

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, as set out in Part 2, Article 6 of this Constitution. The four Scrutiny Committees will be the;
 - Finance 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.

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 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 any Sub-Committees and in doing so shall take into account the wishes of Members of the four Scrutiny Committees or Sub-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 or Sub-Committee shall be entitled to give notice to the Governance & Civic Manager of an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request, the Governance & Civic Manager will notify the Scrutiny Officer who will ensure, in consultation with the relevant Scrutiny Chair, that it is included on the next available agenda.
- (2) Any Member of the Council who is not a member of the relevant Scrutiny Committee or Sub-Committee may give written notice to

the Governance & Civic Manager that he/she wishes to refer to that Committee or Sub-Committee any matter relevant to the Committees functions which is not an excluded matter. If the Governance & Civic Manager receives such a notification, then he/she will include the item on the first available agenda of the relevant Scrutiny Committee for consideration by the Committee. The Member concerned shall be entitled to address the Committee.

- (3) The definition of an excluded matter in 4.5.8(2) of these Rules is as follows:
- (a) a local crime and disorder matter which may be referred to the relevant Scrutiny Committee under the provision of 4.5.8(5) of these Rules;
 - (b) any matter relating to a planning or licensing decision;
 - (c) any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal conferred by or under any enactment;
 - (d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda or discussion at a meeting of an Overview and Scrutiny Committee or Sub Committee.

A matter will not be defined as an excluded matter under paragraphs a) to c) above if it consists of an allegation that a function for which the Council is responsible has not been discharged at all or that its discharge has failed or is failing on a systematic basis.

- (4) 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/strategies will be considered by the relevant Scrutiny Committee before submission to the Executive.
- (5) Any Member of the Council who is not a member of the relevant Scrutiny Committee has the right to refer a crime and disorder

matter affecting his or her ward to the relevant Scrutiny Committee. The power to do this is known as raising a Councillor Call for Action (CCfA) but must be exercised in accordance with the guidance and procedures set out in paragraph 4.5.20 of the Scrutiny Procedure Rules. Any Councillor who is already a member of the relevant Scrutiny Committee and who wishes to refer a crime and disorder matter to the Committee may do so under paragraph 4.5.8(1) but must have regard to the guidance in Part 4.5.1 if the matter being raised is a CCfA.

- (6) If the relevant Scrutiny Committee decide not to review or scrutinise a matter or not to make a report or recommendations to the Council or Executive (as appropriate) following the referral of a crime and disorder matter to the Committee in accordance with paragraph 4.5.8(5) of these Rules the Committee must notify the Councillor who made the referral of its decision and the reasons for its decision.

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 and Recommendations from the Scrutiny Committees and consideration by Executive/Council

- (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) If the Scrutiny Committee cannot agree on one single final report to Executive, or Council as appropriate, then up to one minority report may be prepared and submitted for consideration by Executive or Council with the majority report.
- (3) Where proposals are presented to the Executive, it shall consider the report of the Scrutiny Committee at its next ordinary meeting following submission of the report to the Monitoring Officer.
- (4) 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.

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.

- (5) The Executive, or Council (if appropriate), shall consider the report of the relevant Scrutiny Committee and respond to their next available meeting, or within a maximum of two months of receiving it.
- (6) For crime and disorder matters (including crime and disorder CCfAs) the Council or Executive (as appropriate) and any of the other responsible authorities or co-operating bodies to whom the report or recommendations have been sent must respond in writing and within 28 days from the date of the report or recommendations, or if this is not reasonably possible, as soon as reasonably possible thereafter. The Scrutiny Committee must provide the Councillor who made the referral of the crime and

disorder matter in accordance with paragraph 4.5.8(5) of these Rules a copy of any report or recommendations made to the Council or Executive (as appropriate) after consideration of that referral by the Scrutiny Committee. If the Scrutiny Committee has published its report then the Executive will publish its response.

- (7) 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.

4.5.11 Rights of Scrutiny Committee Members to Documents

- (1) In addition to their rights as Councillors, 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 of this Constitution. Members will also be informed of the Council's Key Decisions.
- (2) Nothing in paragraph 4.5.12(1) prevents more detailed liaison between the Executive and Scrutiny Committees as appropriate depending on the particular matter under consideration.

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 member of the Senior Leadership Team and/or the relevant Service Manager, 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

- (1) 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.
- (2) The Scrutiny Committee designated as a Crime and Disorder Committee under Section 19 of the Police and Justice Act 2006 may require the attendance before it of an officer or employee of a responsible authority or of a co-operating person or body in order to answer questions. (These are the authorities responsible for the crime and disorder strategy in relation to the local authority area as set out in Section 5 of the Crime and Disorder Act 1998).

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 Decision¹ 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.

¹ 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.

- (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 & Civic 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 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 & Civic Manager will consider the request to ensure the correct information has been submitted. The Monitoring Officer may reject it if:-

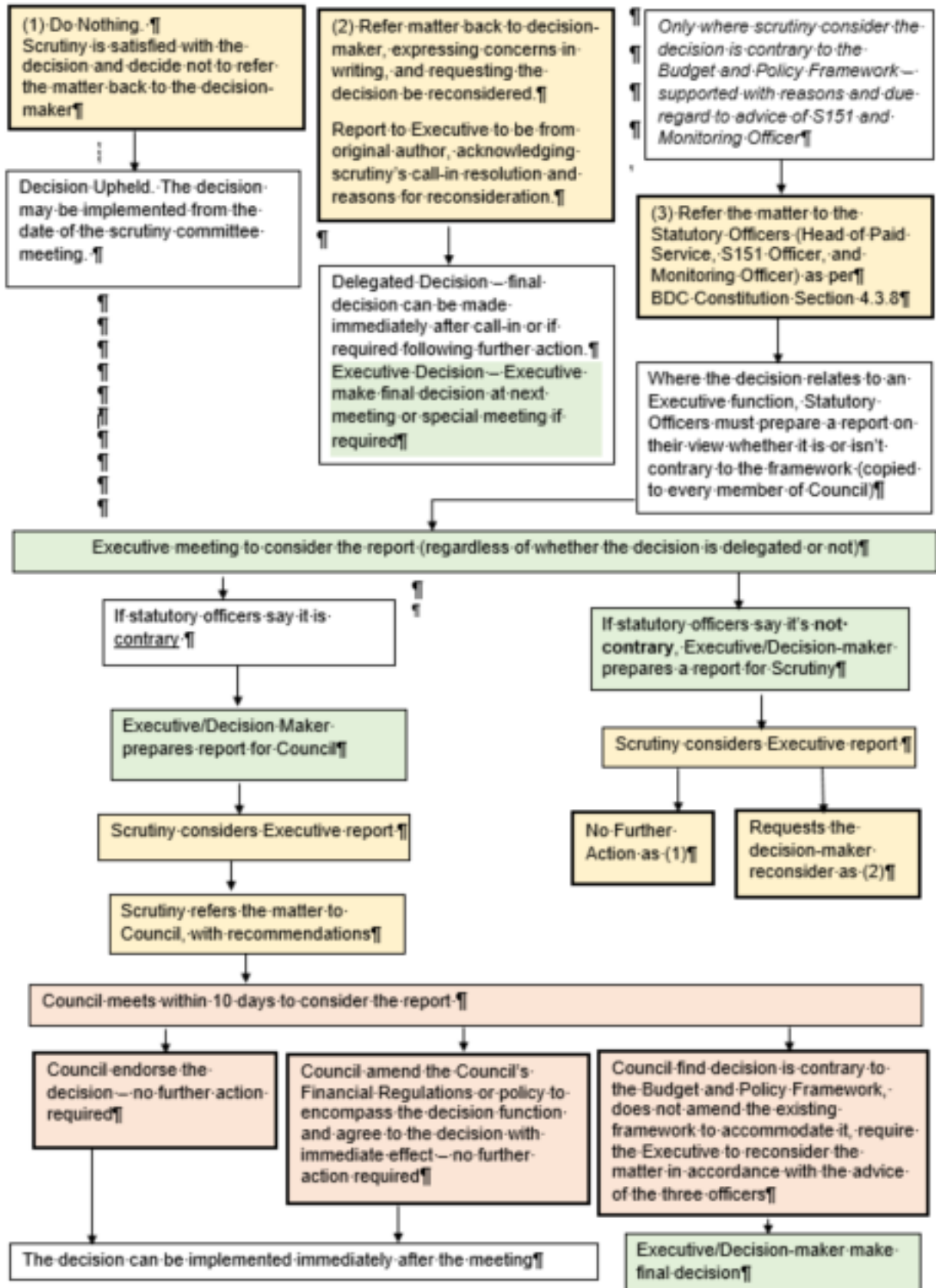
- It relates to a non-Executive decision or is a decision where a statutory appeal is available
 - Insufficient information has been provided
 - It is vexatious, malicious or politically motivated
 - It contains insufficient evidence as to how the decision making principles have been breached
 - The 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 & Civic Manager will then call a meeting of the relevant Scrutiny Committee.
- (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.
- (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.
- (13) 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.
- (14) 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.

- (15) 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.
- (16) 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.
- (17) 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.
- (18) 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 Chair 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 Chair of the relevant Scrutiny Committee, permission of the Chair of the Council may be sought and in their absence, the Vice-Chair'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

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 Scrutiny 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, subject to the Access to Information Rules set out in Part 4.2 of this Constitution.

4.5.18 Procedure for handling petitions at Scrutiny Committees

- (1) Scrutiny Committees have an important role in relation to petitions submitted to the Council. Petitions must be handled in accordance with the Council's petition scheme as set out in Part 7 of this constitution.

4.5.19 Matters within the Remit of more than one Scrutiny Committee

Where a Scrutiny Committee or Sub-Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Scrutiny Committee or Sub-Committee, then the Committee conducting the review shall invite the Chair 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.

COUNCILLOR CALL FOR ACTION – GUIDANCE

4.5.20 Councillor Call for Action (CCfA)

(1) What is Councillor Call for Action (CCfA)?

The Councillor Call for Action (CCfA) is a mechanism through which Councillors can raise issues relating to a local crime and disorder issue within the ward they represent. These issues are ones of significant community concern and where the usual channels for resolving such issues have been exhausted or have proved unsuccessful at resolving the issue. The CCfA is an act of last resort.

It is important to recognise that CCfA is not guaranteed to solve a given issue. CCfA provides a method for discussing such issues and, through discussion, trying to overcome them.

The CCfA should no longer be used for local government matters unless there are concerns of systematic failure.

(2) What does CCfA cover?

CCfA covers local crime and disorder matters of significant community concern. These could be issues identified directly by the Councillor or issues raised by the local residents with the Councillor.

Definition of a local crime and disorder matter

Local crime and disorder matter: A local crime and disorder matter, in relation to a member of a local Authority, has been defined to mean a matter concerning:

- i. crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- ii. the misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area.

Other matters (not crime and disorder)

Due to legislation changes there are now fewer restrictions on how Councillors can raise other matters. Under the rules in the Constitution within Part 4.5.8, any Scrutiny Member may request an item be placed on Scrutiny Committee relating to the Committee's functions, provided it is not an excluded matter (see section 3 of this guidance).

For help with individual CCfAs as to whether they are covered, Members can ask Governance & Civic team or Legal Services or the Solicitor to the Council.

(3) What issues are excluded from referral as a CCfA?

The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012 excludes the following matters from referral as a CCfA:

- (i) any matter relating to a planning decision;
- (ii) any matter relating to a licensing decision;
- (iii) any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal conferred by or under any enactment; unless the allegation is that a function for which the Authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis;
- (iv) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of an overview and scrutiny committee or any of its sub-committees.

A matter will not be defined as an excluded matter under paragraphs i) to iv) above if it consists of an allegation that a function for which the Council is responsible has not been discharged at all or that its discharge has failed or is failing on a systematic basis.

(4) Who can raise a CCfA?

Any Member of the Council including an Executive Member may raise a CCfA. This is a Council wide process and excludes no Member.

A Councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for Councillors in multi-member wards to agree – any of them can refer a matter.

It is up to Councillors using this guidance to decide:

- which issues to take forward as CCfAs and champion;
- when an issue should be referred to the relevant Scrutiny Committee; and
- when to reject an issue.

It is a matter of judgement for a Councillor to decide which local crime and disorder matters to champion and each local Councillor will be accountable to the local community for these judgements.

(5) What must the Member do before the CCfA can be used?

Prior to a Councillor referring a matter as a CCfA to the relevant scrutiny committee, a Councillor must have tried to resolve the issue/problem themselves using all mechanisms and resources available to them at Ward level. Councillors should:

- For local crime and disorder matters, raise the issue through the Community Safety Partnership to find a way to resolve the issue.
- Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions or communication with local MPs.
- Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with officers and/or members.
- Ensure that this is not an issue that is currently being or should be pursued via the Council's complaints procedure.

A Councillor must exhaust other possible methods of resolution.

Other possible means of resolution and/or raising the matter include but are not limited to:-

- Using Scrutiny Committee Call-In where it has not been used on the same issue before, and Executive has made a decision relevant to the issue
- Requesting the item be placed on the Scrutiny Committee work plan

- Raising the matter at Executive
- A Council Motion
- Raising the matter with the local MP
- Formal letters written on behalf of constituents
- Raising the matter with a fellow Councillor in another authority e.g. a County Councillor
- Raising the matter with the relevant member of Senior Leadership Team
- Raising the matter with the CEO
- Raising the matter with the Leader
- A Petition could be submitted to the relevant organisation
- Raising the issue directly with the organisation responsible
- Holding a public Meeting

Reject if it is any of the following:

- An individual complaint (unless it is a series of individual complaints demonstrating “systematic failure” in a particular area)
- Vexatious, discriminatory or not reasonable (see notes at end).
- It is being used as a “second bite of the cherry” e.g. where a previous call-in has failed, or a petition has already been considered.

Accept if it is:

- A crime and disorder issue of genuine local concern; and
- All other avenues for resolution have been followed, and
- This now seems to be the most appropriate way to deal with it.

The CCfA Request Form also contains a checklist of queries to consider prior to submission of a CCfA, and alternative courses of action.

(6) What is resolution of the matter?

Councillors will be using CCfA to try to resolve matters that appear to be going nowhere and where all other avenues for resolution have been exhausted. The CCfA will only offer a possible resolution in circumstances where other actions have failed to resolve a matter. Resolution of a matter may not mean the same to all. In this context its meaning is dependent on the outcome you

are seeking. You will need to explain what outcome you want when you put forward the matter as a potential CCfA. However there may be barriers to the resolution you want - for example the absence of funding.

Possible forms of resolution according to the guidance include the following, though the actual form of resolution will depend on the nature of the CCfA:-

- A response has been received from either Executive or Council as appropriate
- You are satisfied with the outcome as set against your original objective
- The constituent who raised the matter is satisfied
- The Scrutiny Committee is satisfied with the outcome
- The matter is to be put forward on the list of future reviews for the next municipal year.

(7) Notifying Governance & Civic Team that you wish to make a Councillor Call for Action.

You can either ring or call in person or complete the Request Form yourself. If you ring or call personally a member of Governance & Civic Team will help you complete the form and explain the exclusions. However if you wish to complete the form yourself you can still ask questions on the details.

Although you are being asked to complete this form (on your own or with officer help) the idea of CCfA is to be as unbureaucratic as possible. However the Council is under a legal duty to consider a properly made CCfA so the CCfA needs recording accurately and entering promptly into the meetings system.

A Member raising a CCfA can present this to Scrutiny Committee verbally or he/she can write a report and present that.

(8) What will happen to the CCfA?

Provided the CCfA meets the criteria it will be submitted to the next available relevant Scrutiny Committee. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.

It will be for the member raising the CCfA to gather any information required for submission to the Scrutiny Committee. A failure to do so may result in Scrutiny Committee not being able to consider the matter at the designated meeting. Any reports prepared by the

Councillor would be circulated along with the agenda and other reports for the meeting. This information will need to take account of the disclosures of exempt information as prescribed in Part 1 of Schedule 12A of the Local Government Act 1972, and the Council's Access to Information Rules.

(8) Procedure at Scrutiny Committee Meetings

The Chair will provide a short introduction to the issues and then invite the Councillor who has raised the CCfA to briefly outline the reasons behind the CCfA, the action taken and responses taken to date and the outcomes sought.

The Chair will then open the discussion and invite other Scrutiny Committee members to ask questions to help clarify the issues and outcomes sought and the appropriate outcome.

The relevant Portfolio Holder, senior officers and/or (where appropriate) representatives from partner organisations will be invited to attend and provide information, respond to questions and assist the Committee to arrive at the appropriate outcome.

Executive Members of partner organisations and/or their officers are not under any obligation to attend Scrutiny meetings - but again in the spirit of closer partnership working we hope they will agree to attend and help resolve CCfAs if requested.

CCfA can be a useful tool for partners. It can involve them in working more closely with local Councillors and by extension, with local communities. Local Councillors can in turn provide valuable advice to partners on local concerns and issues and can act as a vital conduit for information and discussion.

The Chair will sum up the outcome of the debate.

The Committee may resolve the issue at that meeting, or set up a scrutiny review to explore the issue in detail. The Committee may agree a report and any recommendations it wishes to make on the matter and refer these to the Executive. Partners under a duty to respond have two months to do so.

(9) Potential Outcomes

Following a formal hearing, there are a number of potential outcomes from the Committee meeting:

- Where a Committee decides not to take any further action in respect of a Crime and Disorder CCfA (such as to carry out a review of the matter) it will inform the Member who referred the matter, in writing, of its decision and its reasons for that decision.
- The Committee could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue.
- Should a CCfA hearing result in a report or recommendations to the Executive or Council being made, a response to the recommendations, setting out any action it intends to take, if any, will be given within two months of the report or recommendations being notified to the Executive or Council.
- Should a CCfA hearing result in a report or recommendations to a partner organisation, such organisations will also be requested to make a response to the report or recommendations. Partners have a duty to provide information to Scrutiny Committees when requested and to consider and respond to Scrutiny Committee reports and recommendations, setting out what action they will take in response, or their reasons for taking no action, within two months of receiving the report.

Once the Committee has completed its work on the CCfA referral, the Member who made the CCfA referral will receive a copy of any report or recommendations made. The reply will also be printed on the Council's website (unless there are reasons why the committee treats the matter as a confidential item or an exempted item and as a result the report is not made public).

As per the case with scrutiny review recommendations, there would be a minimum 12 month monitoring period for any recommendations made.

(10) Explanatory Notes

Definition of a Complaint

For the purpose of the Council's procedure the Council accepts the Local Government Ombudsman's definition.

"An expression of dissatisfaction by one or more members of the public about the Council's action or lack of action or about the standard of a service, whether the action was

taken or the service provided by the Council itself or a person or body acting on behalf of the Council.”

Statutory Regulations state that any matter which “is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee is to be excluded”.

Definitions of “vexatious” “persistent” “discriminatory” and “not reasonable”

Statutory regulations deal with matters that can be excluded from CCfA, stating that “any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee is to be excluded”.

Vexatious/Persistent

Whether a request is vexatious is a flexible balancing exercise, Deciding taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid –it may relate to a systematic problem that has not been effectively resolved. Similarly, a request which some members may regard as vexatious, for political reasons, may actually be entirely reasonable.

CCfAs need to be looked at on their merits, rather than on the basis of who is bringing them, or whether somebody thinks there is an ulterior motive for them being brought.

Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the Councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the Councillor’s requirements.

Discriminatory

A modern interpretation of the word “discrimination” is provided at Section 13 of the Equality Act 2010, in relation to protected characteristics, as follows:

A person (A) discriminates against another (B) if because of a protected characteristic, A treats B less favourably than A treats or would treat others. Protected characteristics are defined in section 4 of that Act as: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

Not reasonable

It is suggested that, in the interests of transparency, authorities do not interpret “not reasonable” as being the same as the legal word “unreasonable”. It is best to consider it as a qualifier to the word “vexatious”, as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

COUNCILLOR CALL FOR ACTION – REQUEST FORM

Councillor's name:

Councillor's Parish or Ward:

Date:

Parish/ Ward/ Locality affected by Councillor Call for Action issue:

.....

Description of Councillor Call for Action

Please outline the issue you wish to raise

Please set out the background to the issue and why you think it should be considered as a Councillor Call for Action.

Desired outcome or "resolution" of the issue.

Please consider whether the following exclusions apply to the issue you wish to raise. Alternative contacts are given below where appropriate:-

Consideration	Exclusion	Action required
Is the matter a Planning or Licensing matter?	Yes	The Councillor Call for Action does not apply to regulatory matters which have their own method of resolution.
Is the matter a complaint against a member of staff or related to an employee disciplinary or other HR matter	Yes	Refer to the HR & Payroll Manager to be picked up under the Council's Disciplinary or other relevant HR procedure.
Is the matter a complaint against another member?	Yes	Refer to the Solicitor to the Council to be dealt with by the Standards Committee under the Local Assessment of Complaints Procedure.
Is the matter vexatious?	Yes	The Councillor Call for Action excludes vexatious complaints. Refer to the Compliments, Comments and Complaints Procedure as it contains a definition of vexatious complaint used in considering customer complaints. This should be applied to CCfA. The Customer Services Manager or the Customer Standards & Complaints Officer can give further advice.
Is the matter discriminatory?	Yes	Refer to the definition in the Corporate Equality Scheme or ask the Information, Engagement & Performance Manager for further advice.
Is there another method of resolution?	Yes	Councillor Call for Action is a last recourse and should not be used in the first instance to try to resolve a matter. Other ways of dealing with issues are given in the Councillor Call for Action guidance.
Is this an individual service complaint/issue?	Yes	Unless this is a complaint of systemic failure the matter should be referred to the Customer Services Manager to be dealt with under the Compliments, Comments and Complaints system. The Councillor Call for Action is not for use with individual service complaints. Where there are multiple instances of failure indicating a systemic failure, then a CCfA could be considered for an excluded matter.

Consideration	Exclusion	Action required
Is the matter the subject of a current call-in by Scrutiny Committee?	Yes	The Councillor Call for Action cannot be used where there is a Call-in on the same matter currently going through Scrutiny Committee.
Is the matter an Executive decision that could still be called-in through Scrutiny members' powers?	Yes	The matter should first face Scrutiny Committee Call-in and any other possible means of resolution before CCfA is considered.
Is the matter already included in the current scrutiny work plan?	Yes	Refer the matter to the Scrutiny and Elections Officer to include as part of the review already planned.
Is the matter a wider policy issue which could be addressed as part of the Scrutiny Committee's future work plan?	Yes	Refer the matter to the Scrutiny and Elections Officer to put on the list of matters to be considered by Scrutiny Committee for future reviews.

The Councillor Call for Action is a last resort and should only be used where other action has failed. The Councillor Call for Action guidance gives a list of other actions which could be taken and advice can also be sought from relevant officers.

- Where else has this matter been considered or what other action has been taken to resolve this issue? (Give evidence of consultation/action by other Ward Councillors/officers.)
- Have other agencies been contacted? (For example has it been to Scrutiny Committee previously?)

Please list these below and provide details of the outcomes of these actions e.g. responses.

If the Councillor has not exhausted other possible means of resolution, he/she should be referred to the examples of alternative means of resolution listed in the guidance. **The matter cannot be dealt with as a Councillor Call for Action in these circumstances.**

If the Councillor has exhausted all other possible means and has listed sufficient evidence that there is a crime and disorder issue of genuine local concern, then a CCfA would seem the most appropriate way to deal with it.

****This part of the form is to be completed by the Governance & Civic Team.***

Log Number of Councillor Call for Action: .CCfA ____/20____

- Is the matter going to be dealt with as a CCfA ? Yes/No (if no state reason).

- If the matter is not excluded by one of the above exclusions, refer to the next possible meeting of the relevant Scrutiny Committee.

Date of Scrutiny Committee:

.....

Date that Governance & Civic Team informed to put on the agenda:

.....

Inform the Councillor, that he/she will need to either write a report or verbally present the item and any supporting evidence at the Scrutiny Committee. In either case, the agenda item will need to identify the nature of the Councillor Call for Action so discuss an agenda item title with the Councillor. If the member is to write a report, give details of the deadlines.

- Is a report to be written by the member or will the member present the report verbally to the meeting?

(delete as appropriate) **Written Report/Verbal Presentation**

- If the member is to write a report for inclusion with the meeting agenda, give details of the deadlines.

Date of deadline for written report:

.....

In any case where the Councillor disputes whether a matter can be treated as a CCfA, this should be referred to the Solicitor to the Council for determination. The Solicitor to the Council will consult the relevant Scrutiny Chair before reaching a decision.

Please note that this Councillor Call for Action request may be released under the Freedom of Information Act.

EXECUTIVE/SCRUTINY PROTOCOL

4.5.21 Executive/Scrutiny Protocol

This protocol sets out an agreed way of working in respect of:-

- Attendance by Executive Members at Scrutiny Committees;
- Attendance by Executive Members at Informal Scrutiny Committees;
- Attendance by Officers at Scrutiny Committees;
- Attendance by Scrutiny Members at Executive;
- Referral of items by Executive (or Council) to Scrutiny for inclusion in the Work Programme;
- Development of the Scrutiny Work Programme
- Policy Review and Development;
- The submission of Scrutiny reports to the Cabinet (and Council);
- Responding to Scrutiny recommendations;
- Compliance with the Protocol.

(1) Attendance by Executive Members at Scrutiny Committees

Members of the Council and Executive may attend meetings of a Scrutiny Committee to observe proceedings.

Executive Members may speak at Scrutiny Committee meetings at the invitation of the Chair.

Attendance by Executive Members at Scrutiny Committees is expected wherever an agenda item relates to their Portfolio. This may be a Policy/Strategy report; performance update or in relation to a review undertaken. Where possible the Executive Member should take an active part in presenting the report, supported by officers.

Executive Members will be informed at an early stage about Scrutiny reviews and agenda items that are wholly or partly within the remit of their Portfolio.

When attendance is required sufficient written notice (includes email) will be given and the purpose of the attendance explained. This will include circulation of agenda papers and official meeting appointments in advance of the meeting.

(2) Attendance by Executive Members at Informal Scrutiny Committees

Attendance by Executive Members at review working groups/Informal Committee is to inform debate, clarify matters and contribute to a specific topic rather than to be held to account in respect of matters relating to the Portfolio Holder's responsibilities.

When attendance is required sufficient written notice (includes email) will be given and the purpose of the attendance explained. This will include circulation of agenda papers (where relevant) and official meeting appointments in advance of the meeting.

(3) Attendance by Officers at Scrutiny Committees

As outlined in the Scrutiny Procedure Rules there are specific circumstances in which officers will be required to attend Committee.

Officers will be given sufficient notice of the meeting and any report requirements. Agenda papers will be circulated giving at least five working days' notice of the meeting at which he/she is required to attend.

Officers in attendance at Scrutiny Committee meetings should be prepared to assist Executive Members in the provision of information to the Committee in response to any question raised.

They should also be prepared to support the Executive Member in presentation of report to Committee.

(4) Attendance by Scrutiny Members at Executive

Members of a Scrutiny Committee may attend meetings of the Executive to observe proceedings.

Members of a Scrutiny Committee may speak at Executive meetings at the invitation of the Leader.

The Chair or Vice-Chair of the relevant Scrutiny Committee will be invited to attend the Executive meeting to present scrutiny reports and recommendations.

(5) Referral of items by Executive (or Council) to Scrutiny for inclusion in the Work Programme

In making a referral to Scrutiny, the Portfolio Holders, Executive or Council should:

- Direct the referral to the Chair of the relevant Scrutiny Committee;

- Specify the reasons for the referral;
- Indicate what type of response is being sought (e.g. spotlight review);
- Provide information on any relevant timescales.

The relevant Scrutiny Committee Chair will determine which meeting of the Committee will receive and consider the referral and report back its decision to the Portfolio Holder, Cabinet or Council within agreed timescales.

Where the review suggestion is identified early enough the Executive/Executive Member should complete the Topic Submission Form and present to Scrutiny Committee for discussion prior to the start of the municipal year – where possible by 30th April.

Where the topic suggestion is in-year, the Executive/Executive Member should submit the completed form to the relevant Scrutiny Committee.

Attendance at the meeting where the suggestion is considered, to enable effective presentation to Scrutiny is expected, this can include attendance by lead officers.

(6) Development of the Scrutiny Work Programme

The work programme is a flexible plan which outlines the programme for the coming municipal year and is usually developed at the first meeting of each Scrutiny Committee after the Annual Council. The programme is drawn together by the Chair and members of the Committee and can include issues put forward by Members, topics that arise during discussion with Portfolio Holders and senior officers, concerns generated from Corporate Complaints, issues highlighted from the results of Citizen's Panel surveys, performance data and potential issues arising from corporate priorities.

All suggested topics for review should be presented to the Committee on the Topic Suggestion Form, to enable the Committee to assess suitability of suggestions using the prioritisation aid.

Topic suggestions are invited from Executive, all Non-Executive Councillors, Senior Leadership Team, senior managers, and the Equality Panel.

Consideration is also given to the Internal Audit Plan to ensure there is no duplication of work.

Each review topic suggestion will be given a score as a result of the prioritisation process and then progressed accordingly.

The work programme will also include all necessary monitoring reports in relation to elements of the Budget & Policy Framework that correlate to the Scrutiny Committee's terms of reference.

The Scrutiny Committee's will consider their work programmes at every meeting and adapt as required to include additional items, where possible, or adjust the timing of reports, where required.

(7) Policy Review and Development

As per the Council's corporate approach to Strategy and Policy development, the relevant Scrutiny Committee will need to be engaged as part of the development of any new Strategy or Policy. This will likely be within the consultation phase and again with the final draft document prior to submission to Executive.

In relation to those Strategies contained in the Budget & Policy Framework, the relevant Scrutiny Committee will also receive a minimum of an annual monitoring update on progress/performance against the objectives agreed.

(8) The submission of Scrutiny reports to the Executive (and Council)

The relevant Portfolio Holder(s) and lead officer(s) will be informed of the scope and timing of the Scrutiny review at an early stage, ideally prior to formal approval by the Scrutiny Committee.

Prior to finalising their reports, Scrutiny Committees will discuss their emerging recommendations with the Portfolio Holder(s) and lead officer(s).

The relevant Portfolio Holder(s) and lead officer(s) will be invited to attend the Scrutiny meeting that considers the review report.

Scrutiny review reports will be considered by relevant members of Senior Leadership Team before their submission to Executive, in order to provide a view on the feasibility of recommendations, including information on the costs, risks and benefits.

The relevant Portfolio Holder will be briefed by the lead officer and/or the Scrutiny & Elections Officer prior to the submission of the report to Executive.

The Chair/Vice-Chair of the relevant Scrutiny Committee will be invited to the Executive meeting (or Council where appropriate) to present Scrutiny review reports, **for Members to consider the**

Review Report and endorse, reject or amend the recommendations.

(9) Responding to Scrutiny Recommendations

Executive will respond to recommendations from Scrutiny as soon as possible and within a maximum of two months. Any extension to the timescales will be agreed with the Chair of the relevant Scrutiny Committee.

If Executive fails to consider the recommendations or agree extensions to timescales, the report will be submitted to the next meeting of Council for consideration.

Executive's response will indicate whether each Scrutiny proposal/recommendation is accepted, rejected or deferred, giving reasons for that decision. This will be set out in an action plan acknowledging resources required, lead officers, comments from the service and delivery timescales.

Executive's decision on the recommendations will be reported to the next scheduled meeting of the relevant Scrutiny Committee for consideration.

The Scrutiny Committee will consider Executive's response and action plan and ***commence a 12 month Post-Scrutiny Monitoring period, with an Interim Update at six months.***

The relevant Portfolio Holder and lead officer will prepare progress reports in line with the agreed monitoring timescales and will attend the Scrutiny Committee meeting to present it.

(10) Compliance with the Protocol

The Monitoring Officer is responsible for overseeing compliance with the protocol, and ensuring that it is used to support the wider aim of supporting and promoting a culture of scrutiny. Matters relating to the protocol's success will be reported to full Council through the scrutiny annual report. The role also includes promoting the role of the authority's Scrutiny Committees, providing support and guidance to Members and officers relating to the functions of the Scrutiny Committees and providing a link between the Executive, Scrutiny Committees and the Senior Leadership Team.

The Scrutiny & Elections Officer will support the Monitoring Officer in ensuring compliance with the protocol. Acting in an advisory role with Scrutiny Members.