

Public Document Pack

ERP B: Changes to Constitution to improve Scrutiny (Pages 5 - 40)

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Chapter 7 – Scrutiny Committees

7.1 Introduction

7.1.1 Effective overview and scrutiny is essential to enhance the accountability and transparency of the decision-making process. The Council has appointed an Overview and Scrutiny Committee ~~and a Performance, Audit and Governance Scrutiny Committee~~ to discharge the functions conferred by section 9F of the Local Government Act 2000 and any regulations. ~~Th~~ese scrutiny committees will discuss issues in public and take a cross-cutting approach to their work. In accordance with section 9FA of the above Act ~~it~~ they may appoint one or more sub-committees to carry out any of their functions. They will seek to improve the delivery of policies and services by:

- (i) holding the Executive to account for its actions;
- (ii) advising on the development and implementation of new policy and corporate projects;
- (iii) testing whether existing policies and practices are effective and efficient and suggesting how they might be improved; and
- (iv) ensuring the rigour and objectivity of performance management and service reviews.

7.1.2 ~~The Performance, Audit and Governance Scrutiny Committee will have the specific role of monitoring the budget, and it oversees the performance of services by considering a range of information such as performance indicators, inspection reports and action plan monitoring. It approves the council's Statement of Accounts and is also the council's audit committee. This committee also carries out the treasury management functions set out in detail in the Scrutiny Procedure Rules in Part 4 of this Constitution.~~

7.2 The Overview and Scrutiny Committee

7.2.1 The Council will appoint an Overview and Scrutiny Committee of up to 14 members, or as many as Council determines from time to time, and it will normally be

politically balanced. No member of the Executive may be a member of the Overview and Scrutiny Committee.

7.2.2 The primary purpose of the committee is to improve the delivery of policies and services. Its terms of reference are the performance of all overview and scrutiny functions on behalf of the Council and as set out in section 9F of the Local Government Act 2000, summarised below, to:

- (i) review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) agree reports and make recommendations to the Council and the Executive in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants;
- (iv) question members of the Executive and officers about their views on issues and proposals affecting the area;
- (v) liaise with external organisations operating in the area, whether national, regional or local, to ensure the interests of local people are enhanced by collaborative working;
- (vi) exercise the right to 'call in' for reconsideration of decisions made but not yet implemented by the Executive, in accordance with the rules set out in this Constitution;
- (vii) consider any matter which has been placed on the agenda of the committee by any member of the committee in accordance with the rules of procedure in this Constitution;
- (viii) act as the Crime and Disorder Committee for the purposes of section 19 of the Police and Justice Act 2006;
- (ix) undertake consideration of such matters that will be key decisions where the Executive requests the Committee to scrutinise the matter in advance of an the decision being taken. This relates to matters that are of particular interest to the committee, for example, decisions to be made on significant place making projects;
- (x) review current service delivery models (the council's own and those of the council's partners) with a view to

identifying gaps, exploring innovative solutions to delivery issues;

- (xi) review draft strategies; and
- (xii) consider issues or functions in which Members feel they could shape future policy.

7.2.3 For specific issues, the above work can be carried out by task and finish groups, which will be appointed and managed by the committee. These groups will draw upon the knowledge and expertise of all Members of the Council.

7.2.4 **Holding the Executive to Account**

The Overview and Scrutiny Committee will hold the Executive to account for the discharge of its functions. The principal ways by which it will do this are as follows:

- (i) scrutinising decisions which the Executive is planning to take, as set out in the Forward Plan or of which proper notice is given (including decisions referred to it in accordance with paragraph 6.6.2 of Chapter 6);
- (ii) scrutinising decisions of the Executive and individual Executive Members before they are implemented and if necessary using the 'call-in' mechanism to require the decision taker to reconsider the earlier decision; and
- (iii) scrutinising decisions of the Executive or Executive Members after they have been implemented as part of a wider review.

7.3 ~~Performance, Audit and Governance Scrutiny Committee~~

~~7.3.1 The Council will also appoint a Performance, Audit and Governance (PAG) Scrutiny Committee of up to 14 members, which will normally be politically balanced. This committee shall review progress on delivery of the corporate strategic plan, the Medium Term Financial Plan and the key performance metrics of the Council. It may set up task and finish groups where appropriate, and shall also have a sub-committee to deal with Member Code of Conduct issues, to be known as the Standards Sub-Committee.~~

~~7.3.2 Within its terms of reference the committee will monitor and scrutinise the performance of the council's services by having regard to a variety of information, including performance indicators, financial information, reports from external inspections, audit reports, and monitoring of action plans. No member of the council's Executive may be a member of the Performance, Audit and Governance Scrutiny Committee.~~

~~7.3.3 The terms of reference of the Performance, Audit and Governance Committee are that it will:~~

- ~~(i) assist the Council and the Executive in the development of the annual budget;~~
- ~~(ii) act as the council's Audit Committee. The nature of this role is specified in the Procedure Rules in Part 4 of this Constitution;~~
- ~~(iii) consider means of improving and promoting the performance management and audit functions of the council;~~
- ~~(iv) promote and maintain the Ethical Standards Framework;~~
- ~~(v) make recommendations taking into account the advice of the Monitoring Officer of periodic amendments and updating of the Council's Constitution;~~

Audit function

- ~~(vi) as an integral part of its role as the Council's Audit Committee, undertake the following areas:~~

- ~~—— **integration of the audit role:** To ensure that the principles of effective audit are integrated into the work of the Performance, Audit and Governance Scrutiny Committee and the Council generally;~~

- ~~**risk management:** To provide assurance of the effectiveness of the corporate risk assessment process and monitor the effective development and operation of risk management policies in the council,~~

specifically including monitoring of the Risk Management Strategy and the Corporate Risk Register;

— **internal audit and governance:** To provide an effective mechanism to monitor the control environment within the council, ensuring the highest standards of probity and public accountability by:

reviewing and approving of the Annual Audit Plan;

challenging and follow-up of internal audit recommendations;

reviewing internal audit performance;

reviewing the Annual Governance Statement and Statement of Internal Control; and

reviewing the anti-fraud and corruption controls and arrangements (including the whistleblowing process)

— **financial statements and annual accounts:**

To provide scrutiny of the council's financial performance by scrutinising the:

finance monitoring reports;

Medium Term Financial Planning;

financial outturn reports; and

Statement of Accounts

— **treasury management:** To provide scrutiny of:

the council's responses to changes in statutory and regulatory requirements and guidance;

the annual Treasury Management and Investment Strategy;

ongoing revisions to treasury management strategies and policies; and

the mid-year treasury management review

external audit: To maintain and develop a trusting and professional relationship with the council's external auditors and ensure any

~~issues arising from inspection are dealt with including:
annual audit and Inspection plan and any resulting reports; and
consideration of how the external audit is conducted and any issues arising.~~

~~Annual Audit Letter~~

~~Statement of Auditing Standard (SAS) 610 Communications~~

~~**procurement:** To ensure formal reporting of procurement issues including:
contract waivers;
update and revision of Contract Procedure Rules; and
issues arising from contracts that may impact on the council's finances.~~

~~Ethical Standards Framework~~

- ~~(vii) promote and maintain high standards of conduct by Members and Co-opted Members of the Council;~~
- ~~(viii) advise and assist Town and Parish Councils and Members to maintain high standards of conduct and to make recommendation to Town and Parish Councils on improving standards or actions following a finding of a failure by a Town or Parish Member to comply with the Code of Conduct;~~
- ~~(ix) manage complaints on behalf of Town and Parish Councils;~~
- ~~(x) advise the Council on the adoption or revision of the Members' Code of Conduct;~~
- ~~(xi) receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the council's assessment criteria;~~
- ~~(xii) receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members' Code of Conduct;~~
- ~~(xiii) train Members and Co-opted Members to observe the Members' Code of Conduct;~~

- ~~(xiv) — assist Members and co-opted Members to observe the Members' Code of Conduct;~~
- ~~(xv) — hear and determine complaints about Members and Co-Opted Members referred to it by the Monitoring Officer;~~
- ~~(xvi) — advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards or conduct throughout the council;~~
- ~~(xvii) — maintain an oversight of the council's arrangements for dealing with complaints;~~
- ~~(xviii) — inform the Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;~~
- ~~(xix) — appoint the Standards Sub-Committee drawn from three members of the PAG Committee which will exercise, on a delegated basis, the functions as set out in the sub-committee terms of reference. The committee should reflect Member representation where practicable;~~
- ~~(xx) — exercise the power to consider and grant dispensations to Members where:
the number of Members precluded from transacting the business is so great that it would impede the business of the Council, committee or Executive; or
the political balance is affected to the extent that it could affect the outcome of a vote relating to the business.~~

Standards Sub-Committee Terms of Reference

- ~~(i) — To consider investigation reports in respect of Code of Conduct complaints that are referred to it by the Monitoring Officer.~~
- ~~(ii) — To conduct a hearing into an allegation that a Member or co-opted Member of the Council or Town/Parish Council has breached the relevant code of conduct. At such hearing, the Member against whom a complaint has been made may respond to the investigation report. Following the hearing the sub-committee can make one of the following findings:~~

~~that the Member has *not* failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the hearing;~~

~~that the Member *has* failed to comply with the Code of Conduct but no further action needs to be taken in respect of the matters considered at the hearing; or~~

~~that the Member *has* failed to comply with the Code of Conduct and a sanction and/or an informal resolution should be imposed.~~

~~(iii) — The sub-committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it either by law or policy.~~

~~(iv) — After making a finding the sub-committee shall, as soon as reasonably practicable, provide written notice of its findings and the reason for its decision to the Member and the complainant.~~

~~(v) — To apply the council's Standards Complaints Procedure and Complaints Standards Sub-Committee Procedure to hearings before the sub-committee.~~

7.4 Finance

The Overview and Scrutiny Committee ~~and Performance, Audit and Governance Scrutiny Committee~~ may exercise overall responsibility for any finances made available to them.

7.5 Annual Report

The Overview and Scrutiny Committee ~~and Performance, Audit and Governance Scrutiny Committee~~ must report annually to the Council on its ~~their~~ workings and make recommendations for future work programmes and amended working methods if appropriate.

7.6 Officers

The Overview and Scrutiny Committee ~~and Performance, Audit and Governance Scrutiny Committee~~ may exercise overall responsibility for the work programme of any officers employed to support their work.

7.7 Proceedings of the Committees

The Overview and Scrutiny Committee ~~and Performance, Audit and Governance Scrutiny Committee~~ will conduct its ~~their~~ proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

7.8 Work Programme

- (a) The Rules of Procedure in Part 4 of this Constitution will also provide mechanisms to allow all Members of the Council the opportunity to place an item on the agenda of the Overview and Scrutiny Committee and the Performance, Audit and Governance Scrutiny Committee.
- (b) When practicable, the Overview and Scrutiny Committee will publish a forward work programme or list of items likely to be considered over the next four months.

7.9 Working Methods

The following principles should be adhered to by the Overview and Scrutiny Committee ~~and Performance, Audit and Governance Scrutiny Committee~~ when carrying out their work:

- (a) a variety of different approaches and formats for meetings may be used;
- (b) task and finish groups reporting periodically and at the end of reviews to the Overview and Scrutiny Committee should be encouraged as the preferred method of scrutiny reviews;
- (c) membership of the committees and their sub groups (if applicable) should be tailored to ensure appropriate skills and expertise, and external input, are brought to bear;

- (d) when appropriate, full consultation with all other stakeholder groups and organisations should take place;
- (e) the declaration of interest rules shall apply;
- (f) the imposition of the Party Whip is regarded as incompatible with the work of the Council's Scrutiny Committees;
- (g) the chairman and vice-chairman of each Scrutiny Committee will meet at least quarterly with the Leader and Deputy Leader of the Council to ensure that the work of these committees is properly co-ordinated;
- (h) where any Scrutiny Committee is reviewing the work of a Regulatory or other Committee of the Council (as opposed to the Executive) it will not scrutinise individual decisions made by such committees, particularly decisions in respect of development control, licensing, registration, consents and other permissions. In particular, scrutiny will not be an alternative to normal appeals procedures. However, the Overview and Scrutiny Committee has the power to make reports and recommendations on functions which are not the responsibility of the Executive, an option normally to be used as part of wider policy reviews.

7.10 Support

- (a) In order that the Overview and Scrutiny Committee can perform its roles properly, it shall be given the following support:
 - (i) effective and properly resourced support from officers;
 - (ii) appropriate financial resources;
 - (iii) access to the advice of the council's Monitoring Officer;
 - (iv) the ability to require Executive Members and officers to attend to answer questions;
 - (v) specific training and development for all persons who undertake overview and scrutiny duties; and
 - (vi) access to the Forward Plan, containing details of all the matters likely to be the subject of key

decisions, or to be considered in private by the Executive, or its Committees or by officers.

- (b) ~~In order that the Performance, Audit and Governance Scrutiny Committee can perform its role properly it shall also be given the following support:~~
 - ~~(i) effective and properly resourced support from officers;~~
 - ~~(ii) appropriate financial resources;~~
 - ~~(iii) access to external auditors who report directly to the Committee and to the Internal Audit Service Manager; and~~
 - ~~(iv) specific training and development as required.~~

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Part 2 Chapter 8 – Regulatory and other committees

8.1 ~~Regulatory and other~~ committees

The Council must appoint committees to deal with functions such as licensing, town and country planning controls and any other functions which by law are not to be functions of the Executive or Council. Although a brief summary of their main areas of work is set out below, all the functions discharged by these committees is set out in detail in Part 3 of this Constitution.

8.1.12 ~~Development Management Committee~~

This committee is responsible for matters relating to the control of the use of land including planning and listed building consent, the preservation of buildings and trees, conservation areas and enforcement.

8.1.3 ~~3~~ ~~Licensing Committee~~

This committee's responsibilities include regulating the sale of alcohol, the provision of public entertainment and gambling, and taxis/private hire vehicles and drivers.

8.2 ~~Other committees~~

8.2.1 ~~Performance, Auditing and Governance Oversight Committee~~

The Performance, Audit and Governance Oversight Committee will have the specific role of monitoring the budget, and it oversees the performance of services by considering a range of information such as performance indicators, inspection reports and action plan monitoring. It approves the council's Statement of Accounts and is also the council's audit committee. This committee also carries out the treasury management functions set out in detail in the Procedure Rules in Part 4 of this Constitution.

8. ~~Other committees~~

8.2.2 The Council will appoint other committees as set out in Part 3 of this Constitution to discharge the functions described there.

Part 3B – Committee Functions and Responsibilities

4.0 Other Committees

4.1 Details of the functions and procedures of the **Overview and Scrutiny Committee** are set out in Part 2, Chapter 7 of this constitution and in the Overview and Scrutiny Procedure Rules (Part 4 (e)E).

4.2 Details of the functions and procedure rules of the **Performance, Audit and Governance Oversight Scrutiny Committee** are set out in Part 2, Chapter 8 and in the Performance Audit and Governance Oversight Committee Procedure Rules Part 4 (i).

Part 4E - Scrutiny Procedure Rules

1.0 The Council will have ~~one~~ ~~two~~ scrutiny committees as set out in Part 2, Chapter 7 of this Constitution, which includes the terms of Reference ~~for each committee~~.

1.1 The number and arrangements for scrutiny committees

1.1.1 ~~The Each~~ Committee will consist of a maximum of 14 members of the Council. The Council will normally observe the rules governing political balance contained in Section 15 of the Local Government and Housing Act 1989 when allocating seats to each committee but it may resolve to vary this provision by unanimous vote at the Annual Meeting.

1.1.2 The committees may appoint sub-committees.

1.1.3 Further Scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

1.1.4 Scrutiny Committees may appoint task and finish groups which shall be given a brief to consider a specified subject area and report back to Committee on a regular basis as determined by the Committee.

1.2 Who may sit on Scrutiny committees?

1.2.1 All Councillors except Members of the Executive may be members of a scrutiny committee. However, no Member may be involved in scrutinising a decision which he/she has been directly involved. ~~In addition no Member may sit on both Committees.~~

~~1.2.2 The members of the Standards Sub Committee shall be appointed from the members of the Performance and Audit Governance Committee.~~

1.3 Appointment of members and substitutes

Members and Substitutes on scrutiny committees shall be appointed by Annual Council in accordance with the wishes of the political group to whom the seats have been allocated.

1.4 Co-optees

Each scrutiny committee or sub-committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

1.5 Meetings of the scrutiny committees

Meetings of Scrutiny committees shall be programmed in each year. There will normally be between four and six meetings of each committee annually. 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 of the relevant scrutiny committee, by any four members of the committee or by the Scrutiny Officer if he/she considers it necessary or appropriate.

1.6 Quorum

The quorum for a scrutiny committee shall be one third of the committee membership as set out in Part 4A of the Constitution.

1.7 Who chairs scrutiny committee meetings?

Overview and Scrutiny Committee

1.7.1 The Chairman of the Overview and Scrutiny Committee will be appointed by Council at its annual meeting in May. The Vice-Chairman will be appointed by the committee at its first meeting of the civic year.

1.7.2 In the event that there is more than one political group within the Council, it will be desirable for:

- (a) the Overview and Scrutiny Committee to be chaired by a Member who is not a Member of the Majority group; and
- (b) the Vice-Chairman of the Overview and Scrutiny Committee to be a Member of the Majority group.

1.7.3 The Chairman and Vice-Chairman will hold office until:

- (i) he/she resigns from the office of Chairman or Vice-Chairman; or
- (ii) he/she is no longer a Councillor.

1.7.4 Upon the occurrence of a vacancy in the office of Chairman or Vice-Chairman, the Committee shall fill the vacancy at its next ordinary meeting

~~Performance, Audit and Governance Scrutiny Committee~~

~~1.7.5 The Chairman of the Performance, Audit and Governance Scrutiny Committee will be appointed by the Council at its annual meeting in May. The Vice-Chairman will also be appointed by the committee at its first meeting of the civic year.~~

~~1.7.6 The Chairman and Vice-Chairman will hold office until:~~

- ~~(i) he/she resigns from the office of Chairman or Vice-Chairman; or~~
- ~~(ii) he/she is no longer a Councillor.~~

~~1.7.7 Upon the occurrence of a vacancy in the office of Chairman or Vice Chairman, the Committee shall fill the vacancy at its next ordinary meeting.~~

1.8 Work programme

1.8.1 The scrutiny committees/sub-committees will be responsible for setting their 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.

Overview and Scrutiny Committee

1.8.2 The committee will be 'forward-looking', shaping new policies at an early stage of their development, and undertaking major reviews of existing policies or service delivery models in order to look to make future improvements, having recourse to Task and Finish groups where appropriate (which could include non-members of the committee where they have a particular interest in the topic or have a particular skill set to bring to the group).

~~Performance, Audit and Governance Scrutiny Committee~~

~~1.8.3 The committee will consider, as a minimum, the following:~~

- ~~(i) Council's annual budget~~
- ~~(ii) Medium Term Financial Strategy~~
- ~~(iii) Treasury Strategy~~
- ~~(iv) Annual Accounts and Annual Governance Statement~~
- ~~(v) Corporate Annual Report~~
- ~~(vi) Corporate Healthchecks~~
- ~~(vii) Risk Management and Risk Registers~~
- ~~(viii) Service Plan Monitoring of Progress and Exceptions~~
- ~~(ix) Review of capital programme delivery~~
- ~~(x) Reviews relating to the effectiveness of changes to service delivery models~~
- ~~(xi) Internal Audit reports~~

1.9 Agenda items

1.9.1 Any Member of a scrutiny committee or sub-committee shall be entitled to give notice to the Scrutiny Officer that he/she wishes 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, following such procedures as are established at the time. On receipt of such a request the Scrutiny Officer will ensure that it is included on the next available agenda, subject to having scoped out the work required to deliver the item and considered the feasibility of this work in terms of officer/other resources.

1.9.2 The scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council and the Executive to review particular areas of Council activity. Where they do so, the 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 scrutiny committee at its next meeting.

1.10 Reports from scrutiny committee

1.10.1 Once it has formed recommendations on proposals the scrutiny committee (with support from officers) will prepare a formal report and submit it via the Scrutiny Officer for consideration by the

Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

1.10.2 The Chairman, or in his/her absence, the Vice-Chairman of the Overview and Scrutiny Committee and Performance, Audit and Governance Committee will normally be responsible for presenting the report to the Executive or the Council as appropriate. However, in the case of the report of a task and finish group, the report to the Executive and/or Council can also be made by the chairman or vice-chairman of the task and finish group.

1.10.3 If a scrutiny committee cannot agree on one single final report to the Council or Executive as appropriate, then a minority report may be prepared and submitted for consideration by the Council or Executive with the majority report with the agreement of the Committee.

1.10.4 The Council or Executive shall consider the report of the scrutiny committee at its next meeting.

1.11 Making sure that scrutiny reports are considered by the Executive

1.11.1 Once the Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Scrutiny Officer who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Scrutiny Officer refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive must be given the opportunity to respond to the Scrutiny report before the Council meets to consider it. When the Council does meet to consider any referral from the Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider any response of the Executive to the Scrutiny proposals.

1.11.2 The agenda for Executive meetings shall include an item entitled 'Issues arising from Overview and Scrutiny ~~and Performance,~~

~~Audit and Governance Scrutiny~~ and the Chairmen will have a standing invite to present this item should they wish to. Any reports of the Scrutiny Committees referred to the Executive shall normally be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda).

1.11.3 The response of the Executive to the committees recommendations will be formally communicated to the committee in the form of a letter from the Chair of Executive to the Chair of the OSC setting out the actions taken by the executive with appropriate dates of implementation, milestones etc. If the executive rejects any recommendations it must give an explanation as to why.

1.12 **Members and officers giving account**

1.12.1 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 and/or any senior officer 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
- (iii) their performance;

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

1.12.2 Where any Member or officer is required to attend a scrutiny committee under this provision, the Chairman of that committee will inform the Scrutiny Officer. The Scrutiny Officer shall inform the Member or officer in writing giving at least 10 working days' notice 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 to give account and whether any papers are required to be produced for the committee. Where the account to be given to the 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.

1.12.3 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.

1.13 **Attendance by others**

A scrutiny committee may invite people other than those people referred to in paragraph 1.12 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 other parts of the public sector and shall invite such people to address it.

1.14 **Call-in**

1.14.1 A key element of the scrutiny role concerns the arrangements for the “call-in” of a decision taken by or on behalf of the Executive. Key or non-key decisions by the Executive, a committee of the Executive or an individual Executive Member and key decisions made by an officer with delegated authority from the Executive, may be “called in” by four members of the Council submitting a request in writing on the call in request form to the Chief Executive within five working days of the publication of that decision. No action can be taken on an item called in for scrutiny.

1.14.2 Call-in should only be used in exceptional circumstances. These are where Members have evidence which suggests that the Executive decision was not taken in accordance with the principles set out in Part 2, Chapter 11 (Decision Making). In order to ensure that call-in is not abused; nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

- (i) a decision must be called-in by at least four Members of the Council; and
- (ii) a decision on the same item may only be “called in” for scrutiny by the Committee on one occasion within a six month period. The six month period is to commence from

the date the “call-in” request is received by the Chief Executive;

- (iii) members who have called in a decision may withdraw their call-in at any time prior to the meeting taking place to hear the call-in, by giving notice in writing to the Scrutiny Officer.

1.14.3 The following arrangements for the call-in will apply:

- (i) when a key or non-key decision is made by the Executive (or by any committee or members of the Executive with a delegated authority contained in Part 3 of this Constitution) or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published electronically. Notification of all such decisions will also be issued to all members by the person responsible for publishing the decision;
- (ii) the relevant 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 working days after the publication of the decision, unless it is called in;
- (iii) during that period, the Chief Executive shall call-in a decision for scrutiny by the committee if so requested by members (in accordance with paragraph 1.14.2 above), and shall notify the decision-taker of the call-in. An item called in for scrutiny will normally be considered by the Overview and Scrutiny Committee (if more appropriate by the Performance, Audit and Governance Committee) at its next scheduled meeting. However, in consultation with the Chairman of the Committee, he/she may call an extraordinary meeting of the Committee on such date as he/she may determine (in accordance with the Access to Information Procedure Rules in Part 4B of this Constitution);
- (iv) any member considering calling in a decision must first make every effort to discuss the issue with the relevant Executive Member or the Leader of the Council;

- (v) members using the call-in arrangements have the right to address the Committee when it deals with the issue;
- (vi) normally, the Committee will complete its scrutiny of the issue at that meeting and report the outcome to the next meeting of the Executive. However, the Committee may consider that further time is required to consider the issue and would therefore need to recommend to the Executive that further work be carried out and that the Overview and Scrutiny Committee makes recommendations at a later date. In these circumstances, the Executive will decide whether or not the decision should be implemented, having regard to the urgency, if any, of the matter and the provisions of the Budget and Policy Framework Rules (see (ix) below);
- (vii) if the Overview and Scrutiny Committee agrees with a called-in decision, the decision may be implemented immediately following the Overview and Scrutiny Committee meeting;
- (viii) if, through the scrutiny process and/or in pursuance of the Budget and Policy Framework Procedure Rules set out in Part 4C of this constitution, a called-in decision is deemed to be contrary to the policy framework, and/or contrary to or not wholly consistent with the budget, it may have to be referred to the Council for a final decision and the action cannot be acted upon until this decision is made;
- (ix) if the called in decision does not contradict the policy framework and/or budget but the Committee decides to make an alternative recommendation, this will be considered by the Executive at its next meeting and no action should be taken until a final decision has been made by the Executive.

1.15 **Call-in and urgency**

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 interest. The record of the decision, and notice by which it is made public

shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable and that there are reasonable grounds for treating the decision as a matter of urgency. In the absence of the Chairman, the Vice Chairman of the Overview and Scrutiny Committee's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee'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.

1.16 Procedure at scrutiny committee meetings

1.16.1 Scrutiny committees and sub-committees shall consider the following business:

- (i) minutes of the last meeting;
- (ii) declarations of interest;
- (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 scrutiny committee;
- (v) consideration of the forward plan and
- (vi) the business otherwise set out on the agenda for the meeting, including the committee's workplan.

1.16.2 The Executive members will be individually invited to give an account of his or her portfolio to one of the scrutiny committees at least once annually and will answer any questions posed by committee members. This attendance shall be in addition to any attendance required or invited by the committee in relation to specific items of business. The time set aside for presentation of each portfolio report and questions thereon shall be at the discretion of the Chairman.

1.16.3 Where the scrutiny committee conducts investigations (for example, with a view to policy options), 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.

1.16.4 Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

1.17 Matters within the remit of more than one scrutiny committee

Where a scrutiny committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of the other scrutiny committee, before submitting its findings to the Executive 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. The two committees, through their Chairmen and with agreement of the Leader of the Council, may decide to hold a joint meeting of scrutiny committees if they feel this would be a more effective way of carrying out occasional business where there is clearly value in both committees considering a report simultaneously.

1.18 The party whip

1.18.1 For the purpose of this section, reference to “the party whip” shall mean:

“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.”

1.18.2 As part of the scrutiny function, the imposition of the party whip is regarded by the Council as incompatible with each Committee’s terms of reference. The party whip should not therefore be imposed on any member of the Overview and Scrutiny or Performance, Audit and Governance Scrutiny Committee while engaged in their Committee’s work.

1.19 Councillor Call for Action (CCfA)

Any Councillor may request that a scrutiny committee consider the inclusion of a Councillor Call for Action (CCfA) on its work programme, under the terms of the CCfA Protocol set out below. The operation of CCfA will be in full compliance with the Protocol and, as for call-in, will be used only in exceptional circumstances where all other possible avenues for resolution of the issue have been followed by the referring Councillor, and yet a problem still exists.

Councillor Call for Action (CCfA) Protocol

Under section 119 of the Local Government and Public Involvement in Health Act 2007, a Member may call for debate and discussion at committee, a topic of neighbourhood concern. These powers are limited to an issue which affects a single council ward. CCfA will be considered by the scrutiny committee, whose terms of reference include within its remit, the subject of the CCfA. If in doubt, the Monitoring Officer shall determine which scrutiny committee would be the relevant recipient. In order to initiate the CCfA process, the Chairman of the relevant scrutiny committee in conjunction with the Monitoring Officer will need to be satisfied that the following criteria have been met:

Criteria

Statutory Regulations specify matters that are excluded from CCfA:

1. any matter which is vexatious, discriminatory or not reasonable;
2. any matter which is the subject of an individual complaint;
3. any matter relating to a planning appeal, licensing appeal or other issue where there is an alternative avenue available; and
4. the matter must be one where all other attempts at resolution have been exhausted.

The following process will need to be followed:

Process

1. A Member should direct a CCfA request in writing to the Chairman of the relevant scrutiny committee and the Monitoring Officer who will, if the above criteria are met, allow the issue to be placed on the agenda for a subsequent meeting. The request should specify:
 - the ward concerned and how the issue relates only to that ward;
 - the views and concerns of local residents;
 - how existing mechanisms for resolution have been tried and exhausted; and
 - the desired outcomes for resolving the issue.
2. The scrutiny Chairman, in conjunction with the Monitoring Officer, may determine whether the next scheduled meeting of the

relevant scrutiny committee is appropriate or if an additional meeting needs to be convened.

3. The scrutiny committee, subject to the necessary notice being given, will be able to request attendance from the relevant Executive Member and/or representatives of partner organisations, and/or to request information.
4. The scrutiny committee should discuss how to achieve the desired outcomes that the member bringing the CCfA has specified and should conclude its consideration with a recommendation that certain action(s) should take place. The scrutiny committee may decide to challenge whether the desired outcome is reasonable.
5. Whilst there will be no specified procedure for the discussions at committee, the scrutiny Chairman, in consultation with Officers, may determine an informal structure that will enable all parties to contribute.
6. All CCfA requests, whether pursued or not, should be reported to the next relevant scrutiny committee for information. This will enable scrutiny committees to take account of all requests in determining work programmes.

Part 4 (i)

- 1.0 The Council will have one Performance Audit and Governance Oversight (PAGO) committee as set out in Part 2, Chapter 8.
- 1.1 The Performance, Audit and Governance Oversight Committee will have the specific role of monitoring the budget, and it oversees the performance of services by considering a range of information such as performance indicators, inspection reports and action plan monitoring. It approves the council's Statement of Accounts and is also the council's audit committee. This committee also carries out the treasury management functions set out in detail in the Procedure Rules in Part 4 of this Constitution.
- 1.1 **The number and arrangements for scrutiny committees**
- 1.1.1 The Committee will consist of a maximum of 7 members of the Council. The Council will normally observe the rules governing political balance contained in Section 15 of the Local Government and Housing Act 1989 when allocating seats to each committee but it may resolve to vary this provision by unanimous vote at the Annual Meeting.
- 1.1.2 The committee may appoint sub-committees.
- 1.2 **Who may sit on the PAGO committees?**
- 1.2.1 All Councillors except Members of the Executive may be members of the PAGO committee.
- 1.3 **Appointment of members and substitutes**
- 1.3.1 Members and Substitutes on scrutiny committees shall be appointed by Annual Council in accordance with the wishes of the political group to whom the seats have been allocated.
- 1.4 **Meetings of the scrutiny committees**
- 1.4.1 Meetings of the PAGO committee shall be programmed in each year. There will normally be between four and six meetings of each committee annually. In addition, extraordinary meetings may be called from time to time as and when appropriate. A committee meeting may be called by

the Chairman, by any four members of the committee or by the Monitoring Officer if he/she considers it necessary or appropriate.

1.5 **Quorum**

1.5.1 The quorum for a committee shall be one third of the committee membership as set out in Part 4A of the Constitution.

1.6 **Who chairs scrutiny committee meetings?**

1.6.1 The Chairman of the Performance, Audit and Governance Oversight Committee will be appointed by the Council at its annual meeting in May. The Vice-Chairman will also be appointed by the committee at its first meeting of the civic year.

1.6.2 The Chairman and Vice-Chairman will hold office until:

- (i) he/she resigns from the office of Chairman or Vice-Chairman; or
- (ii) he/she is no longer a Councillor.

1.6.3 Upon the occurrence of a vacancy in the office of Chairman or Vice Chairman, the Committee shall fill the vacancy at its next ordinary meeting.

1.7. The terms of reference of the Performance, Audit and Governance Oversight Committee are that it will:

- (i) assist the Council and the Executive in the development of the annual budget;
- (ii) act as the council's Audit Committee. The nature of this role is specified in the Procedure Rules in Part 4 of this Constitution;
- (iii) consider means of improving and promoting the performance management and audit functions of the council;
- (iv) promote and maintain the Ethical Standards Framework;
- (v) make recommendations taking into account the advice of the Monitoring Officer of periodic amendments and updating of the Council's Constitution;

Audit function

- (vi) as an integral part of its role as the Council's Audit Committee, undertake the following areas:
- **integration of the audit role:** To ensure that the principles of effective audit are integrated into the work of the Performance, Audit and Governance Scrutiny Committee and the Council generally;
 - **risk management:** To provide assurance of the effectiveness of the corporate risk assessment process and monitor the effective development and operation of risk management policies in the council, specifically including monitoring of the Risk Management Strategy and the Corporate Risk Register;
 - **internal audit and governance:** To provide an effective mechanism to monitor the control environment within the council, ensuring the highest standards of probity and public accountability by:
 - reviewing and approving of the Annual Audit Plan;
 - challenging and follow-up of internal audit recommendations;
 - reviewing internal audit performance;
 - reviewing the Annual Governance Statement and Statement of Internal Control; and
 - reviewing the anti-fraud and corruption controls and arrangements (including the whistleblowing process)
 - **financial statements and annual accounts:** To provide scrutiny of the council's financial performance by scrutinising the:
 - finance monitoring reports;
 - Medium Term Financial Planning;
 - financial outturn reports; and
 - Statement of Accounts
 - **treasury management:** To provide scrutiny of:

- the council's responses to changes in statutory and regulatory requirements and guidance;
 - the annual Treasury Management and Investment Strategy;
 - ongoing revisions to treasury management strategies and policies; and
 - the mid-year treasury management review
- **external audit:** To maintain and develop a trusting and professional relationship with the council's external auditors and ensure any issues arising from inspection are dealt with including:
 - annual audit and Inspection plan and any resulting reports; and
 - consideration of how the external audit is conducted and any issues arising.
 - **Annual Audit Letter**
 - **Statement of Auditing Standard (SAS) 610 Communications**
 - **procurement:** To ensure formal reporting of procurement issues including:
 - contract waivers;
 - update and revision of Contract Procedure Rules; and
 - issues arising from contracts that may impact on the council's finances.

Ethical Standards Framework

- (vii) promote and maintain high standards of conduct by Members and Co-opted Members of the Council;
- (viii) advise and assist Town and Parish Councils and Members to maintain high standards of conduct and to make recommendation to Town and Parish Councils on improving standards or actions following a finding of a failure by a Town or Parish Member to comply with the Code of Conduct;
- (ix) manage complaints on behalf of Town and Parish Councils;

- (x) advise the Council on the adoption or revision of the Members' Code of Conduct;
- (xi) receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the council's assessment criteria;
- (xii) receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members' Code of Conduct;
- (xiii) train Members and Co-opted Members to observe the Members' Code of Conduct;
- (xiv) assist Members and co-opted Members to observe the Members' Code of Conduct;
- (xv) hear and determine complaints about Members and Co-Opted Members referred to it by the Monitoring Officer;
- (xvi) advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards or conduct throughout the council;
- (xvii) maintain an oversight of the council's arrangements for dealing with complaints;
- (xviii) inform the Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
- (xix) appoint the Standards Sub-Committee drawn from three members of the PAG Committee which will exercise, on a delegated basis, the functions as set out in the sub-committee terms of reference. The committee should reflect Member representation where practicable;
- (xx) exercise the power to consider and grant dispensations to Members where:
 - the number of Members precluded from transacting the business is so great that it would impede the business of the Council, committee or Executive; or
 - the political balance is affected to the extent that it could affect the outcome of a vote relating to the business.

1.8 Standards Sub-Committee Terms of Reference

- (i) To consider investigation reports in respect of Code of Conduct complaints that are referred to it by the Monitoring Officer.
- (ii) To conduct a hearing into an allegation that a Member or co-opted Member of the Council or Town/Parish Council

has breached the relevant code of conduct. At such hearing, the Member against whom a complaint has been made may respond to the investigation report. Following the hearing the sub-committee can make one of the following findings:

- that the Member has *not* failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the hearing;
- that the Member *has* failed to comply with the Code of Conduct but no further action needs to be taken in respect of the matters considered at the hearing; or
- that the Member *has* failed to comply with the Code of Conduct and a sanction and/or an informal resolution should be imposed.

- (iii) The sub-committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it either by law or policy.
- (iv) After making a finding the sub-committee shall, as soon as reasonably practicable, provide written notice of its findings and the reason for its decision to the Member and the complainant.
- (v) To apply the council's Standards Complaints Procedure and Complaints Standards Sub-Committee Procedure to hearings before the sub-committee.