CORPORATE ISSUES & REFORM SCRUTINY
OVERVIEW & SCRUTINIZY COMMITTEE

Date: 14 September 2017

Subject: Draft GMCA Call-in of Decisions Procedure Rules and Suggested Key Decision Financial Thresholds

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PURPOSE OF REPORT

To consider and agree a call-in process as set out in the Cities and Local Government Devolution Act (2016) which requires that the GMCA’s three Overview and Scrutiny Committees publish their proposed call-in procedure, which then has to be approved by the GMCA. The proposed arrangements for discussion are set out in this report.

The three Committees are also required by the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 (part 3, 11) to determine what constitutes significant expenditure or significant savings in the decision making process. Section 2 proposes a threshold.

RECOMMENDATIONS:

Members are asked to:

1. Review and agree a call-in process.

2. Review and agree the suggested key decision financial thresholds.

3. To agree, subject to any amendments, that GM’s scrutiny’s call-in process and the key decision financial thresholds be recommended for approval by the GMCA at its meeting on the September 29 September 2017.

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BACKGROUND PAPERS:


1 INTRODUCTION

1.1 Greater Manchester established a voluntary scrutiny function to scrutinise and review the decisions the Association of Greater Manchester Authorities Executive Board and AGMA since 2008. In 2011 this function was extended to include the decisions of the Greater Manchester Combined Authority.

1.2 The Cities and Local Government Devolution Act (2016) and the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 now require all combined authorities to arrange for the appointment of one or more Overview and Scrutiny Committees.

1.3 The terms of reference for the GMCA’s Overview and Scrutiny Committees currently do not include the arrangements for call-in. This is because schedule 3 of the Cities and Local Government Devolution Act (2016) requires that a combined authority’s Overview and Scrutiny Committee ‘must publish details of how it proposes to exercise its powers in relation to the review and scrutiny of decisions made but not yet implemented and its arrangements in connection with the exercise of those powers’. (i.e. its call-in procedures). The Overview and Scrutiny Committee ‘must then obtain the consent of the combined authority to the proposals and arrangements’.

1.4 This report sets out Greater Manchester’s proposed arrangements for discussion, review and agreement by each of the GMCA’s three Overview and Scrutiny Committees before they are taken to September’s meeting of the GMCA to obtain their consent to these arrangements.

1.5 The GMCA’s three Overview and Scrutiny Committees are also required by the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 (part 3, 11) to determine what constitutes significant expenditure or significant savings in the decision making. Section 2 suggests a proposed threshold.

2 Key Decisions Financial Thresholds

2.1 The Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 Order describes a key decision as one ‘which in the view of the Overview and Scrutiny Committee for a combined authority is likely—

(i) to result in the combined authority or the mayor incurring significant expenditure, or the making of significant savings, having regard to the combined authority’s budget for the service or function to which the decision relates; or

(ii) to be significant in terms of its effects on persons living or working in an area comprising two or more wards or electoral divisions in the area of the combined authority;’

The suggested indicative financial threshold for the GMCA’s key decision is expenditure or savings of more than £500,000.
3 Draft Call-in Procedure

3.1 Members appointed to the GMCA’s three Scrutiny Committees have the power to call-in the decisions made by:

- Greater Manchester Combined Authority (GMCA)
- Greater Manchester Elected Mayor (for decisions relating to his general functions only)

decisions made under delegated powers by:

- A Member of the GMCA exercising delegated mayoral general functions
- A Committee of the GMCA
- A Committee established by the Mayor to exercise mayoral general functions.
- Transport for Greater Manchester Committee,

and key decisions made under delegated powers by:

- Officers of the GMCA (as set out in Part 3 Section F of the Constitution).

Publication of Decision Notices

3.2 The proposed timescales for the publication of decisions and the call-in period reflect the timescales in the GMCA’s previous call-in arrangements.

3.3 When a decision has been made by any of the decision-makers listed in paragraph 3.1 the decision shall be published (including where possible on the GMCA’s website), and shall be available at the offices of the GMCA. It is suggested that the decision notice should be published within working 2 days of the decision being made.

3.4 It is the responsibility of the GMCA’s Head of Paid Service to send electronic copies of the records of all such decisions to all members of the GMCA and all members of the GMCA’s Overview and Scrutiny Committees and any scrutiny sub committees (if established) within the same two day period referred to in paragraph 3.3.

3.5 Each decision notice will bear the date on which they are published and will specify the date that the decision will come into force.

3.6 Decisions may be implemented from 4.00 pm on the fifth day after the day on which the decision was published, unless before that time three members of the committee decide to call it in. The members must give notice in writing to the Head of Paid Service that they wish to call-in the decision, stating their reason(s) why the decision should be scrutinised.

3.7 The period between the publication of the decision notice and the time a decision may be implemented is the call-in period.
**Call-in of decisions**

3.8 Call-in is one of a range of tools that scrutiny can use to influence decision-making.

3.9 A decision may not be called in if the Overview and Scrutiny Committee concerned has already made recommendations to the decision-maker and those recommendations have been accepted by the decision-maker either in whole or without significant addition or modification.

3.10 Except where paragraph 3.9 applies, if three members of an Overview and Scrutiny Committee request to call-in a decision the Head of Paid Service must notify the relevant decision-maker (see paragraph 3.1) of the call-in.

3.11 The Head of Paid Service must then convene a meeting of the Overview and Scrutiny Committee on such date as he/she may determine, where possible after consultation with the Chair of the Overview and Scrutiny Committee.

3.12 The meeting must be convened within ten working days of the decision to call-in. The decision-maker will have the right to attend the meeting to explain the reasons for the decision and to answer questions at the meeting. At the scrutiny meeting in which the call-in is reviewed the Overview and Scrutiny Committee will consider the reasons for call-in and the decision-maker’s response to any questions the committee may agree to. The committee may decide to:

- Make no recommendations (in which case the decision will stand and may be implemented with immediate effect); or

- Refer the matter back to the decision-maker with a recommendation that the decision-maker: changes aspects of the decision; reconsiders the decision in light of the committee’s views; or does something else before the final decision is made.

3.13 If a decision is referred by a meeting of the Overview and Scrutiny Committee the decision-maker must reconsider the original decision before adopting a final decision. After reconsidering their decision the decision maker must write to the Overview and Scrutiny Committee and set out if they have amended their decision or explain the reasons why their decision stands. The timeline for this is set out in the diagram below.
Urgent Decisions

3.14 The 2017 Scrutiny Order makes provision for the call-in arrangements not to be followed in exceptional circumstances where the decision being taken is urgent. It is proposed that in Greater Manchester the grounds for a decision to be considered as urgent are that if any delay likely to be caused by the call-in process would seriously prejudice the legal or financial position of the GMCA or the Constituent Councils, or the interests of the residents of Greater Manchester.

3.15 The Order specifies that the chair of the relevant Overview and Scrutiny Committee must agree both that the making of the decision is urgent, cannot reasonably be deferred and that it can be being treated as a matter of urgency. In the absence of the chair of the relevant Overview and Scrutiny Committee, the chair of the GMCA must agree the grounds of urgency, or in the absence of the chair of the GMCA, the vice chair of the GMCA may agree the grounds for urgency.

3.16 As soon as agreement has been obtained by the decision maker that the making of the decision is urgent the decision maker must publish a notice in its offices and on its website which states the reason why the decision is urgent and cannot reasonably be deferred.

3.17 Where a decision is exempted from call-in it will become effective immediately or (if later) as soon as the agreement of the chair of the relevant Overview and Scrutiny Committee (or of the chair or vice chair of the GMCA) has been obtained.

3.18 Decisions taken as a matter of urgency must be reported to the next meeting of the GMCA, together with the reasons for urgency.

3.19 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to the GMCA with proposals for review if necessary.