



# **[Draft]** Constitution

Approved by the Council

**[INSERT DATE]**

- c) establishing Committees to discharge specific Executive functions, or establishing working groups or panels to review or advise on specific issues;
- d) representing the Council locally, nationally and internationally;
- e) attending meetings of the Scrutiny Committee as and when required to do so;
- f) agreeing (where required in accordance with policy) the acquisition and disposal of property and the management of the Council's land holdings (other than Housing Land Transfers);
- g) undertaking decisions in respect of the Council acting in its capacity as shareholder or member of Council owned companies;
- h) exercising the powers and duties of the Council in respect of its statutory functions (apart from those reserved to full Council);
- i) discharging the functions of the Council acting in its capacity as the waste collection authority;
- j) agreeing protocols for consultation and relations with Outside Bodies;
- k) exercising the Executive's Local Choice functions listed in Part 2;
- l) establishing appropriate arrangements for the delivery of cross-cutting/cross departmental functions; and
- m) receiving reports and recommendations from the Scrutiny Committee and Select Committees.

### 8.3 Cabinet Notice (Forward Plan)

There is a statutory requirement to publish the intention to take any Key Decision at least 28 clear days in advance of it being taken, except in cases of general exception or special urgency.

There is also a requirement to publish at least 28 clear days in advance if any meeting, or part thereof, is likely to involve the consideration in private of a Key Decision or any other Executive decision even if not a Key Decision. Both these requirements are achieved through the Forward Plan (otherwise described as the Cabinet Notice). The detail which must be included in the Cabinet Notice, as prescribed by legislation, is set out in Article 30.10.

~~To enable effective pre decision scrutiny and ensure decisions are not delayed unnecessarily by the pre decision scrutiny process, the time periods and process for pre decision scrutiny set out below must be followed for all Key Decisions (subject to any application of the general exception or where an urgent decision is required — see below).~~

~~In addition to enabling the pre decision process, the Cabinet Notice enables Members, members of the public, and the Scrutiny Committee to consider which items they wish to examine and consider in good time before they are determined.~~

The Cabinet Notice is updated and published as a minimum monthly and covers all decisions proposed to be made by the Cabinet and Key Decisions made by Officers acting under delegated authority. However, not all decisions will be known in advance and so notice of all decisions may

- b) the expectation of the public and Members as to whether the decision should be taken by the Cabinet;
- c) the anticipated interest(s) of the public and of Members;
- d) the effect on other Council services and functions;
- e) the effect on social, economic, and environmental factors; and
- f) whether the decision will have an impact on those with protected characteristics (age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity).

~~All Key Decisions proposed to be taken by the Cabinet shall be subject to pre-decision scrutiny by the Scrutiny Committee unless the Scrutiny Committee has previously agreed that the decision does not need to be considered. The pre-decision scrutiny procedure is set out in Part 2.~~

Where a Cabinet decision has been made and:

- a) was not treated as being a Key Decision; and
- b) the Scrutiny Committee is of the opinion that the decision should have been treated as a Key Decision,

the Scrutiny Committee may require Cabinet to report to full Council within such reasonable period as the Committee may specify, including within that report details of the:

- a) decision and the reasons for the decision; and
- b) reasons Cabinet is of the opinion that the decision was not a Key Decision.

### **8.5 General Exception Decisions and Urgent Decisions**

Sometimes it is impracticable to include the intention to make a Key Decision on the Cabinet Notice (Forward Plan), but there is still time to give advance public notice. Such a decision may still be made in accordance with the general exception procedure. The general exception procedure applies if the following three conditions are fulfilled:

- a) the Monitoring Officer must inform (by written notice) the Chair of the Scrutiny Committee, or if there is no such person, each member of that Committee, of the matter about which the decision is to be made;
- b) a copy of such notice must be placed on the website and made available for public inspection at Town Hall; and
- c) five clear days must have elapsed, not counting the day upon which the copy notice was given.

As soon as practicable, the Monitoring Officer will make available a notice setting out the reasons why it was impracticable for notice of the intended decision to appear in the Cabinet Notice and to publish that notice on the website.

- h) agreement of the capital programme and the Medium-Term Financial Strategy; and
- i) any limitations to, conditions on, or rules governing the management of budgets, virement between budgets, treatment of underspends, windfall income or reserves contained within the Financial Regulations.

### 9.3 Housing Land Transfer

Housing Land Transfer means:

- a) the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993; or
- b) the disposal of land used for residential purposes where approval is required under sections 32, 43 and 106A and Schedule 3A of the Housing Act 1985.

### 9.4 Process for Developing the Policy Framework

The Cabinet will publicise, by including in the Cabinet Notice (Forward Plan) and any other appropriate means, a timetable for making proposals to full Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework and any arrangements for consultation after publication of those initial proposals.

**The Council will consider the draft Policy Framework and may adopt, amend, add to, or refer all or part back to the Cabinet for further consideration, or indicate that it wishes to substitute its own proposals in their place.**

At least every five years a draft Corporate Plan will be prepared, setting out the overall strategic direction of the Council including its vision, priorities, and values. The plan guides everything the Council will do for the Borough, its citizens, and visitors for the period. It therefore acts as the overarching Policy Framework of the Council.

The draft Corporate Plan is drawn up in line with the Council's Medium-Term Financial Strategy and in parallel with the development of the draft Budget for the period to ensure the necessary resources are in place for its delivery.

**The Cabinet will, if necessary, amend the draft Corporate Plan, which will form the Council's overarching Policy Framework.**

The draft Corporate Plan will be subject to discussion with the Scrutiny Committee, before being submitted, along with the comments and recommendations of the Scrutiny Committee, to Cabinet for consideration. Cabinet will then present the draft Corporate Plan to full Council for approval, along with the draft Budget for the coming year.

The draft Corporate Plan is underpinned by an Annual Action Plan, which is drawn up on a yearly basis and sets out in more detail how the Council's vision and priorities will be delivered. The Annual Action Plan contains more specific targets and actions that will come together to deliver the Corporate Plan.

Progress against targets is monitored and reviewed regularly through the Council's performance management framework. Progress on delivering the Annual Action Plan is formally reported every six months to the Executive Leadership Team and Cabinet, and annually to the full Council and Scrutiny Committee. It is through the review of the Annual Action Plan that delivery of the Corporate Plan is monitored. The Council also publishes an overall performance review as part of

## 9.5 Consideration ~~by Cabinet/Council~~ of the Budget

In time for the annual Budget meeting of the financial year, the Cabinet will receive a report from the Chief Finance Officer setting out a statement of the likely

- i) Budget out-turn for the year;
- ii) a forecast of the Budget requirement and resources for the forthcoming year; and
- iii) any recommendations with regard to the management of the Council's financial affairs.

The Cabinet will undertake the statutory consultation on the Budget with the business community, together with such other consultation as they see fit.

The Cabinet may make recommendations to Council about the Council's resources and expenditure, and recommend measures to be taken to ensure a balanced Budget in the forthcoming year, or may leave it to the Council to determine on the basis of the report from the Chief Finance Officer.

The Cabinet shall refer the draft Budget to the Overview & Scrutiny Committee, in which case the Director for Resources/ Section 151 Officer shall report the draft Budget to that Committee and that Committee shall then consider the same and prepare a recommendation to Cabinet. In such consideration, the Overview & Scrutiny Committee may undertake such consultation as it considers appropriate, having regard to any consultation previously undertaken by the Cabinet.

~~The Cabinet will, if necessary, amend the draft Corporate Plan, which will form the Council's overarching Policy Framework.~~

~~The Council will consider the draft Policy Framework and may adopt, amend, add to, or refer all or part back to the Cabinet for further consideration, or indicate that it wishes to substitute its own proposals in their place.~~

If it accepts the recommendation of the Cabinet without amendment or is formally setting the Budget or Council Tax levels for a financial year, full Council may make a decision that has immediate effect. Otherwise, it may only make an in-principle decision.

An in-principle decision in relation to the Budget, Plan or strategy will automatically become effective after the expiry of five working days beginning on the day after the date when the Leader is informed of full Council's objections unless, within that five day working period, the Leader informs the Monitoring Officer in writing that they object to the decision becoming effective and provides reasons why. The Leader may also decide to call a special meeting of the Cabinet to discuss the issue.

Upon receiving written notification from the Leader, the Monitoring Officer will arrange to call a full Council meeting within a further seven working days. Full Council will reconsider its decision and the Leader's written submissions and may:

- a) approve the Cabinet recommendation; or
- b) approve a different decision that does not accord with the recommendations of the Cabinet.

The decision shall then be made public and implemented immediately.

## 16.2 Terms of Reference

In **relation to policy development and overview to** ~~respect of Policy development and overview, the Scrutiny Committee may:~~

- a) **assist the Council and the Cabinet by preparing recommendations to Cabinet on the draft Budget and all Policy Framework documents** ~~assist the Council and the Cabinet in the development of the Budget and Policy Framework by in-depth analysis of policy issues;~~
- a)b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- b)c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- e)d) question Cabinet Members and Chief Officers about their views on issues and proposals affecting the area;
- e)e) liaise with other organisations operating in the area, whether national, regional, or local, to ensure that the interests of local people are enhanced by collaborative working;
- e)f) hold enquiries and investigate the available options for future direction in policy development;
- f)g) appoint advisors and assessors to assist in the process;
- g)h) conduct site visits, carry out public surveys, hold public meetings, commission research and do all other things that are reasonably considered necessary to perform the deliberations; and
- h)i) invite witnesses to attend to address the Committee on any matter under consideration and pay any advisor, assessors and witnesses a reasonable fee and expenses for so doing.

## 16.3 Role of Scrutiny Committee

Scrutiny is a key democratic mechanism for holding public-service decision-makers and providers to account as well as facilitating the improvement of public services within the Borough. Effective scrutiny enhances accountability, ensures transparency of decision-making, contributes to service improvement, and acts as a 'check and balance' on decision-makers.

Scrutiny should be carried out in a proactive and constructive way and contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants, visitors, and businesses.

The Council has agreed that the scrutiny function should be exercised by the Scrutiny Committee. In summary, this Committee is required to maintain an overview of the discharge of the Council's Executive function and has the right to:

- a) scrutinise any Executive decision made by the Cabinet or by Officers (acting under delegated powers);
- b) **scrutinise any decisions the Cabinet are proposing to make in relation to the Budget and Policy Framework; or**

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b)c) review the Council's policy-making or decision-making processes.

The Scrutiny Committee also undertakes a key role in the overview and development of Council policy and discharges a number of functions to support and assist the Council with this, as set out below. The Cabinet and full Council may consult the Scrutiny Committee on all matters relating to policy development.

~~The Scrutiny Committee may undertake pre-decision scrutiny of any proposed Cabinet Key Decision.~~ The Committee can also 'call-in' certain decisions that have been made by the Cabinet but which have not yet been implemented. This enables the Committee to consider whether the decisions taken (or to be taken) by Cabinet are appropriate. ~~Pre-decision scrutiny ensures that the Committee's views are considered by Cabinet at the relevant meeting to inform its decision-making.~~ Following a decision being called-in the Scrutiny Committee may recommend that Cabinet reconsiders that decision. The Scrutiny Committee acts as a 'critical friend' to decision makers and, as part of this role, may be consulted by Cabinet or the Council on forthcoming decisions.

~~All Key Decisions proposed to be taken by the Cabinet or by Officers (acting under delegated powers) are subject to pre-decision scrutiny by the Scrutiny Committee unless the Scrutiny Committee has previously agreed that the decision does not need to be considered.~~

The Scrutiny Committee can also review any relevant matter after the event or ask a relevant Sub-Committee to do so.

Some decisions are not subject to review by the Scrutiny Committee, these are:

- a) decisions of the Development Management Committee on specific applications and cases where applicants have a right of appeal;
- b) decisions of the Licensing Committee on specific applications and cases where applicants have a right of appeal; and
- c) individual cases dealt with by the Standards Sub-Committee.

#### 16.4 Scope:

In respect of Scrutiny, the Scrutiny Committee may:

- a) consider and either endorse or make recommendations on Key Decisions to be taken by the Leader, a Cabinet Member, the Cabinet or Officers;
- b) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions, ensuring they are made in accordance with the Constitution and policies laid down by the Council and within the Corporate Plan;
- c) review and scrutinise the decisions and performance of the Cabinet and Officers both in relation to individual decisions and over time;
- d) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- e) require Cabinet members and Officers to attend and answer questions 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;

- f) exercise the right to call-in, for reconsideration, decisions made by Cabinet or an Officer but not yet implemented;
- g) make reports and/or recommendations to the Council and/or Cabinet and/or joint committees in connection with the discharge of any functions;
- h) review and scrutinise the performance of other public bodies in the Borough by inviting reports and requesting them to address the Committee and local people about their activities and performance;
- i) question and gather evidence from any person (with their consent);
- j) consider requests from any elected or co-opted member for an item relevant to the functions of the Committee to be considered at the next available meeting;
- k) consider a Councillor Call for Action on matters relevant to the Committee; and
- l) perform scrutiny functions relating to crime and disorder and to scrutinise the Community Safety Partnership<sup>7</sup>.

#### **16.5 Annual report**

The Scrutiny Committee will report annually to the Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

#### **16.6 Proceedings of the Scrutiny Committee**

Meetings of the Scrutiny Committee shall be held in accordance with the approved timetable of meetings. Additional meetings may be called from time to time as and when appropriate, and in particular where such meetings may be required to undertake any pre-decision scrutiny in order to fit in to the proposed decision-making timetable. Such additional meetings shall be convened by the Head of Legal & Governance, following consultation with the Chair of the Committee. The Chair of the Committee, any three members of the Committee, or the Monitoring Officer may convene a meeting if they consider it necessary or appropriate.

#### **16.7 Work Programme**

The Scrutiny Committee will be responsible for setting its own work programme on the advice of the Chief Executive and the Executive Directors, and in doing so it shall take into account wishes of Members on the Committee, including members who are not members of the largest political group on the Council or of any political group, ~~who are not members of the largest political group on the Council.~~

The Scrutiny Committee may receive requests from the Cabinet and suggestions from Officers of the Council for particular topics to be scrutinised.

The work programme shall be reported to Council annually

#### **16.8 Agenda Items**

Any member of the Scrutiny Committee may request that an item relevant to the functions of the Committee be included on the agenda of the next available meeting. On receipt of such a request, the Monitoring Officer will ensure that the request is included on the next available agenda, provided that it is received at least 10 clear working days prior to the date of the meeting.



Any non-executive Member may request to the Monitoring Officer that an item relevant to the functions of the Committee be included on the agenda of the next available meeting. Whether such items will be included on the agenda of the next available meeting will be subject to the Committee's work programme.

There will be a standing item on the agenda of all ordinary meetings of the Scrutiny Committees to allow such requests to be considered.

Any Member who submits a request will have the right to attend the meeting at which the item is to be considered, to explain the reasons for the request and to have the item discussed.

The committee will decide:

- (a) if the matter is a simple one, to resolve it forthwith
- (b) to request Officers to prepare a report for the next convenient meeting
- (c) to set up a task and finish group to investigate and report back to the committee
- (d) to make recommendations to the Cabinet or Council, as appropriate
- (e) to decide to take no further action upon the request, for stated reasons.

The Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and, if they consider it appropriate, the Cabinet, to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Cabinet or Council, as appropriate. The Council and/or the Cabinet shall consider and respond to a report of the Scrutiny Committee within two months of receiving it unless otherwise agreed by the Chairman of the Scrutiny Committee.

Apart from the Chair, no Member of the Committee may place more than one item of business on the agenda for any one meeting.

The Chief Executive and the Monitoring Officer have delegated powers to place items on the agenda. The agenda for the meeting will give the name of the Member who asked for the item to be considered and that Member will be invited to attend the meeting when the item is to be considered.

### **16.9 Scrutiny Officer**

The Council may designate one of its Officers as Scrutiny Officer to undertake the following functions:

- a) to promote the role of the Scrutiny Committee;
- b) to provide support to the Scrutiny Committee and the Members of the Scrutiny Committee; and
- c) to provide support and guidance to all Members, including Cabinet Members, and Officers in relation to the functions of the Scrutiny Committee.

The Scrutiny Officer cannot be the Head of Paid Service, the Monitoring Officer, or the Chief Finance Officer

<sup>7</sup> s.19 Police and Justice Act 2006 and Crime and Disorder (Overview and Scrutiny) Regulations 2009

#### ~~16.10 — Pre-Decision Scrutiny~~

~~All Key Decisions to be taken by the Leader, a Cabinet member, the Cabinet, or Officers shall be subject to the pre-decision scrutiny process unless the Scrutiny Committee has previously agreed that the decision does not need to be considered.~~

~~Pre-decision scrutiny provides the Scrutiny Committee and Members the opportunity to provide their views on proposed Key Decisions in advance of the decision being taken to assist and inform the Cabinet or relevant Officer in its decision-making process.~~

~~Pre-decision scrutiny does not replace decision-making. It is not intended to blur the lines of accountability, which will always rest with the Executive.~~

~~Pre-decision scrutiny is not the same as general service or policy development / formulation. Separate to pre-decision scrutiny there are occasions where scrutiny may already be involved at an earlier point in the development of policy or service proposals.~~

~~Decisions which have been the subject of pre-decision scrutiny by the Scrutiny Committee may still be called in — the pre-decision scrutiny process does not remove the right to call in any Key Decision made by Cabinet or an Officer.~~

~~The Scrutiny Committee shall make such arrangements as may be required to enable it to consider and discuss all proposed Key Decisions prior to the decisions being taken.~~

~~There is a presumption that a single meeting of the Committee will be sufficient to formulate views on the proposed Key Decision, although circumstances may permit more time and additional meetings of the Committee to be held to further consider the proposed decision.~~

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~~Following the Committee's consideration of any proposed Key Decision, the views of the Committee shall be presented to the relevant decision maker (i.e., Cabinet or Officer) in advance of the decision being taken. The Committee's views will be presented by way of written report (in accordance with the timescales set out below) prior to the relevant Cabinet meeting, a copy of any written report submitted to Cabinet shall also be provided to the relevant Officer(s) within the same time frame.~~

~~Where the proposed Key Decision is one that will be made by Cabinet, the Chair (or in their absence, the Vice Chair) of the Scrutiny Committee may attend the relevant Cabinet meeting to present the Committee's views verbally, in which case the relevant Officer(s) shall be invited to attend the relevant Cabinet meeting. The range of possible outcomes may include support for a decision, a different view on the way forward, the flagging up of concerns, or a view that the decision should be deferred pending further work.~~

~~Decisions which are subject to pre-decision scrutiny will not necessarily be changed or withdrawn, rather the process provides the opportunity for those decisions to be more informed.~~

#### ~~16.11 The Pre-Decision Scrutiny Procedure~~

~~The procedure for pre-decision scrutiny is as follows:~~

- ~~a) subject to item p) below all Key Decisions shall be considered by the Scrutiny Committee in advance of the decision being taken;~~
- ~~b) the Cabinet is required to produce and keep up to date a Cabinet Notice (Forward Plan) and timetable for Cabinet decisions (or those taken by individual decision makers with delegated authority) and intentions for consultation;~~
- ~~c) all Key Decisions must be included on the Cabinet Notice (Forward Plan) a minimum of 28 clear days in advance of the decision being taken (subject to any application of the general exception or where an urgent decision must be taken);~~
- ~~d) reports prepared in respect of all future Key Decisions must be forwarded to the Corporate Services Manager no later than seven days following publication of the relevant Cabinet Notice (Forward Plan) detailing the decisions to which the reports relate;~~
- ~~e) the Corporate Services Manager shall forward all reports received in respect of Key Decisions to the Chair of the Scrutiny Committee within one working day of the report being received and consideration of the decision will be included as an item on the Scrutiny Committee's agenda;~~
- ~~f) a meeting of the Scrutiny Committee to consider the Key Decision shall be convened no later than seven days following inclusion of the decision as an item on the Scrutiny Committee's agenda (pursuant to the above paragraph);~~
- ~~g) it may be necessary to arrange additional meetings of the Scrutiny Committee to ensure workloads can be managed accordingly and to fit with the Council's decision-making timetables;~~
- ~~h) the relevant Cabinet member and/or relevant Officer(s), as requested by the Scrutiny Committee, shall attend the relevant Committee meeting to present the report, provide clarity, and answer any questions posed by Scrutiny Committee members;~~

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- ~~i) — Scrutiny Committee meetings undertaking pre-decision scrutiny will be open to the public (unless any exemptions apply or the meeting includes discussion of confidential information), and the Committee may invite stakeholder input to assist them in formulating a view on any proposed decision;~~
- ~~j) — no later than seven days following the Scrutiny Committee's consideration of any proposed Key Decision, the views of the Committee shall be presented by way of written minutes, of the relevant meeting to the relevant decision maker (i.e., Cabinet or Officer), a copy of any written minutes submitted to Cabinet (or a Cabinet member) shall also be provided to the relevant Officer(s) within the same time frame;~~
- ~~k) — where the proposed Key Decision is one that will be made by Cabinet, the Chair (or in their absence, the Vice Chair) of the Scrutiny Committee may attend the relevant Cabinet meeting to present the Committee's views verbally, in which case the relevant Officer(s) shall be invited to attend the relevant Cabinet meeting;~~
- ~~l) — the range of possible outcomes of the Scrutiny Committee following the pre-decision scrutiny process may include:
  - ~~i) — support for a decision;~~
  - ~~ii) — a different view on the way forward;~~
  - ~~iii) — raising concerns in relation to the proposed decision; and/or~~
  - ~~iv) — a view that the decision should be deferred pending further work;~~~~
- ~~m) — the relevant decision maker will be required to provide feedback to the Scrutiny Committee, which shall include an explanation of any rejection of its views;~~
- ~~n) — the Scrutiny Committee's minutes detailing the Committee's views shall be appended to the report to be submitted to Cabinet and, where appropriate, the report should include a section referencing the outcome from the Scrutiny Committee meeting, demonstrating how the views of the Scrutiny Committee have been addressed;~~
- ~~o) — following consideration of the Scrutiny Committee's views on the Key Decision, the relevant decision maker (i.e., Cabinet or Officer) may choose not to take forward the Key Decision and (in the case of Cabinet) consider it at the relevant meeting;~~
- ~~p) — the Chair of the Scrutiny Committee may determine that a Key Decision shall not be subject to pre-decision scrutiny if:
  - ~~i) — Scrutiny Committee has already considered the matter;~~
  - ~~ii) — if pre-decision scrutiny would result in an urgent decision being delayed and such delay is likely to be detrimental to the Council; or~~
  - ~~iii) — there is a legal or constitutional reason why pre-decision scrutiny should not be undertaken.~~~~

## 16.12 Reports from Scrutiny Committee

~~In addition to reporting on decisions which are subject to pre decision scrutiny, in addition to reporting on decisions in relation to the Budget and Policy framework, the~~ The Committee may form recommendations on ~~proposals for development of Council policy or~~ decisions which are called in. Once it has formed such recommendations, the Scrutiny Committee will prepare a formal report and submit it to the Head of Legal & Governance for consideration by the Cabinet.

The Cabinet shall consider the report of Scrutiny Committee as soon as practicable after it has been submitted. If for any reason, the Cabinet does not consider the report within 8 weeks, then the matter will be referred to full Council for review and consideration at the next Ordinary meeting of the Council. In such cases, the Council shall consider the report and make a recommendation to Cabinet.

~~Aside from any reports submitted as part of the pre decision scrutiny process, only one report per month may be submitted by the Scrutiny Committee to Cabinet unless Cabinet agrees to receive further reports.~~

The Scrutiny Committee will, in any event, have access to the Cabinet Notice (Forward Plan) and timetable for Cabinet decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Scrutiny Committee following consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any Key Decision.

## 16.13 16.10 Members and Officers Giving Account

Within the scope of their terms of reference, the Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role it may require the Leader, any other member of the Cabinet, the Head of the Paid Service and/or Executive Directors and Heads of Services 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;
- c) the impact of any decisions on the performance of a Council service,

and it is the duty of those persons to attend if so required.

Where any Member or Officer is required to attend the Scrutiny Committee under this provision, the Chair of the Committee will inform the Head of Paid Service the Executive Directors. The Executive Directors shall inform the Member or Officer in writing giving at least five clear working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to give account and whether any papers are required to be produced for the Committee.

Where the account to be given to Committee will require the production of a report, then a Member or Officer concerned will be given ten clear working days' notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the Member is unable to attend on the required date, the Scrutiny Committee shall, in consultation with the Member, arrange an alternative date for attendance.

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## Article 18 – Call-In

### 18.1 Procedure

When a decision is made by the Cabinet, or a Key Decision is made by an Officer with delegated authority from the Cabinet, the decision will be sent to all Members and shall be available at the main offices of the Council within five working days of being made.

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 clear working days after the publication of the decision, unless the Scrutiny Committee objects to it and calls it in.

During that period, the Monitoring Officer shall call-in a decision for scrutiny by the Scrutiny Committee if so requested in writing by three Members of the Scrutiny Committee.

The request for a call-in must contain in writing the detailed reasons why the decision has been called-in.

A matter may not be called-in if the decision is urgent and any delay would prejudice the interests of the Council or the public in the opinion of the Monitoring Officer, or the decision is required urgently due in response to external risks. Budget and Policy Framework D decisions which have been the subject of pre-decision scrutiny may still be called in – ~~the pre-decision scrutiny~~ **this** process does not remove the right to call in a decision made by Cabinet or a Key Decision made by an Officer.

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The Members requesting a call-in must attend and address the Scrutiny Committee, called for that purpose, in order for the matter to be considered by the Committee.

The Monitoring Officer shall then notify the Cabinet or the decision-maker of the call-in, and shall call a meeting of the Scrutiny Committee on such date as they may determine, where possible after consultation with the Chair of the Committee. The Scrutiny Committee shall use its reasonable endeavours to ensure such meeting takes place within five clear working days of the decision to call-in and in any event no later than 10 clear working days of the decision to call in.

If, at the meeting, Scrutiny Committee does not refer the matter back to the decision-maker or to full Council, the decision shall take effect from the date of the Scrutiny Committee. If Scrutiny Committee does not meet within 10 clear working days from the decision to call-in, the decision shall take effect on the expiry of 10 clear working days after the decision to call-in.

If, having considered the decision, Scrutiny Committee is still concerned about it, then it may refer it back to the decision-maker for reconsideration, setting out in writing the nature of its concerns or it may refer the matter to full Council. If referred to the decision-maker, they shall then reconsider the matter as soon as possible, amending the decision or not, before making a final decision and implementing it. If the matter is referred to full Council then full Council shall meet within 10 clear working days of the matter being referred to them to consider the issue.

If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if full Council does object, it will refer the decision back to the decision-maker, together with its views on the decision. The decision-maker shall then reconsider the matter as soon as possible, amending the decision or not, before making a final decision and implementing it.

delegation and having wide public impact/interest; where the effect of the decision:

- (a) is to grant a permission or licence; or
- (b) affects the legal rights of an individual; or
- (c) is to award a contract or incur expenditure which 'materially' affects the Council's financial position.

25.2.4 **Urgent Decisions** are decisions made in circumstances where:

- (a) a decision is required by statute or otherwise within a specified timescale; or
- (b) any delay likely to be caused by not making the decision would seriously prejudice the Council's or the public's interests; or
- (c) any delay likely to be caused by not making the decision would be likely to expose the Council, its Members or the public to a significant level of risk, loss, damage or disadvantage.

25.2.5 Officers do not have authority to make Key Decisions except where:

- (a) they are specifically authorised by the Leader, Cabinet, or any Committee of the Cabinet; or
- (b) the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers.

~~All Key Decisions proposed to be made by Officers will be subject to pre-decision scrutiny by the Scrutiny Committee prior to the decision being taken unless the Scrutiny Committee has previously agreed that the decision does not need to be considered. The pre-decision scrutiny procedure is set out in Part 2.~~

Any decision-maker **may**, rather than taking a decision delegated to it, refer the decision upwards (escalate) to the delegating body where:

- (a) the decision has a particular significance of importance which makes it appropriate to be escalated;
- (b) the decision involves a point of exceptional political controversy;
- (c) the decision is the subject of particular public interest or scrutiny;
- (d) where representations have been made to, and accepted by, the decision taker that it should so be escalated; or
- (e) it appears in the public interest to do so.

- (d) any conflicts of interests declared by any Cabinet member consulted by the Officer and any dispensations granted by the Chief Executive in respect of any declared conflict;
- (e) the report considered by the decision-maker; and
- (f) any background documents disclosing facts or matters on which the decision was based and which were relied on to a material extent in making the decision.

The decision record must be kept for inspection for 6 years and the background papers for 4 years.

## **25.6 The process**

Before taking any decision, the authorised Officer must consider the principles of decision making set out in Part 2.

Details of all proposed Key Decisions must be published at least 28 clear days before the decision is made (unless the general exceptions procedure or special urgency procedure is applicable) via the Cabinet Notice (Forward Plan).

Where an Officer makes an urgent Key Decision they must comply with the legal requirements set out in the Access to Information Rules (see Part 4).

## **~~25.7 Pre-Decision Scrutiny~~**

~~All Key Decisions proposed to be made by Officers will be subject to pre-decision scrutiny by the Scrutiny Committee prior to the decision being taken unless the Scrutiny Committee has previously agreed that the decision does not need to be considered. The pre-decision scrutiny procedure is set out in Part 2.~~

## **25.825.7 Call-In**

Key Decisions made by Officers are subject to call-in by Scrutiny Committee and cannot be implemented until either the call-in period has expired or the Scrutiny Committee has made a decision regarding the call-in. The Call-in procedure is set out in Part 2.

Although the formal call-in process only applies to those Officer decisions which are Key Decisions, Scrutiny Committee can call an Officer to account over any decision made.

## **25.925.8 Recording and publishing the decision**

The Officer decisions for publication (listed above) are recorded in the same manner as Cabinet decisions. The Officer must provide Democratic Services with a completed Officer Decision Record (available on the Council's intranet site) within two clear days of the date of taking the decision. Any such forms must be copied to the relevant Executive Director. The Decision Record will be accompanied by any relevant background papers and, where appropriate (for example, in respect of a controversial or complex matter), a full report (based on the Cabinet report template).

Democratic Services will maintain a record of all Officer decisions referred for publication, including any report upon which each decision was made and background papers. Subject to any exemption from publication, they will ensure that this decision is available for public inspection via the website, at the Town Hall, or by post if requested and on receipt of any payment for copying and postage.