

Scrutiny Procedure Rules

As the Council operates an executive model of governance, it is required under Section 9F of the Local Government Act 2000 to have at least one Scrutiny Committee.

The purpose of the Committee is to influence the policies and decisions made by the Council and other organisations involved in delivering public services. They do this through meeting regularly and having input into some policies and decisions before they are made, investigating important public issues through Task and Finish Groups and where appropriate challenging or reviewing decisions once they are made through the Call In Procedure Rules.

Scrutiny Committees are not decision-making bodies but their influence and challenge is vital to effective decision making. The Scrutiny Committees can scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. The Council has two Scrutiny Committees which will perform all scrutiny functions on behalf of the Council.

The Centre for Public Scrutiny “Good Scrutiny Guide” states that “Scrutiny’s structures are often a reflection of the culture in which scrutiny operates and the role that has been agreed for it”. The model adopted by the council is of two committees:

- An overarching Scrutiny Commission who are able to establish task and finish groups completing work on the agreed workplan. This means that not only will the Committee take on its own substantive work, it will provide co-ordination of a number of task and finish groups for matters that have been identified as important within the organisation. The council believes that this will allow scrutiny to have real impact on the organisation.
- A Finance and Resources Scrutiny Committee to specifically scrutinise and monitor the finances of the Council.

1. Scrutiny Commission Terms of Reference

1.1. To review and scrutinise decisions made, or other action taken, in connection with the discharge of any function (other than those outlined in the Finance and Resources Scrutiny Committee terms of reference (see paragraph 2 below).

1.2. To ensure that Scrutiny directly responds to corporate and public priorities, is used to drive service improvement, provides a focus for policy development and engages members of the public, key stakeholders and partner agencies. They should do this by ensuring that they review key documents at each meeting and regularly reviewing their workplan, following which they should set up Task and

Finish Groups on behalf of the Commission.

- 1.3. To make reports or recommendations to Council or the Executive (in accordance with Rule 11.1 below) as appropriate with respect to the discharge of any function (other than those outlined in the Finance and Resources Scrutiny Committee terms of reference (see paragraph 2 below).
- 1.4. May recommend that an executive decision that is either a Key Decision or a decision which has been entered onto the Forward Plan made but not yet implemented, be reconsidered by the Executive through the Call In Procedure.
- 1.5. To fulfil all the functions of the Council's designated Crime and Disorder Committee under the Police and Justice Act 2006.
- 1.6. To fulfil all the functions conferred on it by virtue of regulations under the National Health Service Act 2006 (local authority scrutiny of health matters).
- 1.7. Provide responses to Councillors Call for Action.

2. Finance and Resources Committee – Terms of Reference

2.1. To review and scrutinise regular monitoring reports on:

- a) The Revenue Budget; and
- b) The Capital Programme
- c) The Housing Revenue Account

2.2. To develop a budget review process and ensure that budget proposals are subject to rigorous challenge.

2.3. To consider organisational performance for corporate support services (ICT, legal, financial and HR services)

2.4. In respect of the discharge of functions in respect of 2.1 a) to c) only:-

- 2.4.1. To consider reports on issues identified and on which further information has been requested.
- 2.4.2. To make reports or recommendations to Council or the Executive as appropriate (in accordance with Rule 11.1 below).
- 2.4.3. May recommend that a Key Decision or a decision which has been entered onto the Forward Plan made but not yet implemented made but not yet implemented, be reconsidered by the Executive through the Call In Procedure.

3. Members

3.1. There shall be 13 members of each Scrutiny Committee. Relevant training shall be undertaken by members.

4. Co-optees

4.1. The Scrutiny Commission shall be entitled to appoint non-councillors as voting or non-voting co-optees as required or permitted by relevant legislation.

4.2. The Scrutiny Commission may make provision for the appointment of voting co-optees in order to assist in fulfilling its responsibilities under the National Health Service Act 2006.

4.3. The Scrutiny Commission shall appoint voting representatives in accordance with the Education Act 1996. These representatives have the right to vote on any question which relates to any education functions which are the responsibility of the Executive.

4.3.1. Parent Governor Representatives will be appointed in accordance with the guidance published by the relevant government department.

5. Substitutions

5.1. Named substitutes only. Substitutes must undertake relevant training.

6. Chairmanship

6.1. The Chair and Vice Chair of each Scrutiny Committee shall be appointed at the annual meeting of Council.

7. Quorum

7.1. The quorum shall be a quarter of voting members.

8. Workplan

8.1. The Scrutiny Workplan is owned by the Scrutiny Commission.

8.2. Each year the Scrutiny Officer will ensure that proposals for the Scrutiny Commission's Annual Work Plan are provided to all Members. The Scrutiny Commission Chair and Vice Chair will be responsible for setting the Annual Work Plan for the Scrutiny Commission and in doing so it shall consult with other parts of the Council as appropriate, including the Executive, on the preparation of any work programme.

8.3. The Work Plan is a living document and will be reviewed at each meeting of the Scrutiny Commission. It shall be informed by any concerns raised by members,

public and/or stakeholders, the Strategic Risk Register, the Forward Plan and published decisions.

8.4. In adding items for review to the Work Plan, the Chair of the Scrutiny Commission shall consider;

- Which Corporate Priority the item links to?
- If the item is of significant community concern?
- If the issue is significant to Partners and/or Stakeholders?
- What the added value is of doing the work? (It must have an impact)
- What evidence there is to support the work?
- If the Scrutiny work can be completed within a proportionate time to the task identified?
- If the work is being done somewhere else?
- What will be achieved?
- If the Council has the resources to carry out the work effectively?

8.5. The Scrutiny Commission will take into account any views expressed following consultation under Rule 1.2 above in drawing-up any work programme. They should also take into account the resources, both officer and financial, available to support its proposals.

8.6. The Scrutiny Commission shall respond as soon as possible to requests from the Council and the Executive to review particular areas of Council activities. Where it chooses to review matters it will report its findings and any recommendations back to the Executive and/or Council in accordance with these rules.

8.7. The Chairman of the Finance and Resources Scrutiny Committee may request that a matter is included on the Scrutiny Commission Workplan and this will be considered by the Scrutiny Commission in accordance with 8.4.

9. Agendas for meetings of the Scrutiny Committees

9.1. Matters to be considered will be set out in an agenda, together with appropriate and relevant supporting papers.

9.2. Any member of a Scrutiny Committee shall be entitled to request, in writing, that an item be included on the agenda. Any such item shall appear on the agenda for the next meeting of the Committee. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.

9.3. Similarly, the Leader or an individual member of the Executive may give notice in writing requesting an item to appear on an agenda of the relevant Scrutiny Committee, relating to their area of responsibilities. The Scrutiny Committee will decide how the item should be considered and the Scrutiny Commission shall determine whether or not it can be included in its work programme.

- 9.4. Subject to Procedure Rule 31 of the Meeting Procedure Rules, any other Councillor may give notice in writing to the Monitoring Officer, requesting an item to appear on an agenda of a Scrutiny Committee. The item shall be included after consulting the Chair of the relevant Scrutiny Committee.

10. Procedure at Scrutiny Committee meetings

- 10.1. The Scrutiny Committees shall consider the following business:

- (a) minutes of the last meeting;
- (b) consideration of any matter referred to the Committee by the Council or by the Executive;
- (c) consideration of any matter referred to the Committee for advice in relation to call-in or a decision;
- (d) responses of the Executive on reports of the Scrutiny Committee; and
- (e) the business otherwise set out on the agenda for the meeting (which shall include updates from Task and Finish Groups for the Scrutiny Commission)

- 10.2. Where the Scrutiny Commission conducts investigations, it will be in accordance with the following principles:

- (a) the investigation be conducted fairly, and all members of the relevant Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) those assisting the Committees by giving evidence be treated with respect and courtesy; and
- (c) the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

- 10.3. Following any investigation or review, the relevant Scrutiny Commission shall prepare a report for submission to the Executive and/or Council as appropriate and shall, unless there are exceptional reasons, make its report and findings public.

11. Reports from the Scrutiny Committees

- 11.1. Once recommendations have been formed, the relevant Scrutiny Committee may submit a formal report for consideration by the Executive (if the proposals relate to an executive function and are consistent with the existing budgetary and policy framework), or to the Council as appropriate (if the recommendation would require a departure from or a change to the agreed budget and policy framework).

- 11.2. Where the relevant Scrutiny Committee cannot agree on a single, final report to the Executive then one minority report may be submitted to the Executive with the majority report.
- 11.3. The Council or the Executive shall consider the report of the relevant Scrutiny Committee at the next available meeting. The Council or the Executive shall respond to the relevant Scrutiny Committee within two months (or following the next available meeting in the case of the Council) of it being submitted.

12. Minority Reports

- 11.1 In order that a minority opinion can be expressed where a Scrutiny Committee does not achieve a consensus on an issue, these rules make provision for minority reports to be produced by members of such a committee.
- 11.2 This means that although a majority report is issued representing the Committee's majority view, any Member of the relevant Committee may propose an alternative view which may then be published in a minority report. In order for a minority report to be produced, no fewer than three voting members of the Committee must support such a proposal.

13. Procedure for dealing with Minority Reports

- 12.1 At the conclusion of an inquiry and at the point of agreeing a final report detailing the Committee's conclusions and recommendations, the Scrutiny Committee may be unable to reach a general consensus. Members in the minority may wish to express a view different from that of the majority. In these circumstances, Members with a minority view may choose to submit a minority report.
- 12.2 The intention to submit a minority report must be declared within the relevant Scrutiny Committee meeting at the time the majority report is agreed. Such an intention must be recorded in the minutes of the meeting and referred to in the final report as part of the Committee's resolutions. Where a Committee has agreed its final report and there has been no declared intention to produce a minority report, a minority report cannot then be subsequently submitted.
- 12.3 Where the intention to produce a minority report has been recorded in the minutes, Democratic Services will contact the appropriate Member or Members to confirm submission dates. The minority report should be delivered to the Democratic Services within 5 clear working days after the Scrutiny Committee meeting.
- 12.4 In order that a minority report is given the opportunity to be noted in context by the Executive, where it has been produced within the agreed timescale it will be attached as an appendix to the majority report.
- 12.5 The Monitoring Officer will determine if a minority report should be exempt from publication, in which case the usual procedures for the publication of exempt reports apply.

- 12.6 The drafting and submission of the minority report remains the responsibility of the Councillors who have proposed it and not Democratic Services. The report will include details of the Councillors who have submitted the minority report, as well as its issues and any alternative recommendations.
- 12.7 It is normally expected that a Scrutiny Committee will have taken into account all the relevant information available and as such a minority report will be based on the same evidence as a majority report.

14. Councillors and Officers giving account

14.1. A Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function relevant to their Terms of Reference. As well as reviewing the documentation, in fulfilling its scrutiny role, it may require the Leader or any Portfolio Holder, to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance,

and it is the duty of those persons to attend if so required.

14.2. Where a Scrutiny Committee requires an officer to attend to answer questions or discuss issues, this will be agreed with the Monitoring Officer.

14.3. Where it is agreed that an officer should appear to answer questions, their evidence should, as far as possible, be confined to questions of fact and explanation relating to policies and decisions. Officers may explain: -

- (a) what the policies are;
- (b) the justification and objectives of those policies as the Executive sees them;
- (c) the extent to which those objectives have been met; and
- (d) how administrative factors may have affected both the choice of policy measures and the manner of their implementation.

14.4. Officers may be asked to explain and justify advice they have given to the Executive prior to decisions being taken. They may also be asked to explain and justify decisions they have taken under delegated powers from the Executive.

14.5. Officers should not be expected and should avoid being drawn into discussions

of politically contentious matters and any officer input should be consistent with the requirements for political impartiality.

- 14.6. The requirements of any protocols on Member/Officer relationships and the Code of Conduct must be adhered to where an officer is attending the Scrutiny Committee.
- 14.7. Where any Councillor or Officer is required to attend a Scrutiny Committee under this provision, the Chair of the Committee will inform the Monitoring Officer, who will inform the Councillor or Officer in writing giving at least ten clear working days' notice of the meeting. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to a Scrutiny Committee will require the production of a report, then the Councillor or Officer concerned will be given reasonable and sufficient notice to allow for its preparation.
- 14.8. Where, in exceptional circumstances, the Councillor or Officer is unable to attend on the required date, then the Committee shall, in consultation with the Councillor or Officer, arrange an alternative date for attendance.

15. Attendance by others

- 15.1. A Scrutiny Committee may invite individuals other than those referred to in Rules 13.1 and 13.2 to address it, discuss issues of local concern and/or answer questions in relation to their Terms of Reference.

16. Rights of Scrutiny Committee members to documents

- 16.1. In addition to their rights as Councillors, members of a Scrutiny Committee have the additional right of access to documents, and to notice of meetings as set out in the Access to Information Procedure Rules.

17. Call-in

- 17.1. Call-in is the exercise of the Scrutiny Committees' statutory power in section 21(3) of the Local Government Act 2000 to review an Executive decision that has been made but not yet implemented. Where a decision is called in and a Scrutiny Committee decides to refer it back to the Executive for reconsideration, it cannot be implemented until the call-in procedure is complete.
- 17.2. Any Key Decision and/or a decision which has been entered onto the Forward Plan made but not yet implemented is subject to call-in. Whether a decision should be entered onto the Forward Plan is set out in the Access to Information Procedure Rules. A decision may be called in only once. A recommendation by the Council may not be called in.
- 17.3. Call-in of decisions which may be contrary to the Budget and Policy Framework shall be governed by the provisions of the Budget and Policy Framework

Procedure Rules set out elsewhere within this Constitution.

- 17.4. Any call-in which may be considered to be within the terms of reference of both Scrutiny Committees will be adjudged by the Monitoring Officer in consultation with the Chairs of the Scrutiny Committees, in order to decide which of the Committees should consider the call-in.

18. The Call-In Procedure

- 18.1. Once made, a Key Decision and/or a decision which has been entered onto the Forward Plan shall be published within two clear working days at the Council's main offices and on its public website. The decision record will be sent to all members of the Council within the same timescale.
- 18.2. The decision record will bear the date on which it is published and will specify that the decision will be effective on the expiry of 5 clear working days after the publication of the decision and may then be implemented, unless called in under this provision within that 5 clear working day period. The deadline for a call-in request will be specified in the decision record.
- 18.2.1. Requests for call-in may be made by the submission of a notice in accordance with paragraph 9.5.4 below. A request shall only be considered to be valid if it is signed by at least 8 members of the Council (10% of the total number of members) who are not members of the Executive. One of the requestors must identify themselves as the originator of the request and the request must specify the nature of the grounds relied upon.
- 18.2.2. A call-in request must be in the form of a written notice submitted to the Monitoring Officer and received before the published deadline. Either one notice containing all required signatures or up to 8 separate e-mails (as appropriate) will be acceptable.
- 18.2.3. The notice must set out (a) the resolution or resolutions that the member(s) wish to call in; (b) the reasons why they wish the relevant Scrutiny committee to consider referring it back to the Executive, with particular reference to the principles of decision making set out elsewhere within this Constitution and (c) the alternative course of action or recommendations that they wish to propose.
- 18.2.4. The call-in request will be deemed valid unless either:
- a) The procedures set out in Procedure Rules 9.5.3 to 9.5.5 above have not been properly followed;
 - b) A similar decision has been called in to the committee previously;
 - c) The Executive decision has been recorded as urgent in accordance with urgency provisions; or

- d) The Monitoring Officer, in consultation with the Chair of the relevant Scrutiny Committee, considers the call-in to be frivolous, vexatious or clearly outside the call-in provisions;

in which case the Monitoring Officer may reject the call-in request.

18.2.5. Before deciding on its validity, the Monitoring Officer may seek clarification of the call-in request from the member(s) concerned.

18.2.6. Upon deciding on its validity, the Monitoring Officer shall forthwith notify the member(s) concerned, the Leader of the Council and relevant Executive Member, the Chair and Vice-Chair of the relevant Scrutiny Committee and the Head of Paid Service.

19. Consideration by the relevant Scrutiny Committee

19.1. The Monitoring Officer will ensure that any valid call-in is reported to the next available meeting of the relevant Scrutiny Committee, or will convene a special meeting if so agreed by the Chair of the Scrutiny Committee.

19.2. The originator of the request for call-in will be expected to attend the meeting of the Scrutiny Committee to explain their reasons for the call-in and the alternative course of action or recommendations they wish to propose.

19.3. Having considered the call-in and the reasons given, the Scrutiny Committee may either: -

- a) Refer it back to the decision-making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations;
- b) If it considers that the decision is outside the Council's budget and policy framework, refer the matter to full Council after seeking the advice of the Monitoring Officer and/or Chief Finance Officer (Section 151 Officer) in accordance with the Budget and Policy Framework Procedure Rules; or
- c) Decide to take no further action, in which case the original Executive decision will be effective immediately.

20. Decisions Referred Back to the Decision-Maker

20.1. If a decision is referred back to the original decision maker, that person or body shall then reconsider the matter, taking into account any concerns and recommendations of the relevant Scrutiny Committee, and make a final decision, amending the decision or not, and give reasons for the decision.

20.2. If a decision relates to an Executive function only the Executive can ultimately decide the matter, provided that it is in accordance with the Council's budget and policy framework.

21. Call-In and Urgency

- 21.1. The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision is urgent if:
- a) A call-in would prevent the Council reaching a decision that is required by statute within a specified timescale; or
 - b) Any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests and the reasons for urgency are reported to the decision-making body or person before the decision is taken.
- 21.2. Once made, an Executive decision shall be published, in the form of a decision record, within two clear working days at the Council's main offices and on its public website. The decisions digest will be sent to all members of the Council within the same timescale.
- 21.3. The decision note shall state whether the decision is an urgent one, and therefore not subject to call-in.
- 21.4. The Chair of the relevant Scrutiny Committee must agree to the decision being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair of the Scrutiny Committee's consent shall be required. In the absence of that person, the Chair of the Council's consent shall be required. In the absence of the Chair of the Council, the Vice-Chair of the Council's consent shall be required.
- 21.5. Where the Executive has recorded a decision as urgent, the Scrutiny Committee may retrospectively review actions arising from that decision but cannot delay its implementation.

22. Councillor Call for Action

- 22.1. Any member of the Council may submit a Councillor Call for Action to the Scrutiny Commission using the appropriate form. The Councillor Call for Action is intended to be a process of last resort and therefore a member must demonstrate that reasonable steps have been taken to resolve the matter including a response from the relevant Portfolio Holder and the Head of Paid Service or his/her nominee. The Councillor Call for Action will be placed on the agenda of the Scrutiny Commission. It is for the Scrutiny Commission to determine how it wishes to respond to the Councillor Call for Action and in the case of refusal to undertake a review then reasons must be provided.

23. Task and Finish Groups

- 23.1. The Scrutiny Commission may appoint such Task and Finish Groups as it considers appropriate to undertake specific tasks on its behalf. These should be used to ensure that the Scrutiny Commission is having an impact and meeting its statutory duties. The Task and Finish Groups should only be established if the work they are to be commissioned for is included on the Workplan.

- 23.2. Whilst Panels will be on a task and finish basis in most cases, the Scrutiny Commission is not precluded from establishing long standing Panels subject to regular review and oversight by the Scrutiny Commission.
- 23.3. Task and Finish Panel members do not have to be members of the Scrutiny Commission but may not be members of the Executive. The Committee may also decide to open up membership of the Task and Finish Panel to other Members, or co-opt other persons on to the group from relevant partners, organisation or community groups.
- 23.4. Where the Scrutiny Commission establishes any Task and Finish Group, it will set out the name of the Group, its membership (including the Chair and, if appropriate, the Vice-Chair) and the terms of reference including relevant dates for completion of the task or review.
- 23.5. Any such Task and Finish Panel shall have the powers set out in these rules above in relation to councillors and officers giving account.
- 23.6. Any report prepared by a Task and Finish Panel shall be subject to review by the Scrutiny Commission prior to being submitted for consideration by Council or the Executive.
- 23.7. The Task and Finish Groups are informal meetings without decision making powers and will not generally be open to the public.

24. The Party Whip

- 24.1. It is generally accepted that the Party Whip should be suspended in respect of Scrutiny matters. However, when considering any matter in respect of which a member of the Scrutiny Commission is subject to a formal party whip, the Councillor must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

End of Scrutiny Procedure Rules

February 2021