

FR1

'CALL - INS'
(Overview & Scrutiny Procedure Rule 15)

Notice of a 'call-in' must be received by the Head of Paid Service within 5 working days of the publication of the relevant Executive minutes.

(For a Thursday meeting, the minutes are published on the Monday following the meeting. Therefore, the call-in request must be received by 5.00pm on the Monday following publication of the minutes)

1. Decision 'called-in': Executive Meeting 22 Nov 2018
Public Toilet Review



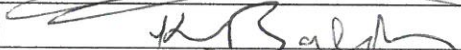
Minute Reference: E. 46/18

2. Call-in requested by: (please tick as appropriate)

• **Chairman of the Overview & Scrutiny Panel**

Name (please print)	Signature

• **Three Members of the O&S Panel**

Name (please print)	Signature
JOHN BIRCH	
John Green	
KEITH BALDWIN	

• **Four other non-Executive Members**

Name (please print)	Signature
Robert VINT	RAVint
JULIAN BRAZIL	JJB

3. Reason(s) for the 'Call-in':

Call-ins are only valid where there is evidence to suggest that the decision:

- a) was not taken in accordance with the principles of decision making set out in Article 11 of the Constitution; or
- b) where it was outside the Council's adopted budget and policy framework.

Each principle of decision-making is listed below. Please indicate which principle(s) you think the decision has not been taken in accordance with and provide supporting evidence for each.

Proportionality (i.e. action must be proportionate to the desired outcome)

Evidence:

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Due consultation & taking of officers' professional advice

Evidence:

See Appendix 1
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Respect for Human Rights

Evidence:

(Please cite the precise article of the Human Rights that you believe has been contravened, with your supporting evidence)

See Appendix 2
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A presumption in favour of openness

Evidence:

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Clarity of aims and desired outcomes

Evidence:

See Appendix 3
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**Compliance with the Local Authorities
(Executive Arrangements) (Access to Information)
(England) Regulations 2000**

Evidence:

(Please cite the particular aspect of the regulation which you believe has been contravened)

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Observance of the Members' Code of Conduct

Evidence:

(Please cite the principle of the Members' Code of Conduct which you believe has been contravened)

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Not within policy

Evidence:

(Please quote the relevant policy or strategy and how the decision taken is contrary to that)

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Not within budget

Evidence:

(Please note that you are required to seek the advice of the Chief Finance Officer when citing this as a reason for call-in)

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<p>Office Use</p> <p>Received on behalf of the Head of Paid Service by:</p> <p>..... (signature)</p> <p>Date:..... Time:.....</p>

APPENDIX 1

LACK OF CONSULTATION

Article 11.2(d) of the Constitution provides that all decisions of the Council will be made with due consultation.

In making the decision to install Pay on Entry equipment to the Steamer Quay toilets in Totnes the Executive Committee failed to take into account the Council's failure to adequately consult with the Totnes Town Council and other stakeholders such as the local businesses affected by the decision.

The evidence in support is as follows;

By an email dated 8 August 2018 sent by Cathy Aubertin to the Totnes Council she informed the Town Clerk that the Council proposed the implementation of a Pay on Entry scheme for the public toilets at Coronation Road and the Civic Hall in Totnes and offered to attend a Town Council meeting to discuss the proposal in more detail. In the same email it is stated "The facilities at Steamer Quay are the subject of further consideration and I will be in touch with you about these at a later date"

Cllr Birch, a Totnes Member, was copied into the email and subsequently informed the local businesses affected that there were no current proposals to implement a Pay on Entry scheme at Steamer Quay.

By an email dated 16 November 2018 sent by Cathy Aubertin to the Totnes Council she informed the Town Clerk that the Council proposed the implementation of a Pay on Entry scheme for the public toilets at Steamer Quay. The email, which was not copied to Totnes Members until 19 November 2018, was sent just four working days before the Executive Committee meeting on 22 November 2018 at which the decision was taken. In such circumstances the Council failed to provide an adequate period for consultation not only with the Town Council but with other stakeholders such as the local businesses affected by the decision.

Further there was no attempt by the Council to take any steps in consulting with the local businesses affected by the decision.

APPENDIX 2

HUMAN RIGHTS

Article 11.2(e) of the Constitution provides that all decisions of the Council will be made with respect for human rights and equality.

In deciding to effect the closure of public toilets in parts of South Hams the Executive Committee failed to take into account and/or respect the basic human right to a toilet.

In 2015, the United Nations General Assembly declared sanitation a universal human right. This means that *everyone, everywhere*, has the right to a toilet.

Not only is access to safe sanitation integral to the right to health and a clean environment, it also evokes the concept of human dignity through the ability to manage one's bodily functions (Klasing and Smaak 2017). Human dignity is fundamental to the right to life (Koonan 2012).

The human right to sanitation entitles everyone, without discrimination, to: *“have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, and social and culturally acceptable, and that provides privacy and dignity”* (UN, 2015).

The human right to sanitation is not fulfilled by the presence of a toilet of *any* kind, in *any* condition. It delineates a five-pillar criteria that sanitation services must meet in order to satisfy the right to sanitation.

They must be:

- 1 Available (near to households, schools, workplaces, health centres etc.)
- 2 Accessible (to all, without discrimination)
- 3 Affordable (should not exceed 5% of households' incomes)
- 4 Safe (free from health hazards, and in locations that are safe for all users, e.g. where women feel safe from harassment and violence)
- 5 Acceptable (culturally and socially, and must protect peoples' privacy and dignity)

The right to sanitation is therefore highly intertwined with many other universal human rights and is essential to an adequate standard of living.

In deciding to close public toilets in parts of South Hams the Council will deprive residents and visitors their basic human right to a toilet as

APPENDIX 3

LACK OF CLARITY OF AIMS AND DESIRED OUTCOMES

Article 11.2(d) of the Constitution provides that all decisions of the Council will be made with clarity of aims and desired outcomes.

In making the decision to install Pay on Entry equipment and/or close public toilets throughout South Hams the Executive Committee failed to take into account the Council's failure to provide an adequate or sufficient report that had clarity of aims and desired outcomes

The evidence in support is as follows;

The report before the Executive Committee and the information provided by Cllr Gilbert at the meeting is inaccurate, misleading, contradictory and contains inconsistent figures. By way of example

1. There is a discrepancy in respect of the contribution to be made by Kingsbridge Town Council.
2. Newton Ferrers is described as a non tourist area and that its costing figures are based on a 12 month basis, when the toilet is closed for 4 months
3. There is confusion over the general overhead costs attributed to the running cost of each toilet.
4. It was stated that there should be a consistent approach in respect of the three toilets in Totnes and yet this is at variance with the approach taken in other locations such as Kingsbridge where there are more than one set of toilets.

illustrated below and so it is essential that adequate consultation is carried out before any decisions are finalised:

- A closure of public toilets will result in those in need having to travel substantial distances to find alternative provision, if and when it is available
- Individuals with disabilities, older people or individuals with health related problems will face severe difficulties as a result of closure
- The lack of toilet facilities could result in a negative impacts on tourism in certain areas due to toilets not being available.
- Groups such as elderly, those with particular disabilities and mothers with young children will be deprived of toilet facilities in certain areas of South Hams .