

## **4.5 SCRUTINY PROCEDURE RULES**

### **4.5.1 The Number and Arrangements for Scrutiny Committees**

- (1) The Council will have four Scrutiny Committees which will perform all scrutiny functions on behalf of the Council. The four Scrutiny Committees will be the;
  - ~~Finance~~Audit and Corporate Overview Scrutiny Committee
  - Customer Services Scrutiny Committee,
  - Local Growth Scrutiny Committee
  - Climate Change and Communities Scrutiny Committee.
- (2) The Terms of Reference of the Scrutiny Committees will be as outlined in Part 3 of this Constitution.

### **4.5.2 Who May Sit on Scrutiny Committee?**

All Councillors, [except Members of the Executive], may be Members of the Scrutiny Committee. No Member may be involved in scrutinising a decision in which that Member has been directly involved.

The membership of each Committee will reflect the political composition of the Council. Members will be appointed at the Annual Council Meeting, and subsequently as required following a change in political composition and/or responsibilities.

### **4.5.3 Co-optees**

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

The Audit and Corporate Overview Scrutiny Committee will have an additional co-opted Independent Non-Voting Member, as part of its allocated membership.

### **4.5.4 Meetings of the Scrutiny Committees**

The Scrutiny Committees 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 Monitoring Officer if considered necessary following consultation with the Chair of the relevant Scrutiny Committee. Further meetings may be arranged as required on an Informal basis, to enable Review work to be completed.

#### 4.5.5 Quorum

~~The quorum for each Scrutiny Committee shall be at least 3 Members of the Scrutiny Committee. The quorum for each scrutiny committee meeting will be one quarter of the whole number of members or three voting members, whichever is the greater.~~

#### 4.5.6 Who Chairs the Meetings of the Scrutiny Committees?

The Chair of each Scrutiny Committee and any sub-Committees will be drawn from among the Councillors sitting on the relevant Scrutiny Committee or sub-committee, and be appointed by the Annual Council Meeting.

#### 4.5.7 Work Programme

The Scrutiny Chairs will be responsible for setting the Annual Work Programme for each of the four Scrutiny Committees and in doing so shall take into account the wishes of Members of the four Scrutiny Committees including the wishes of those who are not Members of the largest political group on the Council. The Annual Work Programme shall include matters on which there are requests from the Council or the Executive for advice, where this can be accommodated

#### 4.5.8 Agenda Items

- (1) Any Member of the relevant Scrutiny Committee shall be entitled to give notice to the Governance Manager of 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 Governance Manager will notify the Scrutiny and Elections Officer who will ensure that it is included on the next available agenda.
- (2) The relevant Scrutiny Committee shall also respond to requests from the Council, as soon as their work programme permits - 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. Policies will be

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considered by the relevant Scrutiny Committee before submission to the Executive.

- (3) Any non-Executive Member who is not a member of the Scrutiny Committee may refer any matter relevant to the Scrutiny Committee's functions to that Committee. The Member should give notice to the Monitoring Officer. On receipt of such a request, the Monitoring Officer will ensure that it is included on the next available agenda. The Committee shall then determine whether it wishes to pursue the item suggested by the Member.

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#### 4.5.9 Policy Review and Development

- (1) 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.
- (2) 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.
- (3) The Scrutiny Committees, through specially set up working groups, if appropriate, 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.

#### 4.5.10 Reports from the Scrutiny Committee

- (1) Once it has formed recommendations on proposals for development, the relevant Scrutiny Committee will prepare a formal report and submit it to the Monitoring Officer for 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).
- (2) The Executive shall consider the report of the Scrutiny Committee at its next ordinary meeting following submission of the report to the Monitoring 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

- (1) Once the relevant Scrutiny Committee has completed its deliberations on any matter, a copy of its final report will be forwarded to the Monitoring 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 Monitoring Officer refers the matter 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 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.

- (2) Scrutiny Committees will in any event have access to the Executive's List of Key Decisions and timetable for decisions.

Even where an item is not the subject of detailed proposals from a Scrutiny Committee following a 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 Members and Officers Giving Account

- (1) 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 Chief Financial Officer, 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.

- (2) 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.

#### 4.5.13 Attendance by Others

A Scrutiny Committee may invite people other than those people referred to in paragraph 4.5.12 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.

#### 4.5.14 Call-In of Key Decisions

- (1) 'Call-in' should not be confused with the scrutiny of anticipated decisions before they are made (i.e. matters on which Scrutiny Committees can formulate proposals and recommendations.) 'Call-in' refers to the calling in of a decision after it is made but before it is implemented, and only applies to Key Decisions.
- (2) When a Key Decision<sup>1</sup> is made by the Executive or a committee of the Executive, or under joint arrangements, or in line with any delegation within the Constitution, the decision shall be published electronically and shall be available at the main offices of the Council within two working days of being made.
- (3) Copies of the Notice of Decision will be provided to all Members within the same timescale.
- (4) All Key Decisions will come into effect five working days after the publication of the decision unless three Scrutiny Members give notice in writing to the Governance Manager requesting to call-in the decision.
- (5) Call-in should only be used in exceptional circumstances. These are where Members have evidence which suggests that issues have not been handled in accordance with the decision-making principles set out in Article 13.2 of this Constitution; where a key decision has been taken which was neither published in

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<sup>1</sup> A Key Decision is an Executive decision likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates or which is significant in terms of its effects on communities living or working in an area comprising two or more wards in the District. The Council has decided that revenue income or expenditure of £75,000 or more and capital income or expenditure of £150,000 or more is considered significant.

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accordance with the requirements for the list of Key Decisions, not subject to the 'general exception' or 'special urgency procedures' set out in this Constitution or where a decision is outside the policy or budgetary framework.

- (6) If no notice requesting call-in of a Key Decision is received in this five working day period, the decision may be implemented.
- (7) The call-in request should be on a completed 'call-in' request form and include the names and signatures of the three signatories, the decision-making principles it is believed have been breached and also the reasons for this. The decision-making principles are:-
  - Proportionality (the decision must be proportionate to the desired outcome)
  - Due consultation and the taking of professional advice from officers
  - Respect for human rights
  - A presumption in favour of openness
  - Clarity of aims and desired outcomes
  - Regard for equal opportunities
  - Options are considered and reasons for the decision given
  - Consideration of all relevant factors
  - Decision is in the best interests of the District as a whole
- (8) Upon receipt of the call-in form, the Governance Manager will consider the request to ensure the correct information has been submitted. The Monitoring Officer may reject it if:-
  - It relates to a non-Executive decision or is a decision where a statutory appeal is available
  - Insufficient information has been provided
  - It is vexatious, malicious or politically motivated
  - It contains insufficient evidence as to how the decision making principles have been breached
  - The decision has been previously called-in
  - The reasons given have been addressed in a previous call-in
- (9) Reasonable steps will be taken to make the lead signatory aware of any issues regarding the validity of the call-in request prior to the closure of the five working day call-in period.
- (10) Upon determining that the call-in request is valid, the Monitoring Officer will decide, having regard to the functions of each Scrutiny Committee, which Scrutiny Committee will hear the call-in. The Executive/decision-maker and relevant Council officers will also be notified of the call-in request. The Governance Manager will then call a meeting of the relevant Scrutiny Committee.

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(11) Where two or more valid call-ins are requested on the same issue, the Monitoring Officer should liaise with those requesting (and with the relevant Chair) to ensure that the matters can be considered together, without prejudicing either individual request or requesters.

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(12) The reports to be considered by the Scrutiny Committee should be provided by officers and should reflect the same material that has gone to the original decision-maker. However, it is reasonable for those requesting the call-in to expect additional information to be provided.

(143) The relevant Scrutiny Committee must meet to consider the call-in as soon as reasonably practicable and at the latest within 20 working days of the receipt of the call-in notice. If the meeting does not take place in this period then the decision may be implemented. Special meetings of the Scrutiny Committee will be called if necessary to consider a call-in in this period.

(124) The lead signatory, being the first named Member on the call-in, will be invited to attend the relevant Scrutiny Committee to present the call-in, outline the reasons for the request and answer questions from the Committee. They will not be entitled to vote unless they are a Member of the Scrutiny Committee that considers the call-in. The relevant Executive Member/decision making officer will also be entitled to attend the meeting and be invited to address the Scrutiny Committee and answer questions from the Committee. The format for the call-in consideration is set out in the Call-In Procedure Rules.

(135) If, having considered the decision, the Scrutiny Committee is still concerned about it; they may refer the matter back to the decision maker setting out in writing the reasons for its concerns. If the decision is a decision made by the Executive, the Executive shall reconsider it at their next meeting, (or a special meeting if necessary), amending the decision or not, before adopting a final decision.

(146) If the Scrutiny Committee decides not to refer the decision back to the decision-maker, it may be implemented on the date of the Scrutiny Committee.

(157) If the Scrutiny Committee concludes that the decision is outside the Budget and Policy Framework, then it may refer the decision to Council. When exercising this option, the Scrutiny Committee must evidence how and why the decision is outside the Framework and give due regard to the advice of the Chief Financial Officer and Monitoring Officer on this matter. This is contained within section 4.3.8 of the Budget and Policy Framework Rules.

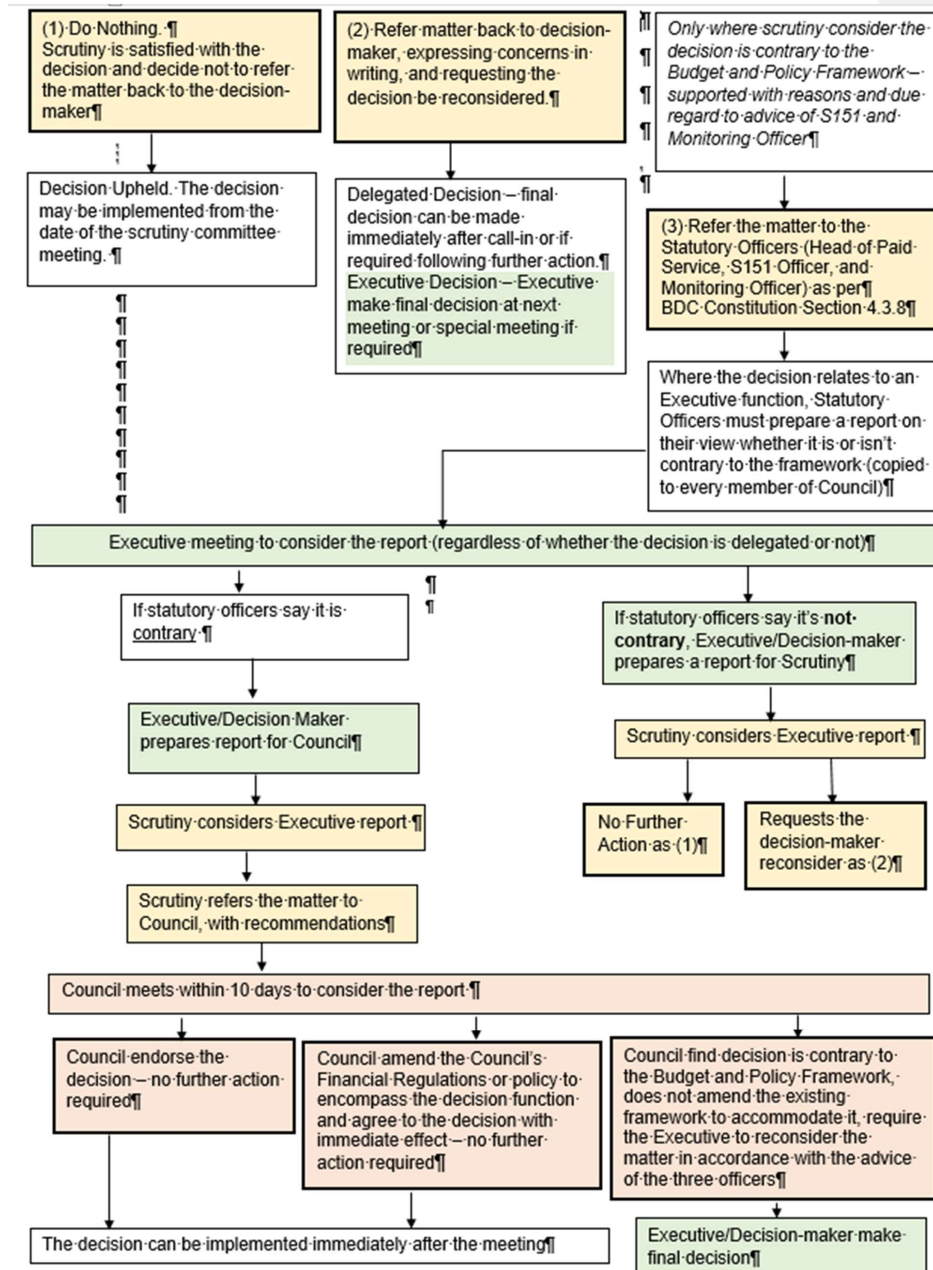
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- (168) If the matter is referred to Council and the Council does not object to a decision that has been made, then the decision may be implemented on the date of the Council meeting.



Call-In Procedure Flowchart

On hearing evidence, the Committee can take one of the following courses of action:



#### 4.5.15 Call-In and Urgency

- (1) 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 relevant 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 the Chairman of the relevant Scrutiny Committee, permission of the Chairman of the Council may be sought and in ~~their~~his absence, the Vice-Chairman's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (2) 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.

#### 4.5.16 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.

#### 4.5.17 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 management information relevant to the portfolio is being presented or by invitation of the Chair as part of a review.

(3) Completion of Review

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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 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 Review

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

4.5.18 Matters within the Remit of more than one Scrutiny Committee

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Where a Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Scrutiny Committee, then the Committee conducting the review shall invite the Chairman of the other Committee (or his/her nominee) to attend its meetings when the matter is being reviewed.

Two or more Scrutiny Committees may, from time to time, establish working groups comprising members from their Committees to look into issues of mutual concern.

4.5.1~~9~~8 Annual Scrutiny Conference

Each year the Scrutiny & Elections Officer will organise an Annual Scrutiny Conference to consider proposals for the four Scrutiny Committees Annual Work Programmes. Portfolio Holders should be invited to attend this Conference.