

Report on	Amendment to Standing Orders
Date of Meeting	Thursday 16 th December 2021
Reporting Officer	Adrian McCreesh, Chief Executive
Contact Officer	Kathryn Donnelly, Council Solicitor Philip Moffett, Assistant Director

Is this report restricted for confidential business? If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	X

1.0	Purpose of Report
1.1	To consider an amendment to the Standing Orders on the regulation of council and committee business in light of Council being made aware of a judgement made following a Judicial Review formally published on 2 nd November 2021.
1.2	In line with standing order 30.2 concerning amendments to Standing Orders this matter and request to amend council Standing Orders was notified to November 2021 Council and discussion stood adjourned until the next ordinary meeting of Council. Discussion on the proposed amendment can take place at December 2021 in line with standing order 30.2, concerning amendments.
2.0	Background
2.1	<p>Members were previously informed the November meeting that the Council has been working on the basis that certain decisions of Council (and committees) are not subject to 'call-in'. This was in line with the model standing orders adopted by Council in 2015 as recommended by the then Department for the Environment (DoE) now Department for Communities. The following is an extract from standing order 21.2 confirming those matters which are not subject to call-in</p> <p><i>(2) The following decisions shall not be subject to call-in:</i></p> <p><i>(a) a decision on a regulatory or quasi-judicial function which is subject to a separate appeal mechanism;</i></p> <p><i>(b) a decision which is deemed to be a case of special urgency in accordance with regulation 26 of the 2014 Executive Arrangements Regulations;</i></p> <p><i>(c) a decision where an unreasonable delay could be prejudicial to the council's or the public's interests;</i></p> <p><i>(d) a decision taken by an officer or officers which is not a key decision;</i></p> <p><i>(e) a decision by the executive which serves only to note a report from or the actions of an officer or officers.</i></p>

2.2.	As previously advised, this matter primarily impacts upon the workings of the planning committee and in instances where Committee may have delegated authority over specific business matters. As such, the Director for Planning updated committee members on same at the November planning meeting.		
3.0	Main Report		
3.1	<p>Given the determination provided on the Judicial Review brought against Derry City & Strabane DC a review has been carried out of our Council Standing Orders and it has been considered that amendments are required to comply with the ruling.</p>		
3.2	<p>As per the comments given in the determination, there is currently no legislative provision to allow for discretion to exclude a decision on a regulatory or quasi-judicial function which is subject to a separate appeal mechanism from being called in. This discretion is currently reflected in our Standing Orders shown at 2.1 above.</p>		
3.2	<p>It was however acknowledged in the determination that there may be good reason for the exceptions that were previously recommended to be adopted by all Councils, such as urgency or the availability of a further appeal which would allow further consideration of the decision.</p>		
3.3	<p>Reflecting on the recommendations from the judicial review it is proposed that:</p> <ol style="list-style-type: none"> 1. Council agree to deletion of Standing Order 21.2 (2)(a) where it currently states that a decision on a regulatory or quasi-judicial function shall not be subject to call-in 2. Council agree to amending Standing Order 21.2 to now read <p><i>A decision where an unreasonable delay could be prejudicial to the council's interests, the public's interests and in urgent situations for emergency responses.</i></p> <p>Amendment 2 above in particular, provides scope in relation to dealing with matters in which an unreasonable delay could be prejudicial to the Council, or to a member of the public, which would allow for an emergency response, such as a threat of serious damage to human welfare and/or the environment. Members should note that the absence of justifiable legislative provision to allow for such an exceptions, may lead to a challenge of such a decision.</p>		
4.0	Other Considerations		
4.1	<p>Financial, Human Resources & Risk Implications</p> <table border="1" data-bbox="213 1868 1426 2018"> <tr> <td data-bbox="213 1868 1426 1944">Financial: none identified</td> </tr> <tr> <td data-bbox="213 1944 1426 2018">Human: none identified</td> </tr> </table>	Financial: none identified	Human: none identified
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	Risk Management: Inclusion of proposed amendments mitigates against risk to non-compliance with the out-workings of the referenced legal judgement
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications: not applicable on this occasion
	Rural Needs Implications: not applicable on this occasion
5.0	Recommendation(s)
5.1	It is recommended that discussion on the matter/proposed amendments having been adjourned since the last ordinary meeting of council may now take place and are recommended for approval by Council to be incorporated into Council standing orders.
6.0	Documents Attached & References
	Not applicable