

## **Part E – Scrutiny**

### **Section E3:- Scrutiny Procedure Rules**

#### **In Part E:-**

**Section E1** contains information about the scrutiny function generally, and details of the Council’s Overview and Scrutiny Committees – Cheshire West and Chester Overview and Scrutiny Committee, People Overview and Scrutiny Committee and Places Overview and Scrutiny Committee (“The Committee”). Composition of the Scrutiny Committees is set out (including co-opted members) along with the terms of reference for the Overview and Scrutiny Committees.

**Section E2** sets out the roles and responsibilities of Scrutiny Members and Chairmen

**This Section (E3)** contains the Scrutiny Procedure Rules

## **Part E - Scrutiny**

### **Section E3:- Scrutiny Procedure Rules**

**In this Section:-**

#### **1. Constituting and Appointing Scrutiny Committee**

- Cheshire West and Chester Overview and Scrutiny Committee
- People Overview and Scrutiny Committee
- Places Overview and Scrutiny Committee
- Membership of the Scrutiny Committee
- Co-opted Members

#### **2. Reserve Members**

- Reserve Members list
- Using Reserve Members
- Powers and Duties of Reserve Members

#### **3. Task Groups**

#### **4. The Scrutiny Management Group**

#### **5. Work Programmes**

#### **6. Meetings and Conduct of Meetings**

- Meeting Dates and Calling Meetings
- Chairman and Deputy Chairman
- Quorum
- Matters for Decision
- Disorderly Conduct and Disturbance
- Requesting and Requiring Attendance by Others

## **7. Rules of Debate**

- Motions without Notice
- Motions During Debate
- Motions and Rescinding Resolutions
- Amendments and Alterations to Motions
- Withdrawal of Motions
- Closure of Motions
- Content and Length of Members' Speeches
- Only one Member to Speak at a Time
- Order of Speeches
- Right of Reply
- Points of Order and Personal Explanations

## **8. Voting**

- Method of Voting
- Casting Vote
- Recording Votes

## **9. Minutes Records and Disclosure of Information**

- Minutes
- Records of Attendance
- Exempt Matters

## **10. Rights of Other Council Members**

- Attendance at Committee
- Placing Items on the Agenda

## **11. Reports from the Scrutiny Committee**

## **12. Public Access to Meetings**

## **13. Notice and Information Relating to Meetings**

- Information Generated for Meetings
- Information about Future Meetings
- Information about Past Meetings
- Exempt Information

## **14. Public Speaking**

## **15. Calling In Decisions Contrary to the Budget and Policy Framework**

## **16. Call-In Procedures Relating to Cabinet Decisions**

- Timing of Call-in Hearings
- Pre-Hearing Meetings
- General Principles for Call-In Hearings
- Hearings Procedure
- Opening Statements
- Questions and debate by the Committee
- Conclusion of the debate
- Guidance on options available to the Committee
- Action Following a Hearing

## **17. Miscellaneous Matters**

- Scrutiny Members' Access to Information
- Party Whip
- Officer Advice
- Suspending the Procedure Rules

- Interpreting the Procedure Rules
- Notice Requirements
- Time Calculation Example

## **1. Constituting and Appointing Scrutiny**

### **Cheshire West and Chester Overview and Scrutiny Committee**

- 1.1 Council will constitute the Cheshire West and Chester Overview and Scrutiny Committee (the Scrutiny Committee) and appoint 9 Members to It.

### **People Overview and Scrutiny Committee**

- 1.2 Council will constitute the People Overview and Scrutiny Committee (the Scrutiny Committee) and appoint 9 Members to It.

### **Places Overview and Scrutiny Committee**

- 1.3 Council will constitute the Places Overview and Scrutiny Committee (the Scrutiny Committee) and appoint 9 Members to It.

### **Membership of the Scrutiny Committee**

- 1.3 Any non-Cabinet Member may be a member of the Scrutiny Committee. Committee Members may not take part in scrutinising a decision which they have been involved in.

### **Co-opted Members**

- 1.4 The People Overview and Scrutiny Committee will appoint co-opted Church and Parent Governor Representatives to sit on the Committee in line with statutory requirements. When the Committee considers education matters the co-opted members will have full voting rights.
- 1.5 The Places and People's Scrutiny Committees may appoint co-opted members taking into account any advice or guidelines issued from time to time by the Council.
- 1.6 Co-opted members (other than those referred to under paragraph 1.5 above) may be appointed in respect of a prescribed period or in relation to the consideration of specific matters.
- 1.7 Co-opted members appointed under paragraph 1.6 above will be entitled to participate fully in the work of the Committee (subject to any conflicts of interests) but will not be entitled to vote.

- 1.8 Youth Senet will be invited to send up to 2 representatives to the Scrutiny Committees under paragraph 1.6 above.

## 2. Reserve Members

### Reserve Member Lists

- 2.1 Each political group may in respect of the Members appointed by Council to the Scrutiny Committees or from within their Group (“**Appointed Members**”), identify other Members (“**Reserve Members**”) from within their political group who may attend Committees meetings in the place of the Appointed Members.
- 2.2 Each political group may keep a list (“**Reserve Members List**”) containing the name of each Reserve Member and, in respect of each Reserve Member, which Scrutiny Committees they may serve on.

### Using Reserve Members

- 2.3 A Reserve Member may only be drawn from the most recent Reserve Members List notified to the Monitoring Officer not less than 5 days before the date of the meeting in question.
- 2.4 Where a political group intends to vary its representation on a Scrutiny committee the Reserve Member will, at the start of the meeting and through the Chairman, inform the meeting which Appointed Member the Reserve Member will be substituting for.
- 2.5 Once a meeting is informed of the substitution, the Reserve Member will take the place of the Appointed Member and the Appointed Member’s entitlement to sit on the scrutiny committees will cease.
- 2.6 The Reserve Member will take the place of the Appointed Member only for the duration of the meeting in question, or any adjournment of it, following which the Appointed Member will resume their position on the Scrutiny Committees.

### Powers and Duties of Reserve Members

- 2.7 Reserve Members will have all the powers and duties (including compliance with any mandatory training requirements) of any Appointed Member but will

not be able to exercise any special powers or duties exercisable by the Appointed Member.

### **3. Task Groups**

- 3.1 The Scrutiny Committees may constitute such Task Groups that they consider necessary to undertake development and scrutiny functions including undertaking investigations and making recommendations.
- 3.2 Subject to the prohibition in paragraph 1.4 above, there will be no limitation on who may be appointed to a Task Group.
- 3.3 The Scrutiny Committees will endeavour to publish on the Council's website details of the membership and terms of reference of each Task Group and will require periodical progress reports from Task Groups.
- 3.4 Task Groups will be entitled to exercise all of the powers exercisable by their parent Scrutiny Committees.

### **4. The Scrutiny Management Group**

- 4.1 The Chairmen of the Scrutiny Committees will form a Scrutiny Management Group to manage and direct the Scrutiny process. The Group will meet 4 times a year. The Lead Directors for each scrutiny committee will be invited to the meetings.
- 4.2 The Scrutiny Management Group shall provide operational and strategic management of the scrutiny function's working practices and as such it is not required to meet in public. Its purpose is to:
  - (a) oversee and co-ordinate the work of the scrutiny committees.
  - (b) ensure effective liaison across the work of the Committees.
  - (c) be the strategic leader of the scrutiny function with a focus on developing the function and identifying best practice
  - (d) develop the Scrutiny Member role and identify training needs
  - (e) encourage appropriate community involvement in the scrutiny function



## **5. Work Programmes**

- 5.1 The Scrutiny Committees will be responsible for setting its own work programmes annually, in consultation with the Scrutiny Management Group and appropriate directors and with regard to any relevant consultation work that has been undertaken.
- 5.2 If a Scrutiny Committees wants to respond to any consultation notified to it by the Cabinet under the Budget and Policy Framework Setting process in Section C3 of the constitution, it will be responsible for taking any action considered necessary in order to be able to respond within the timescales set by the Cabinet.

## **6. Meetings and Conduct of Meetings**

### **Meeting Dates and Calling Meetings**

- 6.1 The Scrutiny Committees will meet a minimum of up to six times each year. The meetings will be programmed into the Council's meeting calendar.
- 6.2 Additional "special" meetings may be called by the Chairman or by any 5 Members of the Committee serving not less than 6 days' notice on the Monitoring Officer.
- 6.3 The Monitoring Officer may also call special meeting if he/she considers it necessary to do so.

### **Chairman and Deputy Chairman**

- 6.4 The Chairman will preside over meetings.
- 6.5 If the Chairman is absent then the Deputy Chairman will preside.
- 6.6 If the Chairman and the Deputy Chairman are absent then the committee will appoint one of its Members to preside.
- 6.7 Persons presiding over meetings in the place of the Chairman will have the same powers and duties as the Chairman.
- 6.8 Whenever the Chairman rises during a debate the meeting will be silent.

## **Quorum**

- 6.9 No business will be transacted at a meeting of the Committee where there are less than 5 Members present.
- 6.10 If a meeting becomes inquorate after it has commenced then it will be adjourned. Remaining business will be considered at the next meeting.

## **Matters for Decision**

- 6.11 All matters for decision will be included within the agenda.
- 6.12 There will be an early item on every agenda requiring Members to declare any relevant interests in any item appearing on the agenda. Members are required to observe the requirements in the Member Code of Conduct (Section G1) and withdraw from the meeting room at the appropriate point during the meeting where they have an interest which requires them to do so.
- 6.13 The Chairman may agree that an item of business which is urgent will be dealt with at a meeting even if it is not on the agenda for that meeting. The Chairman will give the reason for the urgency.
- 6.14 Business will be dealt with in the order in which it is set out in the agenda unless the Chairman decides otherwise.

## **Disorderly Conduct and Disturbances**

- 6.15 The Chairman may direct (or a Member may move), in respect of any Member considered to be misconducting themselves, that the Member will not be heard further.
- 6.16 The Chairman may direct (or a Member may move), either following a direction (or resolution) under paragraph 6.15 above, or directly in the case of gross misconduct, either:-
- (a) that the Member in question leaves the meeting; or,
  - (b) that the meeting is adjourned

- 6.17 The Chairman, in the event of a general disturbance at any meeting which s/he considers to be disrupting the orderly transaction of business, may adjourn the meeting for as long as is considered necessary.
- 6.18 The Chairman will be at liberty to warn any member of the public in respect of their conduct at a meeting. In the case of persistent or gross misconduct the Chairman will be at liberty to direct any person to be removed from the meeting.
- 6.19 In the event of a general disturbance in any part of the meeting room open to the public, the Chairman will be at liberty to direct that part of the room to be cleared.

### **Requesting and Requiring Attendance by Others**

- 6.20 The Scrutiny Committees may invite individuals who are not Members or Officers to discuss issues of local concern and/or answer questions. It may, for example wish to hear from residents, stakeholders, partners or members and officers of other public bodies.
- 6.21 The Scrutiny Committees may require the attendance of representatives of organisations in accordance with the provisions of the Local Government Act 2000 (as amended).
- 6.22 The Scrutiny Committees may require any Member, the Chief Executive and/or any other Senior Officer to attend meetings of the Committee to answer questions and be held to account in relation to:
- (a) any particular decision or series of decisions
  - (b) the extent to which any actions taken implement Council policy
  - (c) their performance
- 6.23 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, the Chairman will try to arrange an alternative date.
- 6.24 Cabinet Members will not be expected to attend meetings of the Scrutiny Committees, or Task Groups unless invited.

6.25 Members attending Scrutiny meetings must have regard to Member Code of Conduct in relation to deemed personal and prejudicial interest which arises in scrutinising any decision that they have been involved in, and in relation to the circumstances in which they may nevertheless be able to address a The Scrutiny Committees.

## **7. Rules of Debate**

7.1 The following rules of debate will apply but the Chairman will be at liberty to apply a more informal style of debate to suit any particular meeting. The Chairman will ultimately determine all matters relating to the conduct of the debate when any informal style of debate is applied.

### **Motions Without Notice**

7.2 Only Motions relating to business on the agenda of the committee may be proposed.

7.3 A committee Member may propose Motions without notice but they will not be discussed unless seconded.

7.4 The Chairman may require Motions to be handed up in writing before they are further discussed or put to the meeting.

### **Motions During Debate**

7.5 The following Motions may be moved whether or not another Motion is already under debate:-

- (a) to give the consent of the committee where the consent of the committee is required by these Procedure Rules
- (b) any Motion relating to any item currently under discussion
- (c) to refer the matter to an appropriate body, individual or subsequent committee meeting
- (d) to withdraw a Motion
- (e) to amend a Motion
- (f) to proceed to the next business

- (g) to put the question
- (h) to adjourn the debate
- (i) to adjourn the meeting
- (j) to extend the time allowed for speeches
- (k) to suspend a particular Procedure Rule(s)
- (l) to exclude the press and public
- (m) that a Member who misconducts themselves should not be heard further
- (n) that a Member should leave the meeting

### **Motions and Rescinding Decisions**

7.6 Unless brought upon recommendation in a report before the committee, no Motion will be moved which would have the effect of rescinding any decision of the committee passed within the preceding six months, or which is to the same effect as a Motion which has been rejected within that period.

### **Amendments and Alterations to Motions**

7.7 An amendment must be relevant to the Motion under discussion and will have the effect of deleting, substituting or adding words to the original Motion.

7.8 Amendments may not be moved if they will have the effect of negating the Motion before the committee.

7.9 Only one amendment may be moved at a time. No further amendment will be moved until the amendment under discussion has been disposed of, although the Chairman may allow two or more amendments to be discussed (but not voted on) together if this would facilitate the proper conduct of the business before the meeting.

7.10 If an amendment is lost, another amendment may be moved on the original Motion.

- 7.11 If an amendment is carried, the Motion as amended will take the place of the original Motion and will become the Motion upon which any further amendment may be moved.
- 7.12 After an amendment had been carried, the Chairman will read out the amended Motion before accepting any further amendments, or if there are none, putting it to the vote.
- 7.13 A Member may alter a Motion which they have proposed but if seconded, the consent of the seconder and the committee is required.
- 7.14 Any alteration proposed must be of the type permitted to be moved as an amendment.

### **Withdrawal of Motions**

- 7.15 A Member may withdraw a Motion which they have proposed

### **Closure of Motions**

- 7.16 At the conclusion of a Member's speech, another Member may move (without comment) any of the Motions set out in paragraph 7.5(f) to (i) inclusive.
- 7.17 Upon the seconding of a Motion under paragraph 7.5(f) above (to proceed to next business), the Chairman will (unless of the opinion that the matter has not been sufficiently discussed) invite the right of reply to be exercised in respect of the Motion under discussion and then put it to the vote before proceeding to the next business.
- 7.18 Upon the seconding of a Motion under paragraph 7.5(g) above (to put the question), the Chairman will (unless of the opinion that the matter has not been sufficiently discussed) put the Motion under paragraph 7.5(g) above to the vote and, if it is passed, invite the right of reply to be exercised in respect of the Motion under discussion before putting it to the vote.
- 7.19 Upon the seconding of a Motion under paragraphs 7.5(h) or (i) above (to adjourn the debate or meeting), the Chairman will (unless of the opinion that the matter has not been sufficiently discussed) put the adjournment Motion to

the vote without inviting the right of reply to be exercised in respect of the Motion under discussion.

### **Content and Length of Member Speeches**

7.20 Members will confine speeches to the question under discussion, a personal explanation or a point of order. No speech will exceed 5 minutes, without the consent of the committee. The five minute time limit will exclude any time lost as a result of other Members rising on a point of order or personal explanation.

### **Only One Member to Speak at a Time**

7.21 Whilst a Member is speaking the other Members will remain silent unless intervening on a point of order or in personal explanation.

### **Order of Speeches**

7.22 The proposer of a Motion will speak first, followed by the Seconder. When seconding a Motion a Member may advise the Chairman that they reserve their right to speak until later in the debate.

7.23 If two or more Members indicate their intention to speak, the Chairman will determine the order of speeches

### **Right of Reply**

7.24 The Mover of the Motion will have a right to reply at the close of the debate on the Motion, immediately before it is put to the vote.

7.25 If an amendment is moved, the Mover of the original Motion will have a right of reply at the close of the debate on the amendment.

7.26 The Mover of the amendment will have a right of reply to the debate on the amendment immediately before the Mover of the original Motion exercises their right of reply at the close of the debate.

### **Points of Order and Personal Explanations**

7.27 A Member may intervene on a point of order or in personal explanation and will be entitled to be heard immediately.

7.28 A point of order will relate only to an alleged breach of a Procedure Rule or statutory provision and the Member will specify the Procedure Rule or statutory provision and the way in which they consider it to have been breached.

7.29 A personal explanation will be confined to some material part of a former speech by the intervening Member which appears to them to have been misunderstood in the current debate.

7.30 The ruling of the Chairman a point of order or on the admissibility of a personal explanation will be final and not open to discussion.

## **8. Voting**

### **Method of Voting**

8.1 All matters will be decided by a simple majority of those Members present and voting in the room at the time the question is put.

8.2 Members must be in their designated seats for their vote to be counted.

8.3 Voting will be by a show of hands, or if there is no dissent and no call for a vote, by the Chairman being satisfied of the unanimous approval of the meeting.

### **Casting Vote**

8.4 Where there are equal votes cast for a Motion, the Chairman may exercise a second or casting vote.

### **Recording Votes**

8.5 A Member may require, after a vote is completed, that the Minutes of the meeting record whether and how they voted.

8.6 If one third of the Members present so request the vote will be recorded to show whether and how each Member voted.

8.7 A Member may, immediately after the item of business is voted upon, request that a lost Motion be recorded in the Minutes.



## **9. Minutes Records and Disclosure of Information**

### **Minutes**

- 9.1 At each ordinary meeting the Chairman will move that the Minutes of the last meeting be confirmed as an accurate record.
- 9.2 Only matters relating to the accuracy of the Minutes can be raised by way of a Motion proposed, seconded and voted upon. Where no issues are raised, or after any Motion has been dealt with, the Chairman will sign the Minutes
- 9.3 Signed minutes of each committee meeting will be submitted to the next meeting of that committee's parent body.
- 9.4 Any question about the accuracy of any Minute of a body must be considered and determined by that body at its next meeting.

### **Records of Attendance**

- 9.5 Council Members attending the whole or part of a meeting must sign their name on the attendance sheet provided.

### **Exempt Matters**

- 9.6 No Member will disclose to any person the whole or any part of the contents of any agenda, report or other document which is marked "confidential" or "not for publication" unless and until the document has been made available to the public or the press by or on behalf of the Council, the Cabinet or a Committee.
- 9.7 No Member will disclose the content of any discussions in the confidential part of a meeting.
- 9.8 No Member will disclose to any person (other than a Member of the Council with a need to know) any matter arising during the proceedings of the Council, the Cabinet or any Committee and which comes to their attention by virtue of their office as a Member where such disclosure would prejudice the interest of the Council or would be contrary to law. If in any doubt advice should be sought from the Monitoring Officer.
- 9.9 Other than in accordance with paragraphs 6.18 and 6.19 above (disturbances), the press or public will only be excluded from a meeting during

the consideration of any item of business which would be likely to disclose Exempt Information as defined in these rules.

## **10. Rights of Other Council Members**

### **Attendance at Committee**

10.1 Notwithstanding their rights as a member of the public, Members who are not Appointed Members of the Committee (“ **ie: Visiting Members**”) may attend any meeting of a committee (even if considering Exempt Information) if required for the purposes of performing their duties as Members. As in 6.24 Cabinet Members will not be expected to attend, unless invited. Advice should be taken where meetings will be considering personal information of a sensitive or confidential nature.

10.2 Visiting Members:-

- (a) may not vote on committee business
- (b) will notify the Chairman before the start of the meeting, if they wish to speak on a particular item
- (c) will, at the discretion of the Chairman, be invited to speak at the beginning of the debate on any item notified under paragraph 10.2(b) above, and be invited to sum up at the end of a debate.
- (d) will not, other than as provided for in paragraph 10.2(c) above or by the Chairman, be permitted to participate in any debate at the meeting.

### **Placing Items on the Agenda**

10.3 Any Member of the Council (having due regard to any relevant guidance) will be entitled to have a matter relevant to the remit of the Scrutiny Committee placed on its next available meeting agenda by serving not less than 14 days’ notice on the Monitoring Officer.

10.4 Notice may be given to the Monitoring Officer by a Visiting Member at a Scrutiny Committee meeting in respect of an item of business that the Visiting Member would like to be included on the agenda of the next ordinary meeting of that Scrutiny Committee.

- 10.5 Any notice given under paragraphs 10.3 or 10.4 above will clearly state the nature of the business in question.
- 10.6 A Member may not (unless a Scrutiny Member acting under Section 21(8) of the Local Government Act 2000) give notice(s) under this part requesting the inclusion of more than one item of business on the same meeting agenda
- 10.7 Council or the Cabinet may require a Scrutiny Committee to consider a matter and report.
- 10.8 If a matter referred to it under paragraph 10.3, 10.4 or 10.7 above cannot be dealt with at the meeting in question, the Scrutiny Committee, will schedule the matter into their Work Programme as soon is reasonably practicable.

## **11. Reports from the Scrutiny Committee**

- 11.1 Once it has formed recommendations as a result of a scrutiny review, a Scrutiny Committee may prepare a formal report and submit it for consideration by the cabinet/individual Portfolio Holder (if the proposals are consistent with the existing budgetary and policy framework), or to the Council (or Cabinet and Council) as appropriate (e.g. if the recommendation would require a departure from, or a change to, the agreed budget and policy framework) or to relevant partner organisations.
- 11.2 If the Scrutiny Committee cannot agree on one single final report then one minority report may be prepared and submitted for consideration with the majority report.
- 11.3 Scrutiny reports will be considered by the receiving body within two months of being submitted. Where a report relates to, and makes recommendations about or to an external organisation, the report will be sent to that organisation asking for comments on the recommendations.
- 11.4 Responses from receiving bodies will be given to the Scrutiny Committees. The Committees will arrange for any follow up work required as necessary.

11.5 The Scrutiny Committees will produce annual reports which together will form the overall Overview and Scrutiny Annual report presented to the final Council meeting of each municipal year.

## 12. Public Access to Meetings

12.1 Committee meetings will be ordinarily be held in public unless the information to be discussed:-

- (a) cannot be discussed in public without risk of breaching a duty of confidence that the authority is under (usually because the information to be discussed was supplied in confidence or is subject to a court order prohibiting its disclosure); and/or,
- (b) is exempt from disclosure under Schedule 12A of the Local Government Act 1972, the Freedom of Information Act 2000, the Data Protection Act 1998, the Human Rights Act 1998 or any other legislation relating to the prevention of disclosure of information.

12.2 If all (or upon decision part) of any committee meeting is held in with the exclusion of the press and public, reasons for the need for such exclusion will be given by reference to any or all of the relevant circumstances referred to in paragraph 12.1(a) and/or (b) above.

## 13. Notices and Information Relating to Meetings

### Information Generated for Meetings

13.1 Committee meetings will require the production and publication of the following written information (“**Meeting Information**”):-

- (a) meeting agendas (“**Agendas**”), setting out the business to be decided at a meeting
- (b) reports (“**Reports**”), (including any appendices or supplementary information) containing all of the information that the meeting needs to debate or decide a matter on the agenda
- (c) background documents (“**Background Documents**”), which are documents (that have not already been published) containing

information that a report or a material part of a report is based on. These are listed in reports but are not usually presented to the meeting.

- (d) approved minutes, record of decisions or (where Exempt Information is discussed) a summary of proceedings and any decisions reached (“Minutes”)

### **Information about Future Meetings**

13.2 The Monitoring Officer will normally give not less than 5 days’ notice of all meetings stating the nature of the meeting and the time and place where it will be held. If a meeting must be convened on shorter notice such notice will be given at the time the meeting is convened.

13.3 The Monitoring Officer will give notice under paragraph 13.2 above:-

- (a) to all members of the body to which the notice relates; and, in respect of all meetings which are ordinarily held in public, by:-
- (b) displaying a copy of the notice at the Council’s principal office; and,
- (c) making details of the meeting available on the Council’s website

13.4 The Monitoring Officer will normally provide, not less than 5 days prior to a meeting, Agendas and Reports by:-

- (a) providing the same to all members of the body in question; and, in respect of all meetings which are ordinarily held in public, by:-
- (b) publishing the same on the Council’s website; and,
- (c) ensuring that copies are available at the meeting in question

13.5 Where a report to be considered at a meeting is not available for publication with an agenda, the agenda item will be marked “Report to Follow” and the report (or any other updates or supplementary information) will be provided when available in accordance with paragraph 13.4 above.

### **Information about Past Meetings**

13.6 The authority will retain:-

- (a) Background Documents for a period of 4 years after the date of the meeting; and,
- (b) all other Meeting Information for a period of 6 years from the date of the meeting.

13.7 This information will usually be available on the authority's website but will also be provided in print on request. There may be a fee payable to cover the cost of providing printed information.

### **Exempt Information**

13.8 Meeting Information relating to the parts of meetings described in paragraphs 12.1(a) and (b) above is referred to as "**Exempt Information**" in this constitution.

13.9 Exempt Information provided to Members will be marked "Not for Publication" and/or "Confidential" and/or "Restricted" and will have written on it, by reference to any or all of the relevant circumstances referred to in paragraph 12.1(a) and/or (b) above, the reason why it is Exempt Information.

13.10 Exempt Information will not be provided to the public.

## **14. Public Speaking**

14.1 Members of the public may speak or ask a question at committee meetings on any subject that relates to the agenda and within the terms of reference of the committee.

14.2 Persons wishing to speak or ask a question are requested to give notice to the Director of Governance at least three days before the meeting in question.

This is to ensure that:-

- (a) the topic is appropriate for the meeting in question;
- (b) the time allotted for public speaking and questions can be properly managed; and,

- (c) any information needed to answer a question can be provided to the meeting

14.3 The Chairman will retain sole discretion as to the management of public speaking and questions but in most cases a total period of 15 minutes will be permitted with speakers being allowed to speak for up to 5 minutes each.

14.4 Questions will be asked and answered without debate.

14.5 In responding to questions Members may:-

- (a) decline to answer
- (b) agree to answer at or by a later (specified) date (whether or not in writing)
- (c) refer the question to a more appropriate forum, Member or Officer

14.6 Questions will not be answered if they:-

- (a) are about a matter that the committee is not responsible for or does not affect the borough
- (b) are offensive, defamatory or frivolous
- (c) require the disclosure of Exempt Information
- (d) make or relate to allegations against, or comprise comments about the conduct of individual Members or Officers.

14.7 Those speaking or asking questions must comply with the standard of conduct required of them under Section A3 of the constitution.

## **15. Calling in Decisions Contrary to the Budget and Policy Framework**

15.1 If at least five members of the Scrutiny Committee consider that a decision contrary to the Budget and Policy Framework has been or will be taken, it may give notice (with reasons) on the Monitoring Officer requiring advice on the matter to be given.

15.2 Upon receipt of a notice given under paragraph 15.1 above, the Monitoring Officer will provide a report to the decision taker (copied to every Member of the Council) advising that the decision either:-

- (a) is; or,
- (b) is not

in accordance with the Budget and Policy Framework.

15.3 In the case of paragraph 15.2(a) above, no further action is required.

15.4 In the case of paragraph 15.2(b) above, if the decision has been implemented then the person or body that took the decision decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council

15.5 In the case of paragraph 15.2(b) above, if the decision is yet to be made or implemented then the decision taker will give notice on the Monitoring Officer stating that they either:-

- (a) are not minded to proceed with the decision (in which case no further action is required); or,
- (b) are minded to proceed with the decision notwithstanding the advice contained in the report.

15.6 In the event of paragraph 15.5(b) above, and subject to the urgency procedures set out in paragraph 7.3 of Section C3, no further action will be taken in respect of the decision or its implementation until Council has met and considered the matter.

15.7 Council will meet to consider the matter as soon as is reasonably practicable and may:-

- (a) endorse the decision or proposal as falling within the Budget and Policy Framework
- (b) endorse the decision or proposal (either with or without amendment) notwithstanding it is considered to be contrary to the Budget and Policy Framework (and make any amendments to the Budget and Policy Framework considered appropriate)
- (c) veto the decision (with or without recommending or deciding on an alternative course of action)



15.8 In the case of paragraph 15.7(a) or (b) above the decision may then be implemented (with any amendments proposed in the case of paragraph 15.7(b))

## **16. Call-In Procedures Relating to Cabinet Decisions**

16.1 Where a Notice of Call-in has been validly given under Section C3, the Monitoring Officer will refer the matter to the Overview and Scrutiny Committee for the call-in to be heard.

### **Timing of Call-in Hearings**

16.2 The Scrutiny Committee will endeavour to hold hearings as soon as is reasonably practicable, and in the case of collective Cabinet decisions, in good time to report to the next scheduled meeting of the Cabinet. A special meeting(s) of the Committee will be convened for these purposes if required.

### **Pre-Hearing Meeting**

16.3 The Scrutiny Committee may invite those exercising the right of call-in (the “Call-in Members”) and any or all of the decision taker, Leader, Portfolio Holder(s) and any advising officer(s)(the “Respondent”) to attend an initial informal meeting to consider matters relating to the conduct of the call-in hearing including:-

- (a) the scope of the call-in
- (b) the number and identity of any witnesses required
- (c) the scope or nature of documents to be considered
- (d) the likely number and duration of any meetings required to properly consider the matter

### **General Principles for Call-In Hearings**

16.4 The Chair will retain full discretion to conduct a Call-In as s/he sees fit, however the following procedure will ordinarily apply (and shall be published in the meeting agenda).

- (a) Call-in Members are requested to nominate a single spokesperson to outline the reasons for the call-in and the desired outcome. Any other Member calling in the decision who wishes to add any additional information may also address the meeting. However, Call-In Members will make every effort to avoid repetition. A maximum of 5 Call-In Members will be permitted to speak.
- (b) The timings set out in the procedure are for guidance only and the Chair may at his or her discretion change the timings, depending on the subject matter of the Call-In and the level of public interest.
- (c) Where questions are permitted within the procedure, they will be asked and answered succinctly and will not be used as an opportunity to deliver speeches. Officers may be invited to attend with the Respondent, who will usually be the Cabinet Member, and may also address the meeting on technical issues (if requested to do so by the Cabinet Member).
- (d) Visiting Members:-
- i. may not vote on committee business;
  - ii. will notify the Chairman before the start of the meeting, if they wish to speak on a particular item;
  - iii. will, at the discretion of the Chairman, be invited to speak at the beginning of the Call-In and may be invited to sum up at the end of a debate, at the Chairman's discretion.
  - iv. will not, other than as provided for in paragraph 16.4(c) above or by the Chairman, be permitted to participate in any debate at the meeting.
- (e) The Call-In Members or the Respondent will confirm their attendance at the Call-In hearing and must notify the Chair at least 3 working days prior to the date scheduled for the Call-In hearing if they propose to call witnesses or introduce documentary or other evidence in support of their case, including details of the proposed format of the evidence. The Chair will in consultation with the Director of Governance and the Governance manager consider the appropriateness of the proposals to the subject matter of the Call-In and the

impact on arrangements for the hearing itself, including the indicative timescales set out in the procedure.

## **Hearings Procedure**

16.5 Subject to the Chairman's discretion, the procedure for hearings will be as follows

### **Opening statements**

(a) The Lead Call-in Member will address the meeting outlining (a) the reasons for the Call-In; and (b) the desired outcome from the Call In. The reasons given will be consistent with those set out in the Notice of call-in (or any changes agreed under Section 16.3).

The Call In Members as a group to be allocated a maximum of 30 minutes speaking time in total.

(b) Visiting Members (who have provided notice) may address the Committee at this point.

Visiting members to be allocated a maximum 15 minutes speaking time in total – up to 5 minutes per Member.

(c) Cabinet Member will respond to the Call In. The Cabinet may call witnesses at this point.

The Cabinet Member and any witnesses to be allocated a maximum of 30 minutes speaking time in total.

(d) The Call-In Members may ask questions of the Cabinet Member.

A maximum 15 minutes in total to be allocated for this part of the meeting.

### **Questions and debate by the Committee**

(e) The Committee may ask questions of the Cabinet Member and Call-In Members and debate what it has heard.

A maximum 30 minutes in total to be allocated for this part of the meeting.

### **Conclusion of the Debate**

(f) Concluding remarks from the Lead Call-in Member.

A maximum 15 minutes in total to be allocated.

- (g) Concluding remarks from Cabinet Member(s)  
A maximum 15 minutes in total to be allocated.
- (h) Committee to discuss what it has heard and may make any recommendations to the Cabinet Member or Cabinet.  
A maximum 15 minutes in total to be allocated.

#### **Guidance on options available to the Committee;**

- (i) The Committee may decide that the original Cabinet/Cabinet Member decision stands.
- (j) The Committee may wish to make a recommendation(s) which change the substantive decision which will be referred back to Cabinet or the Cabinet Member for consideration.
- (k) The Committee may wish to offer advice or make any recommendations which do not change the substantive decision. (For example: establish a cross party working group; how the decision making process could have been improved on for the future and suggestion relating to consultation and engagement improvements). The Cabinet Member in attendance may agree to accept the advice or recommendation(s).

#### **Action following a Hearing**

- 16.6 As soon as is reasonably practicable]following the hearing of a call-in, the Chairman will give notice on the Monitoring officer either;
- (a) that the Committee is not offering any advice or any advice that needs to be considered before a relevant decision(s) can be implemented; or
  - (b) that the Committee is offering advice in a report accompanying the notice that it requires the decision taker to consider before any further action is taken.
- 16.7 In the event of a notice under paragraph 16.7(a) above, any decision awaiting implementation may be implemented immediately, and any advice offered is to be noted.
- 16.8 In the event of a notice under paragraph 16.7(b) above the report will be submitted to the decision taker who will decide what action to take in respect of any decision awaiting implementation or to be taken and whether to adopt any or all of the advice contained in the report.

16.9 Any further call-in notices given in respect of a decision that has been considered under this process will not operate to defer the implementation of the decision in question.

## **17 Miscellaneous Matters**

### **Scrutiny Members' Access to Information**

17.1 With the exception of documents in draft form, the Scrutiny Committees will be entitled to copies of any document which is in the possession or control of the Cabinet or its committee and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Cabinet or its Committees; or
- (b) any decision taken by an individual Member of the Cabinet.

### **Party Whip**

17.2 It is generally accepted that the Party Whip should be suspended in respect of scrutiny matters. However, when considering any matter in respect of which a Scrutiny Member is subject to a formal party whip, the Member must declare the existence of the whip and the nature of it before the commencement of the deliberations on the matter. Declarations will be recorded in the Minutes of the meeting.

17.3 A Party Whip is any instruction given by or on behalf of a political group to any Member who is a member of that group as to how that Member will speak or vote on any matter before the Council or any Committee, or the application or threat to apply any sanction by the group in respect of that Member should s/he speak or vote in any particular manner.

### **Officer Advice**

17.4 The Chairman may request an appropriate Officer to offer advice or draw the attention of the committee to any relevant factors where a debate involves questions of a technical, legal, financial or operational/administrative nature.

## **Suspending the Procedure Rules**

17.5 With the exception of paragraphs 8.5 and 9.1 above,<sup>1</sup> any or all of these Procedure Rules may be suspended for the duration of a meeting without notice where suspension is moved at a meeting provided at least one third of the committee's Members are present.

## **Interpreting the Procedure Rules**

17.6 The Chairman (who will be entitled to take advice from the Monitoring Officer) will determine all matters relating to the interpretation or application of these Procedure Rules which arise during a meeting. The Chairman's decision will be final.

17.7 The Monitoring Officer will determine all matters relating to the interpretation or application of these Procedure Rules which arise between meetings. The Monitoring Officer's decision will be final.

17.8 Any requirement to make a notice or information available to anyone will be fulfilled by publishing that information on the Council's website such that it is readily available to be viewed or printed off from the website and, if necessary, printed off at council offices to be given to personal callers in hard copy.

17.9 References in these Procedure Rules to an Officer will include references to any duly authorised representative of that Officer.

17.10 References in these Procedure Rules to Members will (unless the context requires otherwise) be taken to mean references to Members of the committee in question.

17.11 References in these Procedure Rules to Motions, will include (where the context so requires or admits) references to amendments to Motions.

17.12 References in these Procedure Rules to Committees will be taken to include, panels or boards of the committee in question.

---

<sup>1</sup> Rules required by statute (right to require individual vote to be recorded and no obligation to sign minutes of a previous meeting at an Extraordinary (Special) Meeting.

17.13 Reference in these Procedure Rules to a day or days will be taken to mean between the hours of 9.00 and 17.00 on any day that is not a Saturday, Sunday or public holiday.

17.14 References in these Procedure Rules to a period of days that is to elapse between the occurrence of two specified events will be taken to mean clear days calculated by excluding the day upon which both of the specified events occur.

### **Notice Requirements**

17.15 All notices given by Members under these Procedure Rules will be treated as having been given to the recipient by any of the following means:-

- (a) post properly addressed to the recipient at their usual business address
- (b) leaving it properly addressed for the recipient at their usual business address
- (c) e-mail sent to an email address designated by the recipient for this purpose from an email account registered with the Council in the Member's name
- (d) facsimile transmission properly addressed to the recipient at their usual business address
- (e) submitting a form on the Council's website designated for this purpose

17.16 All Notices given to Members under these Procedure Rules will be treated as having be given to the recipient by any of the following means:-

- (a) post properly addressed to the recipient at their usual address (being their usual place of residence or any other address which the Member has given notice to the Monitoring Officer of for these purposes)
- (b) leaving it properly addressed for the recipient at their usual address or if requested (by notice given to the Monitoring Officer) either in addition or substitution for the methods set out in paragraph 17.16(a) and (b) above, by:-

- (c) e-mail sent to an email account registered with the Council in the Member's name from an email account registered to the Council

17.17 All Notices given under these Procedure Rules must be given in writing, contain all of the information that is reasonably required in order to properly communicate the purpose and effect of the notice, and be signed (which will include electronic signatures) by the person or persons required to give the notice in question.

17.18 If more than one signatory is required to give valid notice, any single notice given must bear the signatures of all the necessary signatories and be given in accordance with paragraph 17.15(a) or (b) above. In the alternative, each of the required signatories may give individual notices in accordance with paragraph 17.15(c), (d) or (e) above.

17.19 Notices will be deemed to have been given:-

- (a) in the case of paragraphs 17.15(a) or 17.16(a) above, on the day upon which delivery would ordinarily occur in the normal course of the method of post chosen (provided proof of posting is available)
- (b) in the case of paragraphs 17.15(b) or 17.16(b) above, on the day upon which the notice is left
- (c) in the case of paragraphs 15.15(c) to (e) above, on the day upon which receipt is acknowledged otherwise than by any automated process
- (d) in the case of paragraph 15.16(c) above, on the day upon which notice is sent

### **Time Calculation Example**

17.20 The following example is provided to demonstrate the effect of paragraphs 17.13 and 17.14 above. In the following example, it is assumed that none of the weekdays referred to are public holidays.

17.21 If a notice is required to be given 5 days before a meeting, then the giving of the notice and the meeting are the two specified events for the purposes of paragraph 17.14.



17.22 Assuming the meeting is to be held on a Monday, then the latest a notice may be given is on the first of the two preceding Fridays, between 09.00 and 17.00 hours.

17.23 If so given, the Friday upon which the notice is given ranks as the day upon which the first event occurs for the purposes of paragraph 17.14. The 5 week days in the ensuing week then rank as the required 5 “clear days” between giving the notice and day upon which the meeting is being held.

Fri	Sat	Sun	Mon	Tues	Weds	Thurs	Fri	Sat	Sun	Mon
Notice Given	Not counted	Not Counted	Clear Day 1	Clear Day 2	Clear Day 3	Clear Day 4	Clear Day 5	Not Counted	Not Counted	Meeting