

## **PART 4 - PROCEDURAL RULES**

### **SECTION C**

#### **SCRUTINY COMMITTEE PROCEDURE RULES**

##### **1. NUMBER AND SIZE OF COMMITTEES**

- 1.1 The Council will appoint overview and scrutiny committees (known scrutiny committees) as set out in Article 6 and will appoint Members to each. The committees may appoint such sub-committees and commissions/working groups as they consider appropriate.

##### **2. WHO MAY SIT ON SCRUTINY COMMITTEES**

- 2.1 All councillors except members of the Executive may be members of one or more scrutiny committees. However, no member may scrutinise a decision which she/he has been directly involved in.

##### **3. MEETINGS**

- 3.1 There shall be at least 5 ordinary meetings of each scrutiny committee in each municipal year. In addition, extraordinary meetings may be called from time to time, when appropriate. A scrutiny committee meeting may be called by the Chairman of the relevant committee, by any five councillors or by the Chief Executive, as Proper Officer, if he/she considers it necessary or appropriate.
- 3.2 Any councillor may attend meetings of any scrutiny committee of which he/she is not a member.
- 3.3 A councillor shall not be entitled to attend meetings of working groups unless appointed as a member or substitute or with the agreement of the Chairman.

##### **4. QUORUM**

- 4.1 The quorum for scrutiny committee meetings is one third of the membership, rounded up.

##### **5. WHO CHAIRS SCRUTINY COMMITTEE MEETINGS?**

- 5.1 The Council will appoint chairmen and vice-chairmen to committees at its annual meeting. In the event that neither the Chairman nor Vice-Chairman can attend a scrutiny committee meeting or are excluded due to a declaration of interest, the committee will elect a chairman for that meeting or item as appropriate.

##### **6. WORK PROGRAMME**

- 6.1 The scrutiny committees will be responsible for recommending their own work programme to the Executive and Council. This will normally be drawn up for consideration at the last meeting of the previous municipal year.

6.2 Any work programme agreed may be amended from time to time, as necessary.

## **7. AGENDA ITEMS**

7.1 Any member of a scrutiny committee or sub-committee shall be entitled to give notice to the Chairman and Chief Executive (Proper Officer) that he/she wishes an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. The Committee will consider at the next appropriate meeting and take a decision as to whether further resources should be allocated to it.

7.2 As soon as their work programme permits, the committees will respond to requests from the Council and the Executive to review particular areas of Council activity and will consider motions referred to them by Council.

## **8. ORDER OF BUSINESS**

8.1 The normal order of business at scrutiny committee meetings will be as follows:

- (a) Apologies for absence;
- (b) Minutes of the previous meeting;
- (c) Declarations of interest;
- (d) Consideration of any matter referred to the committee for consideration in relation to the call-in of a decision;
- (e) Responses of the Executive to any reports and recommendations from the committee;
- (f) The business otherwise set out on the agenda for the meeting; and
- (g) Possible issues for future meetings.

## **9. POLICY REVIEW AND DEVELOPMENT**

9.1 Scrutiny Committees have the right to be involved in and where appropriate consulted on policy development, policy review, budget setting, service scrutiny, best value reviews and reactive reviews.

9.2 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 Executive for developments insofar as they relate to matters within their terms of reference.

9.3 Scrutiny committees may hold inquiries and investigate the available options for developing policies and may appoint advisers and assessors to assist them in this process. They may commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may also ask witnesses to attend to address them on any matters under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so, within provided budget limitations and existing resources. The Scrutiny Committee Lead Officers will advise on resource/budgetary implications.

## **10. CONDUCT OF REVIEWS**

- 10.1 Before starting a review or enquiry, a scrutiny committee will:
- (a) Define the issue/area it wishes to look at and the committee's purpose in undertaking the review;
  - (b) Indicate the type of background information and any performance or other data the committee requires;
  - (c) Indicate the individuals the committee would like to interview as part of their review (e.g. members of the Executive, officers, representatives from other organisations, local residents and outside experts, etc)
  - (d) Set a realistic timescale, including meeting dates if there are to be additional meetings to those in the calendar of meetings; and
  - (e) Decide whether the review is to be undertaken by the committee itself or a working group reporting to that committee.
- 10.2 When a scrutiny committee plans a review or investigation, it will ensure that the matter is not currently being investigated by the Executive or officer working groups and will ensure that adequate resources are available to achieve the work required within the timescales set.
- 10.3 The terms of reference for any review to be undertaken by a scrutiny committee will be agreed by the Chairman of the committee with the committee support officers and sent to all members of the committee for consideration. The chairman and committee will then manage the review with the assistance of the committee support officers.
- 10.4 Where a scrutiny committee conducts a review or scrutinises a matter which also falls (whether in whole or part) within the remit of another scrutiny committee, the Committee Chairman will agree which Committee will consider the matter.

## **11. REPORTS FROM SCRUTINY COMMITTEES**

- 11.1 Once it has formed recommendations on proposals for development, a scrutiny committee will prepare a formal report and submit it to the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council (if the recommendation would require a departure from or a change to the agreed budget and policy framework) as appropriate, having regard to the Council's available resources.
- 11.2 When the Council meets to consider any referral from a scrutiny committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Executive to the proposals.

## **12. RIGHTS OF SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

- 12.1 To enable scrutiny committees to undertake their duties, each Committee will have timely access to;
- (a) all reports, supporting papers and background material, including exempt information, considered by the Executive as soon as practicable after the

Executive has reached a decision, including any information about options rejected;

- (b) such information and reports as the scrutiny committee may request the Director or Service Head to provide or prepare subject to the right of the Monitoring Officer to refer the need for such work to the Council for agreement; and
- (c) Members of the Scrutiny Committees shall respect the confidentiality of confidential and exempt information and will only disclose it to those with access rights to that information.

### **13. MEMBERS AND OFFICERS - ATTENDANCE AT SCRUTINY COMMITTEE MEETINGS GIVING ACCOUNT**

- 13.1 A scrutiny committee may scrutinise and review decisions made or actions taken, within its remit, in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may invite members of the Executive or other Committee Chairman and require the Chief Executive and/or any senior officer 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.
- 13.2 Where any councillor is invited or officer is required to attend a scrutiny committee under this provision, the chairman of that scrutiny committee will inform the Chief Executive (Proper Officer). The Chief Executive shall inform the member(s) or officers in writing, giving at least 5 working days notice of the meeting at which they are 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 the preparation of the documentation.
- 13.3 Where, in exceptional circumstances, the councillor or officer is unable to attend on the required date, then the scrutiny committee shall arrange an alternative date for attendance, in consultation with the councillor or officer, within a reasonable period.

### **14. CALL-IN PROTOCOL AND PROCEDURE**

- 14.1 A Call-in protocol and Procedure for Call-in Meetings are attached at Annex A and B which detail the legal position, what can be called in and by whom and the procedures to be followed both prior, at and subsequent to the scrutiny committee meeting.

### **15. CONFLICTS OF INTEREST**

- 15.1 Where the Chairman has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of the Council's Constitution.

- 15.2 If every member of the Committee has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of the Council's Constitution.

## CALL - IN PROTOCOL

### INTRODUCTION

1. The Local Government Act 2000 introduced for the first time, the new models of local government including the Leader and Executive model adopted by this Council. In order to balance the new powers, mandatory scrutiny arrangements were introduced, which includes the power to “call-in” executive decisions and key decisions taken by officers under delegated authority. Underpinning the whole system is ethical standards introduced by Part III of the Act.
2. In introducing call-in powers, the Government emphasised that these should be used only in exceptional circumstances and not maliciously, vexatiously or for political scoring. It will be for the Monitoring Officer to decide whether a call-in is malicious, vexatious or made for political scoring.

### WHAT CAN BE CALLED IN?

3. The Council is responsible for the adoption of its budget and policy framework. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.
4. All decisions of the Executive and all key decisions taken by officers under delegated authority can be called-in. All such decisions will be published in accordance with the Executive Procedure Rules in Part 4. Decisions of the Council or regulatory committees cannot be called in.
5. A key decision is explained in the Constitution at Article 13 - Decision Making, but in simple terms, it will be a decisions which will carry a cost or saving to the Council in excess of £100,000, or will impact on residents of 2 or more wards, or is made in the course of developing proposals to the Council to amend the policy framework.

### SUBMITTING A CALL-IN

6. The Leader will publicise key decisions to be taken in the Council's Forward Plan, including a timetable for the decisions to be considered by the Executive or Council.
7. Following each Executive meeting, a summary of decisions will be issued by the Monitoring Officer, normally by 5.00 p.m. the following working day. This summary will indicate the decisions taken, which scrutiny committee would consider a subsequent call-in and whether or not the decisions were deemed to be urgent (see paragraph 13).
8. A request for scrutiny of an Executive decision by a scrutiny committee must be made in writing, by fax or by e-mail.
9. The request must identify the decision and state the reason(s) for requesting the review and must be submitted by noon on the third working day following issue of the Executive Summary. Where possible, a list of proposed witnesses should be included.

10. A call-in will be triggered if two or more councillors ask for the same decision to be scrutinised formally. If only one Councillor calls in a decision, the matter will be placed on the agenda for the next programmed meeting of the Committee for discussion.

#### **ACCEPTANCE OF A CALL-IN**

11. On receipt of a call-in request, the Monitoring Officer will decide, after consultation with the appropriate scrutiny committee Chairman, whether or not the call-in is valid. Such a request may be refused if it is:
  - a decision which has been the subject of a call-in submitted within the previous six months;
  - unsubstantiated - not being accompanied by a substantial reason for consideration;
  - vexatious, frivolous or defamatory;
  - more appropriately dealt with by the Council's complaints procedures; or
  - seeking only to delay the decision, rather than to examine its merits.
12. In the event that a call-in is rejected, the Monitoring Officer will submit a report to the appropriate scrutiny committee providing the reasons for the rejection.

#### **URGENCY**

13. Where a decision of the Executive, or a key decision taken by an officer, is considered by the Monitoring Officer and the appropriate Director to be urgent, it can take effect immediately the summary of the decision is published. If the decision is subsequently called – in, the Scrutiny Committee may still review the decision although the outcome will be not affected.

#### **VALID CALL-INS**

14. Following the submission of a valid call-in, the Monitoring Officer will advise all Members of the called-in decision(s), the reasons submitted and the appropriate scrutiny committee. Unless otherwise agreed with the calling-in Members, call-ins will be normally be considered by the appropriate scrutiny committee within four weeks of submission, either at the next scheduled meeting or, if necessary, at a special meeting.

#### **CONDUCT OF THE MEETING**

15. The appropriate scrutiny committee will consider the call-in in accordance with the attached procedures and will decide whether it agrees with the decision or not.

#### **COMMITTEE DECISION**

16. If, after consideration, the scrutiny committee agrees with the decision which has been called in, that decision may be implemented with immediate effect. If not, the Committee may:

- a) refer it back to the Executive or the decision maker for reconsideration, setting out in writing the nature of any concerns. The Executive/decision maker will consider the decision as soon as reasonably practicable (in the case of Executive decisions, this would normally be expected to be at its next meeting);

After re-consideration, the Executive will either implement the original decision or amend it as appropriate.

- b) if it considers that the decision is contrary to the Budget or Policy Framework, refer the matter to the Council; or
- c) refer it to the Council if it is considered that the consequences will be significant. Where a decision is within the purview of the Executive, the Council must refer the decision back to the Executive, where appropriate, with any recommendations.

## **WITNESSES**

- 17. Calling-in Members are asked to indicate on submission of the call-in or as soon as possible thereafter, which witnesses they would wish to be invited to attend consideration of the call-in.
- 18. The Chairman will consider, in consultation with the Vice-Chairman, calling-in Members and Members of the appropriate scrutiny committee, which witnesses will be invited. The advice of the Monitoring Officer and Committee Lead Officer may also be sought.
- 19. In considering whether proposed witnesses are appropriate, the Chairman should ensure that there will be a good balance between differing views. The evidence which the invitee can give should be relevant and likely to assist the Committee in its deliberations.
- 20. The Portfolio Holder within whose remit the decision lies will be required to attend, if invited, as would relevant senior officers. Should the Portfolio Holder be unable to attend, another Portfolio Holder (usually the Leader) will be invited to attend on his or her behalf.

**PROCEDURE FOR CALL-IN MEETING**

1. The Chairman will:
  - (a) introduce the meeting and welcome Members, witnesses etc.
  - (b) announce the decision which has been called-in and indicate whether it is a decision of the Executive or a key decision by an officer under delegated authority.
  - (c) invite Members to declare any interests.
  - (d) remind Members that a decision must be reached at the meeting (i.e., the decision cannot be deferred)
  - (e) detail the options available to the Committee, namely:
    - (i) to accept the original decision
    - (ii) not to accept the original decision, in which case it can:
      1. refer the decision back to the Executive or decision maker with recommendations;
      2. refer the decision to the Council if it considers that the decision is contrary to the Budget or Policy Framework; or
      3. refer it to the Council if it is considered that the consequences will be significant
  - (f) advise the Committee to consider all evidence before coming to a conclusion.
2. Those Members who called-in the decision(s) or representatives thereof, will be invited by the Chairman to make verbal representations to support their reasons for the call-in.
3. Committee Members will be invited to question those Members who requested the call-in or to ask for further clarification on their reasons for calling-in the decision(s).
4. The Portfolio Holder/decision maker will be invited to make an introductory statement or present their views.
5. Committee Members will be invited to question the Portfolio Holder/decision maker or to ask for further clarification on the basis for their statement(s).
6. Any officer or other witnesses will be invited to make any appropriate statements.
7. Committee Members will be invited to question those witnesses or to ask for further clarification on their evidence.

8. Non-Committee Members may be invited to ask questions at all points, at the Chairman's discretion.
9. The Portfolio Holder or decision maker may make statements in relation to other evidence at any point in the proceedings, at the Chairman's discretion.
10. Following adequate time for questioning/clarification, the Chairman will state that the Committee has now to consider all the evidence they have heard and consider the available conclusions.
11. The Committee should ideally come to a consensus, without the need for a formal vote. If necessary, a vote will be taken and a decision will be made on a simple majority, with the Chairman holding the casting vote.
12. If the Committee decides to refer the decision back, the reasons for so doing must be stated and minuted. These will be reported to the Executive/decision maker following the meeting.