

Appendix 4 - Overview and Scrutiny Procedure Rules

Overview and Scrutiny Procedure Rules

1. The number and terms of reference of the Scrutiny Board, Scrutiny Panels and Scrutiny Review Groups.

- 1.1 The Council will have a Scrutiny Board and two Sub-Committees (“Scrutiny Panels”) namely the Health Scrutiny Panel and Our Council Performance Panel, which the Council will appoint to as it considers appropriate from time to time. The Health Scrutiny Panel may need to undertake joint arrangements with other local authority scrutiny committees as are necessary to facilitate the overview and scrutiny of health functions. Where this is required, these arrangements will be established by Full Council on a case-by-case basis.
- 1.2 The Scrutiny Board will commission three time-limited Scrutiny Review Groups (“Select Committees”) to consider a particular issue in detail. The Scrutiny Review Group Chair and membership will be appointed by Council.
- 1.3 The terms of reference for the Scrutiny Board, Panels and any Reviews are set out in Article 7.
- 1.4 The general responsibilities of each of the Scrutiny Panels are outlined below. Detailed terms of reference, specific to each Panel.
 - a. To assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues and by liaison and discussion with the Cabinet.
 - b. To conduct research, community and other consultation in the analysis of policy issues and possible options.
 - c. To consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
 - d. To question Cabinet Members and/or Council employees about their views on issues and proposals affecting the area.
 - e. To liaise with individuals and external organisations operating in the area, whether national, regional or local, to ensure that the interests of the citizens of Wolverhampton are enhanced by collaborative working.
 - f. To review and scrutinise the decisions made by and performance of the Cabinet and Council employees both in relation to individual decisions and over time.
 - g. To review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas and to receive and consider other reports received from external auditors and external regulatory Inspectors and to work with the Cabinet to respond to recommendations from reviews and inspections.
 - h. To undertake reviews of the Councillors, Call for Action where referred by the Monitoring Officer.
 - i. To question Cabinet Members and/or Council employees about their decisions and performance, whether generally in comparison with service

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plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.

- j. To make recommendations to the Cabinet and/or appropriate Regulatory or other Committee and/or Council arising from the outcome of the scrutiny process.
- k. To review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Panel and local people about their activities and performance.
- l. To consider call-ins related to their area of responsibility.
- m. To question and gather evidence from any person (with their consent).
- n. To deal with any other matter which is by law required to be dealt with by an "overview and scrutiny committee".

2. Who may serve on the Scrutiny Board, Scrutiny Panels and Scrutiny Review Groups

2.1 Councillors

All Councillors except Cabinet Members may be members of the Scrutiny Board or a Scrutiny Panel or Select Committee. However, no Councillor may be involved in scrutinising a decision in which he/she has been directly involved.

2.2 Co-opted Members

The term Co-opted Members is restricted to:

- a. Statutory Parent Governor, Church Diocesan and Youth Council representatives, appointed to serve on the Children, Young People and Families Scrutiny Panel by the Annual Council Meeting.
- b. Wolverhampton HealthWatch representatives appointed to serve on the Health Scrutiny Panel.

The membership of Scrutiny Panels and Select Committees by representatives of external organisations or individuals will be restricted to those Co-opted Members appointed at Annual Council.

The Children, Young People and Families Scrutiny Panel shall include in its membership the following representatives:

- a. One voting Church of England diocesan representative.
- b. One voting Roman Catholic diocesan representative.
- c. Two voting parent governor representatives*.
- d. One non-voting Youth Council representative.

*Details of the eligibility and appointment arrangements relating to parent governor representatives are set out in section 26.17.

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When the Panel deals with matters other than those relating to education functions, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

The Health Scrutiny Panel shall include in its membership three representatives of Wolverhampton HealthWatch.

It is a requirement of accepting a position as a Co-opted Member that those persons should sign and abide by the Councillors' Code of Conduct.

A review, inquiry or task and finish group may appoint representatives of external organisations to support their work as appropriate and may invite 'witnesses' to present evidence to meetings. These are not Co-opted Members.

3. Times and locations of meetings of the Scrutiny Board and Scrutiny Panels

3.1 The Council will approve a programme of Ordinary Meetings for the Scrutiny Board and each Scrutiny Panel. In addition, extraordinary Meetings may be called from time to time as and when appropriate. A Board or Panel meeting may be called by the Chair or one quarter of the total number of voting Councillors or by the Head of Paid Service if he/she considers it necessary or appropriate.

3.2 Meetings shall take place at the Civic Centre or such other location(s) as may be agreed.

4. Quorum

4.1 The quorum for the Scrutiny Board, Scrutiny Panels and Select Committees shall be as set out for Regulatory or other Committees in the Council Procedure Rules in Part 4.

5. The Chairs of the Scrutiny Board and Scrutiny Panels

5.1 The Chair and Vice-Chair will be appointed by the Council from amongst eligible Councillors.

6. Work programme

6.1 Each Scrutiny Panel will, subject to guidance from the Scrutiny Board, be responsible for setting and reviewing their priorities and work programme for the year.

7. Agenda items

7.1 Any member of the Scrutiny Board or a Scrutiny Panel shall be entitled to request that the Head of Paid Service include an item relevant to the Board/Panel's purview at the next meeting, providing an explanation as to why the matter should be considered. The Head of Paid Service will then ensure the item is included on the next agenda or make arrangements for appropriate alternative scrutiny.

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8. Ensuring that overview and scrutiny reports are considered by the Cabinet

- 8.1 Once a Scrutiny Board or Scrutiny Panel report on any matter which is the responsibility of the Executive has been completed, it shall be included on the agenda of the next available meeting of the Cabinet or, by agreement with the Chair of the Board or Panel, the next meeting of the Cabinet which is scheduled to consider the subject matter of the report. If for any reason the Cabinet does not consider the Board or Panel report the matter will be referred to Council for review, and the Head of Paid Service will call a Council meeting to consider the report and make a recommendation to the Cabinet.
- 8.2 The Scrutiny Board and Scrutiny Panels will have access to the Executive's timetable for decisions and intentions for consultation. The Board and Panels may consider any such item in advance of a decision by the Cabinet and may require the Cabinet to have regard to their views when considering the item. The Board and Panels will also use the decision schedule to identify items for scrutiny prior to decision in accordance with paragraph 12.2.

9. Rights of Scrutiny Board and Scrutiny Panel members to documents

- 9.1 In addition to their rights as Councillors, members of the Scrutiny Board, Scrutiny Panels and Select Committees have additional right to documents, and to notice of meetings, as set out in the Access to Information Procedure Rules in Part 4.
- 9.2 Nothing in this section prevents more detailed liaison between the Cabinet and the Scrutiny Board and Scrutiny Panels as appropriate depending on the particular matter under consideration.

10. Councillors and employees giving account

The Scrutiny Board, Panels and Select Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Cabinet Member, the Head of Paid Service and/or any Designated Officer to attend before it to explain in relation to matters within their remit:

- a. any particular decision or series of decisions;
- b. the extent to which the actions taken implement Council policy; and/or
- c. their performance,
- d. and it is the duty of those persons to attend if so required.

11. Attendance by others

- 11.1 The Scrutiny Board, Scrutiny Panels and Select Committees may invite people other than those people referred to in paragraph 10 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders, contractors or technical experts, Councillors and employees in other parts of the public sector, and may invite such people to attend.

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12. Pre-decision scrutiny

- 12.1 Although decisions made by the Executive must be open to scrutiny, the Council wishes the primary focus of its scrutiny process to be on shaping and informing decisions through pre-decision scrutiny.
- 12.2 The Scrutiny Board and Panels will have access to the Forward Plan of forthcoming decisions and proposals for consultation. Often, the provision of additional or explanatory data and information can avoid the need for formal consideration of a decision or issue. The initial emphasis, therefore, will be on the free flow of information from Council employees in response to requests for clarification or elaboration from Councillors.
- 12.3 Thereafter, as part of its work programme, the Board or an individual Panel may request a report on any forthcoming decision that falls within its purview, in advance of its consideration by the Executive. Having considered a particular issue, the Board or Panel may require the decision-maker to have regard to its views as part of the decision-making process.
- 12.4 Subject to the proposals considered by the decision-maker being substantially the same as the information previously presented to the Scrutiny Board or Panel, matters that have been considered through pre-decision scrutiny may not be called in for post-decision scrutiny under the provisions outlined in paragraph 12.3.
- 12.5 Any item being considered as pre-decision scrutiny will therefore not be eligible for call-in once a decision is made by the Executive. Reports to be considered as pre-decision scrutiny by the Scrutiny Board or a Scrutiny Panel will include the following statements:

'This item was considered as pre-decision scrutiny on *insert date* by *Scrutiny Board/name of panel* and will therefore not be available to call in once a decision is made by *Cabinet/Cabinet (Resources) Panel*.'

The *Scrutiny Board/name of panel* made the following recommendations *detail recommendations and action taken*.

13. Call-In

13.1 General Procedure

- a. When a decision is made by the Cabinet or Cabinet Panel, the decision shall be published, and shall be available at the main offices of the Council normally within two working days of the meeting taking place. Copies will be sent to all Councillors of the Council.
- b. That notice will be dated and will specify that the decision will

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come into force, and may then be implemented on the expiry of three working days after the publication of the decision.

c. A valid request for call-in is one which is submitted to the Monitoring Officer in writing, including by email, within three working days of the date of publication of the decision by:

- either, three non-executive councillors.
- or any two of the chairs or vice chairs of Scrutiny Board or Scrutiny Panel.

All requests must:

- give the reason for the call-in.
- specify whether the decision is claimed to be outside the policy or budget framework.

In relation to the reasons for call-in, the Monitoring Officer has a discretion, having consulted with the Chair of Scrutiny Board, to refuse any reasons which are in the view of the Monitoring Officer, requests for information or expressions of opinion or are not directly relevant to the decision being called in.

The Monitoring Officer or Proper Officer shall notify the decision-taker of the call-in and call a meeting of the Scrutiny Board as soon as possible after consultation with the Chair of that Board, and in any case within ten working days of the relevant call-in period. The Scrutiny Board Chair in consultation with the Monitoring Officer may determine to refer the call-in to a relevant Scrutiny Panel.

The relevant Cabinet Member should attend the Scrutiny Board if available. If he/she cannot attend the Cabinet will make every effort to ensure that another Cabinet Member attends instead. Directors or their representative will be expected to attend the meeting.

Having considered the called-in decision the Scrutiny Board may:

- (i) refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns; or
- (ii) refer the matter to full Council; or
- (iii) support the original decision.

If referred back to Cabinet as the decision maker they shall then reconsider at the next scheduled meeting if the timescale for the decision allows, amending the decision or not, before adopting a final decision.

If the matter is referred to full Council it will be dealt with at the next scheduled meeting, subject to the Access to Information Act requirements, unless there are grounds for urgency which require an extraordinary meeting.

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If the Scrutiny Board does not meet within the ten working day period required, the decision will take effect on the expiry of that period.

If the Scrutiny Board meets but does not refer the decision back to the decision taker or onto Council then that decision will take immediate effect after the meeting of the Committee.

If the decision is referred to full Council and

(i) the Council does not object to the decision which has been made, then no further action is necessary and the decision will be effective immediately after the meeting;

(ii) they object to the decision it will be referred back to the decision-making person or body, together with the Council's views on the decision. Where the decision was taken by the Cabinet as a whole or its sub-committee, it must meet within seven working days of the Council requestor at its next scheduled meeting (whichever is the sooner) to reconsider the decision.

If the Council does not meet within the period required above the decision will become effective on expiry of that period.

For the avoidance of doubt, if either the Scrutiny Board or the Council refer a matter back to the decision-making person or body, the implementation of that decision shall be suspended until such time as the decision making person or body reconsiders and either amends or confirms the decision, but the outcome on the decision should be reached within 14 working days if being referred.

13.2 Exceptions

Council decisions, decisions taken under the Urgency Procedure and decisions by Council Regulatory bodies will not be subject to call-in.

A decision cannot be called in more than once.

A decision which was considered under pre-decision scrutiny.

13.3. Call-In and Urgency

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet or Cabinet Panel 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 interest.

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 Chair of the Scrutiny Board must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of

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urgency. In the absence of the Chair, the consent of the Vice Chair shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required.

If no agreement is given to the item being treated as a matter of urgency the item shall not be dealt with under the urgency procedure.

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

The use 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.

14. Procedure at Scrutiny Board and Scrutiny Panel Meetings

14.1 The Scrutiny Board and Scrutiny Panels shall consider the following business:

- a. minutes of the last meeting;
- b. declarations of interest;
- c. any matter referred to the Board or Panel in relation to call-in of a decision;
- d. responses of the Cabinet to reports of the Board or Panels and
- e. matters otherwise set out on the agenda for the meeting.

14.2 Where the Board or Panel conducts investigations (e.g. with a view to policy development), it may ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:

- a. that the investigation be conducted fairly and all Councillors of the Board or Panel be given the opportunity ask questions of attendees, and to contribute and speak;
- b. that those assisting the Board or Panel by giving evidence be treated with respect and courtesy; and
- c. that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

14.3 Following any investigation or review the Board or Panel shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

15. Substitution of Councillors at Scrutiny Board

15.1 Any permanent Councillor of the Scrutiny Board may nominate another Councillor to attend a meeting of the Scrutiny Board where:

- a. the permanent Councillor will be unable to attend for the entire duration of the meeting of the Board;
- b. the permanent Councillor will be unable to attend at the commencement of, or for any part of a meeting or;
- c. the permanent Councillor will be required to be absent from any part of a meeting or during consideration of a particular item as a result of the need to declare a prejudicial interest.

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15.2 Where a substitute Councillor is nominated to attend a meeting of the Scrutiny Board.

- a. The substitute Councillor will have all the powers and duties of a permanent Councillor of the Board whilst attending the meeting or part thereof in place of the permanent Councillor and may speak and vote.
- b. The substitute Councillor may be replaced during the course of a meeting by the permanent Councillor on the proviso that as far as is practically possible the substitute Councillor will be required to remain in the meeting for the duration that the items(s) for which they are substituting are under discussion.
- c. All substitutions to be notified to the Democratic Services Section by the permanent Councillor as soon as possible prior to the commencement of the meeting either in writing or via email.

16. Matters within the remit of more than one Scrutiny Panel

16.1 Where a matter for consideration by a Scrutiny Panel also falls within the remit of one or more other Panels the decision as to which Panel will consider it will be resolved by the Scrutiny Board.

17. Arrangements for the appointment of parent governor representatives

17.1 Parent governor representatives will be elected in accordance with the Parent Governor Representatives (England) Regulations 2001.

18. Councillor Call for Action Protocol

18.1 In accordance with Section 119 of the Local Government and Public Involvement in Health Act 2007 (the Act) and Sections 19 and 20 of Part 3 of the Police and Justice Act 2006, This is intended only to be used when all the usual channels for resolving such issues have been exhausted.

18.2 Any member of the Council may submit a Councillor Call for Action (CCfA) on a local government or crime and disorder matter.

18.3 A local government matter means a matter which:

- a. relates to the discharge of any function of the Council;
- b. affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area, and;
- c. is not an excluded matter.

18.4 A local crime and disorder matter, in relation to a member of a local authority, means a matter concerning: –

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

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which affects all or part of the electoral area for which the member is elected or any person who lives or works in that area.

- 18.5 Referral is by way of notice to the Monitoring Officer that an item be placed on the next available meeting of the Scrutiny Board and will be dealt with under the procedure set out in these Rules.

The request will include:

- The name of the Councillor and Ward they represent.
- Details of the issue.
- A full summary of action undertaken by the Councillor or community to resolve the issue .
- Clarity on definitive resolution sought by Councillor (action the Councillor is looking for as a result of CCfA to resolve or move forward the issue raised). The guidance states that the Councillor bringing the CCfA should be clear at the outset as to what he or she expects to get out of the process. The Scrutiny Board will focus discussion on these expected outcomes. Further the Scrutiny Board will be expected to challenge these expected outcomes, if they feel that these outcomes are unreasonable.

It should be noted that discussions at scrutiny will not necessarily resolve the issue immediately but may allow members and officers and/or partners to overcome the problem.

Once received, the Monitoring Officer will check that the CCfA request complies with the basic requirements, as set out above, and if so, will then undertake an initial investigation and prepare a report for consideration by Scrutiny Board.

The report will be placed before Scrutiny Board within 15 working days of the initial investigation being completed or the next available Scrutiny Board meeting. Scrutiny Board will consider the summary report and determine whether the issue should be treated as a CCfA. The Councillor who has submitted the CCfA will be invited to attend the Scrutiny Board meeting considering their issue.

If Scrutiny Board decide not to treat the issue as a CCfA, the Monitoring Officer will write to the member concerned confirming the decision with reasons.

If Scrutiny Board decides to treat the matter as a CCfA the Scrutiny Board will deal with the issue.

Once Scrutiny Board has reached a decision, this will be a final decision with no formal right of appeal to the executive arm of the Council.

For issues related to services provided by the Council, the Scrutiny Board will be able to use their existing powers and new powers available from the

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LGPIH Act 2007.

For partner organisations scrutiny will be able to:

- Request information and attendance.
- Review decisions made/action taken by the Safer Wolverhampton Partnership Board in connection with discharge of their crime and disorder functions (Police and Justice Act 2006).

Issues referred to these bodies will require a response time of 28 days.

18.6 Gate keeping process

During the initial investigation phase every attempt will be made to either resolve the issue or to signpost the Councillor to those who may be able to resolve the issue, so that the CCfA request is withdrawn and/or requires no further action.

18.7 Excluded Items:

The following issues will be excluded from being dealt with as a CCfA:

- a. any matter relating to a planning decision;
- b. any matter relating to a licensing decision;
- c. any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- d. any matter which is vexatious, discriminatory

Unless specifically excluded, with regard to crime and disorder matters, the Scrutiny Board has the power to: –

- a. review or scrutinise decisions made, or other action taken, in connection with, the discharge by the responsible authorities of their crime and disorder functions;
- b. to make reports or recommendations to the Safer Wolverhampton Partnership with respect to the discharge of those functions.

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