

APPENDIX C: Scrutiny Committee Procedure Rules

1. Introduction

- 1.1 The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. The Scrutiny Committee contribute to the Council's Performance and also hold the Cabinet to account for its decisions.
- 1.2 The Scrutiny Committee allows a wider involvement in Council business by involving non-councillors from the wider public section, voluntary groups and community groups to help them in their work. They may make reports and recommendations to the Cabinet and the Council as a whole on its policies, budget and service delivery.
- 1.3 The Scrutiny Committee also monitors the decisions of the Cabinet and the Scrutiny Committee can "call-in" a decision of the Cabinet which has been made but not yet implemented. They may recommend that the Cabinet reconsider their decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions.
- 1.4 Scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. The Scrutiny Committee should not shy away from the need to challenge and question decisions and make constructive criticism.

2 Who May Sit on the Scrutiny Committee

- 2.1 All Councillors except members of the Cabinet, their deputies, any member of a Cabinet Advisory Committee and the Chairman of the Council shall be eligible for appointment as members of the Scrutiny Committee. No Member may be involved in scrutinising a decision in which he has been directly involved.
- 2.2 The Council may appoint additional, non-voting members to the Committee.

3 Who Chairs the Scrutiny Committee?

- 3.1 There shall be a Chairman and a Vice Chairman of the Scrutiny Committee who shall each be appointed by the Council.
- 3.2 In the absence of a Chairman the Vice Chairman can exercise the powers of the Chairman.

4 Meetings of the Scrutiny Committee

- 4.1 The Council may determine a cycle of meetings for the Scrutiny Committee. If the Council do not set a cycle the committee shall determine its own cycle of meetings. The Chairman, or in their absence the Vice Chairman, may change the date or cancel meetings or call additional meetings as they consider necessary to deal with the Committee's work programme. A meeting of the Scrutiny Committee may be called by its Chairman (or in his or her absence, the

Vice Chairman) or by the Chief Executive, if he considers it necessary or appropriate.

5 Working Groups

- 5.1 The Committee may appoint smaller groups known as “Working Groups” to carry out detailed examination of particular topics for report back to them. These groups will be appointed for a fixed period on the expiry of which they shall cease to exist. Only two working groups may be established at any one time and they may run concurrently. Only on the completion of one working group may another one start. Working groups will meet in private and any non-executive member may be a member of a working group.

6 Standing Agenda Items

- 6.1 Each meeting of the Scrutiny Committee shall consider the following business:
- (a) minutes of the last meeting;
 - (b) declarations of interest;
 - (c) responses of the Cabinet to reports of the Scrutiny Committee;
 - (d) actions from the previous meeting;
 - (e) the Committee’s work plan;
 - (f) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision; and
 - (g) the business otherwise set out on the agenda for the meeting.

7 Work Plan

- 7.1 The Scrutiny Committee will, following consultation with the Chairman and Vice Chairman, set its own work programme and in doing so they shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.

8 Annual Report

- 8.1 The Scrutiny Committee must report annually to a meeting of Council on their workings with recommendations for its future work programme and amended working methods if appropriate.

9 Additional Agenda Items

- 9.1 Any member of the Scrutiny Committee shall be entitled to give notice to the Chief Executive that he or she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting. Seven working days notice of the item should be given to the Chief Executive together with sufficient information to enable the Chief Executive to advise about the nature and purpose of the item.

- 9.2 On receipt of such a request, provided that it is an appropriate matter to be considered, the Chief Executive will ensure that it is included on the next available agenda.
- 9.3 The Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and/or the Cabinet to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Committee within two months of receiving it.

Councillor Call for Action

- 9.4 Under the Councillor Call for Action process, the public may raise issues of local concern with their ward Councillors. Members will try to resolve the issue themselves first by contacting the relevant Head of Service or Partner organisation. However, if the matter cannot be resolved, then the Member can ask the relevant Select Committee to consider the issue.
- 9.5 Any member may give written notice to the Chief Executive that they wish a local government matter affecting their ward, or a person who lives or works in their ward, to be included on the agenda of the relevant Select Committee. This notice will set out the Member's reasons for making the request. If the Chief Executive receives such a notification, then he/she will include the item on the first available agenda of the Scrutiny Committee for consideration by the Committee and the appropriate Chairman will be informed.
- 9.6 The Chief Executive will exclude any request that does not meet the requirements of the legislation, regulations or the most recent guidance. If the request is not accepted, the Chief Executive shall inform the member who made the request of the rejection and the reasons for it.

10 Calling Witnesses

- 10.1 Where the Committee conducts investigations the Committee may also ask people to attend to give evidence at Committee meetings. These meetings are to be conducted in accordance with Appendix P - the Kent Protocol on Overview and Scrutiny Inter-Authority Co-operation (if it applies) and the following principles:
- (a) 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;
 - (b) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 10.2 The Scrutiny Committee may call a Member of the Executive, the Chief Executive or Senior Officers in line with paragraph 11

11 Members and Officers Giving Account

11.1 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, in fulfilling the Scrutiny role, it may require any member of the Cabinet, the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit:

- any particular decision or series of decisions;
- the extent to which the actions taken implement Council policy; and/or
- their performance

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

11.2 For this purpose, senior officer includes any Chief Officer, Head of Service or Service Manager. Where there are concerns about the appropriateness of the officer who should attend, the relevant Chief Officer shall discuss this with the Scrutiny Chairman or Vice Chairman with a view to achieving consensus.

11.3 Where any member or officer is required to attend the Scrutiny Committee under this provision, the Chairman will inform the Chief Executive. The Chief Executive shall inform the member or officer, if necessary in writing, giving at least 7 working days notice of the meeting at which he or she is required to attend (unless agreed otherwise). Any notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the Committee.

11.4 Where the account to be given to the Scrutiny Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

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

12 Attendance by Others

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

13 Committee Investigations

13.1 When discussing any matter under investigation the members of the Committee shall not normally resort to formal debate unless and until it becomes clear that a recommendation can only be reached on the basis of a majority vote.

13.2 It shall be the duty of each Chairman of a meeting of the Committee to ensure, so far as is possible, that a consensus is reached on any matter provided that this would not have the effect of minimising the effectiveness of the recommendation.

- 13.3 Following any investigation or review the Committee shall prepare a report for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

14 Rights of the Scrutiny Committee Members to Documents

- 14.1 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 Appendix A - Access to Information Procedure Rules. Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Scrutiny Committee as appropriate depending on the particular matter under consideration.

15 Reports from the Scrutiny Committee

- 15.1 Once it has formed recommendations on Scrutiny reviews the Committee will prepare a formal report and submit it to the Chief Executive for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework) or to the Council (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework) as appropriate.
- 15.2 If the Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- 15.3 The Council or Cabinet shall consider the report of the Scrutiny Committee within one month of it being submitted to the Chief Executive.

16 Making sure that Scrutiny Committee Reports are Considered by the Cabinet

- 16.1 The agenda for Cabinet meetings shall include an item for issues arising from the Scrutiny Committee. The reports of the Scrutiny Committee referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet deliberations on a substantive item on the agenda) as soon as practicable. Where an item is not considered by the Cabinet within two months, the Cabinet will give an explanation of the reasons to the Chairman of the Scrutiny Committee as soon as practicable.
- 16.2 The Scrutiny Committee will have access to the Cabinet's Notice of Key Decisions and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Scrutiny Committee following a consideration of possible policy/service developments, it will be able to respond in the course of the Cabinet's consultation process in relation to any Key Decision.
- 16.3 Where the Cabinet has delegated decision-making power to another individual member of the Cabinet then the Scrutiny Committee will submit a copy of their report to him or her for consideration. At the time of doing so the Scrutiny Committee shall also serve a copy on the Chief Executive. The Member with delegated decision-making power must consider the report and respond in writing to the Scrutiny Committee within four weeks of receiving it. A copy of his or her written response to it shall be sent to the Chief Executive and the Leader.

The Member will also attend a future meeting of the Scrutiny Committee to present their response.

Reports and Recommendations on Calls for Action

- 16.4 Where the Scrutiny Committee makes a report or recommendation to the Council or the Cabinet as a result of a Call for Action, the Scrutiny Committee may publish the report, subject to the provisions of Part 5 of the Local Government Act 2000 (“the 2000 Act”) in relation to confidential or exempt information.
- 16.5 The Scrutiny Committee will, by notice in writing to the Chief Executive, require the Council or Cabinet:
- to consider the report or recommendations,
 - to respond to the Scrutiny Committee indicating what, if any action the Council or Cabinet proposes to take,
 - if the Scrutiny Committee has published the report or recommendations, to publish the response, subject to the provisions of Part 5 of the 2000 Act relating to confidential or exempt information,
 - if the Scrutiny Committee provided a copy of its report or recommendations to the Member who referred the matter to the Committee, to provide that Member with a copy of the response, subject to the provisions of Part 5 of the 2000 Act in relation to confidential or exempt information,

and to do so within two months of the date when the Council or Cabinet received the report or recommendation or (if later) the date when the Chief Executive received the notice.

17 Scrutiny of Crime and Disorder Matters

- 17.1 Where the Committee makes a report or recommendations to a responsible authority or to a co-operating person or body in accordance with section 19(8)(b) of the Police and Justice Act 2006, the Committee shall review the responses received and monitor the action (if any) taken by the relevant authority, person or body in accordance with its powers under section 19(1) of the 2006 Act.

18 Call-In

- 18.1 When a Key Decision is made by Cabinet the decision shall be published and shall be available at the main offices of the Council, as soon as reasonably practicable, normally within two clear working days of being made. All Members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- 18.2 That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless the Committee objects to it and calls it in. This notification is included on each set of Cabinet minutes.

- 18.3 During that period, the Chief Executive shall call-in a Key Decision for scrutiny by the Committee if so requested by any five cross party non-executive members of the Council, and shall then notify the decision-taker of the call-in. The Chief Executive shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Committee, and in any case within five clear working days of the decision to call-in or may, in consultation with the decision-taker, refer the matter direct to the next meeting of the Council for consideration.
- 18.4 If, having considered the decision using the Call-In Protocol (Appendix C - Protocol for Call In of Key Decisions), the Committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further ten clear working days, amending the decision or not, before adopting a final decision.
- 18.5 If following an objection to a Key Decision, the Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the Committee meeting, or the expiry of that further five clear day period, whichever is the earlier.
- 18.6 If the matter was referred to Council and the Council does not object to a Key Decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, 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 ten clear working days of the Council request. Where the decision was made by an individual, the individual will reconsider within ten clear working days of the Council request.
- 18.7 If the Council does not meet, or if it does but does not refer the Key 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.
- 18.8 The Committee shall consider the parts of the Notice of Key Decisions after it is published and may give notice to the Chief Executive that it wishes to be consulted on any matter included within it. In such an event, the Chief Executive shall advise the Leader of the Council and shall arrange for the report to the Cabinet to be sent to every Member of the Committee as soon as it is ready for publication.
- 18.9 The Chairman or any five members of the Committee may call a meeting within five clear working days of the despatch of the report to consider the matter. The Cabinet shall not then make a decision on the matter until the Committee has had an opportunity to consider the report and make recommendations to the Cabinet.

18.10 If a meeting of the Committee is not summoned within five clear working days of the despatch of the report, the Cabinet shall be free to make a decision on the matter.

18.11 If the procedure in the above two paragraphs have been invoked by the Committee, the call-in provisions set out in the above paragraphs highlighted in bold shall not apply and any decision of the Cabinet shall not be subject to call-in.

Exceptions to Call-In

18.12 In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limits are to be placed on its use. These are:

A) only Key Decisions (the definition of which is set out below) may be called in; and

(A "Key Decision" means an executive decision which is likely:

(i) to result in the District Council incurring expenditure which is, or the making of savings which are, significant having regard to the District Council's budget for the service or function to which the decision relates i.e. decisions which exceed £50,000 in value (but procurement decisions within the budget e.g. refuse vehicles can be undertaken within delegated powers); or

(ii) to be significant in terms of its effects on communities living or working in an area comprising 2 or more wards in the area of the District Council.)

B) 5 Members of the Council from at least two political parties are needed for a decision to be called in.

Call-in and Urgency

18.13 The call-in procedure set out above shall not apply where the decision being taken by Cabinet is urgent.

18.14 A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or the public's interests.

18.15 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.

18.16 The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required.

18.17 In the absence of both the Chairman and the Vice-Chairman of the Council, the consent of the Chairman or Vice-Chairman of the Scrutiny Committee 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.

18.18 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.

Protocol to be followed when Calling In

18.19 To expedite business and to allow members of the Scrutiny Committee, the relevant Cabinet Member(s) and Officers to understand the nature of the reason for a call-in, under normal circumstances the signatories to a call-in should provide any background documents supporting their request to be supplied to the Democratic Services Team in enough time for them to be circulated to those expected to attend the “call-in” meeting 24 hours before the meeting.

18.20 It should be accepted that any non-Member of the Scrutiny Committee who has signed a request to call-in a Cabinet decision should be allowed to speak at the “call-in” meeting, although the presumption should be for Members of the Scrutiny Committee who have signed a request for a call-in to speak, rather than non-Members of that Committee. The granting of the right to speak will be at the discretion of the Chairman, and the Chairman should look favourably on such requests. Where only non-Members of the Scrutiny Committee have called-in a decision, the Constitution does provide for one of those Members to have an automatic right to speak.

18.21 At the start of the item, the Chairman should invite one of the signatories to the call-in to address the Committee to outline the reason for the call-in, and the principal points they wish the Cabinet or Portfolio Holder to answer. (As above, this will usually be a Member of the Scrutiny Committee.) This explanation should last no more than about 5 minutes, depending on the complexity of the case. It is probably not appropriate for the full detailed argument to be put forward by these Members at this stage.

18.22 Then any other Members of the appropriate Committee, whether or not signatories to the call-in, should be allowed to raise (again in summary form) any additional information they wish the Cabinet or Portfolio Holder to provide.

18.23 The next stage should be for the relevant Cabinet Member(s) to be asked to explain the rationale for the Cabinet’s decision. (Explain rather than defend, because ideally the process should explore the decision and whether it was appropriate, took account of all relevant information, etc. rather than become adversarial). At the conclusion of this explanation, other Cabinet Members may be invited, at the Chairman’s discretion, to address the Committee.

18.24 The Leader/Portfolio Holder(s) may be supported by relevant Officers to explain or answer technical, legal or financial points. Again, Officers should not fall into the trap of seeking to defend a Cabinet decision – that must remain the responsibility of the Leader/relevant Portfolio Holder(s).

18.25 Once these initial stages have been concluded, any Member of the Committee may ask further questions of the Leader/Portfolio Holder(s) or in the case of, say, clarification of technical details, the Officers.

18.26 Care should be taken to avoid the signatories to the call-in being questioned by other members of the Committee as to their motives, previous views, etc. The

purpose of the meeting is to review the Cabinet's decision, not what may have happened at some previous instance.

- 18.27 If it becomes clear that further information is required that cannot be supplied at the meeting, consideration of the matter should be deferred, either to another specially-arranged meeting or the next regular meeting of a Committee, depending on the urgency of the situation. Currently there is no time limit on a Committee's consideration of a called-in matter.
- 18.28 At some time during the discussions, Members of the Committee will start to form views about whether the Cabinet's decision should be allowed to stand or be referred back. A certain amount of debate is inevitable between Members of the Committee who may well take different views from each other.
- 18.29 If a consensus view is apparent, the Chairman of the Committee may summarise the views expressed by the Committee and ask whether the Committee agrees. If there is no consensus, either the Chairman of the Committee or some other Member may propose a motion which can then be treated in the normal way, leading to a vote.
- 18.30 The options for the Committee are to decide not to intervene, to ask the Cabinet to reconsider the decision, or in an extreme case, to refer the matter to the Council with or without a recommendation. Neither the Council nor the Committee may overturn a Cabinet decision.