

Overview and Scrutiny Procedure Rules

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Reference:

Local Government Act 2000

Chapters 4 to 7, DETR Guidance on New Council Constitutions

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1. What will be the number and arrangements for Scrutiny Boards?

The Council will have the Scrutiny Boards set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such boards may appoint sub-boards. Nine Members will be appointed to each Board. Overview and Scrutiny Committee will have the same number of members as other Scrutiny Boards, plus the other Scrutiny Board chairs who will not have voting rights, unless the item specifically relates to the remit of their Scrutiny Board. This includes, but is not limited to, budgetary decisions.

2. Who may sit on a Scrutiny Board?

All councillors except members of the Cabinet may be members of a Scrutiny Board. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

In circumstances where there is an overlap between items discussed at Scrutiny Boards and the work of other Council committees, the Chair of that Committee will be invited to attend the meeting but will not have voting rights.

3. Appointment of substitute members

3.1 Allocation

The Council will appoint up to a maximum of six members for each political group represented on a Scrutiny Board, subject to each political group having no less than three substitute members for each Scrutiny Board.

3.2 Powers and duties

Substitute members will have all the powers and duties of any ordinary member of a Scrutiny Board.

3.3 Substitution

(a) Substitute members may attend meetings in that capacity only:-

- (i) to take the place of the ordinary member for whom they are the designated substitute;
- (ii) where the ordinary member will be absent for the whole of the meeting; and
- (iii) after notifying in writing the Head of Legal and Democratic Services of the intended substitution before the time for the start of the meeting.

(b) A notification of substitution for a meeting must be given by the

ordinary member and once given cannot be revoked.

4. Co-optees

- 4.1 Each Scrutiny Board shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.
- 4.2 The Scrutiny Board designated as the 'Crime and Disorder Committee' may co-opt additional members, with voting rights, to serve on the Board in accordance with the provisions of the Crime and Disorder (Overview and Scrutiny) Regulations 2009.

5. Education representatives

Each relevant Scrutiny Board dealing with education matters shall include in its membership the following voting representatives:

- (i) one Church of England diocese representative (at least one);
- (ii) one Roman Catholic diocese representative (at least one); and
- (iii) two parent governor representatives (between 2 and 5).

A relevant Scrutiny Board in this paragraph is a Scrutiny Board of a local education authority, where the board's functions relate wholly or in part to any education functions which are the responsibility of the authority's executive. If the Scrutiny Board deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

6. Meetings of the Scrutiny Boards

There shall be meetings of each Scrutiny Board in each year in accordance with the programme of meetings agreed by the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Board meeting may be called by the chair of the relevant Scrutiny Board or by any three members of the Board.

7. Quorum

The quorum for a Scrutiny Board shall be four elected members.

8. Voting

- (a) All decisions of the Scrutiny Board shall be arrived at by a majority of votes taken by a show of hands. The person chairing the meeting shall have a second or casting vote in the case of an equality of votes.

- (b) Five members may request that the names of those voting for and against any decision and those abstaining shall be recorded.
- (c) Any member may request that their vote (for or against) or their abstention shall be recorded.

9. Motions and Amendments

- (a) A motion or an amendment shall not be considered unless it has been proposed and seconded.
- (b) An amendment shall be relevant to the motion on which it is moved. Only one amendment shall be moved and discussed at a time and no other amendment shall be moved until the original amendment has been voted on.
- (c) A motion or an amendment may be either altered or withdrawn by the mover with the consent of the Scrutiny Board.

10. Disorderly Conduct

If any Member or member of the public persistently disregards the ruling of the person chairing the meeting by behaving improperly or offensively or deliberately obstructs the business of the meeting, the person chairing the meeting may direct that person or those persons leave the meeting or that the meeting be adjourned for a specified period.

11. Who chairs Scrutiny Board meetings?

- (a) The chair and deputy chair of each Scrutiny Board will be appointed by the Council.
- (b) The chair will preside at each meeting and in his/her absence the deputy chair will preside.
- (c) In the absence of both the chair and deputy chair, a person appointed at the meeting will preside.

12. Work programme

The Scrutiny Boards will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Board who are not members of the largest political group on the Council.

12A Councillor Call for Action

- (a) Any Member of a Scrutiny Board (or Sub Board) shall be entitled to give notice to the Head of Legal and Democratic Services that he/she wishes an item relevant to the functions of that Board (or Sub Board) to be included on the agenda for a meeting of the Board.
- (b) Any Member of the Council shall be entitled to give notice to the Head of Legal and Democratic Services that he/she wishes a local government matter or a local crime and disorder matter to be included on the agenda for a meeting of a relevant Scrutiny Board. In submitting a request under this paragraph a Member shall have regard to any statutory or local guidance which is available.

A 'local government matter' means a matter which:

- relates to the discharge of any functions of the Authority; and
- affects all or part of the Ward for which the Member is elected, or affects any person who lives or works in that area; and
- is not an excluded matter.

An 'excluded matter' (as defined by the Overview and Scrutiny (Reference by Councillors) (England) Order 2008 means:

- any matter relating to a planning decision;
- any matter relating to a licensing decision;
- any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Scrutiny Board (or Sub Board).

A 'local crime and disorder matter' (as defined by Section 19 of the Police and Justice Act 2006) means a matter concerning:

- crime and disorder (including particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) in the area represented by a Councillor; or
- the misuse of drugs, alcohol and other substances in that area.

- (c) Where a local crime and disorder matter has been raised with a Councillor

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by a person who lives or works in the area a Councillor represents, and the Councillor declines to refer the matter to the relevant Scrutiny Board, the person can refer the matter to Cabinet under the provisions of Section 19 of the Police and Justice Act 2006. Cabinet must consider any matter referred to it under these provisions and respond to the person advising of the action it proposes to take. Cabinet may refer the matter to the relevant Scrutiny Board for consideration.

- (d) In considering whether or not to investigate a matter referred to it a Scrutiny Board may have regard to:
 - (i) any powers which the Member may exercise in relation to the matter under Section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors under local arrangements);
 - (ii) any representations made by the Member as to why the matter should be investigated.

If the Scrutiny Board decides not to investigate the matter it must notify the Member of its decision and the reasons for the decision. If the Scrutiny Board decides to investigate the matter it must provide the Member with a copy of any report or recommendations it makes to the Council or the Cabinet.

- (e) In relation to a local crime and disorder matter a copy of the Scrutiny Board report or recommendations must also be provided to the 'responsible authorities' and 'co-operating bodies' who must consider the matter and respond indicating the actions which they propose to take.

13. Agenda items

- (a) The Scrutiny Boards shall respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Cabinet to review particular areas of Council activity. Where they do so, the Scrutiny Board 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 Board within one month of receiving it or otherwise at the first available meeting thereafter.
- (b) The Head of Legal and Democratic Services will include on the agenda of the appropriate Scrutiny Board items which:-
 - (i) the Council has referred to a Scrutiny Board
 - (ii) the Cabinet has referred to a Scrutiny Board
 - (iii) have been agreed by a Scrutiny Board either through the Board's work programme or on an individual basis
 - (iv) have been requested by individual Members under the Councillor

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Call for Action procedures at Rule 12A above

- (v) have been 'called-in' under the procedure for the suspension of a Cabinet decision in Rule 21 below
- (vi) exceptionally, are required to be included by the Chief Executive as Head of the Paid Service, the Section 151 Officer or the Monitoring Officer.

(c) Deputations

- (i) all deputations should be submitted at least 24 hours prior to the meeting.
- (ii) the deputation should not exceed three persons and the speech should not exceed five minutes.
- (iii) any deputations received which were not related to the agenda items for that Scrutiny Board meeting be given consideration by Members on whether it was an item which could be included on the relevant Scrutiny Board's Work Programme.
- (iv) a deputation would not be accepted when information of a personal nature was included, or which was defamatory, offensive, frivolous, repetitive or vexatious.
- (v) a deputation would not be accepted when it had the sole or predominant purpose of promoting any company's or individual's own business interests or financial position.

14. Policy review and development

- (a) The role of the Scrutiny Boards in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Scrutiny Board may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) The Scrutiny Board may hold enquiries and investigate the available options for future direction in policy development and may seek appropriate assistance and advice to help them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors

and witnesses a reasonable fee and expenses for doing so.

15. Reports from Scrutiny Boards

- (a) Once it has formed recommendations on proposals for development, the Scrutiny Board will prepare a formal report and submit it to the Head of Legal and Democratic Services for consideration by the Cabinet (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).
- (b) In any final report to the Council or the Cabinet as appropriate, any minority views should be incorporated into the report and submitted for consideration by the Council or the Cabinet.
- (c) The Council or the Cabinet shall consider the report of the Scrutiny Board within one month of it being submitted to the Head of Legal and Democratic Services or otherwise at the first available meeting thereafter.
- (d) Where a report or recommendations of the Scrutiny Board designated as the 'Crime and Disorder Committee' relate to a crime and disorder function or local crime and disorder matter, a copy shall be sent to each of the 'responsible authorities' and 'co-operating bodies' represented on the local Crime and Disorder Reduction Partnership.

16. Making sure that overview and scrutiny reports are considered by the Cabinet

Once an overview and scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of two months from the date the report was adopted by the Scrutiny Board. In such cases, the report of the Scrutiny Board shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the scrutiny report within two months then the matter can be referred by the Scrutiny Board to Council to consider the report and make a recommendation to the Cabinet.

17. Rights of Scrutiny Board members to documents

- (a) In addition to their rights as councillors, members of Scrutiny Boards have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny Boards as appropriate depending on the particular

matter under consideration.

18. Attendance by Cabinet Members and officers

- (a) Any Scrutiny Board 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 or any chief 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.

- (b) Where any member or officer is required to attend a Scrutiny Board under this provision, the chair of that board will inform the Head of Legal and Democratic Services. The Head of Legal and Democratic Services shall inform the member or officer in writing giving at least five 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 board. Where the account to be given to the board 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.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Scrutiny Board shall in consultation with the member or officer arrange an alternative date for attendance.

19. Attendance by Members of the Council

- (a) It be at the discretion of the Chair to allow a Member of the Council to address the meeting where a request to do so is made to the Chair prior to the commencement of the meeting.
- (b) A Ward Councillor shall be entitled to address the meeting for up to five minutes where prior notice has been given to the Chair and the item is one which has been specifically identified on the report as affecting that Member's Ward.
- (c) A Councillor shall be entitled to address the meeting in relation to an item which has been raised by that Councillor under the Councillor Call for Action procedures at Rule 12A above.

20. Attendance by others

- (a) A Scrutiny Board may invite people other than those people referred to in paragraph 18 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 attend.
- (b) The Scrutiny Board designated as the 'Crime and Disorder Committee' may require an officer of a 'responsible authority' or 'co-operating body' in relation to crime and disorder functions to attend a meeting to answer questions and provide information on a crime and disorder function or local crime and disorder matter. At least two weeks' notice must be given of the meeting date and the officer must attend unless they have a reasonable excuse for not attending.

21. Call-in of Decisions

- (a) When a decision is made by the Cabinet, an individual Cabinet Member, a committee of the Cabinet, an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the Town Hall, Halifax normally within 2 working days of being made. All members of Scrutiny Boards will be sent copies of the records of all such decisions within the same timescale, by the Head of Legal and Democratic Services.
- (b) 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 seven working days after the publication of the decision, unless it is called-in.
- (c) During that period, any three Members of the Council, one of whom must be a member of the Scrutiny Board within whose remit the decision falls may give written notice to the Head of Legal and Democratic Services of their wish to call-in an executive decision.
- (d) Upon receipt of a valid notice the Head of Legal and Democratic Services will in consultation with the chair call a meeting of the relevant Scrutiny Board giving five clear working days' notice of the meeting. Such meeting shall be held within seven working days of the receipt of the call-in notice.
- (e) If, having considered the decision, the Scrutiny Board is still concerned about it, then it may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns and financial implications or refer the matter to full Council. If referred to the decision

making body they shall then reconsider the decision, amending the decision or not, before adopting a final decision for implementation.

- (f) If following a call-in of a decision, the Scrutiny Board does not meet in the period set out above, or does meet but does not refer the matter back to the decision making body, the decision shall take effect on the date of the Scrutiny Board meeting, or the expiry of that further seven working day period, specified in para (d) above, whichever is the earlier.
- (g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no right to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making body, together with the Council's views on the decision. That decision making body 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 or a committee of it a meeting will be convened to reconsider the Council request.
- (h) If the Council does not refer the decision back to the decision making body, the decision will become effective on the date following the date of the Council meeting.
- (i) Where an executive decision has been taken by an area committee, then the right of call-in shall extend to any two members of another area committee if they are of the opinion that the decision made but not implemented will have an adverse effect on the area to which their committee relates. In such cases, those two members may give written notice to the Head of Legal and Democratic Services of their wish to call-in the decision. He/she shall call a meeting of the relevant Scrutiny Board and the provisions relating to call in shall apply as if the call in had been exercised by members of a relevant Scrutiny Board.

CALL-IN EXCEPTIONS

- (j) The call-in procedure set out above shall not apply:-
 - (i) where the decision being taken by the Cabinet, a committee of the Cabinet or an area committee or joint arrangements is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making body,

the decision is an urgent one, and therefore not subject to call-in.

- (ii) To decisions in relation to matters which have been the subject of a previous call-in.
- (iii) To decisions which require the approval of full Council.

22. Procedure at Scrutiny Board meetings

Scrutiny Boards shall consider the following business:

- (i) apologies for absence;
- (ii) substitutes appointed for this meeting;
- (iii) declarations of interest;
- (iv) consideration of whether the public should be excluded for any item of business;
- (v) minutes of the last meeting;
- (vi) deputations;
- (vii) consideration of any matter referred to the board for a decision in relation to call in of a decision;
- (viii) responses of the Cabinet to reports of the Scrutiny Board; and
- (ix) the business otherwise set out on the agenda for the meeting.

23. Matters within the remit of more than one Scrutiny Board

Where a Scrutiny Board conducts a review or scrutinises a matter which also falls within the remit of another Scrutiny Board, before submitting its findings to the Cabinet and/or Council for consideration, the reviewing Scrutiny Board shall consult with the other Scrutiny Board whose comments shall be incorporated into the report which is then sent to that body for consideration.