

OVERVIEW AND SCRUTINY PROCEDURE RULES

Rule		Page No
1.	What will be the Number and Arrangements for Scrutiny Panels	4:5 - 3
2.	Who may sit on a Scrutiny Panel	4:5 - 3
3.	Appointment of Substitute Members	4:5 - 3
4.	Co-optees	4:5 - 3
5.	Education Representatives	4:5 - 4
6.	Meetings of the Scrutiny Panels	4:5 - 4
7.	Quorum	4:5 - 4
8.	Voting	4:5 - 4
9.	Motions and Amendments	4:5 - 5
10.	Disorderly Conduct	4:5 - 5
11.	Who Chairs Scrutiny Panel Meetings	4:5 - 5
12.	Work Programme	4:5 - 5
12A	Councillor Call for Action	4:5 - 5
13.	Agenda Items	4:5 - 7
14.	Policy Review and Development	4:5 - 8
15.	Reports from Scrutiny Panels	4:5 - 8
16.	Making sure Overview and Scrutiny Reports are considered by the Cabinet	4:5 - 9
17.	Rights of Scrutiny Panel Members to Documents	4:5 - 9
18.	Attendance by Cabinet Members and Officers	4:5 - 9
19.	Attendance by Members of the Council	4:5 - 10

Rule		Page No
20.	Attendance by Others	4:5 - 10
21.	Call-in of Decisions	4:5 - 11
22.	Procedure at Scrutiny Panel Meetings	4:5 - 12
23.	Matters within the Remit of more than one Scrutiny Panel	4:5 - 13

1. What will be the number and arrangements for scrutiny panels?

The Council will have the scrutiny panels set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such panels may appoint sub-panels.

2. Who may sit on a scrutiny panel?

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

3. Appointment of substitute members

3.1 Allocation

The Council will appoint up to a maximum of six members for each political group represented on a scrutiny panel, subject to each political group having no less than three substitute members for each scrutiny panel.

3.2 Powers and duties

Substitute members will have all the powers and duties of any ordinary member of a scrutiny panel.

3.3 Substitution

- (a) Substitute members may attend meetings in that capacity only:-
 - (i) to take the place of the ordinary member for whom they are the designated substitute;
 - (ii) where the ordinary member will be absent for the whole of the meeting; and
 - (iii) after notifying in writing the Head of Democratic and Partnership Services of the intended substitution before the time for the start of the meeting.
- (b) A notification of substitution for a meeting must be given by the ordinary member and once given cannot be revoked.

4. Co-optees

- 4.1 Each scrutiny panel shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

- 4.1 The Scrutiny Panel designated as the 'Crime and Disorder Committee' may co-opt additional members, with voting rights, to serve on the Panel in accordance with the provisions of the Crime and Disorder (Overview and Scrutiny) Regulations 2009.

5. Education representatives

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

- (i) one Church of England diocese representative (at least one);
- (ii) one Roman Catholic diocese representative (at least one); and
- (iii) two parent governor representatives (between 2 and 5).

A relevant scrutiny panel in this paragraph is a scrutiny panel of a local education authority, where the panel's functions relate wholly or in part to any education functions which are the responsibility of the authority's executive. If the scrutiny panel deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

6. Meetings of the scrutiny panels

There shall be meetings of each scrutiny panel in each year in accordance with the programme of meetings agreed by 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 chair of the relevant scrutiny panel or by any three members of the panel.

7. Quorum

The quorum for a scrutiny panel shall be three elected members.

8. Voting

- (a) All decisions of the scrutiny panel shall be arrived at by a majority of votes taken by a show of hands. The person chairing the meeting shall have a second or casting vote in the case of an equality of votes.
- (b) Four members may request that the names of those voting for and against any decision and those abstaining shall be recorded.
- (c) Any member may request that their vote (for or against) or their abstention shall be recorded.

9. Motions and Amendments

- (a) A motion or an amendment shall not be considered unless it has been proposed and seconded.
- (b) An amendment shall be relevant to the motion on which it is moved. Only one amendment shall be moved and discussed at a time and no other amendment shall be moved until the original amendment has been voted on.
- (c) A motion or an amendment may be either altered or withdrawn by the mover with the consent of the scrutiny panel.

10. Disorderly Conduct

If any Member or member of the public persistently disregards the ruling of the person chairing the meeting by behaving improperly or offensively or deliberately obstructs the business of the meeting, the person chairing the meeting may direct that person or those persons leave the meeting or that the meeting be adjourned for a specified period.

11. Who chairs scrutiny panel meetings?

- (a) The chair and deputy chair of each scrutiny panel will be appointed by the Council.
- (b) The chair will preside at each meeting and in his/her absence the deputy chair will preside.
- (c) In the absence of both the chair and deputy chair, a person appointed at the meeting will preside.

12. Work programme

The scrutiny panels will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that panel who are not members of the largest political group on the Council.

12A Councillor Call for Action

- (a) Any Member of a Scrutiny Panel (or Sub Panel) shall be entitled to give notice to the Head of Democratic and Partnership Services that he/she wishes an item relevant to the functions of that Panel (or Sub Panel) to be included on the agenda for a meeting of the Panel.

- (b) Any Member of the Council shall be entitled to give notice to the Head of Democratic and Partnership Services that he/she wishes a local government matter or a local crime and disorder matter to be included on the agenda for a meeting of a relevant Scrutiny Panel. In submitting a request under this paragraph a Member shall have regard to any statutory or local guidance which is available.

A 'local government matter' means a matter which:

- relates to the discharge of any functions of the Authority; and
- affects all or part of the Ward for which the Member is elected, or affects any person who lives or works in that area; and
- is not an excluded matter.

An 'excluded matter' (as defined by the Overview and Scrutiny (Reference by Councillors) (England) Order 2008) means:

- any matter relating to a planning decision;
- any matter relating to a licensing decision;
- any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Scrutiny Panel (or Sub Panel).

A 'local crime and disorder matter' (as defined by Section 19 of the Police and Justice Act 2006) means a matter concerning:

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

- (c) Where a local crime and disorder matter has been raised with a Councillor by a person who lives or works in the area a Councillor represents, and the Councillor declines to refer the matter to the relevant Scrutiny Panel, the person can refer the matter to Cabinet under the provisions of Section 19 of the Police and Justice Act 2006. Cabinet must consider any matter referred to it under these provisions and respond to the person advising of

the action it proposes to take. Cabinet may refer the matter to the relevant Scrutiny Panel for consideration.

- (d) In considering whether or not to investigate a matter referred to it a Scrutiny Panel may have regard to:
 - (i) any powers which the Member may exercise in relation to the matter under Section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors under local arrangements);
 - (ii) any representations made by the Member as to why the matter should be investigated.

If the Scrutiny Panel decides not to investigate the matter it must notify the Member of its decision and the reasons for the decision. If the Scrutiny Panel decides to investigate the matter it must provide the Member with a copy of any report or recommendations it makes to the Council or the Cabinet.

- (e) In relation to a local crime and disorder matter a copy of the Scrutiny Panel report or recommendations must also be provided to the 'responsible authorities' and 'co-operating bodies' who must consider the matter and respond indicating the actions which they propose to take.

13. Agenda items

- (a) The scrutiny panels shall respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Cabinet to review particular areas of Council activity. Where they do so, the scrutiny panel shall report its 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 within one month of receiving it or otherwise at the first available meeting thereafter.
- (b) The Head of Democratic and Partnership Services will include on the agenda of the appropriate scrutiny panel items which:-
 - (i) the Council has referred to a scrutiny panel
 - (ii) the Cabinet has referred to a scrutiny panel
 - (iii) have been agreed by a scrutiny panel either through the Committee's work programme or on an individual basis
 - (iv) have been requested by individual Members under the Councillor Call for Action procedures at Rule 12A above
 - (v) have been 'called-in' under the procedure for the suspension of a Cabinet decision in Rule 21 below

- (vi) exceptionally, are required to be included by the Chief Executive as Head of the Paid Service, the Section 151 Officer and the Monitoring Officer.

14. Policy review and development

- (a) The role of the scrutiny panels 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 policy and budget framework, the scrutiny panel may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) The scrutiny panel may hold enquiries and investigate the available options for future direction in policy development and may seek appropriate assistance and advice to help 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.

15. 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 Head of Democratic and Partnership Services for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and 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) In any final report to the Council or the Cabinet as appropriate, any minority views should be incorporated into the report and submitted for consideration by the Council or the Cabinet.
- (c) The Council or the Cabinet shall consider the report of the scrutiny panel within one month of it being submitted to the Head of Democratic and Partnership Services or otherwise at the first available meeting thereafter.
- (d) Where a report or recommendations of the Scrutiny Panel designated as the 'Crime and Disorder Committee' relate to a crime and disorder function or local crime and disorder matter, a copy shall be sent to each of the

'responsible authorities' and 'co-operating bodies' represented on the local Crime and Disorder Reduction Partnership.

16. Making sure that overview and scrutiny reports are considered by the Cabinet

Once an overview and scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of two months from the date the report was adopted by the scrutiny panel. In such cases, the report of the scrutiny panel shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the scrutiny report within two months then the matter can be referred by the scrutiny panel to Council to consider the report and make a recommendation to the Cabinet.

17. 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 Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and scrutiny panels as appropriate depending on the particular matter under consideration.

18. Attendance by Cabinet Members and officers

- (a) Any scrutiny panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet or any chief 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 Head of Democratic

and Partnership Services. The Head of Democratic and Partnership Services 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.

19. Attendance by Members of the Council

- (a) It be at the discretion of the Chair to allow a Member of the Council to address the meeting where a request to do so is made to the Chair prior to the commencement of the meeting.
- (b) A Ward Councillor shall be entitled to address the meeting for up to five minutes where prior notice has been given to the Chair and the item is one which has been specifically identified on the report as affecting that Member's Ward.
- (c) A Councillor shall be entitled to address the meeting in relation to an item which has been raised by that Councillor under the Councillor Call for Action procedures at Rule 12A above.

20. Attendance by others

- (a) A scrutiny panel may invite people other than those people referred to in paragraph 18 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.
- (b) The Scrutiny Panel designated as the 'Crime and Disorder Committee' may require an officer of a 'responsible authority' or 'co-operating body' in relation to crime and disorder functions to attend a meeting to answer questions and provide information on a crime and disorder function or local crime and disorder matter. At least two weeks notice must be given of the meeting date and the officer must attend unless they have a reasonable excuse for not attending.

21. Call-in of Decisions

- (a) When a decision is made by the Cabinet, an individual Cabinet Member, a committee of the Cabinet, an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the Town Hall, Halifax normally within 2 working days of being made. All members of scrutiny panels will be sent copies of the records of all such decisions within the same timescale, by the Head of Democratic and Partnership Services.
- (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 seven working days after the publication of the decision, unless it is called-in.
- (c) During that period, any three Members of the Council, one of whom must be a member of the scrutiny panel within whose remit the decision falls may give written notice to the Head of Democratic and Partnership Services of their wish to call-in an executive decision.
- (d) Upon receipt of a valid notice the Head of Democratic and Partnership Services will in consultation with the chair call a meeting of the relevant scrutiny panel giving five clear working days notice of the meeting. Such meeting shall be held within seven working days of the receipt of the call-in notice.
- (e) If, having considered the decision, the scrutiny panel is still concerned about it, then it may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns and financial implications or refer the matter to full Council. If referred to the decision making body they shall then reconsider the decision, amending the decision or not, before adopting a final decision for implementation.
- (f) If following a call-in of a decision, the scrutiny panel does not meet in the period set out above, or does meet but does not refer the matter back to the decision making body, the decision shall take effect on the date of the scrutiny panel meeting, or the expiry of that further seven working day period, specified in para (d) above, whichever is the earlier.
- (g) 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 the Council does object, it has no right to make decisions in respect of an executive 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 body, together with the Council's views on the decision. That decision making body shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet or a committee of it a meeting will be convened to reconsider the Council request.

- (h) If the Council does not refer the decision back to the decision making body, the decision will become effective on the date following the date of the Council meeting.
- (i) Where an executive decision has been taken by an area committee, then the right of call-in shall extend to any two members of another area committee if they are of the opinion that the decision made but not implemented will have an adverse effect on the area to which their committee relates. In such cases, those two members may give written notice to the Head of Democratic and Partnership Services of their wish to call-in the decision. He/she shall call a meeting of the relevant scrutiny panel and the provisions relating to call in shall apply as if the call in had been exercised by members of a relevant scrutiny panel.

CALL-IN EXCEPTIONS

- (j) The call-in procedure set out above shall not apply:-
 - (i) where the decision being taken by the Cabinet, a committee of the Cabinet or an area committee or joint arrangements 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, the decision is an urgent one, and therefore not subject to call-in.
 - (ii) To decisions in relation to matters which have been the subject of a previous call-in.
 - (iii) To decisions which require the approval of full Council.

22. Procedure at scrutiny panel meetings

Scrutiny panels shall consider the following business:

- (i) substitutes appointed for this meeting;
- (ii) declarations of interest;

- (iii) consideration of whether the public should be excluded for any item of business;
- (iv) minutes of the last meeting;
- (v) consideration of any matter referred to the panel for a decision in relation to call in of a decision;
- (vi) responses of the Cabinet to reports of the scrutiny panel; and
- (vii) the business otherwise set out on the agenda for the meeting.

23. Matters within the remit of more than one scrutiny panel

Where a scrutiny panel conducts a review or scrutinises a matter which also falls within the remit of another scrutiny panel, before submitting its findings to the Cabinet and/or Council for consideration, the reviewing scrutiny panel shall consult with the other scrutiny panel whose comments shall be incorporated into the report which is then sent to that body for consideration.

(This page is blank)