

## Section 8 - Scrutiny Committee Procedure Rules

### 1. MEETINGS OF THE SCRUTINY COMMITTEES

- 1.1 There shall be up to ~~six eight~~ ordinary meetings of each Scrutiny Committee in each municipal year, the dates of which will be set by the Council usually at its Annual meeting.
- 1.2 Extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Committee meeting may be called by the Chairman, by any three Members of the Committee or by the Proper Officer if he or she considers it necessary or appropriate; the process for which is specified in Part 4, Section 1 - Council Standing Orders.

### 2. CHAIRMAN AND VICE-CHAIRMAN

- 2.1 The Chairman and Vice Chairman of the Scrutiny Committees will be drawn from among the Members sitting on the Committees. Subject to this requirement, the Council may appoint such Members as it considers appropriate as Chairman and Vice Chairman of the Committees in accordance with Council Standing Orders.

### 3. CO-OPTED MEMBERS

- 3.1 In addition to any statutory co-opted members, Scrutiny Committees shall be entitled to ~~may~~ co-opt up to four non-voting members on to the Committee.
- 3.2 There must be at least one non-voting position reserved for a Parish Councillor from a rural area ~~with~~ one substitute member nominated by the Parish Council Liaison Committee.
- 2.13.3 ~~A Scrutiny Committee can co-opt a further three members at its discretion one of which may be a second parish council member. a further Parish Councillor from a rural area on to the Committee~~

### 3.4. WORK PROGRAMME

- 3.14.1 Scrutiny Committees will be responsible for setting their own work programmes for the forthcoming year.
- 3.24.2 At the beginning of the municipal year, the lead Corporate Director and relevant Service Directors will present to the Scrutiny Committee an overview of their service areas highlighting any future challenges, service changes and changes in legislation which will affect their service ~~together along~~ with any up and coming policies, plans or strategies due for review or development.
- 3.34.3 The Committee will identify one or two key themes ~~and~~ topics arising from the initial presentation ~~to which it will then~~ focus on for the remainder of the municipal year. The Chairman will establish working arrangements with the Committee to implement and review its programme.

- 4.4 Items deemed 'for information only' will be circulated outside of the meetings.

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4.5 In implementing their work programme, Scrutiny Committees should ensure that the Parish Council Liaison Committee has been consulted on matters related to predominately ~~on~~ -rural or Parish Council issues.

#### 4.5. AGENDA ITEMS

4.15.1 Any Member may, with seven days notice, require the Proper Officer to place an item relevant to the functions of the Committee on the agenda for the next meeting. On receipt of such a request the Monitoring Officer will ensure that the item is included on the next available agenda and will advise the Chairman accordingly. Any item must be relevant to the functions of the Committee and not an “excluded matter”<sup>1</sup>. The item will be discussed by the Committee and it will only be pursued further if the Committee agrees to do so.

4.25.2 The following items are designated as ‘excluded matters’ and are not able to be included on the agenda:

- (a) Any matter outside those functions set out in the Local Government Act 2000 as amended;
- (b) Any matter relating to a licensing or planning decision;
- (c) Any matter relating to an individual body where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman); and
- (d) Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of a Scrutiny Committee.

4.35.3 Scrutiny Committees shall also respond, ~~as soon as their work programmes permit~~, to requests from the Council and, if it considers it appropriate, the Executive, to review particular areas of Council activity. Where they do so, the relevant Committee shall report its findings and any recommendations to the Executive and/or Council.

#### 5.6. REPORTS FROM SCRUTINY COMMITTEES

5.16.1 The Scrutiny Committee will submit reports to the Proper Officer for consideration by the Executive (if the proposals are an executive function and consistent with the existing Budget and Policy Framework), or to the Council as appropriate.

5.26.2 If a Scrutiny Committee cannot agree on one single final report, then two or more opposing Members of the Committee may submit a minority report. No more than one minority report may be prepared and submitted alongside the majority report for consideration by the Council or the Executive as appropriate. The minority report must set out the alternative recommendations and the reasons for the proposed recommendations.

5.36.3 The Executive shall consider the report of a Scrutiny Committee within one month of receiving it. In the case of a report to Council, the report will be submitted by the Proper Officer for consideration at the next Council meeting.

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<sup>1</sup> An “excluded matter” under Section 9FC of the Local Government Act 2000 as amended.

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5-46.4 When the Council does meet to consider any report 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 Scrutiny Committees' proposals.

5-56.5 Scrutiny Committees will have access to the Forward Plan of executive decisions including the and timetable for decisions and intentions for consultation.

5-66.6 If a Scrutiny Committee thinks that a key decision relating to their terms of reference has been taken which was not:

- (a) included in the Forward Plan for a period of no less than 28 clear days;
- (b) the subject of the general urgency exceptions under the Executive Procedure Rules in Part 4, Section 7 of this Constitution; or
- (c) the subject of an agreement with the Chairman of the relevant Scrutiny Committee, or the Mayor/Deputy Mayor under Executive Procedure Rules relating to Special urgency in Part 4, Section 7 of these Constitution Rules;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Scrutiny Committees, andbut is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any five members of the Committee. Alternatively the requirement may be raised by resolution passed at a meeting of a Scrutiny Committee.

5-76.7 The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within nine days of receipt of the written notice, or the resolution of the Scrutiny Committee, then the report may be submitted to the Council meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

## 6-7. ROLE IN POLICY DEVELOPMENT

6-17.1 The role of Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in the Budget and Policy Framework procedure Rules in Part 4 Section 6 of this Constitution.

6-27.2 In respect of the development of the Council's policy about other matters not forming part of its Budget and Policy Framework, Scrutiny Committees may make proposals to the Executive for developments insofar as they relate to matters within their terms of reference.

6-37.3 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 consider reasonably 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.

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

- 7.18.1** 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, Section 5 of the Constitution.
- 7.28.2** Nothing in this paragraph prevents more detailed disclosure between the Executive and the Scrutiny Committees as appropriate, depending on the particular matter under consideration.
- 7.38.3** Members retain all other legal rights to inspect and access documents.

## **8.9. MEMBERS AND OFFICERS GIVING ACCOUNT**

**8.19.1** Scrutiny Committees 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, they may require any Member of the Executive, the Head of Paid Service and/or any Director or Head of Service 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 to implement Council policy; and/or
- (c) the performance of services for which they are responsible;

and it is the duty of those persons to attend and answer questions put to him or her if so required. If the Member or officer specified cannot attend on the required date, they should arrange a substitute Member or officer to attend in their place.

**8.29.2** Where any Member or officer is required to attend a meeting of the Scrutiny Committees under this provision, the Chairman will inform the Proper Officer. The Proper Officer shall inform the Member or officer in writing giving at least seven working days notice of the meeting at which he or she is required to attend. The notice will state the nature of the item on which he or 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.

**8.39.3** Where, in reasonable circumstances, the Member or officer is unable to attend on the required date then they should arrange for a substitute to attend and inform the Proper Officer of this arrangement. If this is not possible the Member or officer should inform the Proper Officer accordingly and the Scrutiny Committee shall, in consultation with the Member or officer, arrange an alternative date for their attendance within a maximum of 10 days from the date of the meeting at which they were first required to attend.

## **9.10. CALL-IN OF KEY DECISIONS**

**10.1** Call in is the exercise of a Scrutiny Committee's statutory powers under section 9F(2) and 9F(4) of the Local Government Act 2000 (as amended by the Localism Act 2011) to review an executive key decisions before it is they are implemented. Where a decision is called-in and

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the Scrutiny Committee decides to refer it back to the decision maker for reconsideration, it cannot be implemented until the call-in process is complete.

10.2 Any key decision made by the Executive, an Officer or other body with delegated authority from the Executive is subject to call-in. A key decision may be called-in only once. A Cabinet recommendation to the Council is not a key decision and may not be called-in.

9-410.3 Call-in should only be used in exceptional circumstances where Members of a Scrutiny Committee have evidence which suggests that the Executive did not take the decision in accordance with the principles set out in Part 2 Article 11 (Decision-Making).

10.4 The call-in procedure and the powers to refer a decision back for reconsideration may be exercised by any Scrutiny Committee, provided the decision that is subject to call-in is within the remit of its terms of reference.

9-210.5 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 Rules in Part 4 Section 6 of the Constitution and require a reference to Council by a Scrutiny Committee on a report from the Monitoring Officer or Chief Finance Officer., ———

#### The Call-in Procedure

9-310.6 Once made, the ~~executive~~ decision shall be published, including where possible by electronic means, and shall be available at the Town Hall no later than 5.30 pm on the second working day of the decision being made. All members of the Council will be sent electronically copies of the notices of all such decisions within the same timescale as publication.

9-410.7 The decision notice will bear the date on which it is published and will specify that the decision may then be implemented on the expiry of three working days after the publication of the decision (not including the date of publication), unless a request for call-in of the decision is received from any two Members of the relevant Scrutiny Committee. If a request for call-in of a decision is received, implementation of the decision remains suspended subject to these provisions.

10.8 A request to call-in a decision must be received by the Proper Officer within the period from publication and before the time for implementation of a decision and the request to call-in a decision must be made in writing or ~~electronically by facsimile transmission or electronic mail,~~ using the agreed form.

10.9 The form must:

- (a) set out the resolution or resolutions that the Members wish to call in;
- (b) give the reasons why the Scrutiny Committee should review or scrutinise the decision and consider referring it back to the Executive;
- (c) whether it is considered to be outside the policy or budget framework;
- (d) set out the alternative course of action or recommendations they wish to propose.

~~(a)(e)~~ be signed and dated by any two Members of ~~the relevant~~ Scrutiny Committee.

Voting Diocesan and parent governor representatives may request the call-in of decisions relating to education matters only.

10.10 The call-in request will be deemed valid unless any of the following apply:

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- (a) the procedures set out above have not been followed properly;
- (b) the decision has been recorded as urgent as set out below;
- (c) the request for call in is not a proper use of the call in provisions taking into account the following factors:
  - i) where the matter has been considered as part of pre-decision scrutiny by a scrutiny committee;
  - ii) whether there has been any substantive changes to the nature of the decision being made since any pre-decision scrutiny of the proposals;
  - iii) where a decision is not deemed a key decision, for example a decision to go out to consultation on a future key decision to be made by the executive;
  - iv) a decision taken by cabinet when preparing the annual budget or new policy proposals for submission to Council for decision.

10.11 ~~If the call in request is deemed valid,~~ The Proper Officer shall ~~then~~ notify the decision-taker of the request to call-in the decision and that implementation of the decision is suspended until further notice. The relevant Scrutiny Committee will discuss the request for call-in at its next meeting, providing this meets the required timescale. Where a meeting is scheduled to take place within ten working days of the date of the request to call-in, or soon after then the matter shall be placed on the agenda for that meeting.

9-510.12 Where no such meeting is scheduled, the Proper Officer shall call a meeting of the relevant Committee on such date as he or she may determine, where possible after consultation with the relevant Chairman.

9-610.13 ~~If the Scrutiny Committee does not meet by the date set within 10 working days of the receipt of the request to call-in, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on that date of the meeting or the expiry of the ten working day period, whichever is the earlier,~~ and the Proper Officer will notify the decision taker that the decision may then be implemented.

~~Where the request for call-in is signed by one or two members who are not members of the relevant Scrutiny Committee, those Members will be invited to attend the meeting to present their request for call in.~~

10.14 Having considered the Call-in and the reasons given, the relevant Committee may either:

- (a) refer it back to the decision making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations;
- (b) if it considers that the decision is outside the Council's Budget and Policy Framework, refer the matter to the Council after seeking the advice of the Monitoring Officer and/or Chief Financial Officer; or
- (c) decide to take no further action, in which case the original executive decision will be effective immediately.

~~9.7 — If, having considered the request for call-in of the decision, the Scrutiny 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 it may refer the matter to full Council.~~

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~~9.8~~10.15 If referred back to the decision taker they shall then reconsider ~~within a further ten working days~~, amending the decision or not, before adopting a final decision. Once a decision has been reconsidered by the decision taker it may not be the subject of further call-in.

~~9.9~~ — If the matter is referred to full Council it will be considered at the next Ordinary meeting of full Council (subject to any Extraordinary meeting being called). If the Council does not object or refers the decision back to the decision making body or person, the decision shall take effect on the date of the Council meeting and the Proper Officer will notify the decision taker that the decision may then be implemented.

~~9.10~~ — If the Council does object, it cannot make decisions in respect of an Executive decision unless it is contrary to the Budget or 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 shall choose whether to amend the decision or not before reaching a final decision and implementing it.

~~9.11~~10.16 Where the decision was taken by the Executive, a meeting will be convened to reconsider the decision within ten working days of the ~~Council or Committee's~~ council's request, ~~or soon after with the agreement of the Leader~~. Where the decision was made by an individual, the individual will reconsider within five working days of the Council's ~~or Committee's~~ request.

~~10.17~~ If a decision relates to an executive function, only the Cabinet can ultimately decide the matter, provided that it is in accordance with the Council's Budget and Policy Framework.

### Speaking Scheme for Call in

~~9.12~~10.18 Any Members of the public or Members not on the Committee who wish to address the Committee on a request to call in must register with the Proper Officer by 12 noon on the day before the meeting.

~~9.13~~10.19 The following procedure will apply for each item.

(a) Members who requested the call in will address the Committee;

(b) Other Members or members of the public who have registered to speak and who support the call in may address the Committee;

(c) The Committee may ask questions to Members who requested the call in;

(d) Officers or the Cabinet Member who has portfolio responsibility for the decision will address the Committee and respond to the call in.

(e) Members or members of the public who oppose the call-in and support the decision may address the Committee;

~~(a)~~ The Committee may ask questions to those who support the decision

~~(f)~~

~~(b)~~(g) The The Scrutiny Committee will debate the call-in and get advice from officers where appropriate;

~~(c)~~(h) The Scrutiny Committee will reach a decision.

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9.1410.20 The total time allowed for speeches from each of the following groups of speakers will not be more than five minutes unless the Committee decides on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances:-

- (a) Members who requested the call in
- (b) Other Members or members of the public who support the call in;
- (c) Members or members of the public in support of the decision

10.21 If more than one objector or supporter wants to speak, the Chairman may ask the supporters and objectors to appoint a spokesperson to represent their views.

### CALL-IN AND URGENCY

9.1510.22 The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent or becomes urgent during the call-in process. 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 interest. The request for a decision to be deemed urgent and the reasons for this request shall be considered by the Chairman of the relevant committee (or in his/her absence the Chairman of another Scrutiny Committee) in consultation with the Monitoring Officer. However, the decision may only be taken if the Chairman of the Scrutiny Committee agrees that the decision is a matter of urgency.

9.1610.23 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 or has become an urgent one, and is therefore not or no longer subject to call-in. The Chairman of the Scrutiny Committee's consent to the decision being taken as a matter of urgency must also be noted on the record of the decision. The Chairman of the Scrutiny Committee 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 a Chairman, the consent of the Mayor shall be required. In his or her absence, the consent of the Deputy Mayor will be sufficient.

9.1710.24 Decisions taken under the urgency procedures and where call in has been waived will be reported to the next available meeting of the Council, together with the reasons of urgency.

9.1810.25 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.

### 40.11. THE PARTY WHIP

40.111.1 For the purposes of this rule the phrase 'the party whip' means any instruction given by or on behalf of a political group to any Member who is a member of that group as to how that Member shall speak or vote on any matter before the Council or any Committee or sub-Committee, or the application of or threat to apply any sanction by the group in respect of that Member should he or she speak or vote in any particular manner.

40.211.2 When considering any matter in respect of which a Member of the 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 deliberations on the matter by the Committee. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **41.12. PROCEDURE AT MEETINGS**

**41.412.1** The Scrutiny Committees shall consider the following business:

- i) The minutes of the previous meeting;
- ii) Declarations of interest (including whipping declarations);
- iii) Any matter referred to the Committee for a decision in relation to ‘call-in’ of a decision, from another Committee;
- iv) Consideration of petitions;
- v) Any matter referred by a Member under Section 119 of the Local Government and Public Health Involvement in Health Act 2007 (‘Councillor call for action’);
- vi) Responses of the Executive to reports of the Scrutiny Committee;
- vii) Any items related to themed scrutiny reviews, focusing on the agreed themes of the Committee and any other reports as required and agreed;
- viii) The business otherwise set out in the agenda for the meeting; ~~and~~
- ~~ix)~~ The latest version of the Forward Plan of Executive Decisions;
- ~~ix)~~ The Committees work programme

**41.212.2** Where the Scrutiny Committees conduct investigations, they 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 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.

**41.312.3** The Chairman shall have discretion to hear from any person who they consider will assist the debate at a meeting if, in their opinion, the contribution of that person is directly related to an item of business that is on the agenda for the meeting.

**41.412.4** Following any investigation or review, the Committee shall prepare a report for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

## **42.13. JOINT MEETINGS OF SCRUTINY COMMITTEES**

**42.413.1** If the Chairman of two or more Scrutiny Committees agree that a joint meeting will enable there to be more effective and efficient scrutiny of a particular item of business, then following consultation with the respective group representatives, they may agree to hold a joint meeting on the scheduled date for a meeting of either or any of the committees, or another date if they consider this to be more practicable.

**42.213.2** All Members of the respective committees shall be entitled to speak and vote at the joint meeting. The Chairman shall be appointed from among the Chairmen of the Committees

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who are holding the meeting or, if they are absent, another person who is present at the meeting.

~~12.3~~13.3 The joint meeting shall be deemed to constitute a meeting of each committee for the purposes of fulfilling their annual programmes of up to ~~eight~~six meetings per year.

#### ~~13.14.~~ 13.14. TASK AND FINISH GROUPS

~~13.1~~14.1 Scrutiny Committees have the power to set up Task and Finish groups to consider any matter within their terms of reference.

~~13.2~~14.2 The specific terms of reference for the Task and Finish group will be agreed by the relevant Committee when the group is set up. These will include the membership of the group and the proposed dates of reporting to the parent body.

~~13.3~~14.3 Each Task and Finish group may co-opt no more than two non-elected members to serve on the group. The number of co-opted members shall not exceed the number of elected Members. Co-opted members will be able to contribute to the debate and work of the group and will be able to vote on any decisions made. Co-opted members will not be able to vote on any decisions when the final report is considered by the parent body.

~~13.4~~14.4 Task and Finish groups will carry out reviews and/or policy development work allocated to them by the parent body.

~~13.5~~14.5 Task and Finish groups will keep the parent body informed of the progress of each review and/or policy development and will produce a report (which may or may not include recommendations) for consideration by the relevant parent body at the end of the review.

~~13.6~~14.6 Once a Task and Finish group's final report has been considered by the parent body, the Group will be disbanded.

#### ~~14.15.~~ 14.15. PUBLIC PARTICIPATION IN SCRUTINY

~~14.1~~15.1 The public may participate in the scrutiny process by:

- (a) ~~a~~Attending meetings;
- (b) ~~p~~Presenting petitions; and
- (c) ~~a~~Asking questions or speaking at a meeting

~~14.2~~15.2 Members of the public may be permitted to speak or ask questions with the agreement of the Chairman. They must register their intentions no later than 12 noon three working days prior to the meeting and any points raised must be relevant to an item of business to be transacted. Each speaker may address the Committee for up to three minutes.

#### ~~15.16.~~ 15.16. REPORTS

Each year the respective Scrutiny Committee must provide a full report on their activities and make recommendations for future work programmes and different working methods if appropriate. During the year they will report the outcome of any significant issues and

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make recommendations to the Executive or the Council, or other public sector bodies where it has powers to do so.

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