



**Annual Council Meeting**  
22 May 2024

**Report from the Corporate Director  
of Law & Governance**

**Review of Arrangements for “Call In” of Executive decisions  
to Scrutiny Committees**

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Council
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>List of Appendices:</b>	One Appendix 1: Outline of proposed draft changes to call-in arrangements
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Debra Norman Corporate Director of Law & Governance Tel: 0208 937 1578 <a href="mailto:Debra.norman@brent.gov.uk">Debra.norman@brent.gov.uk</a>

**1.0 Executive Summary**

- 1.1. This report presents the outcome of a review of arrangements for “Call-In” of Executive decisions to Scrutiny Committees and seeks a decision on whether to require call-in to be supported by more than one group.

**2.0 Recommendation(s)**

- 2.1 To decide whether to adopt the changes contained in the appendix to this report.
- 2.2 To authorise the Corporate Director of Law & Governance to amend the Constitution accordingly if required, including making any necessary incidental or consequential changes.

**3.0 Detail**

**3.1 Contribution to the Borough Plan and Strategic Priorities**

3.1.1 Reviewing processes contained in the Constitution is supportive of good governance and contributes to the delivery of all of the strategic priorities within the Borough Plan by supporting and enhancing the Council's activity.

## **3.2 Background**

3.2.1 In accordance with the Local Government Act 2000 the Council's executive arrangements must include a power for its overview and scrutiny committee(s) 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. This includes, where a decision is made but not yet implemented, a power to recommend that the decision be reconsidered by the person who made it. This is generally referred to as call-in.

3.2.2 Guidance issued by the Department for Communities and Local Government when the requirement for overview and scrutiny committees for authorities operating executive arrangements was first introduced provided that:

- provisions should ensure that there is an appropriate balance between effectively holding the executive to account, being able to question decisions before they are implemented and allowing effective and efficient decision making by the executive within the policy framework and budget agreed by the full council.
- Local authorities should ensure that the executive arrangements ensure that any call-in procedure is not abused or used unduly to delay decisions or slow down the process of decision making.
- A safeguard which could be adopted as part of a call-in procedure could be to include provision requiring a certain number of committee (or local authority) members to call in a particular decision.

3.2.3 Guidance was issued by the Centre for Governance and Scrutiny (CfGS) in March 2023 which comments, in respect of requirements in call-in thresholds that the councillors involved should represent different parties, that "This can help to ensure that call-in's reflect matters on which there is crossparty concern".

## **4.0 Summary of current Brent provisions**

4.1 Currently any decision by Cabinet or a Cabinet Committee, and any Key Decision by an officer or a Cabinet Member, may be called in. This is subject to urgency provisions in exceptional cases.

4.2 Call-in requires a decision of the relevant Scrutiny Committee (in the event that there is a relevant scrutiny meeting in the call-in period), or a call-in request from five non-cabinet members of the Council (for the avoidance of doubt excluding voting and non-voting co-opted and independent members).

- 4.3 There are also requirements as to the content of a call-in in order for it to be valid e.g., that it proposes alternative action.
- 4.4 This provision has been in place since 2006. The guidance from CfGS is that requirements on numbers/types of members, bodies or persons requesting call-in's should be clearly justified and reviewed following each election and after a change in political control to ensure their ongoing fairness and applicability as endorsed by the authority.
- 4.5 The threshold currently means that the Labour and Conservative Group members, if sufficient Group members agree to requesting a call-in, can call-in a decision without the co-operation of any members of any other group, but the Liberal Democrat Group members cannot.

## 5.0 Practice in other London Boroughs

- 5.1 A review of the arrangements in place in other London Boroughs indicates the following in terms of numbers where the threshold is expressed in that way (although some require the numbers to be across groups):

2 members - 2 London Boroughs  
 3 members - 1 London Borough  
 5 members - 10 London Boroughs  
 6 members - 4 London Boroughs  
 7 members - 1 London Borough  
 8 members - 1 London Borough  
 9 members - 1 London Borough  
 14 members - 2 London Boroughs

- 5.2 The position when the political balance is taken into account is:

Only or main opposition can call in alone	10 London Boroughs
All groups can call in alone (where there are more than 2 groups)	3 London Boroughs
3 largest groups can call in alone	2 London Boroughs
Both opposition together can call in	1 London Borough
More than one group, including from the administration, is required	2 London Boroughs
Specific requirement for more than one group	2 London Boroughs
Committee decision and therefore requires administration support	8 London Boroughs

- 5.3 Arrangements across London are very varied, especially once the effect of political balance is taken into account. A significant number have arrangements that mean more than one party group must be in support of the call-in request. The possible introduction of this requirement in Brent was discussed at a recent meeting of the Constitutional Working Group (CWG) but a consensus was not reached. Full council is therefore requested to make a decision on this issue.

## **6.0 Stakeholder and ward member consultation and engagement**

6.1 As indicated in paragraph 5.3, the potential introduction of a requirement that for a call-in to be valid the councillors involved should represent more than one party group was discussed at a recent CWG meeting.

## **7.0 Financial Considerations**

7.1 None

## **8.0 Legal Considerations**

8.1 These are contained in the body of the report.

## **9.0 Equity, Diversity & Inclusion (EDI) Considerations**

9.1. Under section 149 of the Equality Act 2010, the council has a duty when exercising its functions to have “due regard” to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

9.2 “Due regard” is the regard that is appropriate in all the circumstances. The weight to be attached to the effect is a matter for the council. As long as the council is properly aware of the effects and has taken them into account, the duty is discharged. Depending on the circumstances, regard should be had to the following:

- the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision;
- the need to remove or minimise disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic;
- the need to take steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes taking account of disabled persons’ disabilities. There can be a positive duty to take action to help a disabled person. What matters is how they are affected, whatever proportion of the relevant group of people they might be;
- the need to encourage persons who share a protected characteristic to participate in public life (or in any other activity in which participation by such persons is disproportionately low); and

- the need to tackle prejudice and promote understanding.

9.3 No EDI implications arise directly from this report.

## **10.0 Climate Change and Environmental Considerations**

10.1 None

## **11.0 Human Resources/Property Considerations (if appropriate)**

11.1 None

## **12.0 Communication Considerations**

12.1 None

**Report sign off:**

***Debra Norman***

Corporate Director of Law & Governance