

## **Overview and Scrutiny Procedure Rules**



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## **Overview and Scrutiny Procedure Rules**

### **1. What will be the Number and Arrangements for Scrutiny Committees?**

The Council will appoint Scrutiny Committees as it considers appropriate from time to time. The general Terms of References of Scrutiny Committees are set out in Chapter 2 of the Constitution.

The Policy, Performance and Scrutiny Management Committee may also appoint Task and Finish Groups for a fixed period, on the expiry of which they shall cease to exist. Task and Finish Groups may also be appointed by the Policy, Performance and Scrutiny Management Committee at the request of the Council and the Cabinet.

### **2. Who may sit on the Scrutiny Committees?**

All Councillors, except Members of the Cabinet, may be members of a scrutiny committee.

### **3. Co-optees**

Each scrutiny committee may consider and recommend to the Policy, Performance and Scrutiny Management Committee the appointment of appropriate people as non-voting co-optees.

Subject to Rule 4 below, any request by a scrutiny committee to appoint appropriate people as voting co-optees, in accordance with the Local Government Act 2003, will be subject to approval by the Council.

### **4. Education Representatives**

Each relevant scrutiny committee dealing with education matters shall include in its membership the following voting representatives:

- (a) 1 Church of England diocese representative;
- (a) 1 Roman Catholic diocese representative; and
- (c) 3 parent governor representatives.

A relevant scrutiny committee in this paragraph is a scrutiny committee of the Council as an Education Authority, where the committee's functions relate wholly or in part to any education functions which are the responsibility of the Cabinet. If the scrutiny committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

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

There shall be at least four but up to five ordinary meetings of each scrutiny committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An additional meeting may be called, with the agreement of the Chair of the Policy, Performance and Scrutiny Management Committee, by the Chair, by any three Members of the Committee, or by the Director Law and Governance, if he / she consider it necessary or appropriate. Before the Chair of the Policy, Performance and Scrutiny Management Committee gives his / her agreement he / she will, if possible, consult with the Vice-Chair(s). If there is no Chair of the Policy, Performance and Scrutiny Management Committee, or if the Chair of the Policy, Performance and Scrutiny Management Committee is unable to act, then the agreement of the Vice-Chair(s) will suffice.

## **6. Quorum**

The quorum for a scrutiny committee shall be as set out in the Council's Procedure Rules 7.2 in Part 4 of this Constitution.

## **7. Who Chairs Scrutiny Committee Meetings?**

Chairs of scrutiny committees will be drawn from among the councillors sitting on the committee, and subject to this requirement, the committee may appoint such a person as it considers appropriate as chair.

## **8. Work Programme**

Scrutiny Committees will be responsible for agreeing their work programmes. Scrutiny committees will be able to propose items to the Policy, Performance and Scrutiny Management Committee for inclusion in their work programme.

## **9. Agenda Items**

Any councillor shall be entitled to give notice to the Director Law and Governance that he/she wishes an item to be considered by a scrutiny committee. On receipt of such a request the Director Law and Governance will refer the matter to the relevant Scrutiny Committee Planning Group for them to consider whether to include the item in their Work Programme, taking account of the urgency of the particular item.

In addition, any Parish or Town Council in the City, or any Area Consultative Forum, may notify the Director Law and Governance that they wish an item to be considered by a scrutiny committee. On receipt of such a request the Director Law and Governance will refer the matter to the relevant Scrutiny Committee Planning Group for them to consider whether to include the item in their Work Programme, taking account of the urgency of the particular item.

## **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.
- (b) In relation to the development of the Council's approach to other matters not forming part of the budget and policy 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 enquiries and investigate the available options for future direction of policy development and may appoint advisors 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 advisors, assessors and witnesses a reasonable fee and expenses for doing so.

## **11. Reports from Scrutiny Committees**

- (a) Once it has formed recommendations on proposals for development, the scrutiny committee will submit them (alongside reports or other relevant information) to the Director Law and Governance 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, in exceptional circumstances, a scrutiny committee cannot agree on one single final report with optional recommendations, if appropriate, then one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet shall consider the report of the scrutiny committee within one month of it being submitted, or at the next available meeting when appropriate notice can be given (whichever is soonest).

## **12. Making sure that Scrutiny Reports are considered by the Cabinet**

- (a) The agenda for the Cabinet meetings shall include an item entitled 'References from Other Bodies'. 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 one month of the scrutiny committee completing its report / recommendations. Where there is no Cabinet meeting within one month, the references shall be considered at the next available Cabinet meeting, or with the agreement of the Cabinet member and relevant Overview and Scrutiny Committee Chair, at an appropriate delegated decision meeting.
- (b) Where a scrutiny committee prepares a report for consideration by the Cabinet in relation to a matter where the Council has delegated decision-making power to an individual member of the Cabinet, then the scrutiny committee will submit a copy of its report to him/her for consideration. At the time of doing so, the scrutiny committee shall serve a copy on Director Law and Governance. The Cabinet member with delegated decision-making power must consider the report and respond in writing to the scrutiny committee within four weeks of receiving it. A copy of his/her written response to it shall be sent to the Director Law and Governance and the Leader. The Cabinet member will also attend a future meeting of the Scrutiny Committee to present the response.
- (c) The Cabinet's Forward Plan and timetable for decisions and intentions for consultation will be available to all scrutiny committees. Even where an item is not the subject of detailed proposals from a scrutiny committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

## **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 in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and scrutiny committees as appropriate, depending on the particular matter under consideration.

#### **14. Councillors and Officers giving Account**

- (a) Any scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, any scrutiny committee, or the Chair of the relevant scrutiny committee on its behalf, may require any Cabinet member, the Chief Executive, Deputy Chief Executive, Director, or Assistant Director to attend before it to explain in relation to matters within their remit:
- (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement the Council policy; and/or
  - (iii) their performance
- and it is the duty of those persons to attend if so required.
- (b) Where any councillor or Officer is required to attend a Scrutiny Committee under this provision, the chair of that Committee will inform the Director Law and Governance. The Director Law and Governance shall inform the councillor 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 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 the committee will require the production of a report, then the councillor or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the councillor or Officer is unable to attend on the required date, then the Chair of the scrutiny committee shall in consultation with the councillor or Officer, arrange an alternative date for attendance to take place within a maximum of 28 days from the date of the original request.

#### **15. Attendance by Others**

A scrutiny committee, or the Chair of the committee on its behalf, may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and councillors and Officers in other parts of the public sector and shall invite such people to attend.

## 16. Call-in

- (a) When a decision is made by the Cabinet, an individual Cabinet member or committee of the Cabinet, or a key decision is made by an Officer with delegated authority from the Cabinet or under joint arrangements, the decision shall be published, including by electronic means, and shall be available at the Civic Offices normally within three days of being made. Members of all scrutiny committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called in.
- (c) During that period, the Director Law and Governance shall call-in a decision for scrutiny by a sub-committee of the appropriate scrutiny committee if so requested in writing by any 2 Members of the Council, the chair or clerk of any Parish or Town Council, on behalf of the Parish or Town Council, or any 20 residents of the City, and shall then notify the decision taker of the call-in. In submitting the request to the Director Law and Governance for a decision to be called-in, the requester must specify a reason/reasons for calling in the decision. The Director Law and Governance shall call a meeting of the sub-committee on such a date as he/she may determine, where possible, after consultation with the chair of the committee, and in any case within ten days of the expiry of call-in period, after the receipt of the call-in.

### Notes:

- (a) A recommendation to the Council is not an Executive decision and therefore cannot be called in [Council – 12 April 2005 – Minute CL114(b)].
- (b) A councillor requesting that a decision be called-in cannot sit as a member of the scrutiny committee when the item is being considered [Council - 14 June 2005 – Minute CL21(b)(iii)].
- (c) A Councillor requesting that a decision be called in must not have a Disclosable Pecuniary Interest, Other, or Non-Registerable Interest (as defined by the Code of Conduct for Councillors) in the decision.



- (d) Where as a result of any mediation meeting the decision maker, or where the decision maker is the Cabinet, the responsible Cabinet member, provides assurances or undertakings, in relation to the implementation of the decision and the person calling in the decision for review confirms their agreement in writing prior to the meeting of the scrutiny sub-committee, then:
- i) A notice shall be published confirming the mediation outcome;
  - ii) the Chair, in consultation with the Vice-Chair will cancel the meeting; and
  - iii) if requested by the Chair and Vice Chairs, a report on the outcome of the call-in being will be reported to the next meeting of the committee.
- (e) If, having considered the decision, the scrutiny sub-committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns, or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further twenty working days, amending the decision or not, before adopting a final decision.
- (f) If following an objection to the decision, the scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the scrutiny sub-committee meeting, or the expiry of the period in which the sub-committee should have been held.
- (g) If the matter is referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no authority to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person may choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider the matter within twenty working days of the Council request. Where the decision was made by an individual, the individual will reconsider the matter within twenty working days of the Council request.

- (h) If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

#### Exceptions

- (i) In order to ensure that call-in is not abused, nor causes unreasonable delay, a decision, or decision to similar effect may only be called in once in any six-month period.

#### Call-In and Urgency

- (j) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Policy, Performance and Scrutiny Management Committee, who before giving his/her agreement will, if possible, consult with the Vice-Chair(s), must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair(s) may agree on behalf of the Chair. In the absence of both the Chair and Vice-Chair(s), the Chief Executive's or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (k) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

### **17. Call-in of Decisions Outside the Budget or Policy Framework**

- (a) Where a Scrutiny Committee/Budget and Resources Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Director Law and Governance, the Monitoring Officer and/or Chief Finance Officer.

- (b) In respect of functions which are the responsibility of the Cabinet, the relevant Officer's report shall be to the Cabinet with a copy to every councillor. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Officer's report and to prepare a report to Council in the event that the Director Law and Governance, the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Policy, Performance and Scrutiny Management Committee if the Officer concerned concludes that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the appropriate Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Scrutiny Committee/Budget and Resources Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within ten working days of the request by the Scrutiny body. At the meeting it will receive a report of the decision or proposals and the advice of the Officer. The Council may either:
  - (i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case, no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - (ii) amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - (iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing Framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Director Law and Governance, the Monitoring Officer and/or the Chief Finance Officer.

## **18. The Party Whip**

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.

## **19. Procedure at Scrutiny Committee Meetings**

- (a) Scrutiny committees shall consider the following business:
  - (i) Minutes of the last meeting;
  - (ii) disclosures 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) the Policy, Performance and Scrutiny Management Committee will also consider submissions from members of the public requesting that consideration is given to scrutinising a particular Council service, or a matter over which the Council has influence. Written notice of submissions must be submitted to the Committee Services and Scrutiny Manager not later than 12 noon eight clear working days before the date of the meeting.
- (b) Where the scrutiny committee conducts investigations (e.g. with a view to policy development), 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 so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the committee may prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

## **20. Matters within the Remit of more than one Scrutiny Committee**

Where a matter for consideration by a scrutiny committee falls within the remit of one or more other scrutiny committees, the decision as to which scrutiny committee will consider it will be resolved by the Policy, Performance and Scrutiny Management Committee.