

<b>Report on</b>	Amendment to Standing Orders
<b>Date of Meeting</b>	Thursday 25 <sup>th</sup> November 2021
<b>Reporting Officer</b>	Adrian McCreesh, Chief Executive
<b>Contact Officer</b>	Kathryn Donnelly, Council Solicitor Philip Moffett, Assistant Director

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

<b>1.0</b>	<b>Purpose of Report</b>
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 <sup>nd</sup> November 2021. The purpose of this report is to bring to member's attention the proposed amendments to be made to the Standing Orders for Council, in line with the judgement.
1.2	In line with standing order 30.2 concerning amendments to Standing Orders discussion on this shall stand adjourned until the next ordinary meeting of Council, once proposed and seconded.
<b>2.0</b>	<b>Background</b>
2.1	<p>To date, Council has been working on the basis that certain decisions of Council and committee are not subject to 'call-in'. This is in line with the model standing orders adopted by Council 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>  <i>(a) a decision on a regulatory or quasi-judicial function which is subject to a separate appeal mechanism;</i>  <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>  <i>(c) a decision where an unreasonable delay could be prejudicial to the council's or the public's interests;</i>  <i>(d) a decision taken by an officer or officers which is not a key decision;</i>  <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.	This matter primarily impacts upon the workings of the Council's planning committee and in instances where Committee may have delegated authority over

	specific business. As such, the Planning Manager updated committee members on same at the November planning meeting.
<b>3.0</b>	<b>Main Report</b>
3.1	Given the determination provided on the Judicial Review brought against Derry City & Strabane DC a review has been carried out of the Council's Standing Orders and it has been considered that amendments are required to comply with the ruling.
3.2	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.
3.2	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.
3.3	<p>Reflecting on the recommendations from the judicial review it is proposed that:</p> <ol style="list-style-type: none"> <li>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</li> <li>2. Council agree to amending Standing Order 21.2 to now read <i>A decision where an unreasonable delay could be prejudicial to the council's or the public's interests and in urgent situations.</i></li> </ol> <p>Amendment 2 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>
<b>4.0</b>	<b>Other Considerations</b>
<b>4.1</b>	<b>Financial, Human Resources &amp; Risk Implications</b>
	Financial: none identified
	Human: none identified
	Risk Management: The adoption of the proposed amendment(s) will ensure that council is compliant with the determination in the case as referenced above.

<b>4.2</b>	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications: not applicable on this occasion
	Rural Needs Implications: not applicable on this occasion
<b>5.0</b>	<b>Recommendation(s)</b>
5.1	It is recommended that any discussion on these amendment(s) shall stand adjourned without discussion until the next ordinary meeting of the Council, in line with standing order 30.2 concerning amendments. Thereafter they will be recommended for approval.
<b>6.0</b>	<b>Documents Attached &amp; References</b>
	Not applicable