Appendix 'N'

PROCEDURE FOR CALL-IN OF CABINET DECISIONS

1. **Introduction**

1.1 The Localism Act 2011 requires Councils that operate executive arrangements to introduce procedures that allow Elected Members, through the Scrutiny Committees, to hold the Executive to account for the discharge of its functions.

1.2 The Council’s Constitution provides for certain functions of the Executive to be discharged only on the approval at Full Council of recommendations made on those matters by the Cabinet. The Constitution prevents these matters being implemented without Full Council approval and allows Scrutiny Committees to refer them back once only for reconsideration by Cabinet. However, Cabinet and Cabinet Spokespersons have power to determine many other matters without reference to Full Council and a call-in facility has been established that allows for the scrutiny of these decisions, prior to their implementation. The implementation of any decisions called-in under this procedure will be delayed until the issue has been considered by the relevant Scrutiny Committee or Full Council.

2. **What decisions can be “called-in”?**

2.1 The call-in procedure applies only to decisions of the Executive (i.e. Cabinet and Spokesperson Delegated decisions) as provided for in the Localism Act 2011. Decisions of a quasi-judicial nature taken by the Regulatory Boards, relating to statutory and individual case matters, cannot be called-in under this procedure.

2.2 Although day-to-day management and operational decisions taken by officers cannot be subject to call-in, officers may be required to give evidence to Scrutiny Committees on such matters in the course of investigations into the performance of Council services. Elected Members can also use their right to make Councillor Calls for Action to raise with scrutiny any issues that are of concern to their communities but have not been the subject of a recent Executive decision.

2.3 In order to protect the interests of the authority, any Executive decision which cannot wait until the next meeting of the relevant Scrutiny Committee due, for example, to a risk of financial loss, the failure to meet any legal liability, or a threat to public safety, or would result in missing an externally imposed deadline (e.g. by Central Government), will not be subject to call-in. However, in such circumstances, the Council Governance Unit on behalf of the relevant Cabinet Spokesperson must consult the Chair of the relevant Scrutiny Committee to explain the position in advance of the matter being referred to Cabinet. The outcome of these consultations must be reported when the matter is considered by Cabinet.

2.4 If warranted and time allows, the Scrutiny Committee Chair may seek a special meeting of the Committee to deal with an urgent item. In the event that an urgent matter is not called-in on the above basis, the relevant Scrutiny Committee will still be able to review the decision at its next available meeting and make comments to the Cabinet.
2.5 In view of the need for time to allow call-in to operate, Executive Directors must make their staff aware of the importance of matters being brought forward in good time.

3. Procedure for Calling-In Cabinet Decisions

3.1 The fortnightly Cabinet agenda will be emailed to all Members of the Council, together with Co-opted Members of Scrutiny Committees, five clear days before the relevant Cabinet meeting. This will indicate which items are likely to be approved by Cabinet without reference to Full Council. By the afternoon of the day of any Cabinet meeting, a List of Decisions will be made available to all Members, but these decisions will not be implemented until the expiry of the call-in deadline.

3.2 Delegated decisions by Cabinet Spokespersons will be notified to Elected Members on an item-by-item basis. Elected Members will have three working days to initiate a call-in for these items.

3.3 Any Elected Member, who is not a Cabinet Member, and Scrutiny Committee voting co-opted members (on an issue relating to education), may give notice that they wish to call-in a particular decision. The request for call-in must be supported by four other Members and be received in the Chief Executive’s office by 4.30 p.m. on the fourth working day after Cabinet has taken the decision (normally Tuesday). Any decisions not called-in may be implemented on the expiry of this deadline.

3.4 The Chief Executive will ensure that the call-in request is copied to the relevant Executive Director or Director, and in every case to the Executive Director Core Services.

3.5 The attached form must be used to notify requests for an item to be called-in. This must state reasons why those Members wish to review the decision, and propose an alternative solution. For the sake of convenience, Members may register their support by email, rather than by signing the form. The Executive Director Core Services will arrange for liaison with the Chair of the relevant Scrutiny Committee. On advice from the Executive Director Core Services, the Chair will have the discretion to refuse the request for call-in if, for example, it contains defamatory material. The Chair will normally take this decision within 5 working days of the receipt of the call-in request. Instances where the Chair refuses the call-in request will be reported by the Executive Director Core Services to the next available Cabinet meeting, and the decision may be implemented immediately.

3.6 Any call-in request which is refused by the Chair will be reported to the next available meeting of the relevant Scrutiny Committee, in order that the circumstances may be recorded in the minutes.

3.7 Where the Scrutiny Chair agrees to the call-in of a decision, the Members who have made the request will have the opportunity to give evidence at the meeting of the Scrutiny Committee on why their alternative proposal should be adopted. The relevant Cabinet Spokesperson(s), Executive Director(s), and Director(s) will also be invited to give evidence, together with any other witnesses considered relevant by the Chair. If the Scrutiny Committee supports the Cabinet’s original decision, then that decision stands and can be implemented from the date of the Scrutiny Committee concerned.

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3.8 If the Scrutiny Committee supports the Members’ request, it can:

(i) refer the matter back to Cabinet with a recommendation for an alternative solution; or

(ii) refer the matter to the Full Council for debate at its next available meeting, which may agree to refer the matter back to Cabinet for reconsideration.

3.9 If the matter is referred back to the Cabinet, the Scrutiny Committee or Full Council will submit a report to Cabinet in line with the Protocol on Scrutiny References. Cabinet must reconsider the decision, on the basis of the Scrutiny report, and may or may not amend it before adopting a final decision. Once a decision has been determined following a call-in it can be implemented from the date of the Cabinet meeting and cannot be subject to any further call-ins.
BARNSLEY METROPOLITAN BOROUGH COUNCIL

Request to the Chair of the [ ] Scrutiny Committee to Call-In a Decision of the Cabinet / Spokesperson taken on [ ]

Title of Report:  

Report Ref. No.  

Call-In Requested by:  

Date ..............  

Call-In Request supported by:  

Reasons for seeking a Review of the Decision  

(Please continue on a separate sheet, if necessary)  

Proposed Alternative Course of Action  

(Please continue on a separate sheet, if necessary)  

Notes:  

1. Please insert title of relevant Scrutiny Committee and date of Cabinet meeting. A relevant Scrutiny Committee is one which includes the subject matter of the decision in question within its Terms of Reference.  

2. Call-In can be requested by any Elected Member who is not a Cabinet Member and a voting Co-oted Member for an education matter. The request must be supported by four other Members.  

3. This form must be returned to the Chief Executive by 4.30 p.m. on the fourth working day after Cabinet has taken the decision in question (normally Tuesday). For delegated decisions by Cabinet Spokespersons, the form should be returned by 4.30 p.m. on the third working day after any notification. Members may register their support by email.