

**CABINET**

**6 JUNE 2012**

## **REVIEW OF THE COUNCIL'S EXECUTIVE AND COMMITTEE ARRANGEMENTS**

### **Joint Report of the Chief Executive and the Executive Director of Commercial and Corporate Services**

#### **1.0 Purpose of the Report**

- 1.1. To address consequential changes required to reflect requirements of the Localism Act 2011 regarding overview and scrutiny which have now been brought into force, and to reflect decisions made by the Leader and the Council to make changes to Executive and Committee arrangements, and to amend the constitution accordingly.

#### **2.0 Description of Decision**

- 2.1 To recommend Council:-

- a) To amend the Constitution as set out in this report in order to
  - reflect changes to support arrangements for Cabinet, and the number of Scrutiny Committees and to take account of provisions relating to Overview and Scrutiny introduced by the Localism Act 2011.
  - provide for a Human Resources Committee comprised of 12 members, to exercise functions in relation to appointments as provided for by the Employment Procedure Rules and non-executive functions relating to human resources and pensions that are not otherwise delegated.
- b) To appoint members to the Human Resources Committee, and;
- c) To authorise the Head of Law and Governance to make such other consequential changes that are required to the Constitution to ensure consistency with the approval of the matters set out in a) and b) above.

#### **3.0 Introduction/Background**

- 3.1 At its meeting on 16 May 2012, Annual Council approved changes to the Executive and Committee arrangements within the Council including the arrangements for support to Cabinet, the number of Scrutiny Committees, the strengthening of leadership arrangements for Area Committees and disestablishment of Personnel Committee.

- 3.2 It is necessary to amend the Council's Constitution in order to reflect these changes and those made by the Leader regarding distribution of portfolio responsibilities, together with amendments to the Overview and Scrutiny provisions, in order to reflect new legislative requirements of the Localism Act 2011.
- 3.3 In addition, it was recognised in the report to Annual Council, that with the disestablishment of Personnel Committee, there was a need to establish alternative arrangements for the exercise of those functions that are not to be the responsibility of the Executive, such as functions relating to the appointment of chief officers and approval of policies which relate to non-executive matters, including pensions.

#### **4.0 Proposals**

The proposed changes are set out below:-

##### **4.1 Scrutiny**

##### **4.2 Amend Part 2 – Articles of the Constitution – Article 6 – Overview and Scrutiny, to read as set out at Appendix A.**

Consequential amendments are required to reflect the decision taken by Council on 16 May 2012 to refocus its Scrutiny arrangements, reduce the seven current Scrutiny Committees to one Scrutiny Committee with one Vice Chair and six Scrutiny Leads, each with a designated remit, and to establish a Scrutiny Panel made up of all non-Executive members, from which individual members are allocated to one or more Scrutiny themes.

##### **4.3 Amend Part 4 Rules of Procedure – Section 5 Overview and Scrutiny Procedure Rules to read as set out at Appendix B**

In addition to consequential amendments that must be made to reflect the decisions noted at 4.2 above, further changes are required to reflect the new requirements of the Localism Act. These include;

- A new notice procedure for Scrutiny committee to refer its report or recommendations to the Council or to the Executive,
- A similar notice procedure for the Scrutiny Committee to refer its report or recommendations to a partner organisation,
- Provisions regarding publication of reports or recommendations and reports back to the member submitting the item for consideration,
- A requirement in the Act that the Executive arrangements include provision for any member of the Scrutiny Committee to refer a matter to the committee,
- A similar requirement to maintain arrangements enabling any member of the Council to refer a relevant matter to the Scrutiny Committee,

- Provision for parent governor representatives to serve as co-opted members of the Scrutiny Committee, entitled to vote on matters relating to education functions only. The amendment provides for two representatives, in place of the current provision for five, in view of the wider remit of the new Scrutiny Committee, as compared to the former Children, Young People and Learning Scrutiny Committee.
- Specific reference is made to the Overview and Scrutiny responsibilities for Health and Wellbeing, Crime and Disorder, and flood risk.

#### 4.4 **Executive**

#### 4.5 **Amend Part 2 – Articles of the Constitution – Article 7 – The Executive**

Additional provision is necessary to reflect the decision of the Leader to make changes in the size, composition and responsibilities of the Cabinet, and the Council to appoint five members to provide policy support to the Cabinet. The portfolio responsibilities will be reflected in the Constitution as reported to Annual Council, save that the Leader has given notification that the portfolio for Health, Housing and Adult Services will include *“To provide leadership in ensuring that the Council’s strategic and statutory roles in relation to housing are met and deliver the homes that meet the current and future needs of the City.”*

In respect of Policy Members, the amendment proposed is to insert the following additional text at Article 7.06 and renumber accordingly:

##### **7.06 Policy Members**

*The Council shall appoint five Policy Members to assist the work of the Cabinet. The Policy Members are not members of the Executive and are not entitled to vote at meetings of the Executive. At the request of the Leader or of a Portfolio Holder, they may attend on their behalf at meetings of the Executive, other meetings and events.*

*The responsibilities of the Policy Members shall be:-*

- *To have a core role in adding capacity to one of the following portfolios*  
  - Children and Families*
  - Health, Housing and Adult Services*
  - Public Health, Wellness and Culture*
  - City Services*
  - Responsive Services and Customer Care*
- *To have other leadership support responsibilities as directed by the Leader, Deputy Leader or Cabinet Secretary.*
- *To attend briefings and other related activities as required.*

- *To take responsibility for working with lead officers within the relevant directorate to bring key projects, particularly those necessary to deliver the Sunderland Way of Working, to effective fruition.*
- *To play a leading role in supporting effective member engagement in all relevant portfolio matters.*
- *To represent the portfolio whenever required.*
- *On the mandate of the Leader or Portfolio Holder to consider the development of policy, practice and approach and then work with all necessary interests to achieve required outcomes*
- *To support the Council's drive to greater decentralisation of decision-making on key services. This will include close and constructive liaison with Area Committees, Area Boards, relevant service leads and partner agencies in order to ensure that this agenda is delivered effectively.*
- *To assist with appropriate consultation with scrutiny as directed by the Leader or relevant Portfolio Holder.*

#### 4.6 **Non-executive Functions**

- 4.7 It is proposed to establish a Human Resources Committee to be a Committee of Council, comprised of 12 Members, to deal with Chief Officer appointments and non-executive human resources functions that have not been delegated elsewhere. As this Committee is unlikely to be required to meet regularly, it is proposed that it be convened on an ad hoc basis, as and when required.

It is also proposed that, pending consultation on alternative appeals arrangements, as agreed by Council, the current right of appeal to Personnel Committee in respect of refusals of requests for flexible retirement should operate as a right of appeal to the Appeals Committee.

- 4.8 The following amendments to the constitution are proposed to reflect that decision.

#### 4.9 **Part 3 – Responsibility for Functions**

##### **Section 1 – Responsibility for Local Choice Functions**

***Amend 2.3 (which relates to the Appeals Panel) to read as follows:-***

*To determine appeals and reviews in respect of matters relating to officers' employment where a right of appeal or the right to request a review exists to a committee or panel under the Council's Capability and Disciplinary Procedure, Redundancy Procedure, Grievance Procedure or any other human resources policy or procedure, to determine appeals against decisions of the Director of Human Resources and Organisational Development to refuse requests for flexible retirement and any other decisions on employment related matters where the Council has determined that there be a right of appeal or review to elected members.*

#### 4.10 **Section 2 – Responsibility for Council Functions (Functions not to be the responsibility of the Executive)**

**Delete Section I – Functions relating to Personnel Matters, in full, and insert;**

*I Human Resources Committee*

*The Council will establish a Human Resources Committee which will have the following terms of reference:-*

- 1. To exercise the functions in relation to appointments as provided by the Employment Procedure Rules.*
- 2. To exercise the Council's non-executive functions in relation to human resources matters including employee terms and conditions, human resources policies and procedures and pensions, so far as not delegated to any other committee or a chief officer.*

#### 4.11 **Employment Procedure Rules**

Change all references to 'Personnel Committee' to 'Human Resources Committee'

#### **4.12 Amend Section 4 – Delegations to Chief Officers**

The amendments referred to below delegate further responsibilities for decisions on routine service-specific functions to chief officers, and authorise the Director of Human Resources and Organisational Development to approve establishment changes below the level of deputy chief officer. Effectively, while Cabinet will make the strategic decisions on the direction of travel and business of the Council, chief officers, acting in consultation with the Portfolio Holder, or Portfolio Holders, will make any establishment changes required to meet the business requirements of the service concerned.

Chief officers will continue to deal with those matters relating to the Employees' Code of Conduct that currently fall within their remit, e.g. the receipt of notification of offers of gifts and hospitality and approval of the same. However, the Director of Human Resources and Organisational Development, in consultation with the Head of Law and Governance, will determine requests for approval of outside interests.

#### **4.13 Delete sub-paragraph 4(c) and insert:-**

- c) engage, dismiss, and deploy staff, within the approved establishment structure.*

#### **4.14 Insert additional sub-paragraph 4(h)**

- h) deal with individual matters relating to the Council's Code of Conduct for employees, with the exception of the approval of outside interests or employment, which shall be determined by the Director of Human Resources and Organisational Development, in consultation with the Head of Law and Governance.*

#### **4.15 Amend Delegation Scheme in respect of Director of Human Resources and Organisational Development**

**Delete paragraphs 5.1 and 5.2 and insert;**

- 5.1 To prepare reports for Human Resources Committee in respect of all posts of deputy chief officer and above and all other human resources matters that are to be considered by the Committee*
- 5.2 To approve, in consultation with the relevant portfolio holder, all establishment changes proposed by the relevant director, in respect of posts below the level of deputy chief officer, provided that any proposals to amend the directorate structure of the Council or to transfer service areas from one directorate to another, shall be referred to the Human Resources Committee for approval.*

#### **4.16 In paragraph 5.6, delete the words after "To approve in consultation with the Head of Law and Governance, requests for approval of outside interests or employment made by employees".**

**4.17 Delete paragraph 5.12 and insert**

*5.12 To determine requests for the release of pension benefits on compassionate grounds in consultation with the Executive Director of Commercial and Corporate Services.*

**4.18 Delete paragraph 5.13 and insert**

*5.13 To determine requests for early and flexible retirement in consultation with the Executive Director of Commercial and Corporate Services.*

**5.0 Reasons for Decision**

- 5.1 To make necessary adjustments to the Council's Executive and Committee structures and decision-making arrangements to reflect requirements of the Localism Act 2011 now brought into force, and to reflect Council's decision to make changes to Executive and Committee arrangements, and to amend the constitution accordingly.

**8.0 Alternative Options**

- 8.1 There are no relevant alternative options, as consequential changes are necessary to reflect requirements of the Localism Act, and the Leader and Council's decisions to make changes to Executive and Committee arrangements.

**9.0 Impact Analysis**

**9.1 Equalities**

The proposals are designed to maintain services that are responsive to the needs, priorities and preferences of the varied and numerous communities the Council serves. Equality issues will be considered and addressed by members and officers in the usual way, working within the revised decision-making arrangements.

**9.2 Privacy Impact Assessment**

Proposals have no immediate additional implications for the protection of privacy of the public. Privacy issues will be considered and addressed by members and officers in the usual way, working within the revised decision-making arrangements.

### **9.3 Sustainability**

Proposals have no immediate additional implications for sustainability. Sustainability issues will be considered and addressed by members and officers in the usual way, working within the revised decision-making arrangements

### **9.4 Reduction of Crime and Disorder – Community Cohesion / Social Inclusion**

Proposals to strengthen Area Committees and to intensify their focus on local issues, principally through Area Boards, will complement the work of Local Multi Agency Problem Solving Groups in promoting improved safety and reduced fear of crime in Areas.

## **10.0 Other Relevant Considerations or Consultations**

### **(a) Legal Implications**

The proposals to amend the constitution require the approval of full Council.

## **11.0 Background Papers**

Current Council Constitution  
Cabinet Portfolio Directory



## **Article 6 – Overview and Scrutiny**

### **6.01 Terms of Reference**

The Council will appoint one overview and scrutiny committee, to be known as the Scrutiny Committee, to discharge the functions set out below.

- (a) To exercise the overview and scrutiny functions of the local authority, as set out in Part 1 A of the Local Government Act 2000, to consider, report or make recommendations regarding all such matters which are eligible for overview and scrutiny and which impact on the economic, social and environmental well-being of those who live, work and visit the city.
- (b) To exercise all those powers and functions that are otherwise available to the overview and scrutiny function of the local authority.
- (c) To agree an annual Work Programme which will allow overview and scrutiny responsibilities to be exercised in an effective manner, including the establishment of scrutiny panels, led by a lead scrutiny member, who shall be a member of the committee, appointed to champion scrutiny within their remit and examine in-depth priority issues.
- (d) To agree the Annual Scrutiny report and refer it to Council for approval.
- (e) To act as the designated scrutiny committee for statutory purposes for health, crime and disorder scrutiny and flood risk.
- (f) Where matters fall within the remit of more than one lead scrutiny member, to determine where the issue should be allocated.
- (g) To oversee the improvement, delivery and performance of the Scrutiny Function.
- (h) To set up and oversee the activities of Scrutiny Panels established as part of the Annual Scrutiny Work Programme, offering support and guidance to the lead scrutiny members as appropriate.

Scrutiny Panels will be organised within the following remits:

#### **Children's Services**

To provide leadership to improve the life chances of children and young people in the City. To lead the City's response to education, skills and training issues and opportunities in order to promote economic and social regeneration.

## **Health, Housing and Adult Services**

To provide leadership and support for the Council and its partners in securing the social and health care of all adults.

## **Public Health, Wellness and Culture**

To lead partners to achieve improvements in public health, health awareness and wellness in the City. To develop and promote the cultural strategy and initiatives.

## **City Services**

To ensure that the Council and its partners succeed in making the City attractive and accessible for all. To provide leadership for the Council and its partners to ensure that the local environment is well managed and meets customer expectations.

## **Responsive Services and Customer Care**

To champion improvements in the responsiveness of services to local needs and customer feedback. To provide leadership for the continuing development of area arrangements as a principal means of improving the relevance of services to local communities and circumstances. To champion the continuing improvement of customer care policy and practice. To develop the community's capacity to engage in the shaping, delivery and review of services and their neighbourhoods. To provide leadership for the Council and its partners in order to make Sunderland a safer City.

## **Skills, Economy and Regeneration**

To support the Council in achieving its strategic priorities of a prosperous city and supporting improvements in partnership working to promote the skills of the residents to deliver economic prosperity. To provide leadership and partnership engagement to secure inward Investment and business support, regeneration, improved employability, economic prosperity, boosting the skills and knowledge of the workforce, a prosperous city centre, active tourism, resorts & events.

Note: It is the responsibility of the Scrutiny Committee and of all Scrutiny Panels during the course of their work:

- to identify opportunities for securing and demonstrating Value for Money and considering reports on this subject and performance generally and to make appropriate recommendations;
- to maintain an overview of the City's achievements against its designated Strategic Priority, and to identify means of accelerating the realisation of the Council's strategic ambitions;

- to scrutinise partnership and area issues, engage partners, the community and the public.

## **6.02 General role**

Within its terms of reference, the Scrutiny Committee will:

- review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- make reports and/or recommendations to the full Council and/or the executive and/or any joint or area committee in connection with the discharge of any functions;
- make reports and/or recommendations to partner organisations in connection with such matters as are eligible for local authority overview or scrutiny;
- consider any matter affecting the area or its inhabitants;
- exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive and/or area committees; and
- consider Local Petitions and Councillor Calls for Action referred to it.

## **6.03 Specific functions**

- Policy development and review.

Overview and Scrutiny Committee may:

- assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues including conducting research, community and other consultation in the analysis of policy issues and possible options;
- question members of the executive and/or committees and chief officers or their representatives about their views on issues and proposals affecting the area; and
- liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

- Scrutiny

The Scrutiny Committee may:

- i) review and scrutinise the decisions made by and performance of the executive and/or committees and council officers both in relation to individual decisions and over time;
- ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii) question members of the executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- iv) make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
- vi) question and gather evidence from any person (with their consent).

(c) Finance

The Scrutiny committee will exercise overall responsibility for the finances made available to them.

(d) Annual Report

The Scrutiny Committee's Annual report to full Council will report on the work undertaken by the Committee, and make recommendations for future work programmes and amended working methods if appropriate.

(e) Health Services

The Scrutiny Committee will be responsible for the review and scrutiny of matters relating to the planning, provision and operation of health services as provided for by Health & Social Care Act 2012.

(f) Crime and Disorder

The Scrutiny Committee will be designated as the "Crime and Disorder Committee" as defined under the terms of the Police and Crime Act 2006 with responsibility for the review and scrutiny of crime and disorder matters.

(g) Flood and Coastal Erosion

The Scrutiny Committee will be responsible for scrutiny of issues relating to flood and coastal erosion risk management in accordance with the Flood and Water Management Act 2010.

**6.04 Proceedings of Scrutiny Committee**

The Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## **Section 5 - Overview and Scrutiny Procedure Rules**

### **1. How will the Overview and Scrutiny Function be organised?**

The Council will have one Overview and Scrutiny Committee, named the Scrutiny Committee, as set out in Article 6 and will appoint to them as it considers appropriate from time to time. The Committee will be responsible for overseeing, reviewing and scrutinising the whole of the Council's functions and responsibilities, including those delivered in partnership with other agencies and organisations.

The Scrutiny Committee may appoint sub-committees. Overview and Scrutiny Sub-Committees may be appointed for a fixed period, on the expiry of which they shall cease to exist.

The Scrutiny committee will establish scrutiny panels to undertake reviews of specific matters identified in the Annual Scrutiny Work Programme. Scrutiny Panels are not Sub-Committees of Scrutiny Committee. In exceptional circumstances additional panels may be established by the Committee to look into urgent matters that may arise during the course of the year. Scrutiny panels will be Chaired by the Lead Scrutiny Member for each remit.

### **2. Who may sit on overview and scrutiny?**

All councillors except members of the executive, and cabinet policy members are eligible to be members of an overview and scrutiny committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

The Council, at its Annual Meeting, will appoint the Chair and Vice Chair of the Scrutiny Committee, and six Lead Scrutiny Members, each to champion a particular remit as set out in Article 6.

All other councillors will be members of one or more Scrutiny Member Panels.

At its first meeting in each Council year the Scrutiny Committee will confirm the membership of the Scrutiny Member panels, allocated to a particular remit to support the work of the Lead Scrutiny Member for that remit.

### **3. Co-optees**

The Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

#### **4. Education representatives**

The Scrutiny Committee shall include in its membership the following voting representatives who shall be entitled to vote only on matters relating wholly or partly to any education functions which are the responsibility of the Executive:

- (a) 1 Church of England diocese representative;
- (b) 1 Roman Catholic diocese representative; and
- (c) 2 parent governor representatives

In addition to the above voting representatives the Committee may include in its membership such other non-voting representatives of those with interests in education as it shall from time to time recommend under paragraph 3 above, and/or invite such representatives to assist the work of the appropriate scrutiny panel.

#### **5. Meetings of the overview and scrutiny committees**

There shall be at least 10 ordinary meetings of the Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Committee meeting may be called by the chair of the committee, by 1/3 of the members of the committee or by the Chief Executive if he/she considers it necessary or appropriate.

#### **6. Quorum**

The quorum for the Scrutiny Committee shall be one quarter of the whole number of members.

#### **7. Work programme**

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

#### **8. Meetings of the Scrutiny Panels**

Scrutiny Panels shall be established at the first meeting of the Scrutiny Committee in each municipal year, when a timetable will be set for completing work commissioned by the Committee. Additional meetings of Scrutiny Panels may be called as and when appropriate in accordance with the agreed scope of a review.

The membership of a Scrutiny Panel shall be a maximum of eight members, and the quorum shall be a minimum of two.

## **9. Agenda items**

- (a) Any member of the Scrutiny Committee shall be entitled to give notice to the proper officer that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for discussion at the next available meeting of the Committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.
- (b) In addition, any member of the Council shall be entitled to give written notice to the proper officer that they wish an item relevant to the functions of the committee, that is not an excluded matter, to be included on the agenda of a relevant overview and scrutiny committee. Excluded matters include a local crime and disorder matter, and any other matter specified by the Secretary of State. On receipt of such a request, the proper officer will ensure that it is included on the next available agenda. The Committee will provide the member with a copy of the report or recommendations which it makes to the Council or to the Executive. If the Committee decides not to exercise its powers, it will notify the member of its decision and the reasons for it.
- (c) The Scrutiny Committee shall respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate 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 within two months of receiving it.
- (d) Any member of the Council shall be entitled to give notice to the proper officer that he/she wishes an item relating to a Councillor Call for Action to be included on the agenda for discussion at the next available meeting of the Committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda of the Scrutiny Committee.

## **10. Policy review and development**

- (a) The role of the Scrutiny Committee 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, Scrutiny Committee may make proposals to the executive for developments.
- (c) The Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint panels, advisers and assessors to assist them in this process. The Committee, and those assisting it, 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. Provided that all of the foregoing shall be contained within the budget made available to the Committee.

## **11. Co-ordination**

The Scrutiny Committee will co-ordinate the work of all of its panels and will have the following additional terms of reference:

- (a) To approve an annual overview and scrutiny work programme to ensure that there is efficient use of the committee's time, and that the potential for duplication of effort is minimised.
- (b) Where matters fall within the remit of more than one Lead Scrutiny Member, to determine which of them will assume responsibility for any particular issue.
- (c) To receive requests from the executive and/or the full Council for reports from the Scrutiny Committee and to allocate them if appropriate to one or more scrutiny panels.
- (d) To put in place and maintain a system to ensure that referrals from the Scrutiny Committee to the executive, either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution.
- (e) At the request of the executive, to make decisions about the priority of referrals made in the event of reports to the executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of executive business or jeopardises the efficient running of Council business.

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

- (a) Once it has formed recommendations on proposals for development, the Scrutiny Committee will prepare a formal report and submit it to the proper 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).
- (b) If the Scrutiny Committee cannot agree on one single final report to the Council or executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or executive with the majority report.

- (c) The Council or executive shall consider the report of the Scrutiny Committee within three months of it being submitted to the proper officer.

**13. Making sure that overview and scrutiny reports are considered by the executive**

- (a) The agenda for executive meetings shall include an item entitled 'Issues arising from overview and scrutiny'. The reports of the Scrutiny Committee referred to the executive shall 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) within three months of the Scrutiny Committee completing its report/recommendations.
- (b) The Scrutiny Committee will give notice to the Council or the executive requiring them, within two months of the date of receipt of the notice, to
- Consider the report or recommendations
  - Respond to the Scrutiny Committee indicating what (if any) action they propose to take
  - If the Scrutiny Committee has published the report or recommendation, to publish the response
  - Provide a copy of the response to a member who is not a member of the Scrutiny Committee, and at whose request the matter was placed on the Scrutiny Committee agenda
- (c) Where the Scrutiny Committee makes a report or recommendations to the Council or to the Executive, other than in respect of those crime and disorder matters that are excluded, it may, subject to excluding exempt and confidential information, publish the report or recommendations.
- (d) Only one report every six months in respect of each of the Scrutiny remits may be submitted by the Scrutiny Committee to the executive.
- (e) Overview and scrutiny committees will in any event have access to the executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Scrutiny Committee following a consideration of possible policy/service developments, the committee will be able to respond in the course of the executive's consultation process in relation to any key decision.

**14 Making sure that overview and scrutiny reports are considered by partner organisations**

- a) Where the Scrutiny Committee makes a report or recommendations to the Council or to the Executive, other than in respect of those crime and disorder matters that are excluded, and the report or any of the recommendations relates to functions of a relevant partner authority so far as exercisable in relation to the Council's area, or inhabitants of the area, the Committee may give written notice to the relevant partner authority requiring that authority to have regard to the report or recommendations in exercising its functions.
- b) The notice must be accompanied by a copy of the report or recommendations.
- c) It is the duty of the relevant partner authority to comply with the requirement specified in the notice.
- d) Relevant partner authorities are those (other than the chief officer of police) that are listed at section 104 of the Local Government and Public Involvement in Health Act 2007.

**15. Rights of overview and scrutiny committee members to documents**

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

**16. Members and officers giving account**

- (a) The Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require the Leader, any other member of the executive, the head of paid service and/or any senior officer to attend before it or before one of its panels 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) For this purpose, senior officer includes any chief officer, head of service, third tier officer and other appropriate senior officer. Where there are concerns about the appropriateness of the officer who should attend, the relevant chief officer shall consult with the Chairman or Vice Chairman of the Scrutiny Committee with a view to agreeing which officer should attend.
- (c) Where any member or officer is required to attend the Scrutiny Committee under this provision, the Chairman of the will inform the proper officer. The proper 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.
- (d) 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.

## **17. Attendance by others**

The Scrutiny Committee may invite people other than those people referred to in paragraph 15 above to address it or to assist the work of a panel, to 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.

## **18. Call in**

The Scrutiny Committee has the power to call in executive decisions made but not yet implemented. The purpose is to consider whether to recommend that a decision be reviewed by the Executive. Call-in should only be used in exceptional circumstances. These are where members of the Scrutiny Committee have evidence which suggests that the decision was not taken in accordance with the principles set out in Article 13 (Decision Making). It cannot be used in respect of day-to-day management and operational decisions.

- (a) When a decision is made by the executive, an individual member of the executive or a committee of the executive, or a key decision is made by an officer with delegated authority from the executive, or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within

2 working days of being made. Chairs and members of the Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- (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 5 working days after the publication of the decision, unless an overview and scrutiny committee objects to it and calls it in.
- (c) During that period, the proper officer shall call in a decision for scrutiny by the committee if so requested by the chairman or any three members of the committee, and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the committee on such date as he/she may determine, where possible after consultation with the chair of the committee, and in any case within 5 working days of the decision to call-in.
- (d) If, having considered the decision, the committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 20 working days, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the meeting of the Scrutiny Committee, or the expiry of that further 5 working day period, whichever is the earlier.
- (f) 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 locus 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 person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the executive as a whole or a committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 working days of the Council request.

- g) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- (h) Where an executive decision has been taken by an area committee then the right of call in shall extend to any other area committee which resolves to refer a decision which has been made but not implemented to the Scrutiny Committee for consideration in accordance with these provisions. An area committee may only request the proper officer to call in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call in shall apply as if the call in had been exercised by members of and the Scrutiny Committee.

### **Exceptions**

- (i) 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) that the Scrutiny Committee may only call in 4 decisions per year;
  - ii) only key decisions may be called in other than those policy and budget proposals being referred to Council for decision;
  - iii) once a member has signed a request for call in under paragraph 18 (call in) above, he/she may not do so again until a period of 3 months has expired.

### **Call in and Urgency**

- (j) 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 interests. 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 Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the chairman, the vice-chair's consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required.
- (k) The operation of the provisions relating to call in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **19. The party whip**

- (a) When considering any matter in respect of which a member of the Scrutiny Committee, or a member of a Scrutiny Panel is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.
- (b) For the purposes of this rule the phrase party whip shall be taken to 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".

## **20. Procedure at Scrutiny Committee meetings**

- (a) The Scrutiny Committee shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (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; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Scrutiny Committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at meetings of the committee or its panels, which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all members of the committee or panel be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the committee or panel 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;
- (c) Following any investigation or review, the committee shall prepare a report, for submission to the executive and/or Council as appropriate and shall make its report and findings public.

**21. Proper Officer**

Unless otherwise specified the “proper officer” for the purposes of the rules shall be the Head of Law and Governance.