

## **E. Scrutiny Procedure Rules**

### **1. Number and arrangements of Scrutiny Committees**

The Council will have at least 1 Scrutiny Committee which will perform the overview and scrutiny functions on behalf of the Council. Members will be appointed to them as it considers appropriate from time to time. Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they will cease to exist.

### **2. Scrutiny Committees**

The Scrutiny Committees will perform all overview and scrutiny functions on behalf of the Council. The committee membership will be determined by the Council and when education matters are being discussed will include 2 religious representatives and 2 parent governor representatives as well as non-voting co-optees, as approved by the Council/Cabinet.

The terms of reference of the Scrutiny Committees (except the Health Overview and Scrutiny Committee whose role it is to undertake the statutory functions of scrutiny in accordance with the Health and Social Care Act 2001 and the Health and Social Care Act 2012 and relevant regulations) and the Corporate and External Issues Scrutiny Committee which will consider crime and disorder issues as defined in the Local Government and Public Involvement in Health Act 2007, will be in accordance with Article 5 of the Articles of Governance

- 2.1 To receive representations, evidence or expert opinion from outside the Council and to draw conclusions from such representations to the attention of the Cabinet/Council as appropriate.
- 2.2 To consult with the public where appropriate in relation to Council services that fall within the terms of reference of the Scrutiny Committee.
- 2.3 To review any area of income and expenditure that falls within the remit of the Scrutiny Committee.
- 2.4 To make recommendations to the Cabinet on the financial aspects of the proposals that fall within the remit of the Scrutiny Committee.
- 2.5 To approve an annual overview and scrutiny work plan for the Committee to ensure that the Committee's time is effectively and efficiently used.
- 2.6 To be instrumental in consulting with the public and other stakeholders in relation to the Council's policy framework. The Scrutiny Committee will consult with the public and other stakeholders and Area Forums in relation to the policy framework.
- 2.7 To require partner authorities to provide information and requiring them to consider a report/recommendation of the Committee relating to the functions of a partner authority which affects the authority's area or its inhabitants
- 2.8 Where an executive decision has been made and was not treated as a key decision and the relevant Overview and Scrutiny Committee is of the opinion that the decision should have been treated as such the Committee may require the Cabinet to submit a report to the Council setting out the decision and reasons for the decision; the decision maker and the reasons why the Cabinet was of the opinion that the decision was not a key decision.
- 2.9 To consult with the Cabinet on any plan or strategy, including Strategic Policy.
- 2.10 To provide informed input in response to requests from the Cabinet for advice, options and appraisals on matters falling within the remit of the Scrutiny Committee.

- 2.11 Where matters fall within the remit of more than one Scrutiny Committee, the Cabinet will determine which of those Scrutiny Committees will assume responsibility for any issue.

### **3. Membership**

All Councillors, except members of the Cabinet, may be members of a Scrutiny Committee. However, no member may be involved in scrutinising a decision which they have made or participated in making (except as a member of a Policy Development Group). For the avoidance of doubt every Executive Cabinet Members should attend a meeting of the Scrutiny Committee which is considering a matter falling within their portfolio.

### **4. Co-optees**

Each Scrutiny Committee or sub-committee of a Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

The Council is empowered to allow co-optees to have a vote which must be in accordance with a scheme as such being made by the Council.

### **5. Education representatives**

Each relevant Scrutiny Committee or sub-committee of a Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:

- (a) 1 Church of England diocese representative.
- (b) 1 Roman Catholic diocese representative.
- (c) Representatives of other faiths or denominations if the Council so determines.
- (d) 2 Parent Governor representatives

If the Scrutiny Committee or sub-committee of a Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and may speak.

### **6. Meetings of the Scrutiny Committees**

There shall be at least four ordinary meetings of each Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Committee meeting may be called by the Chair (or in their absence the Vice-Chair) of the relevant Scrutiny Committee or by any five members of that Committee or by the Head of Paid Service, if they consider it necessary or appropriate.

### **7. Quorum**

The quorum for a Scrutiny Committee shall be as set out for committees in the Council Procedure Rules.

### **8. Work Programme**

The Chair and Vice Chair of each Scrutiny Committee shall prepare a work programme with the relevant Director(s) at the beginning of each municipal year (and any sub-committees or panels of the Scrutiny Committees) to be agreed by their Scrutiny Committee and in so doing will take into account the wishes of members on that committee who are not members of the

largest political group on the Council.

## **9. Agenda items**

- (a) Any member of a Scrutiny Committee shall be entitled to give notice to the Head of Paid Service that s/they wish an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. On receipt of such a request the Head of Paid Service will ensure that it is included on the next available agenda.
- (b) A Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and the Cabinet to review areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Committee within one month of receiving it.

## **10. Policy review and development**

- (a) The role of the Scrutiny Committees in relation to the development of the Council's Budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and Budget framework, Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Scrutiny Committees may hold Inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **11. Reports from a Scrutiny Committee**

- (a) Once it has formed recommendations on proposals for development, Scrutiny Committee will prepare a formal report and notice and submit it to the Head of Paid Service for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and policy framework).
- (b) If a Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet along with the majority report.
- (c) The Council or Cabinet shall consider the report of the Scrutiny Committee, and any minority report, within two months of it being submitted to the Head of Paid Service.

## **12. Making sure that Scrutiny Committee reports are considered by the Cabinet or policy committees**

The agenda for Cabinet meetings shall include an item entitled 'Issues arising from Scrutiny'. The reports of Scrutiny Committees referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) within 2 months of the Scrutiny Committee completing its report/recommendations.

### **13. Rights of Scrutiny Committee members to documents**

- (a) In addition to their rights as councillors, members of Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and a Scrutiny Committee, as appropriate, depending on the matter under consideration.

### **14. Members and Officers giving account**

- (a) Any Scrutiny Committee (or sub-committee of a Scrutiny Committee) may scrutinise decisions made, or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service, and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - (i) any decision or series of decisions.
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance.

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

- (b) Where any member or officer is required to attend a Scrutiny Committee under this provision, the Chair of that committee will inform the Head of Paid Service. The Head of Paid Service shall inform the member or officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which they are 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 the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Scrutiny Committee shall, in consultation with the member or officer, arrange an alternative date for attendance to take place.

### **15. Attendance by others**

A Scrutiny Committee or an Executive Cabinet Member may invite people other than those people referred to in paragraph 15 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

### **16. Call-in**

- (a) A decision of the Cabinet or an Executive Cabinet Member may be called in by any individual member present at the time when the decision was taken or on receipt of a request, submitted in writing to the Chief Executive, by any 6 members of the Council not later than 5.00 p.m. on the second full working day following the publication of the minutes of the meeting at which the decision was taken.
- (b) Call-in should be used in exceptional circumstances. Exceptional circumstances are where a decision has been made which is either outside the policy framework or contrary to, or not wholly consistent with the budget.
- (c) When asking for a decision to be called in for consideration by a Scrutiny Committee, members must give their reasons for the decision for call-in.

- (d) Any matter called in will be considered by the appropriate Scrutiny Committee. The Scrutiny Committee can:
  - (i) note the decision, or,
  - (ii) If, having considered the decision, the Scrutiny Committee is still concerned about it, then the Scrutiny Committee may:
    - (A) refer the decision back to the original decision maker for reconsideration, setting out in writing the nature of its concerns, or,
    - (B) refer the decision on to full Council.
- (e) Save that in respect to (d) (ii) (B) above three members (comprising representatives of at least two political groups) who are members of the Scrutiny Committee present at the meeting may require that the matter be referred to the Council for consideration.
- (f) If a matter is referred to the Council it should take the form of a motion in the name of one of the three members who referred the item to Council, or, if the matter is referred to the Council by resolution of the Committee, the Chair of the Committee (or a member nominated by the Committee). The motion in turn can be subject to amendment by resolution of the Council in the normal way.
- (g) If the Council is considering a 'called in' matter, it can: -
  - (i) note the report; or
  - (ii) refer the decision back to the Cabinet or Executive Cabinet Member, with or without comment.
- (h) Neither the Scrutiny Committee nor the Council can substitute its decision for that of the Cabinet or Executive Cabinet Member (unless, in relation to the Council, it is determined by the Monitoring Officer in accordance with Article 11 of this Constitution and with the Budget and Policy Framework Procedure Rules that the decision of the Cabinet/Executive Cabinet Member is contrary to or outside of the approved Policy Framework or Budget) or direct the Cabinet or Executive Cabinet Member as to the decision which should be made.
- (i) The 'call-in' procedure can be used only once in relation to a decision.  
  
 Once a call-in application is made it cannot be withdrawn after the expiry of the call in period, namely after two full working days following publication of the minutes of the Cabinet meeting which decided the matter. A Member may withdraw their support to a call-in application at any time before expiry of that period. Any notice of withdrawal will only take effect if it is in writing to the Chief Executive.
- (j) If a Member withdraws their support, the proposer(s) will be advised and will need to obtain any alternative signatures and notify the Chief Executive within the two full working day period.
- (k) The call-in procedure does not apply to decisions made by the Licensing and Environmental Regulation Committee, its Sub-Committees, the Planning Committee, Area Fora, the Personnel Appeals Panel or any other Council panel.
- (l) Decisions made by the Cabinet or by an individual Executive Cabinet Member will not normally be implemented or otherwise acted upon until the period for the submission of a call-in application has expired.
- (m) Decisions requiring immediate action and so specified in the minutes of the meeting of the Cabinet/Executive Cabinet Member will be excluded from call-in provided that appropriate

consultation has taken place with the Chair (or in their absence, the Vice-Chair) of the relevant Scrutiny as to the reasons for such urgency of action.

## 17. The Party Whip

The 'party whip' means -

"Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner."

When considering any matter in respect of which a member of a Scrutiny Committee is subject to a party whip, the member 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.

## 18. Procedure at Scrutiny Committee meetings

- (a) Scrutiny Committees shall consider the following business:
  - (i) minutes of the last meeting.
  - (ii) declarations of interest (including whipping declarations).
  - (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision.
  - (iv) responses of the Cabinet to reports of the Scrutiny Committee.
  - (v) the business otherwise set out on the agenda for the meeting; and
  - (vi) issues raised via the councillor call for action route.
- (b) Where the Scrutiny Committee conducts investigations, the Committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly, and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted to maximise the efficiency of the investigation or analysis.
- (c) A Scrutiny Committee may delegate the investigation or review of any matter within the remit of the Committee to a panel comprising such members of the Committee and other persons as the Committee may agree (provided that any member of the Cabinet whose decision or action is the subject of such action or review shall not be a member of, but may be invited to attend any meeting of, such panel).
- (d) Following any investigation or review, the committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

**19. Matters within the remit of more than one Scrutiny Committee**

Where a Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Scrutiny Committee, then the committee conducting the review shall invite the Chair of the other committee (or their nominee) to attend its meetings when the matter is being reviewed.