

APPENDIX C: Scrutiny Committee Procedure Rules

1. Introduction

- 1.1 There is a Scrutiny Committee to discharge the functions conferred by Section 9F of the Local Government Act 2000 to support the work of the Cabinet and the Council as a whole.
- 1.2 The role and scope of the Scrutiny Committee is set out in Part 5 of the Council's constitution, which also sets out the specific functions of the Scrutiny Committee to review and scrutinise decisions and performance. This includes the power to review and scrutinise the performance of other public bodies in the area, by inviting them to attend and address the Committee.
- 1.3 The Scrutiny Committee also monitors the decisions of the Cabinet and the Scrutiny Committee can "call-in" a key decision of the Cabinet which has been made but not yet implemented. It may recommend that the Cabinet reconsider its decision. It 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 they have been directly involved.
- 2.2 The Council may appoint additional, non-voting members to the Committee.
- 2.3 The quorum for the Committee is one quarter of the total membership.

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

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- 4.1 The Council may determine a cycle of meetings for the Scrutiny Committee. If the Council does 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. Terms of reference and membership of a Working Group will be agreed in advance by the Scrutiny Committee. These groups will be appointed for a fixed period on the expiry of which they shall cease to exist. 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 ordinary 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; and
 - (e) the Committee's work plan.

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 it shall consider 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, providing a summary of any work undertaken along with any recommendations made as a result.

9 Additional Agenda Items

- 9.1 The Scrutiny Committee shall also respond, as soon as its 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 its 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 the next appropriate Committee cycle.

References from Scrutiny Committee Members

- 9.2 Any member of the Scrutiny Committee may refer to the Committee any matter which is relevant to Scrutiny Committee functions. Similarly, if a sub-committee is set up, any member of that sub-committee may refer to it any matter which is relevant to its functions. Such a reference should be made in writing to the Chief Executive at least seven working days prior to the meeting at which the Member would like it considered. The request should be accompanied by sufficient information to enable the Chief Executive to advise the Committee about the nature and purpose of the item.
- 9.3 Any Member of the Council may give written notice to the Chief Executive that he wishes a local government matter relevant to the functions of the Scrutiny Committee affecting their ward, or a person who lives or works in their ward, to be included on the agenda of the Committee. Such notice should be given in writing to the Chief Executive at least ten working days prior to the meeting at which the Member would like it considered. The request should be accompanied by sufficient information to enable the Chief Executive to advise the Committee about the nature and purpose of the item.
- 9.4 The Chief Executive will exclude any reference or notice that does not meet the requirements of the legislation, regulations or the most recent guidance. If the reference or notice is not accepted, the Chief Executive shall inform the member who made the request of the rejection and the reasons for it. Upon any reference or notice, it is for the Committee to decide how to proceed and whether to include any matter within its work plan.

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

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- (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 request 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 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 requested 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 they are 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 may 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, as 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 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 the next appropriate committee cycle of it being submitted to the Chief Executive.

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

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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 explain 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 during the Cabinet's consultation process in relation to any Key Decision.

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 notice will be published as soon as reasonably practicable and normally within two clear working days of being made.

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, 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 requested to do so in accordance with the call-in requirements at Annex A.

18.4 A call-in may only be made if the decision is not in line with the Council's Budget or Policy Framework or that the decision was not taken in accordance with the Constitution.

18.5 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.

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- 18.6 Having considered the call-in of the decision, the Scrutiny Committee or Council may decide to take no further action; may refer the decision back to the decision-making person or body for reconsideration setting out in writing the nature of its concerns; or may refer the matter to the next meeting of Council.
- 18.7 If the Scrutiny Committee decides to take no further action, the decision takes effect and can be implemented immediately.
- 18.8 If the Scrutiny Committee decides to refer the decision back 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. There is no power for the Scrutiny Committee to compel a particular decision.
- 18.9 If the Scrutiny Committee decides to refer the matter to the next meeting of full Council, that Council may either decide to take no further action, in which case the decision takes effect and may be implemented immediately; or may decide to refer the decision back to the decision maker with a statement of the Council's views. If Council so refers the decision back 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. There is no power for the Council to compel a particular decision.
- 18.10 If following an objection to a Key Decision, the Scrutiny Committee does not lawfully convene a quorate meeting in the period set out above, the decision shall take effect on the expiry of five clear working days from the date of call-in by the Chief Executive.
- 18.11 If, a matter having been referred to Council, the Council does not convene a quorate meeting on the agreed date, the decision will become effective on the date when the Council meeting should have been held.

The Notice of Key Decisions

- 18.12 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.
- 18.13 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 decide on the matter until the Committee has had an opportunity to consider the report and make recommendations to the Cabinet.

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18.14 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 decide on the matter.

18.15 If the procedure in the above three 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

18.16 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

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

18.18 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.

18.19 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.

18.20 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.

18.21 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

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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.

- 18.22 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 considering a call-in

- 18.23 Decisions may only be called-in by the Chief Executive when the criteria set out in Annex A are fulfilled and the requisite number of formal valid requests to call-in have been received. In addition to the requirements set out in Annex A and on the call-in form at Annex B, any background documents must be provided in full to the Democratic Services Team no later than two clear working days before the meeting.
- 18.24 Any non-Member of the Scrutiny Committee who has signed a request to call-in a Cabinet decision may be allowed to speak at the “call-in” meeting, although precedence will be granted to Members who sit on the Committee and any speaking by non-Members remains at the sole discretion of the Chairman.
- 18.25 At the start of the item, the Chairman should invite one of the signatories to the call-in, usually a Member of the Committee, 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 detailed on the call-in form (Annex B). This explanation is limited to 5 minutes.
- 18.26 Then any other Members of the Scrutiny Committee, whether or not signatories to the call-in, may speak for no more than five minutes setting out additional information they wish the Cabinet or Portfolio Holder to provide.
- 18.27 Following this, the Portfolio Holder will be given the opportunity to explain the rationale for the Cabinet’s decision. At the conclusion of this explanation, other Cabinet Members may be invited, at the Chairman’s discretion, to address the Committee.
- 18.28 The Portfolio Holder may be supported by relevant Officers or Cabinet Members to explain or answer technical, legal or financial points.
- 18.29 Following the submissions of the Portfolio Holder and any other Cabinet Member, the Committee may ask limited questions of clarification at the Chairman’s discretion.
- 18.30 The purpose of the meeting is solely to review the Cabinet’s decision and it is not appropriate to consider other matters or to debate other decisions. The motivations for any call-in are irrelevant to the business of the Scrutiny Committee.
- 18.31 If it becomes clear that further information is required that cannot be

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supplied at the meeting, consideration of the matter should be deferred, either to another specially arranged meeting or the next regular meeting of a Scrutiny Committee, depending on the urgency of the situation. Currently there is no time limit on a Committee's consideration of a called-in matter.

- 18.32 At this point, the matter will move to wider discussion and/or debate by all members of the Committee present.
- 18.33 At some time during the discussions, Members of the Committee will start to form views on how to deal with the call-in. A certain amount of debate is inevitable between Members of the Committee who may well take different views from each other.
- 18.34 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.
- 18.35 Neither the Council nor the Scrutiny Committee may overturn an Executive decision.

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ANNEX A

Criteria for call-in

1. The Chief Executive, or in his absence the Monitoring Officer, will determine whether or not a call-in is valid.
2. To be valid, a call-in must meet the criteria below:
 - a. The call-in must have been submitted by five or more Members of the Council from at least two political groups, in writing on the call-in form set out at Annex B;
 - b. The call-in must have been received at least by 5pm on the fifth working day after the Notice of Decision;
 - c. The call-in must specify the decision being objected to;
 - d. The call-in must specify reasons for the call-in request;
 - e. The call-in must not relate to a decision taken in accordance with the urgency procedures;
 - f. The call-in must specify the Portfolio holder responsible for the decision, who will be invited to attend the call-in meeting;
 - g.
3. The Chief Executive, or in his absence the Monitoring Officer, may only accept call-in requests which either:
 - a. Directly allege that the decision in question was outside or contrary to the agreed budget and policy framework; or
 - b. Directly allege that the decision was not in line with a provision of the Constitution, such provision to be explicit in the call-in request.
4. If the Chief Executive, or in his absence the Monitoring Officer, decides that a call-in is not valid, he will inform the decision maker and those requesting the call-in. The decision may be implemented in accordance with the Notice of Decision thereafter.

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ANNEX B

Call-in form

Name of Member making request to call-in:	
Political group of Member making request:	
Date of Notice of Decision:	
Decision called-in:	
Reasons for request: (continue on separate sheet if necessary)	
Portfolio Holder:	
EITHER: The decision was outside or contrary to the agreed budget and policy framework:	YES/NO
OR: The decision was not in line with a provision of the Constitution:	YES (please specify the provision below)/NO
Background Papers are attached or will be sent to Democratic Services no later than 2 clear working days before the meeting	YES/NO