ANNEX

REVIEW OF EXECUTIVE SCRUTINY ARRANGEMENTS

RESPONSES

1. Should specialist panels, which include councillors who have a good understanding and knowledge of the issue being reviewed, hear call-ins, or should the current arrangement whereby a standing committee hears all call-ins be retained?

Specialist Panel (2) / Current Arrangements (8)

Comments:
A core of councillors with good understanding and knowledge should be retained to supplement call-in arrangements
I think it would be more bureaucratic to determine who has specialist knowledge for a particular call in and to then try to arrange bespoke meetings on each item. This could potentially become a way of delaying the process further, compared to fixed meeting dates for a standing committee.
It is not about re- writing the decision or the officer advice. Call-in is on the basis that a decision is wrong in fact or perverse and should be reconsidered.
I believe we need to be consistent in our approach to scrutiny with an experienced committee. Witnesses can be called accordingly.
I am content with the current arrangements.
I'm open on this – the reason we kept a standing ESC was to ensure it had its meetings in the diary and could be called on in short notice. Would this be possible with a specialist panel? The balance here is between expediency and (possible?) increased knowledge. Under the current arrangements, the ESC is already made up of more senior councillors, and councillors who have more in-depth knowledge can attend the ESC meeting and speak (although without voting rights) or be substituted in by their group with voting rights. Perhaps there is some middle ground whereby the pool of councillors is increased for ESC and groups appoint from their own number on each occasion depending upon skills etc. (so that the committee is the same size as it is now).
Who would be responsible for deciding which Councillors had a "good understanding"? Keep things as they are!
Both sides of the call-in should be able to express themselves in a way that a non-specialist Councillor can understand.
With the demise of most committees, this is simply no longer viable. Councillors will no longer build up much general expertise, and there is no way of assessing their out-of-council expertise. Its likely that those with expertise would have been involved prior to the decision, so dubious impartiality. Also, if officers and the complainants cannot explain the problem to a committee of councillors – there is a real problem with councillor governance anyway! So no, I'd be against this change as not being viable or appropriate.

2. Should the practice of holding mediation meetings, to try and reach an informal resolution in advance of the formal meeting of the Executive Scrutiny Committee be retained?

Yes (10) / No (1)

Comments: Informal negotiation can be effective in resolving differences I’m sure some analysis would reveal whether mediation sessions have reduced the time taken to address call ins. However, from my recollections (albeit I’m not aware of them all), there seem to be limited numbers where the time taken to make a decision is reduced by a mediation session. If a compromise can be met all well and good. It has actually worked on occasions. The mediation process gives an opportunity for some or all of the issues to be agreed at an early stage, thus saving elapsed time and also the time of witnesses and Panel members. Declaration if interest: As the Chair who introduced the Mediation process, I may be biased on whether the mediation process is useful! Absolutely Yes, but we need some means of formalising the outcome that is binding, without having to call a full committee. If the mediation group could be a quorate sub-committee, then could we delegate the power to accept resolution to them and make the agreed outcome a public binding commitment on the Exec as it is if they make a public statement of intent to Full Council?

3. If you answered yes to question 2 should mediation meetings be enshrined in the Council’ Constitution?

If you answered No to question 2, please go to question 4

Yes (6) / No (2) / Not Sure (1)

Comments: If informal mediation is to be offered then in should be in the constitution but not as an automatic prelude to scrutiny meetings but as an option if it is considered to be a worthwhile exercise. This would require nominating a role to be responsible for such a decision. This would make a mockery of the concept of mediation as the agreement underpinning it can’t be compelled. Yes, if it is part of the committee procedure. I think they should be offered, but there may be occasions when the two sides are so far apart it would be a waste of time. I believe that a mediation process (without prescribing the details) should be enshrined in the constitution, so that powers can be given to

the Chair in respect of one key scenario that has recently caused problems. The mediation process already works sensibly if (in the light of additional information, assurances, or whatever) the caller-in wishes to withdraw any or all parts of the call-in. The mediation process already works sensibly if (despite the process) the caller-in wishes to persist with the call-in and the decision-maker wishes to persist with the original decision. The mediation process currently does not work well if the decision-maker agrees to the decision being "referred back" for further deliberation and the expectation of a different decision. In this situation, even if everyone agrees on that course of action, the Mediation meeting has no power to refer the matter back, and currently the only way to proceed is to convene the Exec Scrutiny Panel (preferably without witnesses and only for the briefest time), so that the ESP can "refer the matter back". There is no other process available to Members, to un-take the existing decision. I therefore suggest that the Chair of the Mediation Meeting (normally the Chair or Vice of ESP) should be given the power, if there is agreement between all parties to the call-in (ie the caller-in and the Decision-maker or their representative), to "refer the matter back", without needing to convene a meeting of ESP to do so. Any additional information or assurances from the decision-maker should be noted as part of the refer-back.

4. Should the Executive Scrutiny Committee continue to be able to refer called-in items to the Council for discussion?

Yes (7) / No (2)

Please comment on whether the current arrangements work well.

Comments:

It is the job of the Committee to decide on call-ins. How can the Council which the Executive are members of to properly consider the call-in of Executive decisions? Should Executive members be forced to leave the room when this happens?

The current arrangements do not always work well as I believe they are not fully understood.

For 'big ticket' issues the whole Council may like to debate and give its 'advice' to Cabinet. It should be more difficult for a minority Cabinet to vote against the majority view of Full Council, but it does happen.

All Council can do is refer back to Cabinet, ESC is a committee of council so it's just adding an unnecessary step which is time consuming for the Council agenda (not to mention officer time)

Items that are referred to Full Council are always debated more fully than if they are simply returned to Cabinet (which, of course, has already made its mind up). It is far more difficult for Cabinet to ignore the wishes of Full Council than just the Executive Scrutiny Committee.

I think the Constitution should make it clear whether any debate and vote in Full Council is to be binding on the decision-maker when the

matter is eventually referred back to the original decision-maker for further consideration, or whether any vote in Full Council is merely a view that should be considered but without any obligation to be bound by it.

Secondly, I think the Constitution should make it clear whether Full Council is approving/rejecting the Referral back, or merely discussing the topic. I urge the latter. Thirdly, I think if ESP refers a matter to Full Council for discussion, ESP should draft the motion it wants Full Council to discuss and vote on.

Yes where there is a policy issue and they feel the Exec needs more guidance from full council. yes where they feel that the issue is so important and the Exec so uncooperative that they need to call them to account in Full Council. Yes where they feel it's against a policy or strategy that is not delegated to Cabinet (ie Cabinet is breaking a full council binding decision)

5. Where the Chair of the Scrutiny Management Committee has agreed that the call-in may be waived for an urgent decision, should there be a requirement, where the eventual decision is in the view of the Monitoring Officer significantly different from the original recommendation, for either:

(a) the Chair to be re-consulted (5)

(b) the decision to be subject call-in (4)

(c) Stay as is (1)

Comments:

Comments: If the objective is to by pass call –in for an urgent decision then to make the final decision (if different from the recommendation) subject of call-in will defeat the objective. The Chair could be re-consulted to advise of the new decision and the rationale. However there needs to be a mechanism for appeal

The urgent decisions procedure is to enable the Council to take decisions on urgent items in a timely way. If a requirement for call in was introduced this could expose the Council or mean potentially positive opportunities are missed. The control should be at the time when the decision is agreed to be urgent and the Chair should be informed if there is any difference to the likely outcome at the time the decision is being made to enable discussion to take place and a decision to be made in light of feedback.

Provide the change is the urgency issue. In agreeing an item is urgent the chair is not being asked to comment on the decision. That is a matter for others.

Any revised decision should be subject to normal call-in procedures.

If the decision is truly URGENT, then there would be no time to do either of these. If not truly urgent then Call In should not have been waived in the first place.

I have concern over the way that decisions without 28 days' notice are added to the forward plan and even more so for urgent decisions. I appreciate the Monitoring Officer has some jurisdiction/influence over this but the Scrutiny side seems to be let down. There should be some mechanism of scrutinising urgent decisions even if the decision is the same as the recommendation. Likewise we need greater scrutiny over items added without 28 days' notice. In the context of the exact question the chair being re-consulted should be enough, but we may wish to consider the wider context.

What on earth does "significantly different mean – and who decides whether or not something is "significantly different"?

Residents or Councillors (or the Chair of SMC) may be content that the recommendation is sound and urgent – and therefore they don't attend – but if a different decision emerges, with neither prior publication nor any call-in process, residents and Councillors are denied ANY opportunity of having their views heard.

Chair to be re-consulted with the power to force the decision through the normal channels, or to refer it to super-fast Exec Scrutiny mediation, or both. Call-in would restrict the options – otherwise there would be no need for an urgent decision!

6. Should the current thresholds for call-in, which allow an executive decision to be called in by one councillor, a parish or town council, or 20 residents of the Borough, be changed?

Yes (7) / No (4)

Comments:

I would suggest the thresholds are benchmarked against other councils to ensure we are reflecting best practice. In my view it appears that more people should be needed to trigger a call in.

This is far too low a threshold. It allows individuals or those with vested interest to frustrate process. Also if those not elected to MK Council can call-in items why have Councillors?

One Councillor and a Parish / Town Council should remain unchanged – however the required number of residents should be reduced from 20 to 10, to increase democratic accountability and give greater opportunity to those we represent.

The existing arrangements work. There is no groundswell of opinion that the call-in thresholds are too high or too low.

Could we have some stats as to who calls things in, and with what success? Don't want to up the number of anything other than councillors unless time period is also upped as not viable.

Could possibly drop the resident numbers a little – it's difficult for residents not supported by a councillor to even know about decisions to call them in, so 20 seems high. Maybe 15.

7. If you answered yes to question 6, how do you think the thresholds should be changed?

Comments:
It should be more difficult to call a decision in, requiring the consensus of at least a group of Councillors.
Only MK Council members should be able to call-in, after all everyone else Resident, Parish or others is represented by Councillors, who can choose to act for them. If the threshold was three councillors or the chair of scrutiny management this would be a sensible and proportionate approach.
I believe there should be a number of councillors to enable a call-in. For example, subject to 5 councillors signing up to a call-in. No change to Parish or residents.
If the call-in is worthwhile, then a councillor should be able to ask any other councillor to support it, therefore a threshold of two or three should be sufficient, or perhaps support of the parish council. Likewise for parishes, this could be two or one with the support of a ward member.
Possibly prefer 2 councillors

8. Should any decisions taken after a call-in has been referred back to the decision maker be subject to further call-in?

Yes (3) / No (4)

If so should any changes to the decision made as a result of this process affect eligibility for further call-in?

Yes (0) / No (5) / Possibly (1)

Comments:
There should be a right of appeal
It is important the call in process is in balance with the need to conduct business in a reasonable period of time.
The executive has the right to make decisions (within their delegated authority). Call-in should be a process to make sure all the issues relating to a decision have been understood and considered appropriately, not as a means of delaying decisions.
That's a balance question. If the decision maker takes the original recommendation or very similar then no call-in. Very different decisions should be eligible. The Monitoring Officer should rule on this each time.
Not sure I understand this question – is it any other decision by the decision maker or relating to the same matter?
The Executive must have the ability to govern. So, once a decision has been scrutinised once, it should be allowed to stand and be implemented.

This is a tricky one. If a decision is called-in, goes through the full executive scrutiny process and the decision maker decides to make the same decision, there is little value in allowing further call-in. At the moment we do not allow this to be subject to further call-in. However, if the decision maker changes the decision, perhaps in line with recommendations of Exec Scrutiny, the decision is allowed to be called-in again. So the "easy option" for the executive is to keep the same decision. It would make more sense if the second decision is in line with the recommendation from Exec Scrutiny that that is the end of the call-in process. If a decision (in the view of the Monitoring Officer perhaps) that was different from the original or that which was recommended by the ESC, then call-in should still apply. But not where the decision maker has gone with the original decision or accepted the recommendation of ESC.

EVERYTHING that is decided by the Cabinet / Delegated Decision should be subject to the process of call-in!

If the decision-maker takes a different decision the second time, or takes a decision with the same wording but based on a revised report or other formal additional information, it's a fresh decision and should be subject to call in (in the usual way). If the decision-maker takes EXACTLY the same decision based on EXACTLY the same officer report – ie they reconfirm the original decision – then no second call-in can occur.

Maybe an option for two other group leaders combined to call it in, whether changed or not. Something to act as a backstop if the rest of the council is seriously worried about the decision.

9. Should the Milton Keynes Youth Cabinet and / or other bodies / organisations be able to call-in executive decisions?

Yes (5) / No (5)

If answering yes please detail other bodies who should be granted this right.

Comments:

Those bodies able to call-in executive arrangements should be extended to any constituted group or organisation from Milton Keynes that has been in existence for in excess of three years and has at least twenty members.

I do not think call in is the right process to support greater engagement in decision making.

Again there should need to be a reasonable group of people who have concerns about decisions, rather than one single person and they must have valid grounds for believing that issues relating to the decision were not properly considered, rather than simply not agreeing with the decision made.

I think Youth Cabinet could have a co-opted seat at Scrutiny Management

Youth cabinet and other bodies should be treated as with residents. If need be they could be sponsored by an appropriate number of Councillors.

Where would you draw the line? They can use the 20 residents route to Call Something in.

Yes but caveated - with the support of a ward member. Essentially they should be able to articulate their arguments to a ward member who can call it in anyway. Perhaps we just need to look at the conduit for doing so.

Just the MK Youth Cabinet.

Currently, any person or body can orchestrate a call-in, using the "20 local residents" facility. I believe this facility is entirely sufficient. Moreover, if it was envisaged creating this new category for organisations (other than Town/Parish Councils) not required to get 20 signatures, I believe the list would be so huge as to be unworkable – any organisation representing/comprising any number of local members of any demographic characteristic or criteria, whether formal or informal, including trades unions, businesses/employers, charities, clubs/societies, lobby groups, political parties without elected MK Borough Councillors, faith groups, government departments and agencies, land owners/developers, residents associations. If any of these organisations can't get 20 signatures and can't find a Councillor who agrees a decision needs calling in then I don't feel they should have call-in powers (and of course if they can get 20 signatures, then they can call in the decision using the current 20-signature facility).

Maybe allow residents of 16 and over to call-in under the 20 (or pref 15) person rule. If an organisation can't raise that many signatures it's probably not that big an issue. How do residents call something in. Do they have to have a paper signature? Is email from the individuals (with the text of the call-in attached) accepted? Should be.

Other Comments Received:

- Is there still a problem with inadequate specification of call-ins? If so that should be addressed
- What is the current time limit?
- How do people who missed the meeting find out, within the call-in period, what the dratted decision was!!! Should publish draft decisions, clearly labelled as such.