

REVIEW OF SCRUTINY ARRANGEMENTS - SCRUTINY PROCEDURE RULES

JOINT REPORT OF THE HEAD OF LAW AND GOVERNANCE AND HEAD OF SCRUTINY AND AREA ARRANGEMENTS

1. Purpose of the Report

- 1.1 To provide Committee members with an opportunity to consider proposals for changes to the Scrutiny Procedure Rules to maintain their alignment to the revised Scrutiny arrangements approved by Council on 27 January 2016 and to make related changes to the Constitution.

2. Background

- 2.1 As Members are aware, changes to the Council's Executive and Committee arrangements were considered by Scrutiny Committee on 3 December 2015 and subsequently agreed at Council on 27 January 2016. The new arrangements provide for a Scrutiny Coordinating Committee, (14 Members in total, including the Chairs and Vice Chairs of the Thematic Scrutiny Committees), and three Thematic Scrutiny Committees. These are the Health and Wellbeing Scrutiny Committee, (12 Members), the Children Education and Skills Scrutiny Committee, (16 Members including 4 Education Co-opted Members), and the Economic Prosperity Scrutiny Committee (12 Members).
- 2.2 This model reflects the recommendations that emerged from the review of Scrutiny commissioned on behalf of the Scrutiny Committee chair, and replaces the Scrutiny Commissioning Model to deliver a focused responsive scrutiny function to support the Council's delivery of services against a background of financial constraint and much reduced resources.
- 2.3 The work of the Scrutiny Committees is supported through the operation of the Scrutiny Procedure Rules which must now be updated in order to ensure they are aligned to the new operating arrangements for Overview and Scrutiny in Sunderland. Consequential changes are also required to the Council's Articles of the Constitution.

3. The Scrutiny Procedure Rules

- 3.1 The operation of the Scrutiny Committees is governed by the Scrutiny Procedure Rules incorporated in the Council's Constitution.
- 3.2 Members are referred to the draft Rules at Appendix 1 which take in necessary amendments consequential on the changes to Scrutiny arrangements approved by Council.
- 3.3 A further change to the Rules makes provision for a decision of the Executive to be called in by 7 Members of Council. Formerly this provided for call in by 3 Members of the Scrutiny Committee. This amendment is proposed to allow for call in by a proportionate number of non-executive

Members, recognising that some may be excluded from membership of a Scrutiny Committee.

4. Article 6 – Overview and Scrutiny Committees

- 4.1 Article 6 sets out Terms of Reference for the Overview and Scrutiny Committees.
- 4.2 A full breakdown of the new Scrutiny Committee remits is attached for information as **Appendix 2** of this report and it is proposed that Article 6 is amended to reflect these new remits.
- 4.3 Article 6 provides that the Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules, the revisions to which have been outlined above.

5. Dedicated Scrutiny Budget

- 5.1 A small budgetary provision of £15,000 per annum is available to the Scrutiny Coordinating Committee to deliver the agreed Annual Scrutiny Committee Work Programme.

6. Recommendations

- 6.1 It is recommended that the Scrutiny Committee:-
 - (a) considers the proposed revisions to the Scrutiny Procedure Rules and recommends the Rules to Council for approval;
 - (b) recommends Council to authorise the Head of Law and Governance, in consultation with the Leader, to amend the Constitution to reflect the amended Rules, the consequential amendments to the Articles and to make such other minor or consequential amendments as are appropriate to the Constitution to ensure consistency with the revised Rules and the revised Scrutiny arrangements.

7. Background Papers

- 7.1 Cabinet Report and minute of meeting held 3 December 2015
Council Report and minute of meeting held 27 January 2016

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Section 5 - Overview and Scrutiny Procedure Rules

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

The Council will appoint a lead Overview and Scrutiny Committee, named the Scrutiny Coordinating Committee, and three themed Overview and Scrutiny Committees, to be known as Scrutiny Committees, as set out in Article 6 and will appoint to them as it considers appropriate from time to time. The Committees will then be responsible for overseeing, reviewing and scrutinising the Council's functions and responsibilities, including those delivered in partnership with other agencies and organisations, as set out in Article 6.

The Scrutiny Committees 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.

2. Who may sit on overview and scrutiny?

All councillors except members of the executive and cabinet policy members and Area Committee chairs and vice chairs 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 Overview and Scrutiny Committees.

3. Co-optees

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

4. Education representatives

The Children, Education and Skills 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 committee.

5. Meetings of the overview and scrutiny committees

There shall be at least 10 ordinary meetings of each of the Scrutiny Committees 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 Head of Paid Service if he/she considers it necessary or appropriate.

6. Quorum

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

7. Work programme

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

8. Agenda items

- (a) Any member of a Scrutiny Committee or sub-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. 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 Committees 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.

9. Policy review and development

- (a) The role of the Scrutiny Coordinating 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, a Scrutiny Committee may make proposals to the executive for developments.
- (c) A 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 it in this process. A 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 Scrutiny Coordinating Committee.

10. Co-ordination

The Scrutiny Coordinating Committee will lead and co-ordinate the work of the Scrutiny Committees 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 Committees' time and resources, and that the potential for duplication of effort is minimised.
- (b) Where matters fall within the remit of more than one Overview and Scrutiny Committee, or where the issue to be scrutinised does not fall plainly within the terms of reference of one of those committees to determine which of them will assume responsibility for any particular issue.
- (c) To report to the executive and/or the full Council on matters considered by the Scrutiny Committees.
- (d) To put in place and maintain a system to ensure that referrals from a 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.

11. Reports from the Scrutiny Committee

- (a) Once it has formed recommendations on proposals for development, a Scrutiny Committee will prepare a formal report to the Scrutiny Coordinating Committee. The Scrutiny Coordinating Committee will consider the proposals and submit its recommendations 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 Coordinating 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 Coordinating Committee within three months of it being submitted to the proper officer.

12. 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 Coordinating 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 Coordinating Committee completing its report/recommendations.
- (b) The Scrutiny Coordinating 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 Coordinating Committee indicating what (if any) action they propose to take
 - If the Scrutiny Coordinating 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 Coordinating Committee, and at whose request the matter was placed on the Scrutiny Coordinating Committee agenda.
- (c) Where the Scrutiny Coordinating 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) 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 a 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.

13. Making sure that overview and scrutiny reports are considered by partner organisations

- (a) Where the Scrutiny Coordinating Committee makes a report of 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 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.

14. Rights of Scrutiny Committee members to documents

- (a) In addition to their rights as councillors, members of a 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 Committee as appropriate depending on the particular matter under consideration.

15. Members and officers giving account

- (a) A 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 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 a Scrutiny Committee under this provision, the Chairman 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 overview and scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

16. Attendance by others

A Scrutiny Committee may invite people other than those people referred to in paragraph 15 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

17. Call-in

The Scrutiny Coordinating 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 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 two working days of being made. Chairs and members of the 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 five working days after the publication of the decision, unless the 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 seven members of Council, 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 five 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 Committee, or the expiry of that further five 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 ten working days of the Council request. Where the decision was made by an individual, the individual will reconsider within five 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 appropriate 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 a 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 a Scrutiny Committee may only call-in four 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 three 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 relevant 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 chair, 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.

18. The party whip

- (a) When considering any matter in respect of which a member of a Scrutiny Committee 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".

19. Procedure at Scrutiny Committee meetings

- (a) The Scrutiny Committees 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 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 be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis;
- (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.

20. Proper Officer

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

APPENDIX 2

Scrutiny Coordinating Committee		
<p>To review and scrutinise the functions of the Council relating in particular to:</p> <ul style="list-style-type: none"> • The Budget • Corporate Plan • External assessments • Performance monitoring, quality standards and value for money • Property and facilities management • Information Technology • Organisational development • Workforce strategy • Governance • Customer service and communications. <p>To act as the designated scrutiny committee for statutory purposes for crime and disorder and flood risk.</p> <p>Where matters fall within the remit of more than one thematic scrutiny committee, to determine where the issue should be allocated.</p>		
Health & Wellbeing	Children, Education & Skills	Economic Prosperity
<p>To review and scrutinise:</p> <p>Any matter relating to the service performance, service provision and the commissioning of health services for adults and children including</p> <ul style="list-style-type: none"> • Adult social care • Mental health services • Public Health • Wellness • Decent Homes <p>To act as the designated scrutiny committee for statutory purposes for health</p>	<p>To review and scrutinise:</p> <p>Any matter relating to the service performance and commissioning for children, young people and their families including</p> <ul style="list-style-type: none"> • Safeguarding and child protection • Family support and children's social care • Corporate parenting • Educational attainment and skills • Relationship with schools • Youth Services 	<p>To review and scrutinise:</p> <p>Any matter relating to the economic prosperity of the city and the performance of services to support that including</p> <ul style="list-style-type: none"> • Physical Infrastructure • Sector Growth & Skills • Economic Vibrancy • Safer Sunderland • Licensing & Trading Standards • Strategic Transport • Environmental services • Libraries, heritage and tourism