

Constitution - Part 5C - Scrutiny Procedure Rules APPENDIX B2

1. Operation of the Scrutiny Committee

Guiding Principle

1.1 Scrutiny should involve constructive challenge with the aim of improving decision-making. Although some work (particularly call-in) could potentially be adversarial in a political environment, the emphasis should be on making a positive contribution to the development of policy and performance.

1.2 The Scrutiny Committee aims to work in a constructive, forward looking way and has agreed a set of values which it has promised to adhere to. The Committee has also agreed to work in a non-party political manner. Further detail can be found in the Protocol at Part ...

Scrutiny Meetings

1.3 The Scrutiny Committee will meet approximately seven times a year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Committee meeting may be called by the chairman, by one third of the members of the committee or by the Chief Executive if he/she considers it necessary or appropriate.

1.4 Meetings of the Committee will be in public and may only exclude the press and public during consideration of confidential items in accordance with the Access to Information Procedure Rules (see section..)

1.5 Any member of the Council may attend the meeting.

Officer Support

1.6 Officers of the Council owe a duty to support and advise all members. Although, most of the day to day work of Corporate Directors will be advising members of the Cabinet, this does not reduce the importance of their work for the Scrutiny Committee.

2. How Scrutiny Meetings are conducted

Chair

2.1 The chairman, or in his absence the vice-chairman, will chair any meeting of the Scrutiny Committee at which he/she is present. In the absence of both a chairman for that meeting may be appointed by the Scrutiny Committee.

Quorum

2.2 The minimum attendance for a meeting of the Scrutiny Committee is one third of the total number of members of the Committee or three members, whichever is the greater. See Council Procedure Rules SO 41

Voting

2.3 Voting at meetings of the Committee will be by a simple majority of those members voting and present in the room at the time the question is put. If there are equal numbers of votes for and against, the Chair will have a second or casting vote. See Council Procedure Rules 43

Conflicts of Interest

2.4 If the any member of the Committee has a conflict of interest he/ she should deal with it in accordance with the Council's Code of Conduct for Elected Members (see..)

2.5 In particular no member may be involved in scrutinising a decision in which he/she has been directly involved.

Business

2.6 At each meeting of the Scrutiny Committee the following business will be considered:

- (a) Declarations of interest (including whipping declarations)
- (b) Minutes of the last meeting;
- (c) Matters referred to the committee for a decision in relation to call-in of a decision
- (d) Responses from the Cabinet to reports of the Scrutiny Committee
- (e) Matters set out in the agenda for the meeting

The Party Whip

2.7 It is generally accepted that "the party whip" should be suspended in relation to the deliberations of the Scrutiny Committee.

2.8 The definition of the party whip is "Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner."

2.9 When considering any matter in respect of which a member of the Scrutiny Committee is subject to a party whip the member must declare the existence of the whip, and the nature of it, before the commencement of the committee's deliberations on the matter. The declaration and the detail of the whipping arrangements will be recorded in the minutes of the meeting.

3- Policy Review, Development and Research

3.1 The role of the Scrutiny Committee 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 in [Part 4D](#) of this Constitution.

3.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within its terms of reference.

3.3 The Scrutiny Committee may hold enquiries and carry out policy development work and may appoint advisers and assessors to assist it in this process. It may also undertake site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations. It may ask witnesses to attend to address it on any matter under consideration and may pay, within its budgetary provision, any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

4- Work Programme and Annual Report

4.1 The Scrutiny Committee is responsible for developing its own work programme which should also take into account any views expressed by Council, Cabinet and members generally and in particular local people.

4.2 The Scrutiny Committee must report annually to full Council on the work of the Committee.

5 - Agenda Items

5.1 Any member of the Scrutiny Committee has a right to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Committee be placed on the agenda of the next appropriate meeting of the committee.

5.2 Any five members of the Council, who are not members of the Scrutiny Committee, may give notice to the Chief Executive that they wish to have a relevant item included on the agenda. The Chief Executive will ensure it is included as an item on the first appropriate agenda for consideration by the committee.

5.3 The Scrutiny Chair may reject items which are not relevant to the specific functions of Scrutiny.

5.4 Members requesting that items be placed on a Scrutiny Committee agenda do not have a right to request the preparation of detailed reports by officers. However the Scrutiny Committee does have the right to request the provision of information or reports to enable the item to be properly considered.

5.5 The Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity or other issues. Where it does so, the Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or the Council. The Council and/or the Cabinet should consider the report of the Scrutiny Committee at the next appropriate meeting.

6 - Scrutiny Task and Finish Groups

6.1 Task and Finish Groups are key to enabling the Scrutiny Committee to make a positive contribution to the development and review of policy.

6.2 Task and Finish Groups are member groups set up for a specific and time limited purpose.

6.3 The following key points shall apply to the Group:-

(a) Any member of the Council can serve on a Group, except a Cabinet Member. Substitutes are not permitted.

(b) The membership of a task group is not required to be politically proportionate, *although it is desirable to have regard to political proportionality as far as practicable.*

(c) Normally the Group will consist of a minimum of 4 members, except in exceptional circumstances, the Chair and Vice-Chair of the Scrutiny Committee may agree additional membership.

(d) The Chair of a Task and Finish group will be appointed by the Task Group members.

(e) The Group is not a formal sub-committee, and can advise and recommend but not make decisions.

(f) The Group will have clear objectives and terms of reference for a specific time-limited scrutiny review. The Group's work will be supported by a detailed scoping sheet as a project plan.

(g) The work undertaken will form part of an overall work programme approved by the Scrutiny Committee.

(h) The Group can meet in private and informally.

(i) The Group's completed draft final report will be approved by Scrutiny Committee before it goes to the Council for consideration. ~~except in cases of urgency where draft final reports can be considered by the Chair and Vice Chair of Scrutiny Committee outside the scheduled Committee meetings.~~

(j) At Council/ Cabinet the Group's report will be introduced by the Scrutiny Chair and presented by the Chair of the Task Group or other Task Group member in the Chair's absence.

(k) Council/Cabinet will vote to receive the report and may make any appropriate recommendations on the contents (see also section 7)

(l) The Scrutiny Committee will receive monitoring reports on the implementation of any proposals agreed by the Cabinet or Council.

6.4 Each Task and Finish Group will normally seek to reach agreement by consensus, but if it cannot agree on one single final report then up to one minority report may be prepared and submitted for consideration with the majority report.

7- Making sure that Scrutiny Reports are considered by the Cabinet/Council

7.1 Once a Scrutiny Review has been agreed by the Scrutiny Committee, it will forward a copy of its final report to the Chief Executive who will allocate it to either, or both, the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's Budget and Policy Framework.

7.2 If referred to the Council, then the Cabinet will have ~~three~~ four weeks in which to respond to the Scrutiny report, and the Council will not consider it within that period. When the Council does meet to consider any referral from a Scrutiny Review on a matter which would impact on the Budget and Policy Framework, it will also consider the response of the Cabinet to the Scrutiny proposals.

*7.3 Scrutiny Review Reports referred to the Cabinet will be considered within eight weeks of the Scrutiny Committee completing its report/recommendations. **If for any reason the Cabinet does not consider the Scrutiny Report within that period the report will be referred to Council to consider the report and make a recommendation to the Cabinet.***

7.4 Where the Cabinet proposes to adopt, or to recommend to Council the adoption of the recommendations of a Scrutiny Review, ~~in whole or in part~~, it will agree, or submit to the Council for approval, an action plan for implementing the Committee's recommendations. The action plan will set out clearly what action is proposed, who is responsible for implementation and the timescale within which the action(s) is/are to be taken. A copy of the Cabinet's proposals will be sent to the Scrutiny Committee for information.

7.5 It will be the Cabinet's responsibility to implement any action plan approved by them or adopted by the Council, and to submit regular progress reports to the Scrutiny Committee.

7.6 The Scrutiny Committee will have access to the Cabinet's Forward Plan and timetable for decisions and items for consultation. Even where an item is not the subject of detailed proposals from a Scrutiny Review following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

8. Rights of Scrutiny Committee members to documents

8.1 In addition to their rights as councillors, members of the Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the [Access to Information Procedure Rules in Part 4C](#) of this constitution.

8.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Scrutiny Committee, as appropriate, depending on the particular matter under consideration.

9 - Members and Officers giving account

9.1 The Scrutiny Committee may scrutinise and review decisions made, or actions taken, in connection with the discharge of any Council functions. As well as reviewing documentation, it may require any member of the Cabinet, the Chief Executive and/ or any other senior officer to attend before it to explain, in relation to matters within their remit:

(a) Any particular decision or series of decisions;

(b) The extent to which the actions taken implement Council policy; and/or

(c) Their performance;

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

9.2 Where any member or officer is required to attend the Scrutiny Committee under this provision the Chief Executive will inform the member or officer of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend, and whether any papers are required to be produced for the Committee. Where the matter would require the production of a report, then the member or officer concerned will be given sufficient notice to allow for its preparation.

9.3 If, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Scrutiny Committee will, in consultation with the member or officer, arrange an alternative date for attendance.

9.4 Where someone requested to attend is genuinely unable to be at the meeting and an alternative date is not practicable, then in the case of a Cabinet member, another Cabinet member nominated by the Leader shall attend in his or her place, and in the case of an officer, another officer who is able to speak on the topic under consideration shall attend.

9.5 All speakers will be treated with courtesy and respect, and all questions to witnesses will be made in an orderly manner as directed by the Chair of the meeting. Individual members of the committee should approach the investigation in a corporate and collective manner and should not pursue individual views. Those views may be expressed but if they receive no support from the other members of the committee they should not be continued to be expressed.

10 - Attendance by Others

10.1 The Scrutiny Committee may invite people other than those people referred to in paragraph 9 above to address it, discuss issues of local concern, and/or answer questions. It may, for example, wish to hear from residents, stakeholders, and members and officers in partner organisations as well as other parts of the public sector. Any such individual cannot however, be required to attend a meeting (unless covered by a specific legal requirement)

11- Call-In

11.1 The call-in mechanism is an important part of the decision-making process, and is designed to test the merits of the decision and to ensure that members have an opportunity to recommend change, reconsideration or deferral of a matter.

11.2 Call-in should only be used to establish whether a decision was taken in accordance with the principles of decision making set out in [Part 2 of the Constitution](#)

11.3 The role of Scrutiny Committee in calling-in a decision before it is finalised, is:

- (a) To test the merits of the decision.
- (b) To consider the process followed in reaching a decision.
- (c) To make recommendations (to support the decision, change aspects of the decision or to invite the decision maker to re-consider).
- (d) To suggest further steps before a decision is made (but not to try to carry out those steps in place of the decision maker).
- (e) To recommend to the decision making committee or body the matter be dealt with at full Council, or to recommend directly to full Council if the Committee believe the matter to be contrary to the Budget and Policy Framework.
- (f) To come to a view in a relatively short time scale, so as not to compromise the speed and efficiency of the decision-making process.

11.4 When a decision is made by the Cabinet, or under joint arrangements, or a key decision is made by an officer, the decision will be published, where possible by electronic

means, and will be available at the main offices of the Council normally within three clear working days of being made. All Members of the Council will be sent copies of the records of all such decisions, by the person responsible for publishing the decision.

11.5 The notice will include its date of publication and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the decision is called in.

11.6 During that period the Scrutiny Chairman, or in his absence the Vice Chairman, or any five members *of the Council* may notify the Chief Executive in writing that they wish to call in a decision for scrutiny. The notice must specify clear reasons for the Call - in. The Chief Executive will notify the Cabinet and the decision taker and will call a meeting of the Scrutiny Committee within 10 working days of receipt of notification of the decision to call in.

11.7 The relevant Cabinet Member and officer making the decision will be summoned to attend the meeting to explain the decision and process followed in taking the decision. The members who made the call-in will also be summoned to attend the meeting to explain their reasons for making the call-in request. The Chief Executive will inform all members of the Council of the arrangements made for the Special meeting of the Scrutiny Committee to consider the call-in'. The reasons for the call-in and the name or names of the councillors who requested the call-in will be set out in the agenda for the meeting.

11.8 If, having considered the decision, the Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns. If referred to the decision maker, they shall then reconsider the decision within a further 14 working days, and may amend it or not, before reaching a final decision.

11.9 If, within 10 days, the Scrutiny Committee does not meet, or does meet but does not refer the matter back to the decision maker, then the decision will take effect on either the date of the Scrutiny meeting, or the expiry of the 10 working day period, whichever is the earlier.

11.10 If the matter was referred to full Council, and the Council does not object to a decision which has been made, then no further action is necessary, and the decision will be effective on the date of the Council meeting. However, if the Council does object, it has no authority to make decisions in respect of an Cabinet decision unless it is contrary to the Policy Framework, or contrary to, or not wholly consistent with, the Budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That

decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole, or a committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 working days of the Council request.

11.11 If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

Exceptions

11.12 The power to call-in should not be abused or cause unreasonable delay. A small number of limitations have therefore been agreed on its use. These are:

- (a) that the Scrutiny Committee Chairman may only call-in six decisions per year
- (b) that a member may only sign a request for a call-in of three decisions per year

Call-in and urgency

11.13 The call-in procedure set out above will not apply where the decision being taken by the decision-maker is urgent. A decision will be considered urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interests. The record of the decision, and notice by which it is made public, will 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.

11.14 The Mayor 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 Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the consent of the Head of Paid Service or his/her nominee will be required. All decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency. The next available meeting of the Scrutiny Committee will review the process for agreeing the urgent decision and make appropriate recommendations.

11.15 The operation of the provisions relating to call-in and urgency will be monitored annually, and a report submitted to Council with proposals for review if necessary.

12- Councillor Call for Action

12.1 Any member of the council will be able to refer a Council matter relating to his/her ward to the Scrutiny Committee.

12.2 A referral made in this way will ensure that the matter is included in the agenda and discussed at the committee. The member will be able to make representations to the committee to explain why he/she thinks the Committee should scrutinise the matter.

12.3 If the committee decides not to scrutinise the issue it must provide its reasons for not doing so. If the committee decides to scrutinise the matter, the member initiating the call for action must be provided with the committee's recommendations or report.

12.4 The procedure to be followed is contained within the Guide to Scrutiny(to be developed)

13. Matters within the remit of more than one Scrutiny Committee

If the Council appoints more than one scrutiny committee then:

- (a)** Where a Scrutiny Committee conducts a review or scrutinises a matter which is also substantially within the remit of another Scrutiny Committee, 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.
- (b)** Where a Scrutiny Committee conducts a review or scrutinises a matter which is also substantially within the remit of another Scrutiny Committee, before submitting its findings to the Cabinet and/or Council for consideration, the report of the reviewing Scrutiny Committee shall be considered by the other Scrutiny Committee for comment. Those comments shall be incorporated into the report which is then sent to that body for consideration.

Please see also:

Scrutiny Committee Terms of Reference

Access to Information Procedure Rules

Budget and Policy Framework

Protocol for Scrutiny

The Guide to Scrutiny dated July 2016