

# Constitution



## Part 4: Rules of Procedure

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### 3. Overview and Scrutiny Procedure Rules

#### 3.1 What will be the number and arrangements for Scrutiny Committees?

The Council will determine arrangements for Scrutiny Committees as set out in the Articles of this Constitution and will appoint to them, as it considers appropriate from time to time.

A maximum of eight Scrutiny Committees will be appointed.

Scrutiny Committees will comprise a maximum of 10 elected members.

#### 3.2 Who may sit on Scrutiny Committees?

All Councillors except members of the Cabinet may be members of a Scrutiny Committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

The Committees will be subject to proportionality and will include members of all political groups in accordance with the Local Government and Housing Act 1989 and Regulations made thereunder or subsequent relevant legislation.

#### 3.3 Co-optees

Each Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees. Any Committee may also call individuals or organisations to provide evidence or information to the Committee.

Where a Committee considers 'Part 2' items containing confidential or exempt information, co-optees shall not be entitled to receive such reports or attend the meeting whilst such items are being discussed, unless agreed by the Committee. This shall not apply to the voting education representatives set out in 3.4 below. All Co-opted members shall be governed by the rules set out in the Members' Code of Conduct and should sign to confirm their acceptance of these conditions.

#### 3.4 Education representatives

Each relevant Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:

- 1 Church in Wales representative;
- 1 Roman Catholic Church representative;
- 2 parent governor representatives

A relevant Scrutiny Committee in this paragraph is a Scrutiny Committee of a local education authority, where the Committee's functions relate wholly or in part to any education functions that are the responsibility of the authority's Cabinet. If the Scrutiny Committee deals with other matters, these representatives shall not be entitled to receive reports, other than as a member of the public, shall not vote on those other matters and may only attend as co-opted members of the Committee for discussion of those other matters if invited to do so.

### **3.5 Meetings of the Scrutiny Committees**

The Council shall determine the number of ordinary meetings but there shall normally be at least six ordinary meetings of each Scrutiny Committee in each year.

Timings and locations of meeting are to be determined by the Council, although the Council may delegate the decision on timings and locations to individual Committees to determine

In addition, extraordinary meetings may be called from time to time as and when appropriate, as determined by the Chair of the Committee.

### **3.6 Quorum**

The quorum for any Scrutiny Committee shall be 3.

### **3.7 Who chairs Scrutiny Committee meetings?**

The Council will appoint Chairs of the Scrutiny Committees. The Chairs of the Committees shall be allocated in accordance with the requirements of the Local Government (Wales) Measure 2011. Proportionality will apply.

In the absence of the Chair, the chair shall be taken by a member of the Committee as elected by the Committee by simple majority ballot.

### **3.8 Work programme**

The Scrutiny Committees will be responsible for setting the work programme.

### **3.9 Agenda items**

Any member of a Scrutiny Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for, and be discussed at, a meeting of the Committee.

On receipt of such a request the Senior Overview and Scrutiny Officer will ensure that reference to the request is made on the next agenda for the meeting of the appropriate Committee where it will be considered for inclusion in the work programme.

The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and the Cabinet or individual Cabinet Members to review particular areas of Council activity.

Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Council, Cabinet or Cabinet Member.

### **3.9 Policy review and development**

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.

As to matters not forming part of the Council's Budget and Policy Framework, Scrutiny Committees may make proposals to the Executive in relation to matters within their terms of reference or as commissioned by the Cabinet or Cabinet Member.

Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and within the resources available to them 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.

### **3.10 Reports from Scrutiny Committees**

Once it has formed recommendations on proposals for development, the Scrutiny Committee will prepare a formal report and submit it for consideration by the Cabinet or individual Cabinet Member (if the proposals are consistent with the existing Budget and Policy Framework), or to the Cabinet for onward recommendation 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).

If any Scrutiny Committee cannot agree on one single final report, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

### **3.11 Making sure that Overview and Scrutiny reports are considered by the Cabinet**

Once a Scrutiny Committee report on any matter which is the responsibility of the Cabinet or Cabinet Member has been completed, it shall be considered by the Leader for inclusion on the agenda of the next available meeting of the Cabinet or will be considered by the Cabinet Member. If for any reason the Cabinet or Cabinet Member does not consider the Scrutiny report within 3 months then the matter may be referred to Council for review. The Council may consider the report and make a recommendation to the Cabinet or Cabinet Member.

Only one report every three months may be submitted by each Scrutiny Committee for consideration for inclusion on the Cabinet agenda to the Cabinet on items instigated by the Scrutiny Committees.

The Cabinet's Forward Work Programme for decision will need to take account of the need for consultation. Scrutiny Committees must be consulted on policy framework documents and as part of the budget making process.

### **3.12 Members and officers giving account**

Any 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 request the Cabinet Member or decision maker , Head of Paid Service and/or any chief officer to attend before it to explain in relation to matters within their remit:

- any particular decision or series of decisions; and/or
- the extent to which the actions taken implement Council policy; and/or
- outcomes of decisions;

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

Where any member or officer is required to attend a Scrutiny Committee under this provision, the Chair of that Committee will inform the Senior Overview and Scrutiny Officer. The Senior Overview and Scrutiny Officer shall inform the member or officer in writing giving at least 5 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 Committee. Where the account to be given to the Committee 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 the member or officer is unable to attend on the required date, the Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance.

### **3.13 Attendance by others**

A Scrutiny Committee may invite people other than those people referred to 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 in such circumstances is optional.

### **3.14 Call-in**

- i. When the Cabinet or an individual member of the Cabinet makes a decision, the decision shall be published as soon as possible after the meeting and normally within 2 working days of the decision being made. The Proper Officer shall prepare a Decision Schedule with signed copies of all proposed decisions made by the Cabinet or an individual member of the Cabinet at each meeting. This Decision Schedule shall be available for inspection at the Civic Centre and copies shall be circulated to all members of the Council within the same timescale.
- ii. The Decision Schedule will bear the date on which it is published and will specify that the decisions will come into force, and may then be implemented, on the expiry of five working days after the date of publication, unless a decision is called-in (or unless it is an urgent item implemented immediately in accordance with Standing Orders).
- iii. During this period, any single member of the Council who is not a member of the Cabinet may request that a proposed decision be called-in by the relevant Scrutiny Committee. A decision may only be called-in on the following grounds:
  - a belief that the proposed decision is contrary to the Policy Framework or Budget, or falls outside the functions of the Cabinet;
  - a belief that the Cabinet or individual Cabinet Member has failed to follow agreed procedures on consultation (as provided in the Constitution) before reaching their decision;

- a belief that the Cabinet or individual Cabinet Member has not followed, or has failed to take account of, any legal obligations, including regulatory or statutory guidance governing the Council's actions, or other guidance adopted by the Council.
- iv. A decision cannot be called-in on the grounds that a member of the Council disagrees with the merits of a proposed decision. The call-in procedure should only be implemented where there are genuine and serious grounds for doing so.
  - v. To instigate the call-in procedure, the individual member shall complete the relevant pro-forma, clearly setting out the grounds and reasons for the call-in and shall submit the form to the Head of Law and Standards. Upon receipt of a properly constituted request for call-in, the Head of Law and Standards shall immediately circulate a copy of the request to the Chair of the relevant Scrutiny Committee and shall advise the Cabinet Member or the Leader of the Cabinet that the proposed decision shall be suspended pending the determination of the call-in procedure.
  - vi. The Head of Law and Standards, as Monitoring Officer, shall determine as soon as possible whether the request for call-in is valid. In the case of a request for call-in on the grounds that the proposed decision is contrary to the Budget, the Monitoring Officer shall, where appropriate, consult with the Head of Finance, as the Council's Section 151 Officer, before reaching his decision. If the Monitoring Officer decides that the request is not valid because there are no sustainable grounds for call-in, he shall immediately advise the member who made the request, the Chair of the relevant Scrutiny Committee and the Cabinet Member or the Leader of the Cabinet. The decision will then become effective and may be implemented immediately.
  - vii. If the Monitoring Officer decides that the request is valid and there are sustainable grounds for call-in, the matter will be referred to the next meeting of the relevant Scrutiny Committee for consideration.
  - viii. The following procedure shall be adopted at the Scrutiny Committee for considering a proposed decision which has been validly called-in: -
    - a. The Head of Law and Standards shall obtain and circulate copies of the relevant report(s) to the Cabinet or individual Cabinet Member, together with copies of all relevant background documents, in accordance with the Access to Information Procedures set out in Part 4 of the Constitution. The Part 1 reports and documents will be circulated to the members of the Scrutiny Committee and the member requesting the call-in, and will also be available to the press and public. However, Part 2 reports and confidential background documents will only be circulated to the members of the Scrutiny Committee and the member requesting the call-in.
    - b. The Cabinet Member or the Leader of the Cabinet (or his nominee) shall be entitled to attend the meeting of the Scrutiny Committee to make representations regarding the proposed decision. The member requesting the call-in shall also be entitled to attend the meeting to make representations regarding the grounds and reasons for the call-in.
    - c. The Local Government (Access to Information) Act will apply to the meetings. Therefore, all members (whether or not they have submitted any request for call-in), members of the press and public are entitled to attend as observers throughout the proceedings under Part 1 of the Agenda. However, only those members who have requested that a proposed decision be called-in shall be entitled to speak on that particular matter.
    - d. At the end of Part 1 of the Agenda, the Scrutiny Committee should consider and pass (as appropriate) the necessary Resolution to exclude the press and public because of the "exempt" confidential information contained in the Part 2 reports. At this stage, all other members should also leave the meeting, except the member who has requested that the particular proposal be called in. (If other members have challenged other items on the Part 2

Agenda, they will be asked to leave the meeting at this stage until the Scrutiny Committee are ready to consider their particular matter).

- e. Although the proceedings should be kept as informal as possible, a logical and ordered approach should be maintained in order to ensure a fair and impartial hearing. It is suggested that the following procedure should be adopted: -

**Opening Remarks:**

- f. The Chair of the Scrutiny Committee introduces the item on the Agenda and ensures that the member requesting the call-in and the Cabinet Member or Leader of the Cabinet (or nominee) understand the procedure to be followed.

**The Case for the Cabinet/Cabinet Member:**

- g. The Leader of the Cabinet (or nominee) or Cabinet Member puts the case for the proposed decision, going through written reports, explaining reasons for the decision and referring to any relevant background documents.
- h. The Member requesting the call-in may then ask any questions.
- i. The Scrutiny Committee may then ask any questions.

**The Case for the Call-in**

- j. The Member requesting a call-in is puts forward the case for reviewing the proposed decision, explaining the grounds and reasons.
- k. The Leader of the Cabinet (or nominee) or Cabinet Member may then ask questions.
- l. The Scrutiny Committee may then ask questions.

**Closing Statements:**

- m. A summing-up by the Leader of the Cabinet (or nominee) or Cabinet Member
- n. A summing-up by the member requesting the call-in

**Decision:**

- o. For confidential matters listed in Part 2 of the Agenda, it may be appropriate to ask the Leader of the Cabinet (or nominee) or Cabinet Member and the member requesting the call-in to withdraw from the meeting at this stage, while the Scrutiny Committee deliberates and arrives at a decision.
- p. For non-confidential Part 1 matters, the Leader of the Cabinet (or nominee) or Cabinet Member and the member requesting the call-in are entitled to remain in the meeting, together with the press and public, while the Scrutiny Committee deliberates and arrives at a decision. However, they are not entitled to participate in the debate or speak or vote on any item.
- q. The Decision is arrived at by simple majority of votes cast.

The procedure is then repeated for each separate item on the Agenda relating to every proposed decision that has been the subject of a call-in request.

- ix. Where the Scrutiny Committee does not support the call-in, the proposed decision will then become effective and may be implemented immediately.

- x. Where the Scrutiny Committee supports the call-in on the grounds that the proposed decision was taken without proper consultation or there was a failure to take account to any legal obligations or relevant guidance, they shall refer the matter back to the decision-making person or body for reconsideration, setting out in writing the reasons for their decision. The decision-making person or body shall then reconsider the decision at the next scheduled meeting before adopting a final decision.
- xi. Where the Scrutiny Committee supports the call-in on the grounds that the proposed decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall refer the matter to the next meeting of full Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer.
- xii. The Council may either:
  - endorse a decision or proposal of the Cabinet or Cabinet Member as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - amend the Council's Budget or Policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing Framework to accommodate it, require the Cabinet or Cabinet Member to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Financial Officer.

### **3.15 The Party Whip**

A member of any scrutiny committee must not vote on any matter under consideration at a meeting if, before the meeting, he or she has been given a party whip relating to the matter

Each member must declare any party whip he or she has been given. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### **3.16 Procedure at Scrutiny Committee meetings**

Scrutiny Committees shall consider the following business:

- minutes of the last meeting;
- declarations of interest (including whipping declarations);
- consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
- responses of the Cabinet to reports of the Scrutiny Committee; and
- the business otherwise set out on the agenda for the meeting.

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

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

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

### **3.17 Matters within the remit of more than one Scrutiny Committee**

Where a matter for consideration by a Scrutiny Committee also falls within the remit of one or more other Scrutiny Committees, the decision as to which Scrutiny Committee will consider it will be resolved by the Chairs of the Committees acting collectively.