

NNC Constitution – Part 7 Scrutiny

DRAFT 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 Scrutiny Committees are 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 are 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, and scrutinise external bodies as detailed by statute.

The Centre for Governance and 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 Council has three Scrutiny Committees and a Scrutiny Management Board which collectively will perform the scrutiny functions on behalf of the Council.

1. Terms of Reference for Scrutiny Committees

Within their remits as set out below;

- 1.1. Review decisions made by the Council, Executive, Committees and Officers (except for regulatory decisions)
- 1.2. Review the performance of the Council in relation to policy objectives, performance targets and/or particular service areas
- 1.3. Question Executive Members about decisions and performance within their portfolio whether in comparison with corporate objectives over a period of time, or in relation to decisions (except for regulatory decisions).
- 1.4. Review the performance of other public bodies in the area and invite reports from them by asking them to address the relevant Scrutiny Committee about

their activities and performance.

- 1.5. Question and gather evidence from any person with their consent.
- 1.6. Make recommendations to Council or the Executive arising from work undertaken by a Scrutiny Committee
- 1.7. Recommend that a decision made but not yet implemented, be reconsidered by the Executive through the Call In Procedure administered by the Scrutiny Management Board.
- 1.8. Provide responses to Councillors Call for Action.
- 1.9. Collaborate with other Scrutiny Committees and other bodies undertaking similar functions outside the Council.
- 1.10. Agree the terms of reference and details of Panels once they have been added to the Annual Workplan by the Scrutiny Management Board.

2. Scrutiny Management Board- Terms of Reference

The Scrutiny Management Board has strategic responsibility for the Scrutiny function.

The Board has overall responsibility for the direction and management of Scrutiny to ensure that non-executive members make an effective contribution to the improvement and development of the Council, its services, and other external public services for the benefit of North Northamptonshire.

The Board is made up of six members. It is expected that these will be the Chairs and Vice Chairs of the three Scrutiny Committees. The quorum is 4 members and there shall be no substitutions.

The Chair and the Vice Chair of the Board shall be appointed at the annual meeting of Council.

The Board has the following specific responsibilities:

- (a) To work with the statutory Scrutiny Officer to oversee and manage the Council's scrutiny process;
- (b) Develop and approve an Annual Scrutiny Workplan;
- (c) Monitor progress of Panel work;
- (d) Monitor the Council's Forward Plan of Key Decisions;

- (e) Have overall responsibility for the commissioning of Panel work and consider resource implications. In adding items for review to the Work Plan, the Board 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?
 - 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?
- (f) To undertake regular dialogue with Executive Directors and Executive Members in line with the Executive/Scrutiny Protocol.
- (g) To consider scrutiny agenda requests and allocate to the relevant Committee if they are approved.
- (h) To undertake an annual assessment of Scrutiny (including undertaking quality control of scrutiny procedures including outputs and added value).
- (i) To oversee the co-ordination of scrutiny members learning and development
- (j) To develop and approve the Annual Scrutiny Report for consideration by Council.
- (k) To determine which Committee a matter should be considered at where it is not clear.
- (l) To determine call in requests.

3. Corporate Scrutiny- Terms of Reference

- 3.1 To review and scrutinise the Revenue Budget, Capital Programme and Housing Revenue Account
- 3.2 To undertake the budget review process and ensure that budget proposals are subject to rigorous challenge.
- 3.3 To review and scrutinise the following areas;
- Corporate performance data
 - Council Owned Buildings and Resources
 - Enabling Services e.g., IT (Information Technology)

- Outside Bodies
- Customer Services
- Complaints
- Northamptonshire Children's Trust
- Partnerships

4. Health Scrutiny- Terms of Reference

- To exercise the Council's statutory role in scrutinising health services for North Northamptonshire in accordance with the National Health Service Act 2006 as amended and associated regulations and guidance.
- To engage with and respond to formal and informal consultations from local health service commissioners and providers where it wishes to do so. This shall be on behalf of Scrutiny and not on behalf of Council.
- To scrutinise the commissioning and delivery of local health and social care services to ensure reduced health inequalities, access to services and the best outcomes for citizens.
- To hold the Health and Wellbeing Board to account for its work to improve the health and wellbeing of the population of North Northamptonshire and to reduce health inequalities;
- To respond to referrals from, and make referrals to, Healthwatch North Northamptonshire as appropriate;
- To appoint a lead health scrutiny councillor for the purposes of liaising with stakeholders on behalf of the Health Scrutiny function, including the Health and Wellbeing Board, Healthwatch North Northamptonshire, and the Executive Member with responsibility for health and social care issues;
- To have responsibility for scrutinising the Council's role as an Education Authority

5. Place and Environment Scrutiny- Terms of Reference

- 5.1 To fulfil all functions of the Council in relation to flood risk under the Flood and Water Management Act 2010
- 5.2 To fulfil all functions of the Council's designated Crime and Disorder Committee under the Police and Justice Act 2006.
- 5.3 To review and scrutinise the following areas;
 - Transport
 - Regeneration

- Neighbourhoods
- Housing
- Highways
- Climate
- Community Safety
- Leisure
- Tourism
- Social Housing
- Enviro-crime
- Waste

6. Members

There shall be 9 elected members of each Scrutiny Committee.

Relevant training shall be undertaken by members as determined by the Scrutiny Management Board.

7. Co-optees

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

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

The Health Scrutiny Committee 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.

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

8. Substitutions

8.1. Named substitutes are allowed and must undertake relevant training as determined by the Scrutiny Management Board.

9. Chairmanship

9.1. The Chair and Vice Chair of each Committee shall be appointed at the annual meeting of Council. If the Chair or Vice Chair resigns from the role prior to the next annual meeting, then a vote may be taken by the Committee to replace them in year.

10. Quorum

10.1. The quorum shall be a quarter of voting members, but no less than 4 members.

11. Meetings

11.1 Scrutiny Committee meetings will be held bi-monthly.

11.2 Extraordinary (Special) meetings of a Scrutiny Committee or the Scrutiny Management Board may be called, subject to the normal provisions under the Local Government Act 1972 (as amended) and the Council's Constitution.

11.3 Scrutiny Management Board shall be held monthly and shall be open to the public.

12. Agenda for meetings of the Scrutiny Committees

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

12.2 Any member of the Committee shall be entitled to request, in writing, that an item be included on the agenda. Any such item shall be considered by the Scrutiny Management Board, and they will determine whether it can be included.

12.3 Similarly, the Leader or an individual member of the Executive may give notice in writing requesting an item to appear on an agenda of a Scrutiny Committee, relating to their area of responsibilities. The Scrutiny Management Board will decide how the item should be considered and whether it can be included.

12.4 Any other Councillor may write to the Statutory Scrutiny Officer to request an item to appear on an agenda of a Scrutiny Committee. The Scrutiny Management Board will decide whether it can be included.

13 Reports from the Relevant Scrutiny Committee

13.1 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).

13.2 The Council or the Executive shall consider the report of the Scrutiny Committee at the next available meeting. The Council or the Executive shall respond to the Scrutiny Committee within two months (or following the next available meeting in the case of the Council) of it being submitted.

14. Panels

- 14.1 The Scrutiny Management Board may add Panels to the Annual Workplan and determine which Committee shall be responsible for the Panels work. Panels should be used to ensure that the relevant Committee is having an impact and meeting its statutory duties.
- 14.1.1 There shall be a maximum of 4 Panels established at any one time across all Committees unless the Scrutiny Management Board agrees that there are exceptional circumstances (taking into consideration resource implications and advice from the statutory Scrutiny Officer). This will exclude long standing Panels.
- 14.2 Whilst Panels will be on a task and finish basis and in most cases and time-limited, the Scrutiny Management Board is not precluded from agreeing long standing Panels subject to regular review and oversight by the appropriate Committee and progress being reported to the Scrutiny Management Board.
- 14.3 Panel membership may be opened up to other members of the Council, not just those sitting on the Scrutiny Committees. They may not be drawn from the Executive. The Board may also co-opt other persons on to the group from relevant partners, organisations, or community groups.
- 14.4 Where the Scrutiny Management Board agrees a Panel, it will direct the formal establishment of it to be undertaken by one of the three Committees, which will formally establish it and set out the name of the Panel, and the terms of reference including relevant dates for completion.
- 14.5 Panels are not required to be politically balanced, but they shall be cross party.
- 14.6 Panels can question and gather evidence from any person with their consent. Executive Members and Officers shall be required to attend if requested by the Panel.
- 14.7 Any report prepared by a Panel shall be agreed by the Scrutiny Committee which established it prior to being submitted for consideration by Council or the Executive.
- 14.8 Reports shall be made to the Council for Council functions and the Executive for Executive functions.
- 14.9 Panels are informal meetings without decision making powers and will not be open to the public or live streamed.

Minority Reports

- 14.10 When a Committee agrees a report to include the Committee's conclusions and recommendations, the Scrutiny Committee may be unable to reach a consensus. Members in the minority may wish to express a view different from

that of the majority. In these circumstances, a minimum of 2 Members with a minority view may choose to submit a minority report.

- 14.11 The intention to submit a minority report must be declared within the 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.
- 14.12 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.
- 14.13 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.
- 14.14 In order that a minority report is given the opportunity to be considered in context by the Executive/Council, where it has been produced within the agreed timescale it will be attached as an appendix to the majority report.
- 14.15 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.
- 14.16 The drafting and submission of the minority report remains the responsibility of the Councillors who have proposed it and not Democratic Services or other officers. The report will include details of the Councillors who have submitted the minority report, as well as its issues and any alternative recommendations.
- 14.17 It is expected that a Scrutiny Committee will have considered all the relevant information available and as such a minority report will be based on the same evidence as a majority report.

15 Call-in

- 15.1 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.
- 15.2 Where a decision is called in and the Board decides to refer it back to the Executive for reconsideration, it cannot be implemented until the call-in procedure is complete.
- 15.3 Any Key Decision is subject to call-in, whether determined by the Leader, an Executive Member, the Executive or a delegated officer. A decision may be called in only once. A recommendation by the Council may not be called in.
- 15.4 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.

16 The Call-In Procedure

- 16.1 Once made, a Key Decision shall be published, in the form of a decision note, 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.
- 16.2 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.
- 16.3 A call-in request must be in the form of a written notice submitted to the Monitoring Officer and received before 5pm on the published deadline shown on the Decision Notice.
- 16.4 A request shall only be valid if it is signed by at least 8 members of the Council who are not members of the Executive. Eight separate e-mails (as appropriate) will be acceptable if the form has not been signed.
- 16.5 One of the requestors must identify themselves as the lead signatory and the request must set out the reasons for call-in request.
- 16.6 The notice must set out -
- The resolution or resolutions that the member(s) wish to call in.
 - Clear reasoning as to how the principles of decision making as set out within this Constitution have not been met.
 - The recommendations that they want to make to the Executive or Executive Member who has exercised delegated authority.
- 16.7 The call-in request will be deemed valid unless either:
- (a) The procedures set out in Procedure Rules 16.1 – 16.6 above have not been properly followed; or
 - (b) A similar decision has been called in by a Scrutiny Committee in the past two years; or
 - (c) The Executive decision has been recorded as urgent in accordance with urgency provisions; or
 - (d) The Monitoring Officer, in consultation with the Scrutiny Management Board, 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.

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

16.9 Upon deciding on its validity, the Monitoring Officer shall 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.

Consideration by the Scrutiny Management Board

16.10 The Scrutiny Management Board is responsible for considering matters which have been called in.

16.11 The Monitoring Officer will ensure that any valid call-in is reported to the next available meeting of the Scrutiny Management Board or will convene a special meeting if agreed by the Chair of the Scrutiny Management Board.

16.12 The lead requester will be expected to attend the meeting of the Scrutiny Management Board to explain their reasons for the call-in and the recommendations they would like to make.

16.13 The Scrutiny Management Board will consider the reasons set out in the call-in request and will conduct the meeting in accordance with the Call In Protocol.

16.14 Having considered the call-in and the reasons given, the Scrutiny Management Board may either: -

- a) Refer it back to the Executive or Executive Member who made the decision for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any recommendations; or
- b) If it considers that the decision is outside the Council's budget and policy framework, refer the matter to 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.

Decisions Referred Back to the Decision-Maker

16.15 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 Scrutiny Management Board, and make a final decision, amending the decision or not, and give reasons for the decision.

16.16 If a decision relates to an Executive function only the Executive can decide the

matter if it is in accordance with the Council's budget and policy framework.

17 Call-In and Urgency

- 17.1 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.
- 17.2 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.
- 17.3 The decision note shall state whether the decision is an urgent one, and therefore not subject to call-in.
- 17.4 The Chair of the Scrutiny Management Board must agree to the decision being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair of the Scrutiny Management Board'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.
- 17.5 Where the Executive has recorded a decision as urgent, the Scrutiny Management Board may retrospectively review actions arising from that decision but cannot delay its implementation.

18 Councillor Call for Action

- 18.1 Any member of the Council may submit a Councillor Call for Action using the appropriate form.
- 18.2 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 Executive Member and the Head of Paid Service or his/her nominee.
- 18.3 Only if reasonable steps have been evidenced will the Councillor Call for Action be placed on the agenda of the relevant Scrutiny Committee **by the Scrutiny Management Board**. It is for the **Scrutiny Committee** 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.

19 The Party Whip

- 19.1 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 Committee 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.