



Northern Ireland
Assembly

Research and Information Service Briefing Note

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Call –in

This paper is in response to a request from the Environment Committee on the process for call in as stated under the Local Government Bill, and consideration of the process in other jurisdictions such as England and Scotland.

1 Local Government Bill

Call –in trigger

Clause 45 of the Local Government Bill allows for the reconsideration of a decision or recommendation made by the council or any committee of the council; also known as the process of call-in. The trigger for call-in requires that 15% of the members of the council (this percentage can be altered through regulations) must request for reconsideration, based on one or both of the following two grounds:

1. That a decision was not reached.

This is based on the failure of the process and is similar to the call-in used in English local authorities. According to the Department, it can be used if a decision hasn't been reached by the policy process, or where the framework has not been followed to reach a decision.

Once the call-in is requested, it goes for internal scrutiny and then it is returned back to the group to make the necessary changes.

2. That the decision would disproportionately affect any section of the inhabitants of the district in an adverse way.

As yet the only clarity on the meaning of “section” - is any section of the community/district that has a specified description.

According to the Department, this part is key to the new protection provided under the Bill. Where in the past the make-up of councils has not been equally proportionate to all sides of the community, this section is included to form a safety net to ensure that one section of the community is not impacted adversely compared to others.

The Department is of the opinion that if call-in is not limited to these grounds, there could potentially be the situation where call-in is requested on every decision where one party is not particularly happy with it. Therefore the Bill aims to strike a balance by providing enough protection without bringing the council to a standstill on a frequent basis.

Barrister/Solicitor

A barrister/solicitor is only used for reconsideration of a decision in relation to part 2 above (disproportionate impact on community). The clerk of the council sends it to a solicitor or barrister before reconsideration of the decision. The role of the solicitor/barrister is not to say whether the decision is right or wrong, but to assess whether the people who called it have a case e.g. what could be the impact of it, is it a valid call-in etc.?

Once an opinion has been reached by the barrister/solicitor, it is returned to the group where qualified majority vote (requiring >80%) is used to make the final decision.

The Department plans to develop some form of consistent criteria to be used by councils for the use of a solicitor/barrister, and also a set of parameters a solicitor/barrister must use to judge a call-in against.

England

Legislation

Call-in forms part of the system of executive decision-making in local authorities and was introduced by the [Local Government Act 2000](#). The legislation was consolidated in schedule 2 of the *Localism Act 2011*.

The relevant clause states:

(4) The power of an overview and scrutiny committee under subsection (2)(a) to review or scrutinise a decision made but not implemented includes power—

(a) to recommend that the decision be reconsidered by the person who made it, or

(b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the authority [i.e. to allow an overview and scrutiny committee to examine the decision].¹

The 2000 Act required local authorities to establish a separate decision-making executive – either an elected mayor and cabinet or a leader and cabinet, with a series of overview and scrutiny committees monitoring their decision-making. Call-in was one of the tools available to the overview and scrutiny function to ensure that executive decision-making was monitored.

The 2000 Act allows the appropriate Overview and Scrutiny Committee (OSC) to compel the Executive or authority to reconsider any ‘key’ decision by its members, or a key decision by an officer of the council. It is Intended to be used only “in exceptional circumstances”, where the procedure is seen as a last resort through which an OSC and/or councillors may demand the scrutiny of a decision they believe to be contrary to the principles of decision making defined in the legislation (similar to part 1 of the reasons for call-in in the Local Government Bill)

The call-in system requires a means of defining when a decision has taken place. This is provided in paragraphs 12 and 13 of the [Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#) (SI 2012/2089).² These paragraphs require ‘executive decisions’ in meetings of the executive, or by individual members of the executive, to be recorded. There is also a category of ‘key decisions’ under paragraphs 8-10 of the 2012 regulations. Details of key decisions must be published 28 days in advance of their being made.

Variation of the process

Call-in functions have been established in a variety of ways across different local authorities. For instance, an authority might require that only overview and scrutiny chairs were able to instigate a call-in; or that a request signed by five councillors, from at least two political parties, would be required. A research report specifically on *The call-in procedure* was produced by the Centre for Public Scrutiny in 2006.³

¹ Section 9F (4) of the *Localism Act 2011*. The text derives from section 21 (3) of the 2000 Act.

² These regulations are made under the *Localism Act 2011*. Similar regulations were made under the *Local Government Act 2000* when the call-in power was originally introduced.

³ Centre for Public Scrutiny (2006) *The call-in procedure* <http://cps.org.uk/publications?item=234&offset=20>

The report showed the variations used across local authorities to instigate a call-in, which include:

- 251 authorities (70%) allow 5 working days in which a decision may be called in before it is implemented.
- 171 authorities (47%) allow only OSC members to call-in a decision.
- 131 authorities (37%) allow the Chair of an OSC Committee to call-in a decision alone.
- 193 authorities (51%) allow non-executive councillors who are not members of an OSC to call-in a decision.
- 122 authorities (35%) require at least 3 authorised signatories to call-in a decision.
- 54 authorities (14%) require cross, or multi-party support for a decision to be called in.
- 5 authorities (2%) allow the public to call-in a decision.

Scotland

Conversation with the Scottish Parliament Information Service (Spice) would suggest that there is no equivalent to 'call –in' of committee decisions by a full council.

The standing orders of each council set out how the Council and its committees operate. However, as an example, taking the standing orders for procedures for the Scottish Borders Council, there does not appear to be any form of mechanism for the reconsideration of a decision made by the Council or any of its committees.⁴

⁴ To view the Scottish Borders Council Standing Orders, please refer to http://www.scotborders.gov.uk/downloads/file/5068/procedural_standing_orders