

ARTICLE 8 - OVERVIEW AND SCRUTINY

This article sets out the role of Overview and Scrutiny which in North East Lincolnshire Council is carried out by Members forming Scrutiny Panels. The role of Scrutiny is to discuss and make recommendations on important Policy matters and to hold the Cabinet to account for the decisions they make.

8.01 Terms of reference

The Council will appoint Scrutiny Panels to discharge the functions conferred by section 21 of the Local Government Act 2000 and regulations under section 32 of the Local Government Act 2000.

The Scrutiny Panels shall carry out a functional remit determined annually by full council.

8.02 General role

Within their terms of reference, the Scrutiny Panels will:

- i) review and/or scrutinise decisions made or actions taken or proposed in connection with the discharge of any of the Council's functions;
- ii) make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions;
- iii) consider any matter affecting the area or its inhabitants and carry out policy reviews as appropriate; and
- iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet.

8.03 Specific functions

Examples of Overview and Scrutiny functions are given below. Some provisions under (b) apply equally to (a), for example questioning members of the Cabinet.

- a) Policy development and review

The Scrutiny Panels may:

- i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- iv) question members of the Cabinet, other committees and chief officers about their views on issues and proposals affecting the area; and
- v) 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.

- b) Scrutiny Panels may:
- i) review and scrutinise the key decisions made by and performance of the Cabinet, individual portfolio holders 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 Cabinet 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 Cabinet and/or appropriate Committees 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 Scrutiny Panel and local people about their activities and performance; and
 - vi) question and gather evidence from any person (with their consent)
 - vii) Annual report: Scrutiny Panels must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.
 - ix) Officers: Scrutiny Panels may exercise overall responsibility for the work programme of the officers employed to support their work.

8.04 Finance

The Panels will exercise overall responsibility for any finances made available to them.

8.05 Proceedings of Scrutiny Panels

The Scrutiny Panels will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in [Appendix 1](#) of this Article.

ARTICLE 8 – APPENDIX 1

OVERVIEW OF SCRUTINY PROCEDURE RULES

Introduction

Effective scrutiny arrangements are an essential part of good governance in any local authority. Scrutiny is essential in achieving value for money and best practice and to ensure that there are appropriate checks and balances on the exercise of powers.

The council will appoint an Executive and Scrutiny Liaison Board (not being a formal committee of the council) and five scrutiny panels as follows to discharge the functions conferred by Section 21 of the Local Government Act 2000 (as amended):

1. Children and Lifelong Learning
2. Health and Adult Social Care
3. Economy, Culture and Tourism
4. Transport, Infrastructure and Housing
5. Communities

Responsibilities

Executive and Scrutiny Liaison Board

Purpose:

The Executive and Scrutiny Liaison Board is responsible for providing the strategic direction and management of the scrutiny function at North East Lincolnshire Council.

Composition:

The membership of the Executive and Scrutiny Liaison Board will be the Leader and Deputy Leader of the Council and Scrutiny Panel Chairs, supported by the Statutory Scrutiny Officer.

Meetings

Meetings will be scheduled every two months, at the end of each round of scrutiny panel meetings.

Minutes

Minutes of the Executive and Scrutiny Liaison Board will be circulated to all Elected Members once agreed.

Terms of Reference:

The Executive and Scrutiny Liaison Board will:

1. Have overall responsibility for the management and operation of the scrutiny function at North East Lincolnshire Council.
2. Agree / Commission Select Committees and Working Groups through the Scrutiny Panels.
3. Resolve any conflicts between Panels relating to the work programmes.
4. Coordinate work programmes with the Audit and Governance Committee.
5. Consider items on the Forward Plan and whether they would benefit from pre-decision scrutiny.
6. Determine how budget scrutiny, performance monitoring issues and matters of a corporate nature which affect the Council as a whole, are dealt with.
7. Oversee the development of member skills and competencies in scrutiny.
8. Review the scrutiny work programme on a rolling basis, making such changes and modifications as agreed, and submit the annual scrutiny report to the Annual Meeting of Council.

Scrutiny Panels

Purpose

The Scrutiny Panels are responsible for:

1. holding the Executive (Cabinet) to account via the process of call-in or pre-decision scrutiny
2. undertaking policy development work
3. discharging statutory scrutiny functions as prescribed in legislation and, in particular, with regard to health, crime and disorder and education.
4. undertaking such other activity as may be commissioned either by Cabinet or Council, or as a result of the necessary exercise of statutory scrutiny responsibilities.

Composition

The membership of the scrutiny panels (except Children and Lifelong Learning Scrutiny Panel – see below) will be eight members per panel with membership appointed from non-Cabinet members (proportionate to party membership within the council).

In respect of the Children and Lifelong Learning Scrutiny Panel – ten members plus the statutory parent governor and diocesan voting representatives co-opted on to this Panel.

To invite agreed co-optees on to the Panel.

General Role

Within their terms of reference, the five scrutiny panels will:

1. Review and/or scrutinise the decisions made by the Cabinet, Portfolio Holders and/or council officers in relation to individual decisions.
2. Review and/or scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.

3. Examine called-in decisions made but not yet implemented by the Cabinet in accordance with the scrutiny procedure rules.
4. Examine key decisions on the Forward Plan as pre-decision scrutiny items.
5. Consider requests for Councillors Call for Action.
6. Consider petition appeals in accordance with the petitions scheme.
7. Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the five scrutiny panels and local people about their activities and performance.
8. Question members of the Cabinet and/or Committees and 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.
9. Question and gather evidence from any person (with their consent).
10. Make reports and/or recommendations to Council, Cabinet, relevant Portfolio Holder and/or the relevant committee in connection with the discharge of any functions.
11. Consider and make reports or recommendations on any matter affecting the area or its residents.
12. Work to ensure that communities are engaged in the scrutiny process; and consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
13. Promote equality and diversity across all of its work and the work of the Council.

Limitations

1. All aspects of partnership governance will be considered by the Audit and Governance Committee.

Terms of Reference

The Scrutiny Panels are responsible for scrutinising any matters affecting North East Lincolnshire within their remit. The areas of focus for each Panel include:

<p>Children and Lifelong Learning Scrutiny Panel</p>	<ul style="list-style-type: none"> • Safeguarding children • Children’s social care • Fostering and adoption • Looked after children and residential care • Corporate parenting • Children and young people leaving care • Children with disabilities
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	<ul style="list-style-type: none"> • Integrated family support (Including early intervention and prevention) • Early years and childcare • Family hubs • Education, standards, attainment and school improvement • Special educational needs and inclusion • Access and educational welfare services • Children's health commissioning • Child and adolescent mental health services (CAMHS) • Children's complex health care • Teenage pregnancy • Employability and skills • School nursing
Health and Adult Social Care Scrutiny Panel	<ul style="list-style-type: none"> • Matters relating to the Health and Wellbeing Strategy • Health improvement • Public health (prevention agenda) • Adult social care • Integrated health and social care arrangements (referrals from and to the Integrated Care Board/Partnership and the Health and Wellbeing Board) • Health and social care providers in North East Lincolnshire (including voluntary, community and social enterprise sector) • Safeguarding adults • Health visiting
Economy, Culture and Tourism Scrutiny Panel	<ul style="list-style-type: none"> • Matters pertaining to the Economic strategy • Economic development • External funding and inward investment (including renewable energy) • Regeneration projects, including town centre and resort growth • Local enterprise and growth • Town Centre Master Plans • Business and education partnerships • Tourism • Visitor economy and retail offer • Libraries, museums and culture • Local heritage • Leisure and sport
Transport, Infrastructure and Housing Scrutiny Panel	<ul style="list-style-type: none"> • Local Plan (to include delivery, development, control and market housing) • Transport and traffic regulations (including parking) • Highways • Strategic housing • Housing Enforcement/Housing related support • Homelessness • Empty and derelict property

	<ul style="list-style-type: none"> • Asset management (including business centres) • Emergency planning and civil contingencies • Flood risk management
Communities Scrutiny Panel	<ul style="list-style-type: none"> • Crime and community safety • Domestic Abuse • Youth justice/youth offending • Equality, diversity and inclusion • Community cohesion • Voluntary and community sector • Town and Parish Council liaison • Customer services • To discharge community governance review responsibilities under the Local Government and Public Involvement in Health Act 2007 • Public protection (trading standards, licensing, port health, environmental health) • Waste Strategy and collections • Street Scene • Parks, open spaces and physical resort management • Digital • Energy and climate change

Specific Panel Responsibilities:

Communities Scrutiny Panel

In accordance with Sections 19 and 20 of the Police and Justice Act 2006, as amended by Section 126 of the Local Government and Public Involvement in Health Act 2007, the Communities Scrutiny Panel will act as the Crime and Disorder Committee of the Council, and in this respect to exercise the following functions:

- To review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions.
- To make reports or recommendations to the local authority with respect to the discharge of those functions.
- To make reports or recommendations to a responsible authority or to a co-operating person or body on a crime and disorder matter and consider responses to its reports and recommendations within 1 month of receipt or as soon as possible thereafter.
- To meet at least once in each municipal year.

Health Scrutiny Panel

In accordance with Section 21 of the Local Government Act 2000, as amended by the Health and Social Care Act 2001, the Health Scrutiny Panel will review and scrutinise the performance and general activities relating to the health providers in North East Lincolnshire in accordance with the requirements of current legislation. These functions include:-

- To lead on the review and scrutiny of NHS services, adults social care, health inequalities and improvement and public health services (including CQC inspection reports).
- To consider the priorities for our partners, the Health and Wellbeing Strategy, the Clinical Commissioning Groups' plans and the Council's own priorities that relate to this agenda.
- To discharge the local authority's powers of review and scrutiny on such health related matters as designated within the Health and Social Care Act 2012, Statutory Instrument No. 218/2013 - The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 and associated Department of Health Guidance.
- To develop a relationship with NHS England and the local Clinical Commissioning Group whilst providing challenge and assurance to their role in determining commissioning priorities regarding the provision of public health services for which they are responsible for local provision.
- To develop a relationship with the Health and Wellbeing Board and provide a "critical friend" approach to sharing information during the production and refresh of the Joint Strategic Needs Assessment and the Health and Wellbeing Strategy.
- To engage with the Clinical Commissioning Group regarding their commissioning priorities and also those health service providers around any changes that they wish to make in respect of their service provision. In undertaking these potential roles, the panel will need to be satisfied that the engagement process adopted has been robust.
- To undertake a strong process of review /evidence gathering which informs any decision regarding referral to the Secretary of State;
- To develop a relationship with the local Healthwatch organisation to enable any referrals from Healthwatch to be examined by the council as part of the review and scrutiny mechanism.
- To take a lead role in the review and scrutiny of those public health services that are transferred across to the local authority and signpost other scrutiny panels who may require the input of public health services in their activity.

Specific Functions

(a) Policy Development and Review

The five scrutiny panels may:

1. Assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues.

2. Conduct research, community engagement (as appropriate) and other consultation in reviewing and developing policy issues and possible options.
3. Question members of the Cabinet and chief officers from the Council about their views on issues and proposals affecting the area. Such questions must not, in the Monitoring Officer's reasonable opinion, be unsuitable in form, illegal, irregular or improper, vexatious, frivolous or derogatory to the dignity of the Council.
4. 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.
5. Consider the impact of policies to assess if they have made a difference when these are reviewed.

(b) Annual Report

An annual report on the discharge of the scrutiny function will be presented to the Annual General Meeting of Council, following consideration and review by the Executive and Scrutiny Liaison Board.

Functions of the [Statutory] Scrutiny Officer

The Assistant Chief Executive is designated as the "Scrutiny Officer" under Section 21ZA of the Local Government Act 2000. Their duties include:

- The Scrutiny Officer will promote the role of the scrutiny panels.
- The Scrutiny Officer will provide support to the scrutiny panels.
- The Scrutiny Officer will provide support to members of the local authority, members of the Cabinet, and officers of the authority, in relation to the functions of the scrutiny panels.

Note: The [Statutory] Scrutiny Officer cannot be the Head of Paid Service, Monitoring Officer or Chief Financial Officer.

1. Who may sit on the Scrutiny Panels?

Any Councillor, except a member of the Cabinet, may be a member of a Scrutiny Panel. However, no member may be involved in scrutinising a decision in which he/she has been directly involved and all Members must declare any such interest.

2. Co-optees

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

3. Education representatives

The Scrutiny Panel dealing with education matters shall include in its membership the following voting representatives:

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

In addition, this Panel shall include one non-voting Trade Union representative. The relevant Scrutiny Panel in this paragraph is the overview and scrutiny committee of a local education authority, where the committee's functions relate wholly or in part to any education functions which are the responsibility of the authority's Cabinet. Where this Panel deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

4. Meetings of the Scrutiny Panels

The number and frequency of ordinary meetings of each Scrutiny Panel shall be agreed annually at the Annual General Meeting of the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Panel meeting may be called by the Chairman of the Panel, by any two members of a Panel or by the proper officer if he/she considers it necessary or appropriate.

5. Quorum

The quorum for all Scrutiny Panels is as set out in the Council's Standing Orders in [Article 5 \(Appendix 1\)](#) of this Council's Constitution.

6. Who chairs Overview and Scrutiny meetings?

The appointment of the chair and provisions relating to them is a procedure set out in the Council Standing Orders. The Scrutiny Panel Chairs are appointed annually by full Council at its Annual General Meeting. In the absence of the Chair or Deputy Chair of a Scrutiny Panel, the Chair shall also be elected on a vote by show of hands from those Members present.

7. Work programme

The Scrutiny Panels will be responsible for setting their own work programmes, subject to any requests that the Executive and Scrutiny Liaison Board or Cabinet may make to individual Panels, and in so doing they shall take into account the wishes of all members on that Panel who are not members of the largest political group(s) on the Council. The Executive and Scrutiny Liaison Board will agree which reviews / select committees are held and the priority order for them to ensure that resources are effectively used.

8. Agenda Items

The Scrutiny Panels will ensure that any agenda item can be referred to the Cabinet, to other committees or to the Council as appropriate. Any member of the Scrutiny Panels shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Panel to be included on the agenda for the next available meeting of that Panel. On receipt of such a request the proper officer will, subject to the approval of the Chair of the Panel, ensure that it is included on the next available agenda.

Any other non-Cabinet members of the Council who are not members of the Scrutiny Panels may give written notice to the proper officer that they wish an item to be included on the agenda of the relevant Scrutiny Panel. If the proper officer receives such a notification, then he/she will include the item on the first available agenda of the relevant Scrutiny Panel for consideration by that body.

The Scrutiny Panels shall also respond, as soon as their work programmes permit, to requests from the Council and the Cabinet to review particular areas of Council activity. Where they do so, the Scrutiny Panel shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Panel at the next available meeting and provide a formal, written reply to the next available meeting of the Panel on what actions, if any, it intends to take with regard to the recommendations of the Panel.

There is a requirement for papers and presentation slides at Scrutiny Panels to be circulated at least four calendar days prior to the scrutiny panel meeting (save in exceptional circumstances and supported by the Chair of the scrutiny panel), otherwise they will not be accepted for consideration at that meeting.

9. Policy review and development

- (a) The role of the Scrutiny Panels in relation to the development of the Council's budget 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, the Scrutiny Panels may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Scrutiny Panels may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They 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.

10. Reports from Scrutiny Panels

- a) Once it has formed recommendations on proposals for development, the Scrutiny Panel will prepare a formal report and submit it to the proper officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary or 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) The Council or Cabinet shall consider the report of the Scrutiny Panel at the next available meeting of it being submitted to the proper officer. A response from the relevant chief officer(s) shall be provided within four weeks of this date and the Council/ Cabinet shall formally respond in writing to the proper officer within five working days of receipt of that report, clearly stating which matters are agreed in principle, which matters are to be deferred and which are not agreed, with reasons stated. This matter shall then be placed on the next available agenda of the Overview and Scrutiny Panel and the relevant portfolio holder and officer shall be invited to present their response.

11. Making sure that Scrutiny reports are considered by Cabinet

- a) The agenda for Cabinet meetings shall include an item for reports referred by scrutiny. The reports of Scrutiny Panels referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of Cabinet's deliberations on a substantive item on the agenda) on the next available Cabinet agenda following the Scrutiny Panel completing its report/recommendations. If for any reason the Cabinet does not consider the overview and scrutiny report within four weeks then the matter may be referred to Council for review, and the proper officer will call a Council meeting to consider the report and make a recommendation to the Cabinet. Similarly, if the relevant chief officer(s) does not respond to the Cabinet within four weeks in order for a reply to be formulated by cabinet, then the Scrutiny Panel may refer the matter to full Council. The proper officer will call a meeting of the full Council and invite the Leader of the Council and relevant portfolio holder to prepare a response report.
- b) Scrutiny Panels will in any event have access to the Cabinet'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 Panel following a consideration of possible policy/service developments, the Panel will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

12. Rights of Scrutiny Panel members to documents

- a) In addition to their rights as councillors, members of Scrutiny Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Article 3 of this Constitution.
- b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny as appropriate dependent on the particular matter under consideration.

13. Members and officers giving account

- a) Scrutiny Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions (except decisions made by the Council's regulatory committees, the Appointments Committee, the Standards and Adjudication Committee, the Audit and Governance Committee and any non-executive committee exercising quasi-judicial functions). As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet 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) Where any member or officer is required to attend a Scrutiny Panel under this provision, the Chair of that Panel will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least five 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 Panel. Where the account to be given to the Panel 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.
- c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Scrutiny Panel shall, in consultation with the member or officer, arrange an alternative date for attendance to take place within a maximum of two months from the date of the original request (except where any summer recess arrangements apply).

14. Attendance by others

The Scrutiny Panel may invite people other than those people referred to in paragraph 13 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. Attendance for these is voluntary and entirely optional.

15. Call-in

Call-in should only be used where really necessary and the right should not be abused. In particular it should be used where members have evidence which suggests that the Cabinet, the Portfolio Holder or the Health and Wellbeing Board did not take the decision in accordance with the principles set out in Article 4 (Decision Making).

- a) When a decision is made by the Cabinet, the Portfolio Holder, the Health and Wellbeing Board or a key decision is made by an officer with delegated authority from the Cabinet, 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. The notice will be sent to all Members.
- 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 any 2 members of the Council (including co-opted members) object to it and call it in.
- c) The Chief Executive shall call-in a decision for scrutiny if so requested by any two members of the Council (including co-opted members provided the Proposal relates to their area of responsibility) and shall then notify the

decision taker of the call-in. The two members "calling-in" must give written notice to the Chief Executive no later than 4.00 pm on the fifth working day after publication of the decision notice and shall specify the reason for calling the decision in. In the event of any anomaly or concern, the Chief Executive shall either directly, or through the Monitoring Officer, consult with the Leader of the Group(s) seeking to call in the decision.

- d) When calling-in a decision the two members shall indicate which Scrutiny meeting the matter will go to with reasons for the preference. The Chief Executive will then adjudicate on allocation to the appropriate Scrutiny meeting. If an item is called in following a Cabinet decision then this should not result in a request for a select committee or review, unless agreed with Cabinet first.
- e) A maximum period of 28 days will be set for scrutiny to hear a call-in following receipt of notice and, in any event, the call-in shall be heard at the next Scrutiny meeting in the Committee cycle. The members who have called the decision in will have a combined ten minutes in total to address scrutiny on the reasons for the call-in. If, having considered the decision, the relevant Panel 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. Referrals to full Council are restricted to matters that were contrary to the policy framework or contrary to/or not wholly in accordance with the budget. If referred back to the decision maker, they shall then reconsider within a further four weeks before adopting a final decision. Any decision can only be reconsidered once.
- f) If, following consideration of a call-in, the relevant Panel does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the relevant Panel meeting.
- g) If the matter was referred to full Council and the Council does not object to the 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 power to make decisions in respect of a Cabinet 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 a decision was taken by the Cabinet as a whole, a meeting will be convened to reconsider within four weeks of the Council request. Where the decision was made by an individual, the individual will also reconsider within four weeks of the Council request.
- h) 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.

Call-In and Urgency

- i) The call-in procedure set out above shall not apply where the decision taken by the Cabinet 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 community's best 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 the reason for this, and therefore not subject to call-in. The Leader and Deputy Leader of the Council 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 Leader and/or Deputy Leader, the Head of Paid Service (Chief Executive) or his/her nominee's consent shall be required. In all cases, the Cabinet will be required to consult with a Scrutiny Chair to satisfy that person that urgency is justified. In the absence of the Chair of the relevant Scrutiny Panel a Chair of another Panel shall be consulted. Decisions taken as a matter of urgency must be reported to the next available meeting of the Cabinet, together with the reasons for urgency.
- j) Full Council may resolve to exempt a proposed Cabinet decision from call-in provided that notice of the proposed decision is included in the Forward Plan and, in any event, the exemption serves the best interests of the Council, the Borough and relevant stakeholders.
- 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.

16. The Party Whip

- a) Governmental Guidance views application of the party whip as incompatible with Overview and Scrutiny. The following, however, provides a means of safeguard where whipping does occur. 'The party whip' is 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".
- b) When considering any matter in respect of which 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 Panel's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

17. Procedure at Scrutiny Panel meetings

- a) Scrutiny Panel meetings shall consider the following business:
 - i) minutes of the last meeting;
 - ii) declarations of interest (including whipping arrangements);
 - iii) consideration of any matter referred to the Panel for a decision in relation to

- call in of a decision;
 - iv) responses to any questions submitted under the 'Public Question Time at Scrutiny' facility (see Article 3, appendix 4)
 - v) consideration of any item referred to the Panel concerning monitoring of the performance of the Council;
 - vi) responses of the Cabinet to reports of the Panel.
 - vii) items for policy review agreed by the Panel.
 - viii) items to consider for policy review by the Panel.
 - ix) consideration of any valid petition relevant to the remit of that Panel.
 - x) examination of any matter relevant to the function of the Panel from the Forward Plan prior to a decision being taken.
 - xi) consideration of any performance monitoring information relevant to the remit of that Panel.
 - xii) any urgent business (agreed at the discretion of the Chair).
- b) Where a Scrutiny Panel conducts investigations (e.g. with a view to policy development), the Panel may also ask people to attend to give evidence at Panel meetings to be conducted in accordance with the following principles:
- i) that the investigation be conducted fairly and all members of the Panel be given the opportunity to ask questions of attendees, and to contribute and speak;
 - ii) that those assisting the Panel by giving evidence are 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 Panel shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

18. Matters within the remit of one or more Scrutiny Panel

Where a matter for consideration falls within the remit of one or more Panels, the decision as to which Panel shall deal with the matter shall be taken by the Executive and Scrutiny Liaison Board.

19. Joint Board or Panel Meetings

Where a matter is of mutual interest to one or more Panels e.g. in respect of strategic, corporate or cross-cutting issues which can be more efficiently and effectively dealt with collectively, then consideration shall be given to:

- i) inviting Panel members to observe the matter being presented to the other Panel;
- ii) a joint meeting of the Panels being held;
- iii) a joint meeting of two or more Panels taking place;
- iv) the matter being dealt with by one Panel to which delegates from other Panels are invited.

Joint meetings may be called by agreement with the relevant Chairs.
Joint meetings shall be chaired by one of the existing Panel Chairs

20. Forward Plan

THE ROLE OF SCRUTINY

- a) The Forward Plan of key decisions to be taken by this local authority shall be published (made public) on a monthly basis. All elected Members shall receive notice on or before the fifteenth of each month of key decisions to be taken by the executive (Cabinet, Portfolio Holder or Officers). The Plan shall cover the four month period ahead starting with the month following publication e.g. the plan published on 15 January shall be for the period February - May.
- b) Non-executive Members sitting on a Scrutiny Panel may ask to examine any item relevant to their remit prior to a key decision being taken. Normally, items shall be considered by the relevant Panel. Such a request may be made at a scheduled meeting of the Panel and the matter will be considered at the next scheduled meeting of that Panel provided this does not prevent the executive decision being reached at the proposed time. If no meeting of the relevant Panel is planned before a key decision needs to be taken, that Panel shall consider whether or not the issue warrants an additional meeting of the Panel taking place in sufficient time for Scrutiny to examine the item.
- c) In order to maximise the opportunity for non-executive Members to examine such matters in time, Chairs of scrutiny panels should take responsibility for reviewing the plan as soon as practicable after it is published in order to highlight any areas to be examined in detail by the panel to the proper officer. However, all scrutiny Members may, on receipt of the Forward Plan, ask the proper officer for an item to be examined at the next meeting of the relevant Panel. In such cases, the proper officer shall bring this request to the attention of the Chair of that Panel who shall determine whether or not to include this request on the next agenda of that Panel, including as a late and urgent item.
- d) Where a request for information about an item on the Forward Plan is made, the relevant Director shall supply such information as is available to that Panel prior to the matter being reported to the executive body taking that key decision. In all cases, an explanation shall be given of the key decision(s) that it is proposed the executive body take and the reasons behind this.
- e) Where the Scrutiny Panel examines an item it may:
 - i) note the information including proposed decisions of the executive and take no further action, or
 - ii) make comments or propose amendments to the draft report to Cabinet with the agreement of the directorate reporting on it, or
 - iii) make separate representations to the executive body taking the report where agreement has not been reached on the key decisions that should be taken.
- f) Where a scrutiny body makes a separate report, this shall be presented by the Chair of that body (or their nominee) to the executive decision-making body or person before any decision is reached on the matter. The outcomes of those representations shall then be given to the next available meeting of

the relevant scrutiny body.

21. Scrutiny of the Budget

There will be an opportunity for non-Cabinet members to attend formal scrutiny meetings to consider draft budget proposals as part of the formal budget consultation process. In order to maximise attendance, these meetings may be repeated over two sessions. Where the same matter is subject to a vote at both meetings, an individual member attending both meetings would only be entitled to one vote on the proposal across both meetings

Appendix 2 - Protocol on Scrutiny Panel / Cabinet Member Relations

1. Introduction

- 1.1 This Protocol applies to all members of scrutiny panels, any member who may sit on a scrutiny panel and all members of the Executive (comprising the Leader and the various Cabinet Members). It provides guidance on the way in which both types of members interact to enable the authority to carry out the overview and scrutiny function. The Protocol also outlines the framework and procedures underpinning the operation of scrutiny and provides guidance on role of officers who support this process.

2. Objectives

- 2.1 To enable scrutiny members, officers and Cabinet Members to fully understand their powers, roles and responsibilities in relation to the overview and scrutiny function, so as to maximise their personal effectiveness.
- 2.2 To establish a positive framework and the necessary procedures to enable scrutiny to work effectively.
- 2.3 To promote an ethos of mutual respect, trust and courtesy in the interrelationships between scrutiny members and Cabinet Members and to foster a climate of openness leading to constructive debate, with a view to ensuring service improvements.
- 2.4 To maintain a culture of holding the Executive to account on behalf of the electorate, by monitoring the effectiveness of the Council's policies and through the regular review of its performance in relation to service delivery.
- 2.5 To define and clarify the role of the Executive as an integral component of the scrutiny process.

3. Holding the Executive to account

- 3.1 One of the underpinning principles of overview and scrutiny is the ability of non-executive members to hold the Executive to account. A key method of ensuring accountability is through critically and routinely considering the performance and decisions taken by the Executive.
- 3.2 To facilitate this approach, a scrutiny panel may challenge the Executive about decisions, which it has taken either collectively, or by way of portfolio holder (Cabinet member) decisions. A scrutiny panel may also consider any relevant performance information in respect of the delivery of services. In addition, the panel may query or make recommendations in relation to decisions which the Executive is proposing to take, as set out in the Forward Plan.

- 3.3 The Executive will be required to consider any recommendations or views expressed by a scrutiny panel and to take such action it sees fit. Where any decision taken by the Executive is not in accordance with advice provided by the panel, the relevant Cabinet Member should be prepared to provide an explanation of the reasons for that decision to the panel concerned.

4. Powers of the scrutiny panels

- 4.1 Article 8 of Part 2 of the Council's Constitution, sets out the relevant powers of the scrutiny panels, which include, inter alia:
- review and scrutinise the key decisions made by and performance of the Cabinet, individual portfolio holders and council officers both in relation to individual decisions and over time;
 - assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
 - question members of the Cabinet 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;
 - make recommendations to the Cabinet and/or appropriate Panels and/or Council arising from the outcome of the scrutiny process.

5. Overview and Scrutiny Panel agendas

- 5.1 The agenda for ordinary meetings of scrutiny panels will contain an item on the Forward Plan. The purpose of this item is to provide an opportunity for members to ask questions or seek clarification about the nature of any key decisions due to be taken within the next four months and to raise with the Cabinet Member any fundamental issues concerning those proposals to ensure that all relevant views are taken into account.
- 5.2 The agenda for scrutiny panel meetings may include items referred to the panel for pre-decision scrutiny. These may be items either requested by the panel from the Forward Plan or scrutiny may have been included as a consultee on the Forward Plan. In addition, there is a requirement that scrutiny is consulted on budget and policy framework matters prior to consideration by Cabinet and full Council.
- 5.3 The agenda for ordinary meetings of scrutiny panels will also contain an item allowing panel members the opportunity to ask questions of the relevant Cabinet Member on any matter within their portfolio remit. Any such questions should be submitted within three clear working days of the meeting unless considered urgent and with the agreement of the Chair.

- 5.4 The agenda of each scrutiny panel meeting will be guided by that panel's work programme. The work programme is generally set at the beginning of each Municipal Year but is subject to amendment throughout the year as matters arise. The relevant Cabinet Member may be invited to comment on the panel's proposed priorities within its work programme, to inform the selection process and to undertake a co-ordinating role by providing advice to the panel about any potential conflict between proposed scrutiny topics and areas of planned policy development. The Cabinet Member may also advise the panel about instances where it may be requested by the Executive to assist in policy development.
- 5.5 The agendas of scrutiny panel will normally include, at such regular intervals as the panels may determine, any relevant performance management information available. The purpose of this item is to assist members to monitor the recent performance of services within its remit against key targets and to make recommendations or to implement a more detailed scrutiny review in relation to those areas of identified weakness.

6. Attendance by Executive Members at scrutiny panel meetings (including 'Call-In' meetings)

- 6.1 Cabinet Members will normally be expected to attend meetings of scrutiny panels within their portfolio remit, for the purposes of being held to account in relation to decisions taken and to answer questions in relation to proposed decisions that have been included within the Forward Plan.
- 6.2 While matters are under debate at scrutiny meetings, Cabinet members in attendance will respond to questions and provide advice on matters under discussion upon request but otherwise not to take part in any debate.
- 6.3 Cabinet Members are encouraged to avail themselves of every opportunity to gauge the views of non-Executive members on any issues falling within their remit. A close working relationship and an open exchange of views will be of particular importance to the Cabinet Member and scrutiny members, where consideration is being given to the development of the Council's budget or policy framework.
- 6.4 Cabinet Members will normally be expected to attend any meetings of scrutiny panels at which it is intended to consider a Call-In request in relation to his/her area of responsibility.
- 6.5 At meetings where call-ins are being considered, the purpose of the Cabinet Member's attendance is to explain the decision taken by Cabinet and answer questions of fact. Cabinet Members need to be careful not to be drawn into the debate, so as to avoid any possible allegations of becoming involved in the scrutiny of their own decisions which may bring them into conflict with the Code of Conduct. It is therefore important to draw the distinction between answering questions of fact and becoming involved in the panel debate into the issue in question.
- 6.6 Unless there are extenuating circumstances, the decision maker should always attend a Call-In meeting. It is accepted however that officers are often better placed to present greater detailed information that led up to the decision and this

is deemed to be acceptable although it should always be the decision maker that is held to account.

- 6.7 The following procedure should take place where call-ins are being considered:
- (i) The Member(s) who called in the decision should speak first.
 - (ii) The Chairman would then invite the Cabinet Member (decision maker) to respond.
 - (iii) The Panel can then ask questions of the decision maker who may ask a relevant officer to supply further information if necessary.
 - (iv) The Panel debates the issue and votes on the outcome.
- 6.8 In the event of a situation where the decision maker cannot attend a Call-In meeting, the Leader of the Council or Deputy Leader should attend in their absence. In the event of both the Leader and Deputy Leader being unavailable, they should nominate another Cabinet Member to attend and be accountable for the decision.

7. Ethos of the meeting

- 7.1 All members should promote an atmosphere of openness at scrutiny panel meetings and should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust between the scrutiny panel members, the Cabinet Member and other participants.
- 7.2 Scrutiny panel members should be prepared to ask searching questions of Cabinet Members, who in turn should be willing to respond to any question put. It should however be stated that scrutiny panel members should be aware of and show an understanding of the fact that Cabinet Members may not be in a position to answer every question immediately or in detail
- 7.3 Cabinet Members should, in so far as possible, anticipate and be prepared to answer questions on decisions taken, or proposed to be taken, which fall within their remit. Cabinet Members should also value the contribution of scrutiny panel members who raise questions under these headings and respond in an appropriate and professional manner.
- 7.4 Cabinet Members should normally be authorised by a panel to speak upon any item on the agenda and may at any time offer to assist the scrutiny panel by the provision of factual information or advice in relation to the matters under discussion.
- 7.5 The Chairman of the meeting shall at all times ensure that the conduct of the meeting shall be fair and that all participants are treated courteously.
- 7.6 The Chairman, supported by the officers, should provide leadership and guidance to the panel on all scrutiny matters and should promote the panel's role to improve services and monitor the effectiveness of Council policies.

8. Select Committees and Working Groups

- 8.1 Scrutiny may be tasked with assisting the Executive on policy development matters or it may choose to investigate matters within its work programmes in a

more focussed way outside of the usual panel setting. This kind of work is usually undertaken via a select committee or working group. These are essentially task and finish groups, who will have spent time considering background information, witness evidence, and formulating their recommendations.

- 8.2 The Chairman or Vice-Chairman of the task and finish group will be invited to present the final report at a Cabinet meeting. The Cabinet can expect a report that:
- Has clear, concise recommendations;
 - Identifies potential areas for improvement; and
 - Highlights implications including financial, legal, equality, policy, of the recommendations and where possible identify solutions as appropriate.
- 8.3 The relevant Portfolio Holder(s) can assist the review in a number of ways including:
- At the outset of the review, when the task and finish group is considering the scope, methodology and witnesses to give evidence;
 - During the review when the Portfolio Holder can be invited to give evidence;
 - At the end of the review after the task and finish group has produced the first draft of the report.
- 8.4 During the review period the Chairman of the task and finish group is recommended to meet with the Portfolio Holder and Officers:
- To discuss the proposed scope, methodology and sources of evidence for the review and ascertain if the Portfolio Holder has any suggestions to make;
 - To highlight and examine areas of potential agreement or disagreement in relation to the report's findings and recommendations to ascertain if any areas of disagreement can be resolved at the draft report stage, or identify if any further work needs to be done by the task and finish group.
- 8.5 Although this dialogue is encouraged, it is recognised that scrutiny and its task and finish groups are independent of the Cabinet and as such agreement may not be possible on all the findings and conclusions in a draft report.
- 8.6 It is recognised that senior officers have a valuable role to play in the scrutiny process in terms of the provision of factual evidence for a review. At the commencement of an internal review, the Chairman of the task and finish group will notify the relevant Assistant Director, who will then contribute to the review in terms of supplying information and helping to identify suitable witnesses.
- 8.7 The Assistant Director will be given the opportunity to comment and/or make recommendations on a completed draft report in terms of any factual errors. The decision as to whether to incorporate any suggested amendments will remain with the task and finish group.
- 8.8 The responsibility for the implementation of scrutiny recommendations that have been approved by Cabinet will rest with the relevant Assistant Director, who will also be responsible for providing regular updates on progress to the appropriate scrutiny panel.

8.9 A completed scrutiny report, together with any comments provided by Officers will be forwarded to Cabinet who will consider whether or not to implement the recommendations contained within the report.

8.10 If the content of a report, including any recommendations, is likely to impact on any external organisation, Cabinet will have the opportunity to pass comment, including whether or not it endorses the recommendations, before the report is passed to the external body.

9. Attendance by officers at scrutiny meetings

9.1 Meetings of the Scrutiny Panels will be attended by the appropriate Assistant Director and Service Managers with responsibility for any agenda item under discussion. The role of the lead officer will be to assist the Committee through the provision of professional advice and to ensure access to relevant information and personnel.

9.2 The attendance of other relevant officers at either Scrutiny Panels, Select Committees or Working Group meetings, will be at the request of the Chairman, who will have regard to the appropriate level of seniority of attendees. In general the relevant officer should not be below the level of Service Manager.

9.3 An officer in receipt of a request to attend a Scrutiny meeting should make reasonable efforts to do so. Where an officer is unable to attend on a particular date, he/she should notify the Chairman or lead officer as soon as possible, in order to agree the most appropriate course of action, which may include the attendance of an alternative representative.

9.4 Officers in attendance at Scrutiny Panel meetings should be prepared to assist the Cabinet Member in the provision of information to the panel in response to any question raised.

9.5 Relevant Officers will normally be expected to attend any meeting of the Scrutiny Panel at which it is intended to consider a Call-In request in relation to his/her service area