

TERMS OF REFERENCE – SCRUTINY COMMITTEE

A requirement of the Localism Act 2011 (Schedule 2, Chapter 5) is to include a statement to say whether the authority had resolved to have a Scrutiny Committee. Where the authority has so resolved, the Scrutiny Committee must have the powers set out in the 2012 Local Authorities (Committee system) (England) Regulations.

“Committee” means the Scrutiny Committee.

“Sub-committee” means a sub-committee of the Committee.

1. Purpose of the Scrutiny Committee

1.1 The purpose of the Committee is to carry out the Council’s responsibilities for scrutiny as stated in the Police and Justice Act 2006, the Local Government Act 2000 as amended, the Localism Act 2011 and the subsequent Local Authority (Committee System) (England) Regulations 2012. In particular, its primary purpose is:

- a) To provide an independent review of Council decisions either before or after they have been made;
- b) To provide an independent review of decisions made by certain partner authorities;
- c) To make recommendations regarding the decisions made

1.2 The Scrutiny Committee is not an alternative or additional mechanism to appeals procedures in respect of the decisions of the Council’s regulatory committees.

2. Powers

The Committee has the following powers:

2.1 Under the 2012 Local Authorities (Committee System) (England) Regulations:

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions of the Council;
- (b) to make reports or recommendations to:
 - (i) the Council itself;
 - (ii) any committee or sub-committee of the Council;
 - (iii) any officer of the Council; or
 - (iv) any joint committee on which the Council is represented or any sub-committee of such a committee, with respect to the discharge of any functions of the Council; and
- (c) on matters which affect the Council’s area or the inhabitants of that area, to make reports or recommendations to:
 - (i) the Council;

- (ii) any committee or sub-committee of the Council;
- (iii) any officer of the Council; or
- (iv) any joint committee on which the local authority is represented or any sub-committee of such a committee, on matters which affect the authority's area or the inhabitants of that area.
- (d) on decisions made but not yet implemented by the Council:
 - (i) to recommend that the decision is reconsidered by the person who has made it,
 - (ii) to arrange for its function under (a) above to be undertaken by Council
 - (iii) to carry out the actions under (b) above.

2.2 Under the Police and Justice Act 2006 - to carry out the crime and disorder function contained in the Police and Justice Act 2006, the Scrutiny Committee has the following powers:

- (a) to review or scrutinise decisions made or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions; (This means that the Council has the power to scrutinise the activities of those responsible for crime and disorder strategies namely the Council and the police)
- (b) to carry out scrutiny reviews on behalf of Standing and Local Committees, the priorities for review to be agreed by the Scrutiny Committee following an annual meeting between the Scrutiny Committee and Policy Committee Chairs and other key partners. Committees will also be able to refer matters for review and investigation to the Scrutiny Committee during the year, which will be considered as resources allow.
- (c) to make reports or recommendations to the local authority with respect to the discharge of those functions.

3. Powers in relation to relevant partner authorities

3.1 A report or recommendations may relate to the functions of a relevant partner authority so far as is exercisable in relation to:

- (a) the authority's area; or
- (b) inhabitants of that area.

3.2 The Committee may, by notice in writing, require that relevant partner authority to have regard to the report or recommendations in the exercise of its functions. The notice must be accompanied by a copy of the report or recommendations. A relevant partner authority must provide to the Committee such information as that Committee may reasonably require to discharge its functions.

3.3 A relevant partner authority may not provide to the Committee:

- (a) information that was obtained by the authority from any other person where the provision of that information to the Committee by the authority would constitute a breach of confidence actionable by any person;

- (b) information the disclosure of which would, or would be likely to, prejudice the exercise of the functions of the authority or the legitimate interests of any person (including the authority holding it);
- (c) personal information within the meaning of the Data Protection Act 1998(9), unless the disclosure is permitted by or under that Act; or
- (d) other information the disclosure of which is prohibited by or under any enactment.

3.4 Where, the disclosure of information would be prohibited by the above, the relevant partner authority must:

- (a) revise it so that the individual concerned cannot be identified; and
- (b) if satisfied that disclosure of the information in that revised form is permitted by or under the Data Protection Act 1998, and is not otherwise prohibited, disclose it.

4. Duties

4.1 The Committee will issue reports and recommendations concerning the matters referred to it in accordance with a reasonable timescale.

4.2 The Committee will respond to requests for reports on the progress in reviewing or scrutinising matters referred to it.

4.3 If the committee decides not to exercise its powers in relation to a matter referred to it by a member of the Council, it must notify the member of its decision and the reasons for it

4.4 If the Committee decides to exercise its powers in relation to a matter referred to it by a member of the Council, the committee must provide the member with a copy of any report or recommendations which it makes.

4.5 The Committee will produce an annual report to Council on its work and outcomes during the year.

5. Scope of matters relevant to the Committee

5.1 The following matters are excluded matters not to be reviewed or scrutinised by the Committee:

- (a) a local crime and disorder matter within the meaning of section 19 of the 2006 Act; or
- (b) any matter excluded by guidance issued by the Secretary of State¹ that is current at the time or
- (c) Planning matters or
- (d) Licensing and Appeals matters

¹ Issued under section 9FC of the Local Government Act 2000

6. Reference of matters to the Committee

- 6.1 Reference of a matter to the Committee or a Sub-committee, means that the matter is included in the agenda for, and discussed at, a meeting of the Committee or the Sub-committee.
- 6.2 The following may refer a matter to the Committee or a Sub-committee:
- (a) any member of the Committee may refer any matter which is relevant to the functions of the Committee;
 - (b) any member of a Sub-committee may refer any matter which is relevant to the functions of the Sub-committee; and
 - (c) any member of the Council who is not a member of the Committee may refer any matter which is relevant to the functions of the Committee and is not an excluded matter.
- 6.3 When a matter is referred under (c) above, the Committee may have regard to:
- (a) any powers which the member may exercise in relation to the matter by virtue of section 236 of the 2007 Act (exercise of functions by local councillors in England); and
 - (b) any representations made by the member as to why it would be appropriate for the committee to exercise any of its powers in relation to the matter.

7. Form and Composition

- 7.1 Full Council will appoint at its Annual Meeting a Scrutiny Committee, which will comply with the political proportionality requirements of the Housing and Local Government Act (1989).
- 7.2 Full Council will also appoint at its Annual Meeting a Chair of the Scrutiny Committee.
- 7.3 The Scrutiny Committee will comprise at least one Member and one substitute member from each Group.
- 7.4 A member may not sit as a member of the Scrutiny Committee where that Committee is due to consider, or is likely to consider, something that has been or might be considered by a committee of which the Councillor is a member.
- 7.5 The Committee may appoint persons to the Committee or a Sub-committee who are not members of the Council but such co-opted members are not entitled to vote at any meeting of the Committee or Sub-committee.

7.6 Procedure Rules for meetings of the Scrutiny Committee are set out in Section 4 of the Constitution.

7.7 The Committee may appoint one or more Sub-committees and may arrange for the discharge of any of its functions by any such Sub-committee.

8. Voting rights

8.1 Each member, other than a co-opted member, is entitled to vote on matters brought before the Committee or a sub-committee under xxx of the Constitution.

9. Attendance

9.1 The Scrutiny Committee may require Council members and officers and other persons to attend meetings of the Committee as reasonably required. It is a duty of any Council member or officer to comply with such a request.

9.2 A person is not obliged to answer any question which that person would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.

10. Duty of local authority to respond to overview and scrutiny committee

10.1 The Committee may publish a report or recommendations regarding a matter referred to it.

10.2 The Committee must by notice in writing require the Council:
(a) to consider the report or recommendations;
(b) to respond to the Committee indicating what (if any) action the Council proposes to take; and
(c) if the Committee has published a report or recommendations, to publish the response.

10.3 The notice served on the Council must require compliance within two months beginning with the date on which the Council received the report or recommendations or (if later) the notice. It is the duty of the Council to comply with the requirements specified in the notice.

11. Confidential and exempt information

11.1 The Committee has obligations regarding confidential and exempt information which are specified in the Annex.

12. Annex: Confidential and Exempt Information

- 12.1 This annex applies to the publication a report or recommendations of the Committee and any response of a local authority to such a report or recommendations; and the provision of a copy of such a document to a member of the Council; or to a relevant partner authority by the Committee or a local authority.
- 12.2 The Committee or the Council, in publishing the document or providing a copy of the document to a relevant partner authority:
- (a) must exclude any confidential information; and
 - (b) may exclude any relevant exempt information.
- 12.3 The Committee or the Council, in providing a copy of a document to a member of the Council, may exclude any confidential information or relevant exempt information.
- 12.4 Where information is excluded, the Committee or the Council, in publishing, or providing a copy of, the document:
- (a) may replace so much of the document as discloses the information with a summary which does not disclose that information; and
 - (b) must do so if, in consequence of excluding the information, the document published, or copy provided, would be misleading or not reasonably comprehensible.
- 12.5 “confidential information” has the meaning given by section 100A(3) of the 1972 Act (6)(admission to meetings of principal councils);“exempt information” has the meaning given by section 100I of that Act(7); and “relevant exempt information” means:
- (a) in relation to a report or recommendations of the Committee, exempt information of a description specified in a resolution of the overview and scrutiny committee under section 100A(4) of the 1972 Act which applied to the proceedings, or part of the proceedings, at any meeting of the overview and scrutiny committee at which the report was, or recommendations were, considered; and
 - (b) in relation to a response of the authority, exempt information of a description specified in such a resolution of the authority which applied to the proceedings, or part of the proceedings, at any meeting of the authority at which the report or response was, or recommendations were, considered.