MEMBERSHIP OF EXECUTIVE SCRUTINY PANEL

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1. **Purpose**
   1.1 To consider whether members of the Executive Scrutiny Panel should, if calling in a decision for scrutiny, be, or remain a member of the Panel, following consideration by the political groups.

2. **Recommendations**
   2.1 That no change be made to the current arrangements whereby a member of the Executive Scrutiny Panel may, if calling in a decision for scrutiny, remain as a member of the Panel.

3. **Issues and Choices**
   3.1 At its meeting on 16 March 2005 (Minute BMG59[4] refers), the Group decided to review whether members of the Executive Scrutiny Panel should be able to call in a decision for scrutiny and also remain as a member of the Panel. In effect being ‘judge and jury’.

   3.2 There is nothing in legislation, the Council’s Constitution, or good practice text books which suggests that if calling in a decision for scrutiny, a Member should not be a member of the body scrutinising the call-in.

   3.3 It can, however, be argued that a Member in such a position is coming to a meeting with preconceived ideas and is therefore not open to other arguments. Accordingly, it could be suggested that the Member is unable to take an independent view of the decision being scrutinised and potentially compromises the quality of the recommendation reached by the Executive Scrutiny Panel. On the other hand, a Member may call-in a decision simply to ensure that it has a wider discussion, not because he/she has a closed mind on the matter.

   3.4 The situation, however, compares with Members who submit motions for debate to the Council meeting. Members are able to introduce their motions, enter into the debate and vote. It would be a clear infringement of a Member’s democratic rights if he/she was prevented from voting, if he/she had moved the motion.
3.5 If the Council was of the view that members of the Executive Scrutiny Panel should not be allowed to call-in decisions, or if they did, not participate as a member at the meeting it would be necessary to amend the Constitution.

3.6 The options open to the Group are to:

(a) recommend that the Council revise the Constitution to prevent members of the Executive Scrutiny Panel from calling in decisions;

(b) recommend that the Council revise the Constitution to prevent members of the Executive Scrutiny Panel from participating in meetings scrutinising decisions he/she has called in; or

(c) take no action.

4. Implications

4.1 Policy
None.

4.2 Resources
None

4.3 Legal
The Local Government Act 2000 requires the Council to establish and at least one Overview and Scrutiny body and that the membership of overview and scrutiny bodies must be appointed in accordance with the Local Government (Committees and Political Groups) Regulations 1990, which means that membership should reflect the overall political composition of the Council. There is no other restriction in the Act, nor in the subsequent Statutory Guidance, regarding membership.

4.4 Other Implications
None

Background Papers: The Law and Practice of Meetings – Raymond Knowles