

Committee:	Standards Committee	Agenda Item No.:	7.
Date:	21 st February 2012	Category	*
Subject:	Constitutional changes to arrangements for Scrutiny Committees and revised Scrutiny Procedure Rules.	Status	Open
Report by:	Solicitor to the Council		
Other Officers involved:	Chief Executive Officer Head of Customer Services and Performance		
Director	Chief Executive Officer		
Relevant Portfolio Holder	Not applicable – this relates to a Constitutional matter.		

RELEVANT CORPORATE AIMS

STRATEGIC ORGANISATIONAL DEVELOPMENT – Continually improving our organisation by recognising the changes flowing from the Strategic Alliance.

TARGETS

None

VALUE FOR MONEY

This improves efficiency and is therefore a better use of tax payers money.

THE REPORT

As members are aware, this Council and North East Derbyshire District Council have formed a Strategic Alliance. As part of the arrangements for the Strategic Alliance, a Joint Chief Executive and 4 Joint Directors have now been appointed. Clearly this means that there has had to be a reassessment of roles and input for the 4 Directors.

Current arrangements for the 3 Scrutiny Committees require the attendance of a Director, the Scrutiny Policy Officer and a Finance and a Legal Representative. Members of the Scrutiny Management Board have raised whether it is necessary to have this level of officer attendance and whether it could be changed. This accords with the wishes of SAMT to reduce the requirements for the attendance of the Directors' attendance.

In addition, the Scrutiny Management Board has requested a general review of the working arrangements of the scrutiny function. This is timely as the Scrutiny Policy Officer post is currently vacant and scrutiny resources are therefore limited. Suggestions will be made to a future Scrutiny Management Board with the aim of any changes being agreed prior to the commencement of the new corporate year.

ISSUES FOR CONSIDERATION

It is recommended that the requirements for the attendance of the Directors at Scrutiny meetings be ended and that the Scrutiny Committees be attended by the Head of CSPD or the STC together with the Scrutiny and Policy Officer. Representatives of the Finance and Legal Departments will attend as and when necessary at the discretion of the Head of Service.

This arrangement should be reviewed once the scrutiny arrangements have been further reviewed.

Attached to this report is a revised draft of the Scrutiny Procedure Rules for consideration. These contain other minor changes which make no substantive change to the arrangements or which reinforce the way the scrutiny function operates.

IMPLICATIONS

Financial :	None
Legal :	The Scrutiny Procedure Rules form part of the Constitution and therefore are required by law to be kept up to date.
Human Resources :	As in the report.

RECOMMENDATION(S)

- 1. that members consider altering the requirement for Directors to attend the 3 Scrutiny Committees**
- 2. that members recommend to Council the approval of the revised Scrutiny Procedure Rules.**

ATTACHMENT:	Y – draft Scrutiny Procedure Rules below
FILE REFERENCE:	<i>None</i>
SOURCE DOCUMENT:	<i>Constitution</i>

4.5 SCRUTINY PROCEDURE RULES

4.5.1 The Number and Arrangements for Scrutiny Committee The Council will have three Scrutiny Committees, which will perform all scrutiny functions on behalf of the Council. The three Scrutiny Committees will be the Sustainable Communities Scrutiny Committee, the Improvement Scrutiny Committee and the Safe and Inclusive Scrutiny Committee. Each Committee will consist of 9 or 10 members of the Council as decided by Council at its annual Meeting. There will also be up to 3 non-voting co-optees on each Scrutiny Committee.

The Council will also have a Scrutiny Management Board, consisting of the Chairs and Vice Chairs of the 3 Scrutiny Committees and the Leader of the Opposition plus the Leader of the Council (or Deputy Leader as substitute) as a non voting member.

(1) The **Terms of Reference** of the Scrutiny Committees and the Scrutiny Management Board will be as outlined in Part 3 of this Constitution.

(2) Where one of the Scrutiny Committees seeks to discontinue or appoint subcommittees other than as set out in this Constitution, it may do so provided that it has consulted with interested parties, if appropriate. The extent and nature of consultation will depend on the nature of the proposed alterations. Any change will be reported to the Chief Executive Officer and then to the next meeting of the Council by the Chair of the relevant Scrutiny Committee, so that the Constitution may be amended accordingly.

4.5.2 Who May Sit on Scrutiny Committee?

All Councillors [except members of the Executive] may be members of the Scrutiny Committees. However, no member may be a member of more than one Scrutiny Committee. No member may be involved in scrutinising a decision in which that Member has been directly involved.

4.5.3 Co-optees

Each Scrutiny Committee or each Scrutiny sub-Committee shall be entitled to recommend to Council the appointment of such nonvoting co-optees as the Scrutiny Committee or Scrutiny sub-Committee considers appropriate.

4.5.4 Meetings of the Scrutiny Committee

The Scrutiny Committee shall meet in accordance with the timetable of meetings approved by the Annual Meeting of Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting of one of the Scrutiny Committees may be called by the Chief Executive Officer if considered necessary following consultation with the Chair of the relevant Scrutiny Committee.

Attendance at the Scrutiny Committee meetings by officers will be by the following officers:-

- The Head of Customer Service and Performance or the Solicitor to the Council

- The Scrutiny Policy Officer
- At the discretion of the Head of the relevant Department, a representative from each of the Financial Services and Legal Services Departments will attend
- Directors by invitation of the relevant Scrutiny Committee.
- Other officers as necessary

4.5.5 Quorum

The quorum for each Scrutiny Committee shall be one quarter of the members of the Scrutiny Committee.

4.5.6 Who Chairs the Meetings of the Scrutiny Committees?

The Chair of each Scrutiny Committee, Scrutiny Management Board and any sub-Committee will be drawn from among the Councillors sitting on the relevant Scrutiny Committee, the Scrutiny Management Board or sub-Committee, and subject to this requirement the Committee or sub-Committee may appoint such a person as it considers appropriate as Chair.

4.5.7 Work Programme

The Scrutiny Management Board will be responsible for setting the 4 year work programme and the Annual Work Plan for each of the 3 Scrutiny Committees and in doing so it shall take into account the wishes of members of the 3 Scrutiny Committees including the wishes of those who are not members of the largest political group on the Council. The work programme shall include matters on which there are requests from the Council or the Executive for advice.

4.5.8 Agenda Items

a) Any member of the relevant Scrutiny Committee shall be entitled to give notice to the Chief Executive Officer that that person wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Chief Executive Officer will ensure that it is included on the next available agenda.

b) The relevant Scrutiny Committee shall also respond, as soon as their work programme permits, 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 Scrutiny Committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the relevant Scrutiny Committee within one month of receiving them.

4.5.9 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 Executive for developments in so far as they relate to matters within their terms of reference.

c) The Scrutiny Committees, through specially set up working groups, may hold enquiries 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 and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

d) All Patch Management Policies are to be considered by the relevant Scrutiny Committee before being considered by Scrutiny Management Board. The Scrutiny Management Board will then make its recommendations to the Executive.

4.5.10 Reports from the Scrutiny Committees

a) Once it has formed recommendations on proposals for development, the relevant Scrutiny Committee will prepare a formal report and submit it to the Chief Executive Officer for consideration by the Scrutiny Management Board prior to consideration by the Executive (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).

b) If the relevant the Scrutiny Committee cannot agree on one single final report to the Scrutiny Management Board, then up to one minority report may be prepared and submitted for consideration by the Scrutiny Management Board with the majority report. The Scrutiny Management Board will determine whether both reports are presented to the Executive or Council.

c) The Executive shall consider the report of the Scrutiny Committee at its next ordinary meeting following submission of the report to the Chief Executive Officer. Where a report is submitted to the Council, the report shall be considered at the next ordinary meeting of the Council provided that the Executive has met in the meantime and had the opportunity to formulate its views on the report. If the Executive has not had that opportunity, the report will be considered at the following meeting of the Council.

4.5.11 Making Sure that Scrutiny Reports are Considered by the Executive

a) Once the relevant Scrutiny Committee has completed its deliberations on any matter and the Scrutiny Management Board has considered the report, a copy of its final report will be forwarded to the Chief Executive Officer who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the Chief Executive Officer refers the matter to Council, that Officer will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive will have 6 weeks in which to

respond to the Scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from a Scrutiny Committee and the Scrutiny Management Board on a matter which would impact on the Budget and Policy Framework, it shall also consider the response of the Executive to the Scrutiny proposals.

b) The Scrutiny Committees will in any event have access to the Executive'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 consideration of possible policy/service developments, the relevant Scrutiny Committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

4.5.12 Rights of Scrutiny Committee Members to Documents

a) In addition to their rights as Councillors, members of the 3 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 Executive and the 3 Scrutiny Committees and the Scrutiny Management Board as appropriate depending on the particular matter under consideration.

4.5.13 Members and Officers Giving Account

(a) Any Scrutiny Committee or sub-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, it may require any member of the Executive, the Head of Paid Service, the Director of Corporate Resources, the Monitoring Officer and any Director or Head of Service 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 Council policy and/or Service performance.
- iii. and it is the duty of those persons to attend if so required.

(b) Where any member or officer is required to attend a Scrutiny Committee under this provision, the Chair of that Committee will inform the Chief Executive Officer. The Chief Executive Officer shall inform the Member or officer in writing giving at least 15 working days notice of the meeting at which that person is required to attend. The notice will state the nature of the item on which the Member or officer 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.

(c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Chair of the requiring Scrutiny Committee

shall in consultation with the member or officer arrange an alternative date for attendance. This is to ensure that meetings at which relevant accountable employees, who are giving evidence in response to a petition or otherwise or with members, are conducted in a professional and fair manner.

4.5.14 Attendance by Others

A Scrutiny Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders, Members and officers in other parts of the public sector and shall invite such people to attend. Attendance is entirely optional.

4.5.15 Call In

a) When a decision is made by the Executive or a Committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council. All Members of the Council will be sent copies of the records of all such decisions, by the person responsible for publishing the decision.

b) The 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 two members of any of the 3 Scrutiny Committees call in the decision. Members shall call in a decision of the Executive in accordance with the procedure appended to these rules. The called in item will be considered by the relevant Scrutiny Committee at its next ordinary meeting.

In the event of a called in item being within the terms of reference of more than 1 Scrutiny Committee, it will be for the Scrutiny Management Board to determine which Scrutiny Committee the item will go to.

c) The relevant Portfolio Member shall be informed of the Call in of the relevant item and informed of the date at which the relevant Scrutiny Committee will consider the item, so that the Portfolio Member may attend that meeting of the relevant Scrutiny Committee to answer the call in.

d) The members calling in the item shall be informed of the date at which the relevant Scrutiny committee will consider the item.

e) If, having considered the decision and if the relevant Scrutiny Committee so decides, they may refer the matter back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns. If referred back to the decision maker and if the decision maker is the Executive, the matter shall be considered at the next ordinary meeting of the Executive. If the decision maker is an officer, then the decision maker shall reconsider the matter within 15 working days of the relevant Scrutiny Committee consideration of the matter. In both cases the decision maker shall reconsider the matter in the light of the

Scrutiny Committee's concerns, and then amend the decision or not, before adopting a final decision.

f) If the matter is called in for a second time by two members of the relevant Scrutiny Committee in accordance with the procedure, the matter will be referred to the next ordinary meeting of the Council. If 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 Budget and Policy Framework, or not wholly consistent with the Budget and Policy Framework. 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 Executive as a whole or a Committee of it, the matter will be reconsidered at the next ordinary meeting of the Executive. Where the decision was made by an individual, the individual will reconsider the matter within 15 working days of the Council request.

g) If the Council 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.

h) Formal noting by the Executive of decisions made by the Leader however, will not be subject to a second opportunity for Scrutiny Call – In.

4.5.16 Call In and Urgency

a) The call-in procedure set out above shall not apply where the decision being taken by the Executive 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 Vice-Chairman's consent shall be required. In the absence of both, the Chief Executive Officer's consent is required. In all cases the Chair of the relevant Scrutiny Committee should be consulted before a decision is made. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

b) 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.

4.5.17 The Party Whip

When considering any matter in respect of which a member of the relevant 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

relevant Committee's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

4.5.18 Procedure at Scrutiny Committee Meetings

(1) Business to be Considered

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 a decision in relation to call in of a decision;
- iv) responses of the Executive to reports of the Committee.
- v) the performance information being presented to the Scrutiny Committee and
- vi) the business otherwise set out on the agenda for the meeting.

(2) Attendance by Portfolio Holders

Portfolio Holders will attend a Scrutiny Committee meeting where performance information relevant to the portfolio is being presented.

(3) Conducting Investigations

Where the Scrutiny Committee conduct 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.

(4) Report Following Investigation

Following any investigation or review, the relevant Committee shall prepare a report, for submission to the Scrutiny Management Board. The Scrutiny Management Board may then submit the report to the Executive and/or Council as appropriate and shall make its report and findings public.

4.5.19 Annual Scrutiny Conference

Each year the Scrutiny Management Board will organise an Annual Scrutiny Conference to consider proposals for the 3 Scrutiny Committees' 4 year Work Plans and the particular work plan for the forthcoming year. Portfolio Holders should be invited to attend this Conference.