

EAST AYRSHIRE COUNCIL

GOVERNANCE AND SCRUTINY COMMITTEE - 23 APRIL 2010

HEARING PROCEDURE FOR CONSIDERATION OF CALLED-IN CABINET DECISIONS

Report by the Executive Director of Finance and Corporate Support

1. PURPOSE OF REPORT

- 1.1 To seek approval to a revised hearing procedure to be applied when the Committee is considering called-in decisions of Cabinet.

2. BACKGROUND

- 2.1 The Governance and Scrutiny Committee was set up within, and as part of, the Cabinet-based decision making structure established by the Council in May 2007. The remit of the Governance and Scrutiny Committee includes holding the Cabinet to account and the arrangements in this regard provide that Cabinet decisions may be subject to call-in until examined further by this Committee.

- 2.2 A range of processes have been developed to support the work of the Governance and Scrutiny Committee, the aim of which is to ensure that the Committee discharges its functions in a proper and effective manner, with the emphasis on ensuring that business is conducted having due regard for the need for transparency, openness and neutrality. These aspects reflect the role and responsibility both of the Committee itself and also of individual Members serving thereon.

- 2.3 Guidance and support documentation with regard to the Governance and Scrutiny function and the role of those involved, including Elected Members, Officers and external parties, is comprehensively set out within a document entitled "Governance and Scrutiny Guidelines" which was published in September 2007. This document indicates that the processes referred to therein will be subject to modification by the Governance and Scrutiny Committee as and when required to ensure that the Governance and Scrutiny process within East Ayrshire remains fit for purpose.

3. PROCEDURE FOR CONSIDERATION OF CALLED-IN CABINET DECISIONS

- 3.1 As Members are aware, a procedure has been developed in terms of which the Committee considers called-in decisions of Cabinet. Having regard to issues which have been raised with respect to application of the procedure during recent call-ins, and in accordance with the commitment given within the "Governance and Scrutiny Guidelines" to review relevant processes as required, it is suggested that the opportunity be taken at this time to further develop the Hearing Procedure.

- 3.2** Accordingly, a proposed revised “Procedure for Consideration of Called-In Cabinet Decisions” has been developed and is provided at Appendix I to this report, for Members’ consideration. The terms of the proposed revised procedure aim to more precisely define the elements of the Hearing process to provide additional clarity for all participants and at the same time ensure, insofar as is possible, the aspects of openness, transparency and neutrality.
- 3.3** Officers have reviewed the processes and guidance as set out in the “Governance and Scrutiny Guidelines” and no further changes are suggested at this stage.
- 4. FINANCIAL/LEGAL/POLICY/COMMUNITY PLANNING IMPLICATIONS** - Nil arising directly from this report.
- 5. RISK IMPLICATIONS** - The application of a proper and effective Hearing procedure is essential to underpin the legitimacy of decisions taken by Committee as the result thereof.
- 6. RECOMMENDATION**
- 6.1** The Committee is asked:
- (i) to consider and approve the revised proposed procedure set out at Appendix I for inclusion within an updated “Guidelines for Governance and Scrutiny” document, and that the revised procedure be applied with immediate effect; and
 - (ii) to note that officers will continue to review the processes and guidance on Governance and Scrutiny and make recommendations as and when required.

Alex McPhee
Executive Director of Finance and Corporate Support

8 April 2010

SN/FM

LIST OF BACKGROUND PAPERS

1. Current document: “Governance and Scrutiny Committee - Procedure for Consideration of Called-In Cabinet Decisions”;
2. Governance and Scrutiny Guidelines - 29 September 2007; and
3. Report to Council on 21 June 2007: “A Review of Decision Making Structures” by the Chief Executive.

Any person wishing to inspect the background papers relative to this report should contact Stuart Nelson, Administrative Officer on Tel No (01563) 576151. Any person wishing further information on this report should contact Bill Walkinshaw, Head of Democratic Services on Telephone Number (01563) 576135.

Implementation Officer: Stuart Nelson, Administrative Officer

APPENDIX I

GOVERNANCE AND SCRUTINY COMMITTEE: PROCEDURE FOR CONSIDERATION OF CALLED IN CABINET DECISIONS

PRIOR TO COMMENCEMENT OF THE HEARING THE CHAIR WILL INTRODUCE THE AGENDA ITEM IN THE NORMAL WAY AND OUTLINE THE STAGES OF THE PROCEDURE AS OUTLINED HEREUNDER.

HEARING BEGINS

- 1. THE CHAIR WILL INVITE THE FIVE SIGNATORIES TO THE CALL-IN NOTICE (OR ANY OF THEM WHO WISH TO SPEAK) AND ALSO THE CABINET PORTFOLIO HOLDER(S)/SENIOR OFFICER(S) TO BE APPROPRIATELY SEATED AT THE MEETING TABLE.**
- 2. THE FIVE SIGNATORIES TO THE CALL-IN NOTICE (OR ANY OF THOSE WHO ARE PRESENT AND WISH TO SPEAK) WILL HAVE THE OPPORTUNITY TO ADDRESS THE COMMITTEE IN SUPPORT OF THE CALL-IN AS SET OUT IN WRITING WITHIN THE CALL-IN NOTICE.**
- 3. THE RELEVANT CABINET PORTFOLIO HOLDER(S), ACCOMPANIED BY THE APPROPRIATE SENIOR OFFICER(S) WILL THEN HAVE THE OPPORTUNITY TO OUTLINE THE REASON(S) FOR THE CABINET'S DECISION AND RESPOND TO THE TERMS OF THE CALL-IN.**
- 4. MEMBERS OF THE COMMITTEE MAY THEN ASK QUESTIONS OF THE SIGNATORIES TO THE CALL-IN NOTICE AND/OR THE RELEVANT PORTFOLIO HOLDER(S) AND THE SENIOR OFFICER(S).**

Stage 4 presents an opportunity for Members to obtain further information and/or clarification relevant to the subject of the call-in from the parties to the Hearing on submissions made during Stages 2 and 3, and not to comment on the merits or otherwise of the call-in.

HEARING CLOSES

- 5. THE CHAIR WILL THEN INSTRUCT THE SIGNATORIES TO THE CALL-IN TOGETHER WITH THE RELEVANT PORTFOLIO HOLDER(S) AND THE SENIOR OFFICER(S) TO WITHDRAW TO THE PUBLIC GALLERY.**
- 6. THE CHAIR WILL CONFIRM TO THE MEETING THE FINAL STAGES OF THE CALL-IN PROCESS, viz:-**
 - Where the Governance and Scrutiny Committee agrees with a decision of Cabinet, that decision can be implemented without further delay; or**
 - Where the Governance and Scrutiny Committee does not agree with a decision of Cabinet it will be referred back to Cabinet with recommendations for alternative action as determined by the Governance and Scrutiny Committee.**

COMMITTEE DECISION

7. COMMITTEE DISCUSSION, MOTIONS AND DECISION.
8. THE HEAD OF DEMOCRATIC SERVICES OR REPRESENTATIVE WILL CONFIRM THE DECISION OF THE COMMITTEE

NOTE

AT NO STAGE OF THE PROCESS WILL THIRD PARTY INVOLVEMENT BE ALLOWED (OTHER THAN IN EXCEPTIONAL CIRCUMSTANCES WHEN AGREED BY THE CHAIR) INCLUDING, IN PARTICULAR, ANY FORM OF COMMUNICATION TO ANY PARTICIPATING PARTY OR ANY MEMBER OF THE COMMITTEE.

8 April 2010

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