

## APPENDIX 10

### **SCRUTINY PROCEDURE RULES**

#### **1. Arrangements**

- 1.1 The Council will have the scrutiny committees set out in Part 2, Section 6 of the Constitution and will have them as it considers appropriate from time to time. The terms of reference will be as set out in Section 6.

#### **2. Composition**

- 2.1 All Councillors, except members of the Cabinet, may be members of a scrutiny committee, subject to overall political balance calculations. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.
- 2.2 Membership of scrutiny working parties will be determined by the “parent” scrutiny committee. Any non-Executive Member of the Council may be a member of a scrutiny working party. Political balance requirements will not apply to the membership of scrutiny working parties.

#### **3. Meetings of Scrutiny Committees**

There shall be at least 2 ordinary meetings of each scrutiny committee in each year. In addition, extraordinary meetings may be called by the Chair of the relevant scrutiny committee, by any 2 members of the committee or by the Chief Executive if he/she considers it necessary or appropriate.

#### **4. Quorum**

The quorum for a scrutiny committee shall be 4 persons.

#### **5. Chairs and Vice-Chairs of Scrutiny Committee Meetings**

- 5.1 The Chairs and Vice-Chairs of the scrutiny committees will be appointed by the Council.

#### **6. Work Programme**

- 6.1 The scrutiny committees will be responsible for setting their own work programme and in doing so they shall take into account the wishes of Members on that committee.
- 6.2 The scrutiny committees will also respond, as soon as their work programme permits, to requests from the Council and/or the Cabinet to review particular areas

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of Council activity. Where they do so, the scrutiny committees shall report their findings and any recommendations back to the Cabinet and/or Council within 2 months of receiving it or as soon as is reasonably practical.

- 6.3 Any Member of the Council shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the committee to be included on the agenda for the next meeting. On receipt of such a request, the Chief Executive will ensure that it is included on the next agenda. The item of business should not be included later than three working days prior to the meeting to enable proper consideration of the matter by the committee. The Member will be able to present the item at the meeting, explaining why they want the committee to consider it in their work programme. The committee will decide whether it wishes to include that item in its work programme and, if so, when or refer it to another committee.

## **7. Policy Review and Development**

- 7.1 The scrutiny committees will be consulted on Executive proposals on the budget and for the setting of the Council Tax, and the Cabinet will consider any representations made by the scrutiny committees prior to its budget proposals going before the Full Council
- 7.2 In relation to the development of the Council's approach to other matters not forming part of its budget or policy framework, scrutiny committees may make proposals to the Cabinet for developments insofar as they relate to matters within their terms of reference
- 7.3 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.

## **8. Councillor Call for Action**

- 8.1 Any Member may, by giving notice to the Chief Executive (or his/her representative), using the form provided (shown at Appendix 26), initiate a 'Councillor Call for Action' relating to a local government matter that is not an excluded matter and where other routes to resolve the issue have not succeeded
- 8.2 A Councillor Call for Action can only be initiated where:
- (a) it relates to the discharge of any of the Council's functions;
  - (b) it relates to a matter which affects the Ward of the Member initiating it;
  - (c) it does not relate to individual planning decisions, licensing decisions or matters where the affected person or body has a statutory right of appeal;
  - (d) it does not relate to any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for an overview and scrutiny

committee meeting

- 8.3 The Chief Executive (or his/her representative) will consult the Chair of the scrutiny committee to determine whether the request meets the criteria for a Councillor Call for Action
- 8.4 Where the request does not meet the criteria for a Councillor Call for Action, the Chief Executive (or his/her representative) will inform the Member making the request of the decision. Where the request does meet the criteria for a Councillor Call for Action, the Chief Executive (or his/her representative) will arrange for the matter to be included on the agenda for the next available meeting of the relevant scrutiny committee
- 8.5 Where a Councillor Call for Action is included on the agenda for a scrutiny committee, the committee will consider whether to include the subject of the Councillor Call for Action on its work programme. The Member making the request may address the committee before it is considered. If the committee decides not to include the subject of the Councillor Call for Action on its work programme, it will provide the Member initiating the request with the reasons for its decision.

**9. Reports from Scrutiny Committee**

- 9.1 Once it has formed recommendations on proposals for development, the scrutiny committee will prepare a formal report and the Chief Executive will submit it 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).
- 9.2 If a scrutiny committee cannot agree on one single final report to the Council or Cabinet as appropriate, then minority reports may be prepared and submitted for consideration by the Council or Cabinet with the majority report. If a Member(s) propose to publish a minority report it will be the responsibility of that Member(s) to produce the report and recommendations without officer support.
- 9.3 The Council or Cabinet shall consider the report of the scrutiny committee within two months of it being submitted to the Chief Executive or as soon as is reasonably practical.
- 9.4 From time to time, ad hoc recommendations to the Cabinet may arise from discussion at meetings of the scrutiny committees. These recommendations will be passed directly to the relevant portfolio holder who will be required to respond to the relevant scrutiny committee within two months, or as soon as is reasonably practicable. The portfolio holder will invite the scrutiny committee Chair or Vice Chair to a meeting of the Cabinet to explain the reasons for the recommendation.

**10. Ensuring that Scrutiny Reports are considered by the Cabinet and/or the Council**

- 10.1 The reports of scrutiny committees referred to the Cabinet and/or Council shall be on the agenda (unless they have been considered in the context of the Cabinet and/or the Council's deliberations on a substantive item on the agenda) within two

months of the scrutiny committee completing its report/recommendations.

- 10.2 Scrutiny committees will in any event have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. 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.

## **11. Rights of Scrutiny Committee Members to Documents**

- 11.1 In addition to their rights as Councillors, members of scrutiny committees have an additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules at Appendix 11 of this Constitution.
- 11.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and scrutiny committees as appropriate depending on the particular matter under consideration.

## **12. Members and Officers Giving Account**

- 12.1 Any scrutiny committee may scrutinise and review outcomes of actions taken in connection with the discharge of any Council functions. As well as reviewing documentation in fulfilling the scrutiny role, it may require the Leader of the Council, a member of the Executive, the Chief Executive and/or any senior officer to attend before it to explain, in relations 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.

- 12.2 Where any Member or officer is required to attend a committee under this provision, the Chair of that committee will inform the Chief Executive. The Chief Executive shall inform the Member or officer in writing giving at least ten 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 Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 12.3 Where, in exceptional circumstances to be determined by the Chief Executive, 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.

- 12.4 In some circumstances it may be desirable for scrutiny members to meet with less senior officers which will be arranged subject to the agreement of the officers' manager. If a manager does not agree to their officer(s) attending a scrutiny committee meeting, the manager will attend on behalf of that officer(s) and give reasons for that decision.

### **13. Attendance by Others**

- 13.1 A scrutiny committee may invite people other than those people referred to in paragraph 12 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders, partner organisations and Members and officers in other parts of the public sector and shall invite such people to attend.

### **14. Call-in Procedure**

- 14.1 Key decisions of the Cabinet whether taken collectively or delegated to officers or Members are subject to being called-in and will be dealt with in accordance with the Rules below and the call-in flow chart shown at Annex 2 to this Appendix.

- 14.2 The call-in procedure does not apply to:

- (a) Decisions taken by the Cabinet that are urgent
- (b) Decisions of Full Council
- (c) Any decisions taken that are not key decisions
- (d) Recommendations from the Cabinet to the Council
- (e) Specific or individual employee relations, disciplinary or grievance matters
- (f) Matters which are subject to formal or statutory appeal processes or are sub judice
- (g) Individual appeal cases, e.g. planning or licensing
- (h) Decisions of regulatory committees of the Council

- 14.3 The call-in procedure 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. As per his/her responsibilities detailed in Article 5 of this Constitution, the Mayor 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 Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Chief Executive or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available

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meeting of the Council, together with the reasons for the urgency.

- 14.4 A decision should only be called-in once. If the Cabinet significantly alter the decision after call-in by scrutiny, the new decision will be capable of being called-in.
- 14.5 The papers despatched for the meeting will be the original report on which the decision was based, together with a copy of the call-in request. The Members who signed the call-in request form shall be notified that the call-in has been received and will be given notice of the committee meeting at which the matter will be considered.
- 14.6 A meeting where there is a call-in will follow the ordinary procedure but the call-in item will follow the format set out below. Time limits will be strictly adhered to by the Chair of the meeting, except in exceptional circumstances by determination of the Chair.

ACTION	BY WHOM	TIME LIMIT
Explanation of procedure to be followed	Chair	
Explanation of reasons for the call-in and justification for proposal set out on the call-in form	Lead call-in Member and any other persons that they wish to involve	15 minutes
Explanation of decision taken and views on alternative proposal	Relevant Cabinet Member and officer (if a Cabinet decision) or relevant officer (if decision was delegated to an officer) and any other persons that they wish to involve	15 minutes
Questioning of call-in representatives and decision taken and consideration of any photographs, plans etc. that illustrate the issue under discussion	Scrutiny members	Unlimited
Summing up	Lead call-in Member	5 minutes
Summing up	Decision taker	5 minutes
Voting on the proposal on the call-in form	Scrutiny committee members	Unlimited

- 14.7 The appropriate committee, having reviewed the decision, can:
- (a) Reject the call-in proposal and note the original decision. The decision will take effect on the date of the scrutiny meeting;
  - (b) Accept the proposal set out on the call-in form and refer back to the decision making person or body, with any comments they may also wish to make. The Cabinet shall then reconsider at the next scheduled Cabinet meeting,

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amending the decision or not before adopting the final decision, or if the decision has been made by an officer with delegated authority, that person shall then reconsider within a further three working days, amending the decision or not, before adopting a final decision; or

- (c) Accept the proposal set out on the call-in form and refer the matter to Full Council if the decision is deemed to be outside the budget and policy framework.

14.8 If a proposal is supported, Members may come to agreement on any comment they wish to pass to the Cabinet or the decision taker.

14.9 If after a call-in is received, the appropriate scrutiny committee does not meet in the period set out above, the decision shall take effect on the expiry of ten working days after the call-in form has been received.

## **15. The Party Whip**

15.1 Scrutiny is intended to operate outside the party whip system. However, when considering any matter in respect of which a member of scrutiny 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.

15.2 The expression 'party whip' can be taken to mean: "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".

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

16.1 Scrutiny committees shall consider the following business:

- (a) minutes of the last meeting
- (b) declarations of interest and party whip
- (c) consideration of any matter referred to the committee for a decision in relation to call-in of a decision
- (d) responses of the Cabinet to reports of the scrutiny committee; and
- (e) the business otherwise set out on the agenda for the meeting

16.2 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 meetings which are to be conducted in accordance with the following principles:

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

16.3 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.

## **17. Public Question Time**

17.1 If a member of the public wishes to ask a question(s) at a meeting of a scrutiny committee, they should serve two clear days' notice in writing of any such question(s) to the appropriate committee officer.

17.2 The Chair of the committee being questioned is given the discretion to waive the above deadline and assess the permissibility of the question(s). The Chair's decision will be final.

17.3 The maximum limit is three public questions at any one scrutiny committee meeting.

17.4 A maximum limit of three minutes is provided for each person to ask an initial question or make an initial statement to the committee.

17.5 Any questions deemed to be repetitious or vexatious will be disallowed at the discretion of the Chair.

## **18. Portfolio Holder Question Time – Scrutiny Committees**

18.1 This is not a standing item and may take place every six months or so at the discretion of the Chair of each of the scrutiny committees.

18.2 Portfolio holder question time provides an opportunity for the portfolio holder to talk about their priorities and work objectives and to inform the scrutiny committee of any issues or concerns that they may currently be facing within their portfolio. It is also an opportunity for a portfolio holder to flag up areas within their remit that they feel may benefit from scrutiny in the future, including policy development.

18.3 Portfolio holder question time is also an opportunity for scrutiny committee members to ask questions of the portfolio holder. This in turn could help inform the committee's work plan, if appropriate.

## **19. Pre-Cabinet Scrutiny**

- 19.1 Pre-Cabinet scrutiny is an important function and an area where the scrutiny process can have a positive impact. The pre-Cabinet approach can help inform decisions and reassure the Council that the decision-making process is robust, fair and transparent.