

Part 4(e) – Scrutiny Procedure Rules

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Part 4(e) – Scrutiny Procedure Rules

1. What will be the number and arrangements for Scrutiny Committees?

The Council will have the scrutiny committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. In addition, the People Scrutiny Committee will have additional co-opted members as set out in (3) below. Each Scrutiny Committee will discharge the functions conferred by section 21 of the 2000 Act in relation to these matters listed in Article 6.01.

Each Scrutiny Committee will be subject to the political balance rules in the Local Government and Housing Act 1989. Scrutiny Committees will meet in public, subject to the provisions in the Local Government Act 1972 where confidential or exempt information may be disclosed.

2. Who may sit on scrutiny committees?

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

3. Additional Co-opted Members on the People Scrutiny Committee

The People Scrutiny Committee shall include within its membership the following co-opted members:

- 1 x Church of England diocese representative (voting);
- 1 x Roman Catholic diocese representative (voting);
- 2 x Parent governor representatives (voting);
- 3 x Non-voting Members: one appointed by SAVS (through election amongst voluntary organisations in the Town), one appointed by Healthwatch Southend and the other appointed by the Carers Forum; and
- 2 x Observers appointed by Southend Youth Council

4. Meetings of the Scrutiny Committees

There shall be ordinary meetings of each scrutiny committee scheduled after each Cabinet meeting. In addition, extraordinary meetings may be called from time to time as and when appropriate. A scrutiny committee meeting may be called by the chairman of the Scrutiny Committee, by any five members of the committee or by the Chief Executive & Town Clerk if he / she considers it necessary or appropriate.

5. Quorum

The quorum for a scrutiny committee shall be as set out for committees in S.O.38 of the Council Procedure Rules in **Part 4(a)**.

6. Who chairs Scrutiny Committee meetings?

Chairmen of Scrutiny Committees will be drawn from among the Councillors sitting on the Committee and, shall be appointed by the Council.

7. Work programme

The Scrutiny Committees will be responsible for setting their own work programme (having due regard to Council resources) and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council. The work programme should include requests from the Council and the Executive for advice. Part of the work programme may be undertaken by small Working Parties / Panels of the Scrutiny Committee.

8. Agenda items

- (a) Any elected Member of the Council may give written notice to the Chief Executive & Town Clerk that he / she wishes an item relevant to the functions of the Scrutiny Committee and relating to a Councillor Call for Action (CCfA) in their ward which cannot be resolved through normal channels, be included on the agenda for the next available meeting of the Committee, in accordance with the Local Protocol on CCfA in **Part 5(g)** of the Constitution. On receipt of such a notice the Chief Executive & Town Clerk will ensure that the item is included on the next available agenda and a report be prepared on the subject by the Chief Executive & Town Clerk or relevant Deputy Chief Executive.
- (b) The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Executive to review particular areas of Council activity. Where they do so, the scrutiny committee shall report their findings and any recommendations back to the Executive and / or Council. The Council and / or the Executive shall consider the report of the scrutiny committee within one month of receiving it.
- (c) People Scrutiny Committee to consider referrals made by Healthwatch Southend.

9. 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 (**Part 4(c)**).
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, scrutiny committees or sub-committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

10. Reports from Scrutiny Committee

- (a) Once it has formed recommendations on proposals for development, the Scrutiny Committee will prepare a formal report and submit it to the Chief Executive & Town Clerk for consideration by the Executive (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). Reports outlining the conclusions and recommendations following an in-depth scrutiny of a Council service or function shall be presented to Cabinet (or Council) by the Chairman or Vice-Chairman of the relevant Scrutiny Committee.

- (b) If a Scrutiny Committee cannot agree on one single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.
- (c) The Council or Executive shall consider the report of the Scrutiny Committee within one month of it being submitted to the Chief Executive & Town Clerk.

11. Making sure that scrutiny reports are considered by the Executive

- (a) The agenda for Cabinet meetings shall include an item entitled "Issues arising from scrutiny". The reports of Scrutiny Committees referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within one month of the scrutiny committee completing its report / recommendations.
- (b) Only one report every three months may be submitted by each Scrutiny Committee to the Executive.
- (c) Scrutiny Committees will in any event have access to the Executive's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a scrutiny committee following a consideration of possible policy / service developments, the committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

12. Rights of Scrutiny Committee members to documents

- (a) In addition to their rights as Councillors, members of Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in **Part 4(b)**.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Scrutiny Committees as appropriate depending on the particular matter under consideration.

13. Members and officers giving account

- (a) Any Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. This power does not relate solely to scrutiny of decisions taken and can be used to ask an Executive Councillor, for example, about forthcoming issues, provided due notice is given. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Executive Councillor, the Head of Paid Service and / or any senior officer to attend before it to explain in relation to matters within their remit:
 - (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and / or
 - (iii) their performance,

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

- (b) Where any Member or officer is required to attend a scrutiny committee under this provision, the chairman of that committee will inform the Chief Executive & Town Clerk. The Chief Executive & Town Clerk shall inform the Member or officer in writing giving at least 15 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.

- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance to take place within a maximum of 15 days from the date of the original request.

14. Attendance by others

A Scrutiny Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and / or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

15. Call-in (see Algorithms in the Annex to these Scrutiny Procedure Rules)

Call-in should only be used where really necessary and the right should not be abused. In particular it should be used where members of the appropriate Scrutiny Committee have evidence which suggest that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making).

- (a) When a decision is made by the Executive or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published in a Digest, including where possible by electronic means, and shall be available at the main offices of the Council normally within three working days of being made. The Digest will be sent to all Members.
- (b) That Digest will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless any 2 members of the Council (including co-opted members) objects to it and calls it in.
- (c) The Chief Executive & Town Clerk shall call-in a decision for scrutiny if so requested by any two members of the Council (including co-opted members provided the Proposal relates to their area of responsibility) and shall then notify the decision taker of the call-in. The two members “calling-in” must give written notice to the Chief Executive & Town Clerk by sending an e-mail to committeesection@southend.gov.uk no later than 4.00 pm on the fifth working day after publication of the Digest. The notice must refer to the whole decision, not part, and once given cannot be withdrawn.
- (d) When calling-in a decision the two members shall confirm that they want the matter to go to:
 - (i) the Scrutiny Committee indicated in the Digest or, where more than one is indicated in the report, which of them (if no selection is made, the matter will go to all the Scrutiny Committees indicated in the Digest); or
 - (ii) another Scrutiny Committee, not indicated in the Digest, in which case a reason should be given. The Chief Executive & Town Clerk will adjudicate on such a request (save that all aspects of the Better Queensway Regeneration Project will solely be within the remit of the Place Scrutiny Committee).
- (e) The call-in procedure shall not operate:
 - (i) in respect of urgent matters. (An “urgent matter” is one constituting an emergency threatening the lives or wellbeing of some or all of the inhabitants of the Borough or any legal, commercial or other matter in which delay may adversely affect the Council’s interests or the rights or interests of others and the Chief Executive & Town Clerk shall be the final arbiter on whether a matter is an “urgent matter”);

Note:

- If the urgent matter involves a key decision which is not in the Forward Plan then paragraphs 15 and 16 of the Access to Information Procedure Rules (in **Part 4(b)**) also apply.
 - If the urgent matter is not in accordance with the Budget or Policy Framework, then paragraph 3 of the Budget and Policy Framework Procedure Rules (in **Part 4(c)**) also applies.
- (ii) in respect of matters which have previously been the subject of call-in;
- (iii) if it would result in an unlawful delay in the making of the Budget; or
- (iv) in respect of exceptional circumstances PVX applications determined by the Cabinet Committee
- (f) Call-in arrangements at the scrutiny committees:
- (i) The Chief Executive & Town Clerk will place a called-in matter on the agenda of the next meeting(s) of the appropriate scrutiny committee (or committees).
 - (ii) The relevant scrutiny committee(s) will then consider the cabinet's or officer's proposal on the matter.
 - (iii) The relevant Executive Councillor whose portfolio covers the area concerned shall attend the meeting to answer questions, if required.
- (g) The options available to the Scrutiny Committee in respect of a called in matter are as follows:
- To note the Cabinet's decision – in which case the decision takes effect 5 working days after publication of the original decision of the Cabinet in the Digest unless it is a Council matter as specified in Article 4 of the Constitution when it shall be considered at the next Council meeting.
 - To refer the matter back to the Cabinet for reconsideration – in which case the Cabinet shall reconsider the matter within 28 days, normally at its next planned meeting. The Cabinet may then determine the matter as it thinks fit (unless it is a Council matter as specified in Article 4 of the Constitution when it shall be determined by the Council) and the decision takes effect on publication of the fresh decision in the Digest, there being no further call-in.
 - To note the Cabinet's decision, or refer the matter back to the Cabinet (as set out above) but then to refer that decision up to Council under S.O.39 in **Part 4(a)**
- If the matter relates to the adoption of the Budget or Policy Framework or some other function of the Council then the Council may determine the matter as it thinks fit. However if it is an executive matter then the Council can either note the Cabinet's decision (which will then take effect) or refer the matter back to the Cabinet with its comments; the Council does not have a free hand to make its own decision.
- To refer the matter to Council on the basis that it is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, such procedure being laid down in Paragraph 6 of the Budget and Policy Framework Procedure Rules in **Part 4(c)**. Assuming this is the case, then the Council can either agree the decision as an exception or refer the matter back to the Cabinet for reconsideration; again the Council does not have a free hand to make its own decision.
- (h) Essentially the same procedures also apply to the call-in of decisions of the Cabinet Committee and key decisions by Officers. However in the latter case if the Scrutiny

Committee refers the matter back, it will be considered again by the Officer. The Officer will consider the Committee's comments and then either make a new decision as he or she thinks fit, or refer the matter to Cabinet.

- (i) Scrutiny Committees have the powers to require the Executive to submit a report to Council on any matter which is not treated as a key decision, which the Committee considers should have been treated as a key decision.
- (j) The Party Whip shall not operate in relation to the scrutiny role.

16. Procedure at Scrutiny Committee meetings

- (a) Scrutiny Committees shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest;
 - (iii) consideration of any matter referred to the committee for a decision in relation to call-in of a decision;
 - (iv) responses of the Executive to reports of the scrutiny committees; and
 - (v) the business otherwise set out on the agenda for the meeting.
- (b) 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:
 - (i) 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;
 - (ii) that those assisting the committee 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 committee / sub-committee shall prepare a report for submission to the Executive and / or Council as appropriate and shall make its report and findings public.

17. Matters within the remit of more than one Scrutiny Committee

Where a scrutiny committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another scrutiny committee, then the committee conducting the review shall invite the chair of the other committee (or his / her nominee) to attend its meetings when the matter is being reviewed.

Annex to the Scrutiny Procedure Rules

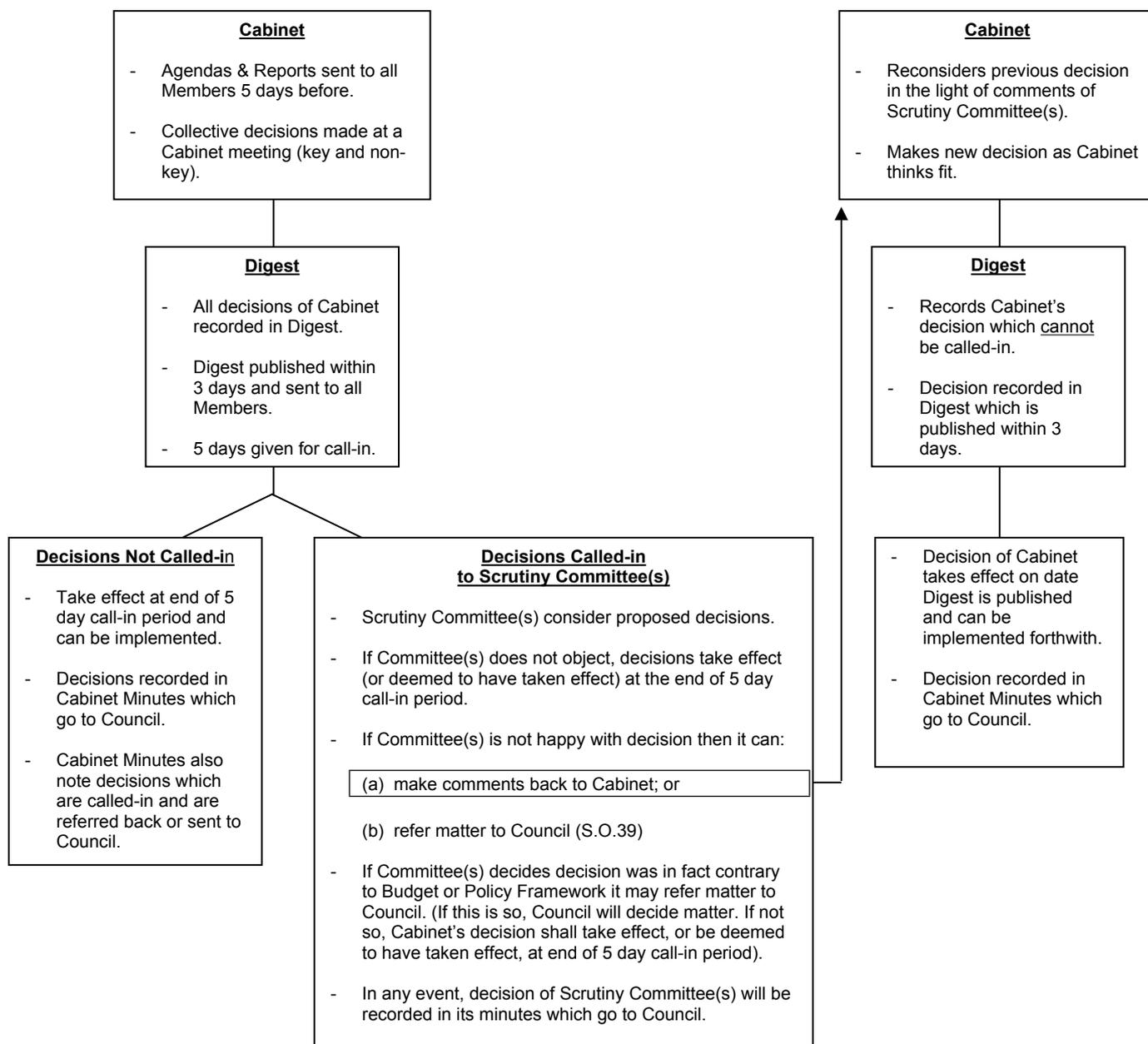
Decision Making By Cabinet & Key Decisions Taken By Officers – Including Call-In

Note

The arrangements shown below represent straightforward cases where:

- The decision relates to an executive function (i.e. it is not a Council matter which is first being considered by the Cabinet, for example the Budget).
- Any key decision involved is in the Forward Plan.
- Decision is in accordance with Budget and Policy Framework.
- Matter is not urgent.
- Matter has not previously been called-in.
- Call-in will not delay the Budget.

1. Cabinet Decisions



2. Key Decisions made by Officers under Delegated Powers

- All Cabinet decisions are subject to call-in – but in the case of decisions made by officers only key decisions can be called-in.
- The call-in arrangements for key decisions of officers are similar to (1) above.

