

4.6: SCRUTINY PROCEDURE RULES

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1. THE SCRUTINY COMMITTEES

The Council will have the Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate, subject to political proportionality. Where there is any doubt as to which Scrutiny Committee is the “relevant Scrutiny Committee” (as referred to in this Constitution), the decision of the Head of Legal and Commercial Services shall be final.

2. WHO MAY SIT ON THE SCRUTINY COMMITTEES?

All councillors, except members of the Cabinet may be members of the Scrutiny Committees. However, no member may be involved in considering a decision in which he/she has been directly involved.

3. CO-OPTES

The Scrutiny Committees shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optes.

4. MEETINGS OF THE SCRUTINY COMMITTEES

Meetings of the Scrutiny Committees shall take place as set out in Paragraph 2.1.3 of Section 5 (Bodies Exercising Council Functions) of Part 3 of this Constitution.

5. QUORUM

The quorum for the Scrutiny Committees shall be as set out for boards and groups in the Council Procedure Rules in Part 4 of this Constitution.

6. WHO CHAIRS THE SCRUTINY COMMITTEES MEETINGS?

The Chairman of the Scrutiny Committees will be drawn from among the councillors sitting on the Scrutiny Committees, and may be elected at the Statutory Annual Council or at the first meeting of the relevant Committee each year.

7. 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 its budget and policy framework, the Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

- (c) The Scrutiny Committees may, in relation to matters within their terms of reference, hold enquiries and investigate the available options for future direction in 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 considers necessary to inform their deliberations. Each Committee may ask witnesses to attend to address it on any matter under consideration and may pay to any advisors, assessors and witnesses a reasonable fee and expenses for doing so.

8. REPORTS FROM THE SCRUTINY COMMITTEES

- (a) Once it has formed recommendations on proposals for development, a Scrutiny Committee will prepare a formal report and submit it to the Proper Officer 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 the Scrutiny Committees cannot agree on one single final report to the Council or the Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or the Cabinet shall consider the report of the Scrutiny Committees after being submitted to the Proper Officer.
- (d) The Chairman or other appropriate member of the relevant Scrutiny Committee shall attend the meeting of the Cabinet to present the Committee's report.

9. MAKING SURE THAT THE SCRUTINY COMMITTEES REPORTS ARE CONSIDERED BY THE CABINET

- (a) Once a Scrutiny Committee's report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet.
- (b) The Scrutiny Committees will in any event have access to the Cabinet's Executive Decision Notice and timetable for decisions.

10. RIGHTS OF SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

- (a) In addition to their rights as councillors, members of the 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 the Scrutiny Committees as appropriate depending on the particular matter under consideration.

11. MEMBERS AND OFFICERS GIVING ACCOUNT

11.1 At the request of the Scrutiny Committees

- (a) The Scrutiny Committees may monitor and review decisions made or actions taken in connection with the discharge of any Council functions, insofar as they relate to matters within their terms of reference. As well as reviewing documentation, in fulfilling the monitoring role, they may require any member of the Cabinet, the Head of Paid Service and/or any officer of principal level or above to attend before them 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 Council policy; and/or
- (iii) their performance.

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

- (b) Where any member or officer is required to attend the Scrutiny Committees under this provision, the Chairman of the relevant Scrutiny Committee will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving at least 7 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 body. Where the account to be given to the body will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the relevant Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance to take place at the next available meeting of that Scrutiny Committee.
- (d) The Scrutiny Committees may require the Director, Head of Service or Team Manager to interview any member of staff and to record such interview and provide a copy of the statement to the Committee. A member of the relevant Scrutiny Committee shall be present at any interview but only in an observer capacity.

- 11.2** Under the Council's petition scheme the Chief Executive and Directors may be called to account at the Scrutiny Committees by a public petition received in accordance with the Council's adopted petition scheme.

12. ATTENDANCE BY OTHERS

Each Scrutiny Committee may invite people other than those people referred to in paragraph 11 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

13. CALL-IN

Call-in should only be used in exceptional circumstances. These are where members of the Scrutiny Committees have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making).

- (a) When a decision is made by the Cabinet or a group of the Cabinet or a key decision is made by an officer with delegated authority, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 7 days of being made. The Chairman of each Scrutiny Committee 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 5 working days after the publication of the decision, unless any two members (or more) objects to it and require in writing that the decision be called in.
- (c) During that period, the Head of Legal and Commercial Services shall call-in a decision for scrutiny by a Scrutiny Committee if so requested by any two members (or more) of that Committee, and shall then notify the decision taker of the call-in. A meeting of the relevant Scrutiny Committee shall be convened to consider the call-in or it could be considered at the next appropriate scheduled meeting of either Scrutiny Committee, if time scales permit. The Head of Legal and Commercial Services, in consultation with the Head of Paid Service and Section 151 Officer, may reject a request for call-in if, in their opinion, it is repetitious, vexatious or fails to set out any grounds which might reasonably cause Cabinet to change their decision.
- (d) If, having considered the decision, the relevant 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 refer the matter to the Council. If referred to the decision maker they shall

then reconsider, amending the decision or not, before adopting a final decision.

- (e) If the matter was referred to the 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 locus 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 shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet the matter will be referred to the next scheduled meeting. Where the decision was made by an individual, the individual will reconsider the decision within 10 working days of the Council request.
- (f) 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

- (g) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
 - (i) that the Scrutiny Committees may, in total, only call-in 4 decisions per year;
 - (ii) once a member has signed a request for call-in under paragraph 13 (call-in) above, he/she may not do so again until a period of 3 months has expired.

Call-In Urgency

- (i) 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 Chairman of the Council 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 Chairman the Deputy Chairman's consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions taken as a matter of

urgency must be recorded in the minutes and be reported to the next available meeting of the Council, together with the reasons for urgency.

- (ii) 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.

14. THE PARTY WHIP

When considering any matter in respect of which a member of the Scrutiny Committees 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. PROCEDURE AT THE SCRUTINY COMMITTEES' MEETINGS

- (a) The Scrutiny Committees shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations);
 - (iii) consideration of any matter referred to the Committee for consideration in relation to call-in of a decision;
 - (iv) responses of the Cabinet to reports of the relevant Scrutiny Committee;
 - (v) the business otherwise set out on the agenda for the meeting; and
 - (vi) dealing with any petitions to hold an officer to account received under the Council's adopted petition scheme.
- (b) Where a 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:
 - (i) that the investigation be conducted fairly and all members 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 relevant Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.