13.1 Overview and Scrutiny should only use the power to refer matters to the Council in exceptional circumstances where members of the appropriate Scrutiny Management Board have evidence which suggests that the Cabinet did not take the decision in accordance with the decision making principles set out in Part 2 of the Constitution.

13.2 When a decision is made by the Cabinet, or a Local Committee, or under joint arrangements, or a key decision is made by an officer, the decision shall be published, and shall be available at the main offices of the Council normally within three clear working days of being made. All Members of the Council will be sent copies of the records of all such decisions, by the person responsible for publishing the decision.

13.3 The notice will include its date of publication and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the decision is called in.

13.4 During that period, any three or more non-Cabinet members may notify the Assistant Director - Corporate Governance in writing that they wish to call in a decision for scrutiny. If a valid request to do so is received Cabinet and the decision taker will be notified of the call-in. The Assistant Director - Corporate Governance will then call a meeting of the Scrutiny Management Board where possible after consultation with the Chair of the Board. The call-in meeting shall normally be held within 14 working days of receipt of notification of the decision to call in (but, exceptionally, following consultation with the call-in members, and provided the relevant Cabinet Member agrees that such delay would be reasonable in all the circumstances and would not prejudice the County Council's interests, the call-in meeting may be held within 17 working days. If the Cabinet Member does not so agree, the meeting must take place within 14 working days).

13.5 If, having considered the decision, the Scrutiny Management Board is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or, if it considers the decision to be contrary to the Budget or Policy Framework, refer the matter to full Council (see paragraph 7 of the Budget and Policy Framework Procedure Rules in Part 5E of this Constitution). If referred to the decision maker, they shall then reconsider within a further 14 working days, (or, exceptionally, such longer period not to exceed 17 working days, as may be agreed by the decision making person or the Chair of the decision making body). The decision maker shall then reconsider the
If, within 14 days, the Scrutiny Management Board does not meet, or does not meet but does not refer the matter back to the decision maker, then the decision will take effect on either the date of the Scrutiny meeting, or the expiry of the 14 working day period.

If the matter was referred to full Council, and the Council does not object to a decision which has been made, then no further action is necessary, and the decision will be effective on the date of the Council meeting. However, if the Council does object, it has no authority to make decisions in respect of an Cabinet decision unless it is contrary to the Policy Framework, or contrary to, or not wholly consistent with, the Budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.

Where the decision was taken by the Cabinet as a whole, or a committee of it, a meeting will be convened to reconsider within 14 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 14 working days of the Council request.

If the Council does not meet, the decision will become effective on the expiry of the period in which the Council meeting should have been held.

The role of Scrutiny Management Board in calling-in a decision before it is finalised, is:

(a) To test the merits of the decision.
(b) To consider the process followed in reaching a decision.
(c) To make recommendations (to support the decision, change aspects of the decision or to invite the decision maker to re-consider).
(d) To suggest further steps before a decision is made (but not to try to carry out those steps in place of the decision maker).
(e) To recommend to the decision making committee or body the matter be dealt with at full County Council, or to recommend directly to full County Council if the Committee believe the matter to be contrary to the Budget and Policy Framework.
(f) To come to a view in a relatively short time scale, so as not to compromise the speed and efficiency of the decision-making process.

13.10 The call-in mechanism is an important part of the decision-making process, and is designed to test the merits of the decision and to ensure that members have an opportunity to recommend change, reconsideration or deferral. The call-in mechanism is not:

(a) A judicial or quasi-judicial process, or a public inquiry;

(b) An extended examination of areas only remotely connected to the actual decision;

(c) An open house for anyone to attend and make representations.

13.11 The three or more non-Cabinet members requesting the call-in must submit their joint request in writing or by e-mail to the Assistant Director - Corporate Governance, giving reasons for requesting that the matter be called in and identifying a Lead Member. It is not sufficient for the call-in notice simply to state that the members concerned wish to test the merits of a decision. The notice must specify which aspect or aspects of the decision the members wish to question or challenge. This is important because it will allow those summoned to the call-in meeting the opportunity to prepare adequately beforehand and to provide further information as necessary to clarify or explain the reasons for the decision.

13.12 The Assistant Director - Corporate Governance may rule that a call-in request is not valid only in the limited circumstances below:

(a) That the call-in request has not been made within five working days of publication (or three days in relation to final decisions on school organisation proposals).

(b) That the call-in request has not been made by at least three members.

(c) That it is not clear which Cabinet decision is being called in.

(d) That the decision is exempt from call-in on account of the urgency provisions.

13.13 A call-in may only be withdrawn with the agreement of the three members submitting the request in the first instance.
13.14 A decision can only be called in once. If, however, the Cabinet substantially amends the original proposal in a way which the Scrutiny Management Board has not considered nor could reasonably have foreseen, to the extent that in reality it is a different decision, the Board has the right to call it in again.

**Call-in: in the role of the Chair of Scrutiny Management Board**

13.15 The Chair of the Board should undertake preliminary enquiries and/or consultations before the meeting in order to:

(a) Clarify the matters to be examined by the Board;

(b) Consider the recorded views of those who have already been consulted or involved before the decision was taken;

(c) Form an opinion as to what further papers, if any, should be made available to the Board;

(d) Decide who should be invited to explain the decision;

(e) Decide whether the call in letter requires additional detail or clarification.

13.16 In most circumstances the Chair of the Scrutiny Management Board should meet the lead call-in member and the Cabinet Member with appropriate officers before the meeting to clarify if an informal resolution is possible without the need to hold a formal call in meeting. During this meeting if it is clear that informal resolution is not possible the Chair should come to a view on the matters above. This is to ensure that so far as possible any areas of disagreement are discussed fully beforehand and valuable time is not spent at the meeting itself on matters of process and procedure. If the meeting does not result in agreement between the Chair, the lead call-in member and the Cabinet Member then the Chair will propose a course of action to the Board at the beginning of the call in meeting for them to consider and decide the way forward.

**Call-in: Arrangements for the Scrutiny Management Board**

13.17 The representative of the Assistant Director - Corporate Governance will confirm attendance and the arrangements with those invited to attend. It will be the responsibility of the relevant Cabinet Member or the Chair or Vice-Chair of the Local Committee as appropriate to attend the Scrutiny Management Board to explain the reasons for the decision. The relevant Corporate Director (or the lead one, if two or
more are involved) will be responsible for co-ordinating officers to explain the advice given to the Cabinet or the Local Committee and to provide further background information.

13.18 Papers will be despatched as soon as possible with notice of the date and time when the matter is to be considered. An agenda with a full set of papers will be despatched no less than five working days before the meeting.

13.19 The agenda should include:

(a) The proposal and supporting papers submitted to the decision-taker.

(b) A list of background papers to the proposal.

(c) The minute of the decision.

(d) The request for the call-in.

(e) The reasons given by the requestors for the call-in.

(f) Any other papers that the members requesting the call-in identify. Background papers listed in the report to the decision-taker will not routinely be included in the agenda unless requested.

(g) The issues to be considered, unless those have not been decided by the time the agenda is despatched, in which case a supplementary note will be sent out as soon as possible. (N.B. The Board will not be restricted to this list of issues, but care will need to be taken at the meeting in allowing other matters to be raised, if there is a likelihood that further work will be needed). An indication as to whether further papers are likely (e.g. from the Cabinet member or third party)

(h) The persons to be invited to attend to answer questions on the issues before the Board and the order in which they will appear.

13.20 If, late papers become available after the normal agenda despatch date, they must be made available to all members of the Board as far in advance of the meeting as possible. Where papers become available on the day of the meeting, the Board will decide whether to accept them and, if they do accept them, whether to adjourn to read them.
13.21 Any other issues concerning the conduct of the meeting arising between the date of the call-in and the date of the Scrutiny Management Board will be dealt with by the Chair of the Board in consultation with the Lead Member requesting the call-in, with any necessary officer advice/support.

Call-in: The Meeting

13.22 In most circumstances it will be appropriate to hold an informal meeting at least thirty minutes before the meeting. With the Scrutiny Officer and representatives of the Assistant Director - Corporate Governance present, members will:

(a) Read any last minute papers;
(b) Consider relevant issues;
(c) Consider how sensitive issues should be managed, and how any new issues, might be handled;
(d) Note how the Chair intends to conduct the meeting;
(e) Consider questions to be asked of witnesses.

The purpose of the pre-meeting is purely to discuss and arrange procedural matters, not to discuss the merits of the issue.

13.23 The Board meeting should start promptly at the publicised time.

13.24 The three call-in members will have a maximum period of 15 minutes to present their arguments, (which may be extended at the Chair’s discretion). How the 15 minute period (or any extension) is allocated between the three members is a matter for the lead call-in member to determine. He/she may wish to speak for the whole period or allow colleagues to contribute.

13.25 In most circumstances the meeting and all papers submitted to the Board should be open to the press and public. It may be necessary however to exclude the press and public to deal with “exempt” or confidential matters. This may be important not only on the day, to stop the disclosure to the press and public of exempt material but also to stop subsequent access to files on such matters. Any time spent in private session should be kept to a minimum. Exempt material in reports should be organised if possible into an appendix, so that the rest of the report
can be available to the press and public.

13.26 Even though the press and public may have to be excluded, it may not be necessary to exclude all those invited to attend. Normally they should all be allowed to remain, to ensure the transparency of the process carried out in confidential session. Exceptionally it may be necessary to invite parties to advise the Scrutiny Management Board one at a time, if that is the only way in which the confidentiality of the material can be properly protected. That will usually mean officers who have advised the decision maker on this issue remaining to answer questions from the Board, in the absence of other parties. It will be important however:

(a) for this to be carefully explained to others, preferably in public before the resolution to exclude the press and public is passed;

(b) to limit the scope of that advice strictly to the confidential material, and not to allow it to range into advice on the general merits of the issue when others could properly have been allowed to be present.

13.27 Members may wish to adjourn in order to have the opportunity to pause to review papers and evidence in hand. It will be quite proper in those circumstances to adjourn. It will be important to explain carefully the reasons for the adjournment in public and that no one will be given an unfair advantage. If during that time members of a Board wish to reconsider or clarify any point, then the Board should reconvene in public or (if in Part II) with everyone present who has been invited to attend.

13.28 During an adjournment the Board may wish to have assistance in formulating their view for announcement in public. If so, they should invite the representative of the Assistant Director - Corporate Governance to assist in that process.

Call-in: The Scrutiny Management Board’s View, Recommendations to the Cabinet, or to County Council

13.29 The Scrutiny Management Board has to balance the need on the one hand for decisions not to be unreasonably delayed and, for matters called-in to be properly discussed and debated. Normally consideration of a call-in will be dealt with at a single meeting but, exceptionally, there may be circumstances where this is not possible. If the Board agrees that further investigation or information is required, the Cabinet may agree to extend the time in which a final view may be expressed if, in their opinion, delay would not be prejudicial to the County Council’s interests.
13.30 Where the Scrutiny Management Board refers a matter back to Cabinet for further consideration, and the Cabinet reaffirms its original decision, the Cabinet shall give reasons to the Board for its decision.

EXCEPTIONS

13.31 The power to call-in should not be abused nor cause unreasonable delay. A small number of limitations have therefore been agreed on its use. These are:

(a) The call-in procedure shall not apply where the decision being taken by the Cabinet is urgent that is any delay caused by the call-in process would seriously prejudice the Council’s or the public’s interests. The record of the decision, must state whether, in the opinion of the decision maker, the decision is an urgent one, and therefore not subject to call in. The Chair of the relevant Scrutiny Board must agree that the decision proposed is reasonable in all the circumstances, and to it being treated as a matter of urgency. In the absence of the Chair of that Board, the consent of the Chair or Vice-Chair of Council shall be required. In the absence of both, the Head of Paid Service or his/her nominee’s consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

(b) The call-in timescales have been shortened for final decisions in relation to school organisation matters only, at the stage at which the Cabinet considers representations made following publication of a statutory notice setting out the Council’s proposals and makes a final decision as to whether to implement the proposals. The timescales have been shortened specifically to ensure that the Council is able to take this final decision within the two month statutory timescale. The normal timescales continue to apply to the consideration of school organisation matters at earlier stages. For the final decision only therefore the timescales are:

(i) the Cabinet’s decision notice or minute be issued to all members no later than three working days after the Cabinet’s meeting;

(ii) the period during which the decision may be called in be three working days after the issue of the decision notice or minute;

(iii) a Scrutiny Management Board meeting convened to consider the call-in of the decision be held within seven working days of the receipt of the notice;
(iv) where the Scrutiny Management Board refers the decision back to the Cabinet for further consideration the Cabinet’s meeting be held within a further seven working days.