

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. The number of and arrangements for overview and scrutiny bodies

The Council's overview and scrutiny committees are set out in Article 6 of this Constitution. The Council has also established two other permanent scrutiny bodies, the Policy Scrutiny Group and the Performance Panel as described in Article 6.03.

The Scrutiny Management Board will lead scrutiny and will own and develop the scrutiny work programme. It may appoint scrutiny panels to produce in-depth reviews of particular subjects. Such panels will report their findings to the Scrutiny Management Board. The Scrutiny Management Board will consider completed panel reports and will either submit the report to Cabinet, Council or a committee (as appropriate), with or without minor amendments, or refer the report back to the originating panel if the Board does not support the panel's recommendations.

The Overview Scrutiny Group will provide the 'challenge' element of scrutiny. This includes pre-decision scrutiny of proposed Cabinet decisions and examining the work of outside agencies connected with the Council. The Overview Scrutiny Group may establish scrutiny panels to discharge this latter function where the Scrutiny Management Board has included it as an item in the scrutiny work programme. Such panels, and the Group when it is exercising this latter function, will report their findings to the Scrutiny Management Board as described above.

The Policy Scrutiny Group will look at ways in which scrutiny can assist in policy formulation and through the work of scrutiny panels. It will monitor the progress of established scrutiny panels and may propose the establishment of new panels to the Scrutiny Management Board.

The Performance Panel is a permanent panel and has the remit of reviewing or seeking improvement in Council performance. It will examine current and past performance but its focus will be on investigating how improvements in performance can be made. It will report its findings to the Scrutiny Management Board as described above.

The committees, groups and panels described above are collectively known as scrutiny bodies. Scrutiny committees, the Policy Scrutiny Group and the Performance Panel, and where practicable scrutiny panels, will meet in public and follow the Access to Information Procedure Rules in respect to the notice of meetings and access to information relating to those meetings.

2. Membership of scrutiny committees

All councillors, except members of the Cabinet and Cabinet Support Members, may be members of a scrutiny body. However, no member may

be involved in scrutinising a decision in which he or she has been directly involved.

3. **Co-opted Members**

Each scrutiny committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-opted members.

Other scrutiny bodies shall be entitled to recommend to the Scrutiny Management Board the appointment of a number of people as non-voting co-opted members.

4. **Quorum**

The quorum for scrutiny bodies is set out in Council Procedure Rule 30 in Part 4 of this Constitution.

5. **Work programme**

The Scrutiny Management Board will be responsible for setting the scrutiny work programme. Any scrutiny body may suggest items for the scrutiny work programme to the Scrutiny Management Board.

The Scrutiny Management Board may direct the Overview Scrutiny Group in undertaking its remit to review proposed decisions on the Forward Plan or the agenda for forthcoming Cabinet meetings. Subject to any such direction, the Overview Scrutiny Group may choose which other proposed decisions it wishes to scrutinise.

6. **Agenda items**

- (a) Any member of a scrutiny body shall be entitled to give notice to the Head of Strategic Support no later than noon on the sixth working day before the meeting that he or she wishes an item relevant to the terms of reference of the body to be included on the agenda for its next available meeting. On receipt of such a request the Head of Strategic Support will ensure that it is included on the agenda so as to decide whether the Scrutiny Management Board should be recommended to include it in the scrutiny work programme.
- (b) Councillor Call for Action – Any councillor may, by giving notice to the Head of Strategic Support using the form provided, initiate a Councillor Call for Action relating to a local government matter that is not an excluded matter and where other routes to resolve the issue have not succeeded.

A Councillor Call for Action can only be initiated where:

- (i) it relates to the discharge of any of the Council's functions;
- (ii) it relates to a matter which affects the ward of the councillor initiating it;

- (iii) it does not relate to individual planning decisions, licensing decisions or matters where the affected person or body has a statutory right of appeal;
- (iv) it does not relate to any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for a scrutiny committee meeting.

The Head of Strategic Support will consult the Chair and Vice-Chair of the Scrutiny Management Board to determine whether the request meets the criteria for a Councillor Call for Action.

Where the request does not meet the criteria for a Councillor Call for Action, the Head of Strategic Support will inform the councillor making the request of the decision. Where the request does meet the criteria for a Councillor Call for Action, the Head of Strategic Support will arrange for the matter to be included on the agenda for the next available meeting of the Scrutiny Management Board.

Where a Councillor Call for Action is included on the agenda for a Scrutiny Management Board meeting, the Board will consider whether to include the subject of the Councillor Call for Action on the scrutiny work programme. The councillor making the request may address the Scrutiny Management Board before it is considered. If the Board decides not to include the subject of the Councillor Call for Action on its work programme, it will provide the councillor initiating the request with the reasons for its decision.

- (c) The Council, or committee of the Council, or the Cabinet may refer items for consideration by scrutiny. All such referrals will be considered by the Scrutiny Management Board. When an item is referred to scrutiny, the referring body must provide the following information:
 - the reason for referring the issue;
 - the objectives of the scrutiny process;
 - any statutory requirements that the referring body is working within/towards;
 - timescales for reporting back to the referring body.
- (d) When the Scrutiny Management Board receives the referral it will either:
 - require one of the scrutiny bodies to act on the referral;
 - create a panel to consider the issue; or
 - if the Scrutiny Management Board, for whatever reason, is unable or unwilling to act on the referral, it shall, besides notifying the referring body, report its decision to Council.
- (e) The scrutiny body shall report their findings and any recommendations back to the Scrutiny Management Board. If it is

happy with the scrutiny body's report the Board will forward it to the Council and/or the Cabinet. Reports shall be considered:

- (i) by the Council within two months of receipt;
- (ii) by the Cabinet within one month of receipt.

7. Policy review and development

- (a) The role of the scrutiny committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, scrutiny committees may make proposals to the Cabinet, the Council or committees in so far as they relate to matters within their terms of reference. The Policy Scrutiny Group has been established to consider policy development issues as described in Overview and Scrutiny Procedure Rule I. The Scrutiny Management Board may establish scrutiny panels as described in Overview and Scrutiny Procedure Rule I.
- (c) Scrutiny committees or panels established by the Scrutiny Management Board 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, subject to the necessary budget being available, may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

8. Reports from overview and scrutiny committees and other scrutiny bodies

- (a) The Performance Panel and scrutiny panels established by the Scrutiny Management Board or the Overview Scrutiny Group will report their findings to the Board as set out in Overview and Scrutiny Procedure Rule I. If a scrutiny panel cannot agree on one single final report to the Scrutiny Management Board then a minority report(s) may be prepared and submitted for consideration by the Board with the majority report. In performing its functions in respect of the scrutiny of outside agencies (items ii to v in Article 6.02) set out in the scrutiny work programme, the Overview Scrutiny Group will report its findings to the Board as set out in Overview and Scrutiny Procedure Rule I. If the Overview Scrutiny Group cannot agree on one single final report to the Scrutiny Management Board then a minority report(s) may be prepared and submitted for consideration by the Board with the majority report.

- (b) Subject to the limitations set out in Rule 8(a) above, once it has formed recommendations on proposals, a scrutiny committee will prepare a report and submit it to the Head of Strategic Support for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), to the Council (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework) or committee as appropriate. A report under this Rule includes a minute of a scrutiny committee prepared by the Head of Strategic Support following consultation with the chair and vice-chair of the committee concerned.
- (c) If a scrutiny committee cannot agree on one single final report to the Council or Cabinet as appropriate, then a minority report(s) may be prepared and submitted for consideration by the Council, Cabinet or committee with the majority report.
- (d) The Council, Cabinet or committee shall consider the report of the scrutiny committee within two months in the case of a report submitted to the Council or one month in all other cases of being submitted to the Head of Strategic Support. The chair or vice-chair of the scrutiny committee, or, in the case of the report of a scrutiny panel or the Performance Panel, the member of the Scrutiny Management Board who chaired the panel, may address the Council, Cabinet or committee before the report is considered.
- (e) The Scrutiny Management Board may also submit reports to partner organisations which relate to the scrutiny of Local Area Agreement targets and crime and disorder matters.

9. Making sure that scrutiny reports are considered by the Cabinet, the Council and committees

- (a) The agenda for Cabinet meetings shall include an item entitled “Issues arising from scrutiny”. The reports of scrutiny committees referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet’s deliberations on a substantive item on the agenda) within one month of the scrutiny committee completing its report.
- (b) Where the report of a scrutiny committee is submitted to the Cabinet, the Council or a committee, the body to which the report is submitted will respond to the scrutiny committee indicating what (if any) action it proposes to take within two months of receiving the report. The response under this rule includes a minute of a meeting at which the response was considered and any associated report. However, the report submitted to Cabinet should be accompanied by sufficient background information and officer advice to enable Cabinet to make a decision without undue delay.

10. Rights of scrutiny body members to documents

- (a) In addition to their rights as councillors, members of scrutiny bodies have the additional right to documents, and to notice of meetings as

set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

- (b) Nothing in this Rule prevents more detailed liaison between the Cabinet and scrutiny committee as appropriate depending on the particular matter under consideration.

11. **Members and officers giving account**

- (a) Any scrutiny body may scrutinise and review decisions made or actions taken in connection with the discharge of any Executive functions within its terms of reference and the scrutiny work programme. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the head of paid service and/or any senior officer to attend before it to explain in relation to matters within their terms of reference:

- (i) any particular decision or series of decisions;
- (ii) the extent to which the actions taken implement Council policy; and/or
- (iii) performance,

and it is the duty of those persons to attend if so required. In deciding whether to require the attendance of a Cabinet Lead Member or senior officer, a scrutiny body will have regard for the roles of a Lead Member set out in Article 7.09 and paragraph 15 of the Protocol on Member/Officer Relations and the balance between decisions on the making of policy made by the Cabinet and on the application of policy made by officers as set out in the scheme of delegation. A Cabinet Lead Member required to attend a scrutiny body meeting may be accompanied by the relevant Cabinet Support Member and/or relevant officer(s). A scrutiny body should, where possible, indicate its intention to require the attendance of a member or an officer at one of its meetings when suggesting the relevant item for the scrutiny work programme.

- (b) Any scrutiny body may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions within its terms of reference and the scrutiny programme, but, in doing so, should not normally scrutinise individual decisions taken in respect of regulatory functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require the chair of a committee, the head of paid service and/or any senior officer to attend before it. A committee chair required to attend a scrutiny body may be accompanied by relevant officer(s). A scrutiny body should indicate, where possible, its intention to require the attendance of a member or an officer at one of its meetings when suggesting the relevant item for the scrutiny work programme.
- (c) With the exception of Rule 11(e) below, where any member or senior officer is required to attend a scrutiny body under this rule, the Head of Strategic Support shall inform the member or officer in writing giving at least ten working days notice of the meeting at which he or she is required to attend. The notice will state the nature of the item on which he or she is required to attend to give account and

whether any papers are required to be produced for the body. Where the account to be given to the body 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. Where appropriate a senior officer may be represented by another officer who is able to deal with the issue being scrutinised.

- (d) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Head of Strategic Support shall, in consultation with the chair of the scrutiny body and the member or officer, arrange an alternative date for attendance or other alternative arrangement.
- (e) In performing its function of reviewing proposed decisions on the agenda for forthcoming Cabinet meetings, the Chair of the Overview Scrutiny Group may inform the Head of Strategic Support as soon as reasonably practicable which members and officers are required to attend its meetings.
- (f) The Members' Code of Conduct states that a member has a prejudicial interest in the scrutiny of a decision made by the Cabinet or a committee of which he or she was a member when the decision was taken if they were present at the meeting when the decision was taken. Members required to attend a scrutiny body under this rule are able to do so but must withdraw from the meeting once they have provided the information required by the committee. Members who have a prejudicial interest in a decision being scrutinised and who are not giving account under this rule should disclose the existence and nature of their interest and withdraw from the meeting.

12. **Attendance by others**

A scrutiny body may invite people other than those people referred to in Rule 11 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 may invite such people to attend. A scrutiny body should indicate its intention to invite such people to one of its meetings when suggesting the relevant item for the scrutiny work programme.

Scrutiny committees may also require information from partner organisations which relates to the scrutiny of Local Area Agreement targets and, in the case of the Scrutiny Management Board, crime and disorder matters.

13. **Call-in**

- (a) When a decision is made by the Cabinet, or a committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or an area committee or under joint arrangements, the decision shall be published, including by electronic means, and shall be available at the main offices of the Council normally within three days of being made. All members of scrutiny

bodies will have access to the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- (b) The record will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, at noon on the fifth working day after the publication of the decision, unless it is called-in for consideration by the Scrutiny Management Board.
- (c) During that period, the Head of Strategic Support shall call-in a decision for scrutiny by the Scrutiny Management Board if so requested by the Chair and Vice-chair of the Board or any five members of the Council stating the reasons for the request and an indication of a preferred outcome or variation of the decision. The Head of Strategic Support shall notify the decision-taker of the call-in. He or she shall call a meeting of the Scrutiny Management Board on such date as he or she may determine, where possible after consultation with the Chair and Vice-chair of the Board. In the case of the call-in of a Cabinet decision, the meeting of the Scrutiny Management Board should take place prior to the next scheduled meeting of the Cabinet, taking into account the requirements of the Access to Information Procedure Rules, or in such longer period as may be agreed with the Leader. In the case of the call-in of a key decision taken by an officer, the meeting of the Scrutiny Management Board should take place within fifteen working days of the decision to call-in or such longer period as may be agreed with the decision taker. One of the members calling in the decision shall be given the opportunity to address the Board. The Head of Strategic Support shall, in consultation with the Chair and Vice-chair of the Board make arrangements for relevant members of Cabinet and relevant officers to attend the meeting and invite such other persons that may assist the Board in considering the matter.
- (d) If, having considered the decision, the Scrutiny Management Board is still concerned about it, then it may refer it back to the decision-taking person or body for reconsideration or refer the matter to Council, in all cases setting out in writing the nature of its concerns. The Scrutiny Management Board may only refer the decision to Council if the advice of the monitoring officer and/or the chief financial officer is that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget. If the decision is referred to the decision-taker they shall then reconsider within a further four weeks, amending the decision or not, before adopting a final decision. If the Scrutiny Management Board refers the decision back to the Cabinet, the Chair or Vice-chair of the Board may address the Cabinet when it reconsiders the decision.
- (e) If, following the call-in of a decision in accordance with paragraph (c) above, the Scrutiny Management Board does not meet in the period set out above, or does meet but does not refer the matter back to the decision-making body or person, the decision shall take effect on the date of the Scrutiny Management Board's meeting, or the date

determined by the Head of Strategic Support for the meeting, whichever is the earlier.

- (f) If the matter was referred to Council it will be considered in accordance with Budget and Policy Framework Rule 7(c).

14. Call-In and Urgency

The call-in procedure set out above shall not apply where the decision being 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 public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making body or person, the decision is an urgent one, and therefore not subject to call-in. The Mayor 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 Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the head of paid service or his or her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

The 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.

15. The Party Whip

Government guidance recommends that members involved in the overview and scrutiny process would not normally be subject to the party whip. However, when considering any matter in respect of which any member of a scrutiny committee is subject to a party whip the member must declare the existence of the whip, and the nature of it, before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

16. Procedure at Scrutiny Committee and Scrutiny Body Meetings

- (a) Scrutiny committees shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) disclosures of personal interest (including whipping declarations);
 - (iii) responses of the Cabinet to reports of the scrutiny committee; and
 - (iv) the business otherwise set out on the agenda for the meeting.
- (b) Other scrutiny bodies will be informal in nature.
- (c) Where a scrutiny body conducts investigations it may also ask people to attend to give evidence. Such meetings are to be conducted in accordance with the following principles:

- (i) that the investigation be conducted fairly and all members of the body be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the body by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the body shall prepare a report, for consideration by the Scrutiny Management Board for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public, except to the extent that the report contains exempt or confidential information.

17. Cabinet-Scrutiny Protocol

The relationship between Cabinet and the Scrutiny function is governed in part by law and in part by the Council's Constitution, in particular the preceding Overview and Scrutiny Procedure Rules. These set out the procedures to be followed in terms of access to information and Scrutiny functions such as call-in. The purpose of this protocol is to set out the principles which will be followed by both Cabinet and Scrutiny in applying these rules.

(a) Responsibilities

Cabinet and Scrutiny have very different functions and responsibilities. However the aim of both is to secure the best outcomes for the people who live and work in Charnwood.

- (i) It is the responsibility of Cabinet to take operational decisions to implement the budget and the key policies set out in the policy framework agreed by Full Council.
- (ii) Scrutiny has a number of responsibilities. These include:
 - holding the Cabinet to account through scrutinising its decisions;
 - calling-in Cabinet decisions which have not yet been implemented if there is a need for aspects of the decision to be reviewed;
 - undertaking reviews of Council activities (whether these are the responsibility of the Cabinet or not) and those of other public bodies in Charnwood, leading to recommendations on improvements which can be made;
 - assisting the Cabinet in policy formulation and developing its recommendations on the budget and policy framework through commenting on the Cabinet's proposals and undertaking reviews.

(b) General Principles

The following five principles set out how the working relationship between Cabinet and Scrutiny should operate.

- (i) Cabinet and Scrutiny recognise that they each have different functions and responsibilities and the contribution that both can make to securing the best outcomes for the people who live and work in Charnwood.
- (ii) Cabinet and Scrutiny will work alongside each other in a positive manner. Cabinet recognises that Scrutiny has a number of rights, such as call-in and requiring Cabinet members to attend its meetings, and will respect those rights. Scrutiny will exercise those rights responsibly.
- (iii) All participants in the working relationship between Cabinet and Scrutiny will do so in a spirit of mutual respect and constructive challenge.
- (iv) There will be a regular dialogue between Cabinet and Scrutiny through the Cabinet/Scrutiny Liaison Group to promote the effectiveness of the working relationship.
- (v) The relationship between Cabinet and Scrutiny will be open and transparent. The Cabinet/Scrutiny Liaison Group will be provided with access to the Cabinet's forward programme of decisions to enable planning of Scrutiny activity.

(c) Conduct of Meetings

The following principles set out how meetings should be conducted in support of the general principles above.

1. Meetings of Cabinet and Scrutiny bodies are subject to the relevant provisions in the Council's Constitution including that they must normally be held in public unless factors allowed for by law and the Council's Constitution are judged to require consideration with the public and press excluded.
2. Meetings of Cabinet and Scrutiny bodies should be carried out in a businesslike, non-aggressive and non-confrontational manner with courtesy extended to all participants.
3. Meetings of Cabinet and Scrutiny bodies should be held using a room layout appropriate for the business to be conducted.
4. Meetings of Scrutiny bodies should keep in mind the statutory guidance that scrutiny and overview work should be conducted in a non-party political manner.