader governance structure. The explanatory notes to the legislation which introduced this form of governance structure state that the objective is to deliver greater efficiency, transparency and accountability of local authorities. The arrangements are intended to ensure that decisions can be taken more quickly and efficiently than in committee systems, that the individuals or bodies responsible for decision-making can be more readily identified by the public, and that

those decision-makers can be held to account in public by overview and scrutiny committees.

1.2 The counter-weight to the Cabinet model is the Overview and Scrutiny function. Part of this function is the mechanism to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive before the decision is implemented, with the option of referring the decision back to the decision-maker to recommend that the decision be reconsidered. This is termed a 'call-in'.

1.3 Call-in procedures are locally determined by each Council. This Council's constitution does not list officer delegated decisions as decisions that can be called-in. Historically, the only decisions of officers that could be called-in were key decisions, and because under this Council's constitution officers are not able to make key decisions, it was therefore unnecessary to include officer delegated decisions as those that could be called-in. This limitation on the type of officer delegated decisions that can be called in has now been removed, and therefore it is prudent to update the call-in procedures.

1.4 The recommendations proposed in this report were considered by the Corporate Performance Panel on 3 October 2022 and were approved.

2 Options Considered

- *Maintaining the status quo*: officers do make executive decisions and these ought to be captured as part of the checks and balances that CPP provides to the executive Cabinet model of governance within this Council.
- *Specifying a limitation on only key decisions of officers being capable of call-in*: this limitation can be assigned to a historical requirement and is not in line with current requirements.

The call-in procedure of each Council is locally determined and to bring this Council's procedures in line with best practice, the changes to Standing Orders are proposed to be made as set out in the section below. There is Government guidance which refers to the statutory requirements on recording officer delegated decisions in the following guidance note entitled: Open and accountable local government https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/343182/140812_Openness_Guide.pdf

Recommended changes to Standing Orders:

1.

12 The calling-in of Cabinet recommendations and executive decisions

12.1 Any Cabinet decision *or Cabinet recommendation to the Council*, delegated Cabinet Member's decision *or officer delegated decision* ~~or Cabinet recommendation to the Council~~, may be presented for call-in to the Corporate Performance Panel

....

12.8 Upon conclusion of the debate the Corporate Performance Panel will decide upon one of the following two courses of action:

- (a) support the Cabinet/Cabinet Member's *officer's* recommendation(s) or decision(s). In this case the recommendation(s) or decision(s) will, respectively, be free to pass to Council as they originally stood, or, be available for immediate implementation; or,
- (b) uphold the call-in.

12.9 If the Panel upholds the call-in it may then take one of three courses of action:

(a) report to Council, Cabinet or the relevant Cabinet Member *or officer* requesting that the Cabinet/Cabinet Member's/officer amend or substitute the recommendation(s) or decision(s); or,

(b) if the issue is considered urgent or straightforward, formulate a counter-recommendation or amendment; or,

(c) investigate the matter further at another meeting within thirty working days (beginning with the day after the issue of the notification of the call-in) and then follow the same process as set out above (12.8-12.10)

12.10 The Cabinet/Cabinet Member/*officer* may amend, substitute or withdraw any recommendation or decision in respect of any matter that has been called-in under paragraph 12.3 of this Standing Order.

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12.12 No decision of the Cabinet/Cabinet Member/*officer* that is called in under paragraph 12.3 of this Standing Order shall be acted upon (even if it is amended, substituted or withdrawn) until the call-in is either ended by the Corporate Performance Panel or approved by the Council.

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12.14 If the Corporate Performance Panel:-

(a) does not end a call-in within 30 days from the date of the decision which has been called in (and the recommendation or decision remains in dispute); or

(b) refers a call-in directly to Council under paragraph 12, the Council shall determine whether to approve the recommendation or decision that has been called-in or to revoke, vary, amend and/or remit it back to the Cabinet/Cabinet Member/*officer* for further consideration.

2.

30.5 Record of individual decision

As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Executive or ~~a key decision has been taken by~~ an officer, they will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected.

3 Policy Implications

The proposed recommendation will require a change to the Constitution and the changes will need to be captured in the next review of the Scrutiny and the Executive Protocol.

4 Financial Implications

There will be a resource implication in the Democratic Services team if there is an increase in the number of called in decisions. This will need to be kept under review if the number of call-ins is diverting resource away from other Council bodies.

Additional resource of the Chief Executive and Monitoring Officer will also be required if there is an increase in the number of called in decisions with regards to assessing the validity in acc

5 Personnel Implications

As above.

6 Environmental Considerations

None

7 Statutory Considerations

- Local Government Act 2000
- The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012
- The Openness of Local Government Bodies Regulations 2014

8 Equality Impact Assessment (EIA)

(Pre screening report template attached)

No direct impact.

9 Risk Management Implications

Increasing scrutiny of officer delegated decisions supports accountability and transparency, which will be reflected within the Annual Governance Statement.

10 Declarations of Interest / Dispensations Granted

None

11 Background Papers

None