

Part 4 - Scrutiny Procedure Rules

1. What will be the Arrangements for Scrutiny?

A scrutiny body is one appointed to discharge the functions conferred by Section 21 (Overview and Scrutiny Committees) of the Local Government Act 2000 and any regulations made under that Section.

The Council will establish the scrutiny boards set out in Article 6 of this Constitution and will appoint members to them as it considers appropriate from time to time.

2. Who May Sit on Scrutiny Boards?

All councillors, except members of the Cabinet, may be members of a scrutiny board. However, no member may be involved in scrutinising a decision that they have been involved in making, or they have declared an interest in, except where the Council was the decision-making body.

3. Who Chairs Scrutiny Board Meetings?

(a) The Chair and Vice-Chair of each scrutiny board will be appointed by the Council at its annual meeting. Where a vacancy arises mid-year, this will be appointed to at a meeting of the Council.

(b) In the absence of both the Chair and Vice-Chair of a scrutiny board, or their inability to act, the board shall appoint a person to preside at that meeting or part of a meeting, from amongst those elected members present.

4. Co-opted Members

(a) The Children's Services and Education Scrutiny Board, will include in its membership, the following non-elected co-opted members:-

- (i) 1 non-elected person representing the Church of England dioceses of Birmingham and Lichfield;
- (ii) 1 non-elected person representing the Roman Catholic archdiocese of Birmingham;
- (iii) 2 Parent Governor representatives.

Those members may be appointed to any sub-groups of the Board, but shall only have voting rights on education matters, whether in respect of schools or wider educational issues.

- (b) The Safer Neighbourhoods and Active Communities Scrutiny Board will include in its membership a non-elected co-opted member, without voting rights, from the Tenant and Leaseholder Scrutiny Panel.

5. **Meetings of Scrutiny Boards**

Each scrutiny board will normally meet once in each cycle of meetings in a municipal year. Extra meetings may be called:-

- (a) by the chair of the relevant scrutiny board;
- (b) by any four members of a scrutiny board;
- (c) by the Statutory Scrutiny Officer if they consider it necessary or appropriate.

6. **Quorum**

The quorum for a scrutiny body will be in line with the Council's Procedure Rules (Standing Orders) in Part 4 of this Constitution. Provision is made within those Rules to enable a meeting to proceed in the event of it being or becoming inquorate. In the event of a quorum not being obtained at the commencement of, or at any point during the meeting, at the discretion of the Chair or the person presiding, the meeting may continue for the purpose of examining the business before it. However:-

- (a) any recommendation, comment or advice by the members present to the Council, the Cabinet, a Cabinet Member, other committees or other persons or bodies shall be qualified by a statement clearly indicating that the recommendation, comment or advice was made whilst the meeting was inquorate;
- (b) any minutes of the meeting shall clearly record that the meeting was inquorate or the point in the record of events at which the meeting became inquorate.

7. **Work Programme**

- (a) Scrutiny boards will be responsible for their own work programmes, which shall be approved at the first meeting of each board in the municipal year.
- (b) In developing their work programmes, Scrutiny boards will have regard to:-
 - (i) the Council's strategic priorities and policies, including the policy framework and budget and spending plans and their impact on service delivery and outcomes for the people of Sandwell;
 - (ii) the Cabinet Forward Plan and Executive Work Programme;
 - (iii) suggested items/topics arising from annual engagement activities, involving partners and the public;
 - (iv) any necessary engagement with other scrutiny boards on cross-cutting issues.
- (c) Each suggested item/topic shall be assessed using the Scrutiny Prioritisation Tool to determine the appropriateness and the level of priority to be applied to it, before being placed on the Board's work programme.

8. Scrutiny Reviews

- (a) Each scrutiny board may include on its work programme, one or more in-depth review of a particular topic, and in determining that topic, shall have regard to: -
- (i) the Council's strategic priorities and policies, including the policy framework and budget and spending plans and their impact on service delivery and outcomes for the people of Sandwell;
 - (ii) the Cabinet Forward Plan and Executive Work Programme;
 - (iii) suggested items/topics arising from annual engagement activities, involving partners and the public;
 - (iv) any previous scrutiny activity on the topic;
 - (v) guidance from the relevant chief officer on the appropriateness and timeliness of the review.
- (b) No boards shall have more than one active scrutiny review taking place at any one time.
- (c) Each suggested review shall be assessed using the Scrutiny Prioritisation Tool.
- (d) subject to (a) to (c) (above), each agreed review shall be scoped using the [Scrutiny Review Scoping Document](#) to ascertain how the review will operate, which can include (but is not limited to):-
- establishing a working group
 - co-opting members onto working groups
 - calling expert witnesses
 - enquiry days
 - spotlight sessions
 - focus groups
 - visits

- public call for evidence (e.g. press)
- conducting surveys
- desktop research

- (e) upon the completion of a review, a scrutiny board shall prepare a report, setting out its findings and any recommendations, for submission to the Cabinet/Council at its next available meeting;
- (f) the Cabinet/Council shall respond to the scrutiny board at the meeting to which the report is submitted, if this is not possible, it shall respond no later than two months;
- (g) the scrutiny board shall monitor progress on implementation of approved recommendations.

9. **Agenda Item Requests**

9.1 Requests from members for items to be included on the agenda for a scrutiny body:

- (a) Any member of the Council may make a request for an additional item to be placed on any scrutiny board's work programme, or the agenda for the board's next meeting.
- (b) In making such a request, the member shall have regard to:-
 - (i) the Council's strategic priorities and policies, including the policy framework and budget and spending plans and their impact on service delivery and outcomes for the people of Sandwell;
 - (ii) the Cabinet Forward Plan and Executive Work Programme;
 - (iii) any necessary engagement with other scrutiny boards on cross-cutting issues.
- (c) Such requests shall be made in writing, to the Statutory Scrutiny Officer, using the [Scrutiny Agenda Item Request Form](#).
- (d) Upon receipt of such a request, the Statutory Scrutiny Officer shall consult with the relevant scrutiny chair. If

they decline to add the item to the board's work programme/agenda, the requesting member may refer the request to the Chair of the Scrutiny Management Board, who may:-

- (i) confirm the decision not to place the item on the relevant board's work programme;
 - (ii) direct the relevant chair/board to consider the item;
 - (iii) place the item on the work programme of the Budget and Corporate Scrutiny Management Board
- (e) If the chair deems it necessary, they may call an additional meeting of the Board to consider the item.
- (f) The member requesting the item shall be expected to attend the meeting at which the item is to be considered and speak on the item.
- (g) A matter will not be included on a scrutiny board's work programme, or an agenda for a particular meeting, where the Statutory Scrutiny Officer considers it to be:-
- (i) frivolous, of mischievous intent, in breach of any statute, regulation or directive or of personal gain to the requestor;
 - (ii) relating to a matter outside those functions set out in the Local Government Act 2000 as amended;
 - (iii) relating to a licensing or planning decision;
 - (iv) relating to an individual body to which there is already a statutory right to a review or appeal (other than to the Local Government Ombudsman);
 - (v) where it has been the subject of scrutiny within the previous 12 months.

9.2 Requests from the Council or the Executive to place an item on the agenda of a scrutiny body:

- (a) A scrutiny board shall respond, as soon as its work programme permits, to requests from the Council and,

if it considers it appropriate, the Cabinet or a Cabinet Member, to review particular areas of Council activity.

- (b) The findings of the work shall be reported back to the Cabinet, and/or Council as appropriate: -
 - (i) If it is not able to respond at the meeting to which the scrutiny board's report is presented, Council and/or the Executive must respond to the report of the scrutiny body within two months of receiving it, or at the nearest available programmed meeting.

- (ii) If the Cabinet does not accept the recommendations of the scrutiny board it shall set out clearly the reasons why and the Cabinet Member shall attend a meeting of the scrutiny board to discuss their reasons, if requested to do so.

10. Recommendations from Scrutiny Bodies

10.1 Arising from Scrutiny Reviews - see paragraph 8 above.

10.2 Arising from Single Agenda Items:-

- (a) If, upon consideration of an agenda item at a formal board meeting, a scrutiny board wishes to make recommendations to the Cabinet/ Council, those recommendations shall be submitted by way of a formal report to the next available meeting;
- (b) the Cabinet/Council shall respond to the scrutiny board at the meeting to which the report is submitted, if this is not possible, it shall respond no later than two months.
- (c) If the Cabinet does not accept the recommendations of the scrutiny board it shall set out clearly the reasons why and the Cabinet Member shall attend a meeting of the scrutiny board to discuss their reasons, if requested to do so.

10.3 Tracking and Monitoring

Scrutiny boards will monitor progress on the implementation of recommendations approved by way of regular reporting to board meetings.

11. Matters Within the Remit of More Than One Scrutiny Board

Where a matter for consideration by a scrutiny board also falls within the remit of other scrutiny boards, the decision as to which scrutiny board will consider it will be resolved by the Chair of the Budget and Corporate Scrutiny Management Board and in their absence or inability to act, the Vice-Chair.

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12. **Order of Business and Procedure at Meetings**

As a general rule, the order of business and procedure at scrutiny bodies shall be:-

- (i) to receive declarations of interest, including declarations in relation to the application of any political whip;
- (ii) to confirm the minutes of the last meeting;
- (iii) consideration of call-in;
- (iv) response of the Executive to reports from scrutiny;
- (v) programmed items as per the board's work programme;
- (vi) additional items requested by the Executive/Council not listed in the work programme.

13. **Rights of Scrutiny Members to Documents**

In addition to their rights as councillors, members of scrutiny bodies 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.

14. **Members and Officers Giving Account**

- (a) As well as reviewing documentation, in fulfilling its scrutiny role, a scrutiny body may require any member of the Executive, Committee Chair or Vice-Chair, and any officer of the Council, to attend before it to assist in its understanding of the matter it is scrutinising, and in the case of chief officers and executive members, hold them to account for their performance;
- (b) Where a member or officer is required to attend a scrutiny body under this provision, at least 10 working days' notice of the meeting at which they are required to attend must be given, unless the individual agrees to a shorter period of time;

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- (c) Where the member or officer is unable to attend on the required date, they shall, in liaison with the Statutory Scrutiny Officer and the Chair, make arrangements for a suitably knowledgeable person to attend in their place. If this is not possible, the Chair of the scrutiny body may defer the matter until another meeting.

15. Attendance by Others

- (a) A scrutiny body may invite people other than those people referred to in paragraph 14 (above) to address it, to discuss issues of local concern and/or answer questions.
- (b) The attendance of a citizen or member of the public at a meeting of a scrutiny body, other than by direct invitation as a participant, does not grant the individual an automatic right to address the meeting or submit representations.

16. Call-In

- (a) Any three members of a scrutiny board (including co-opted members with voting rights relevant to the subject matter), or six members of the Council, may refer for scrutiny any key decision made under Part 4 of the Executive Procedure Rules or decision made by a Cabinet Member.
- (b) The referral shall be made in writing, using the [Notice of Call-In](#) which shall be submitted to the Statutory Scrutiny Officer no later than the fifth working day (beginning the day after the decision is published).
- (c) Nothing in (b) (above) shall prevent the member/members from declaring their intention to call the matter in at the meeting during which the decision is made.
- (d) The Monitoring Officer, in consultation with the Statutory Scrutiny Officer and the Chief Executive, may reject a [Notice of Call-In](#) for the reasons set out below. The reasons for rejection will be reported to the next

scheduled ordinary meeting of the Budget and Corporate Scrutiny Management Board:-

- (i) the cited grounds bear no relevance to the decision that is identified for call-in;
 - (ii) the requisition cites grounds for which no relevant evidence is produced in support;
 - (iii) those requisitioning the call-in signed the requisition before it was complete (e.g. signed a blank [Notice of Call-In form](#) in advance);
 - (iv) the call-in includes material which could be defamatory;
 - (v) the requisition is being used for improper purposes (e.g. to admonish an officer); or
 - (vi) the terms of the call-in are substantially the same as for one previously considered within the preceding 6 months.
- (e) The Statutory Scrutiny Officer, in consultation with the Chair of the Budget and Corporate Scrutiny Management Board will determine which board will consider the referral, however, matters relating to crime and disorder issues must be referred to the Safer Neighbourhoods and Active Communities Scrutiny Board.
- (f) The scrutiny board will meet within 15 working days of the receipt of the [Notice of Call-In](#), to consider the matter, unless the relevant chief officer agrees to a longer period that would avoid the need to call an additional meeting of the Board.
- (g) Subject to (f) (above), if the board does not meet within 15 days, the decision of the Cabinet Member/Cabinet will automatically take effect.
- (h) At least one referring member will be expected to attend the meeting of the scrutiny board at which the item will be considered. The relevant Cabinet Member and officers shall also be expected to attend the meeting.

- (i) In the event of all of the referring members failing to attend the meeting, at the discretion of the Chair, the item will be withdrawn from the agenda without discussion and the decision will automatically take effect.

- (j) If the scrutiny board does not refer the matter back to the Cabinet /Cabinet Member for further consideration the decision will take effect at the close of the scrutiny meeting.

- (k) If, having considered the decision, the scrutiny board has concerns about it, then it may refer it back to the decision maker for reconsideration, setting out in writing the nature of the concerns. Within a further 10 working days, the decision maker must reconsider, amending the decision or not, before adopting a final decision.
- (l) If the matter is a strategic matter that requires the consent of the Cabinet or Council, and the Cabinet Member elects not to amend their recommendation to that body, one of the referring members may reserve the right to address the Cabinet or Council.
- (m) If the matter was referred to the Cabinet and subsequently Council and neither the Cabinet nor Council objects to a decision which has been made, then no further action is necessary, and the decision will be effective at the close of the relevant meeting.
- (n) However, if Council does object, (it has no locus to make or overturn 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), it will refer any decision to which it objects back to the Cabinet/Cabinet Member making the decision, together with the Council's views on the decision.
- (o) The Cabinet Member shall reconsider the matter, within 10 working days of the Council request, and choose whether to amend the decision or not before reaching a final decision and implementing it.

17. **Exceptions to Call-In**

- (a) Decisions taken in accordance with the Council's urgency provisions/procedures may not be called in.

With the exception of items considered urgent under Part 4 - Budget and Policy Framework Procedure Rules 4(a), the declaration of a decision as urgent is subject to the written agreement of the Chair of the relevant scrutiny board or, in their absence, the Vice-Chair of the relevant scrutiny board.

Decisions taken in this way, as a matter of urgency, must be reported to the next available meeting of the Council, together with the reasons for the urgency.

- (b) Where the Leader has exercised their right to review the decision of an individual Cabinet Member or an Executive body, the call-in procedure referred to above will automatically lapse. Following the Leader's review, their decision will be subject to the call-in procedure.
- (c) Once a particular decision has been called in for scrutiny and that decision has been considered and a final decision made under any of the call-in principles, it shall not be called in again.

18. **Councillor Call for Action**

- (a) Before considering whether to invoke the Councillor Call for Action process, members should read the [Call for Action Protocol](#), and seek advice from the Statutory Scrutiny Officer.
- (b) Any member of the Council who wishes to refer a matter that is of concern in their ward for scrutiny under the [Councillor Call for Action Protocol](#), may do so by submitting a completed [Call for Action Referral form](#) to the Statutory Scrutiny Officer.

The Statutory Scrutiny Officer will then review the request and determine:-

- (i) whether the Call for Action meets the relevant criteria;

- (ii) in consultation with the Chair of the Budget and Corporate Scrutiny Management Board, which board will consider the Call for Action. However, matters relating to crime and disorder issues must be referred to the Safer Neighbourhoods and Active Communities Scrutiny Board.

The Statutory Scrutiny Officer will notify the Chair of the relevant board, the relevant cabinet member(s) and chief officer(s) and, where appropriate, partner organisation(s) of the referral and of the identity of the person making the referral.

- (c) Matters referred by a Call for Action during the period between a Notice of Election being issued and the date of that election will not be considered until after that election.
- (d) Where a Call for Action is referred under (a) above, the scrutiny board will consider the matter at its next scheduled meeting, unless the matter is deemed to be of a time-critical nature or its consideration at that meeting would be detrimental to the Board or Board's established work programme. In these instances, with the agreement of the Chair of the Board, an additional meeting may be called to consider the matter.
- (e) The member who has referred the Councillor Call for Action for scrutiny will be expected to attend the meeting. If they are unable to attend, they must appoint another member of their ward to act as their representative and should notify the Statutory Scrutiny Officer of the name of that member prior to the meeting.

In the event of the member or their representative failing to attend the meeting, the Chair may withdraw the item from the agenda without discussion.

- (f) If, having considered the Councillor Call for Action, the scrutiny board feels it necessary, it shall make recommendations to the relevant chief officer/cabinet member/body.

- (g) The relevant chief officer/cabinet member/body shall respond to the scrutiny board within two calendar months starting from the date on which they receive the recommendations.
- (h) In respect of any recommendations made to a NHS body, that body shall be expected to respond to the scrutiny body within 28 days starting from the date on which they receive the recommendations.
- (i) The Statutory Scrutiny Officer shall keep the referring ward member/members informed on developments throughout the process when dealing with the Councillor Call for Action.
- (j) The referring ward member/members shall keep relevant residents/the community up to date on the process and the outcome.

19. **Petitions**

Petitions will be dealt with in accordance with the Council's petitions scheme.

20. **The Party Whip**

When considering any matter in respect of which a member of a scrutiny board 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 board's deliberations on the matter. The declaration and the detail of the application of the whip arrangements shall be recorded in the minutes of the meeting.