

PART 4
Rules of Procedure
Scrutiny Procedure Rules

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Scrutiny Procedure Rules

1 What will be the Number and Arrangements for Scrutiny Committees?

- (a) The Council will have one Scrutiny Committee as set out in Article 6 and will appoint to it as it considers appropriate from time to time. The Scrutiny Committee may appoint Panels as appropriate to undertake any of its activities.
- (b) The Scrutiny Committee has a duty to scrutinise the discharge of the Cabinet functions of the Council and other related functions of the Council and to make reports and recommendations thereon. The Scrutiny Committee should be the key mechanism for enabling councillors to represent the views of their constituents and other organisations and hence to ensure that those views are taken into account in policy development. The Committee should take a cross-cutting rather than a narrow service-based view of the conduct of the Council's affairs. The Committee should consider different approaches and formats for their meetings.
- (c) The scrutiny process is different from the traditional committee approach in at least four ways:
 - Members must take a lead role and set the agenda (within limits set by the Council).
 - The Scrutiny Committee is not a decision-making body.
 - Officers supporting the scrutiny function should be allowed to do so without constraint from the Cabinet (subject to agreed resource limits).
 - The reports of the Scrutiny Committee are prepared in an entirely different way after hearing and debating written and oral evidence.
- (d) Councillors serving on the Scrutiny Committee should strive to be independent. They should seek consensus on outcomes whilst recognising political balance. They should be constructive and not judgmental. They should be open and transparent in their approach.

2 Who may sit on the Scrutiny Committee?

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

3 Co-optees

- (a) The Scrutiny Committee or Panel shall be entitled to appoint up to two people as non-voting co-optees.
- (b) The Scrutiny Committee, or Panel, when dealing with any housing matter relating to the Council's management of its housing stock, shall include two notified representatives of the Lewes District Organisation of Tenant and Residents Groups who shall be entitled to speak but not vote on any such matter. The organisation's representatives shall not be entitled to be present when any matter is discussed which is designated as an exempt item.

4 Meetings of the Scrutiny Committee

There shall be at least two ordinary meetings of the Scrutiny Committee each year, one to review the Committee's work programme and one to consider any particular issues as the Council enters the budget process for the following year. One meeting shall also consider crime and disorder scrutiny matters. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Committee may be called by the Chair of the Committee, by any three members of the Committee or by the Council's senior legal officer if he/she considers it necessary or appropriate.

5 Quorum

The quorum for the Scrutiny Committee shall be three.

6 Who Chairs Scrutiny Committee Meetings?

The Chair of the Scrutiny Committee shall be appointed by the Council and shall be a member of the Minority Group. In the absence of the Chair, the Scrutiny Committee shall be chaired by another member of the Minority Group wherever possible.

7 Work Programme

- (a) The Scrutiny Committee will be responsible for setting its own work programme and in doing so it shall take into account the wishes of members on that Committee who are not members of the largest political group on the Council. The programme will be reviewed on an annual basis in liaison between the Scrutiny Committee, the Cabinet and the Corporate Management Team before being submitted to Council for approval. The programme will have full regard to the availability of resources and, in particular, Officer support required
- (b) When putting forward the proposed programme, the Scrutiny Committee shall ensure that the following matters are clearly stated:

- Subject matter
- Specific details as to what issues are to be covered
- An initial indication of the groups and organisations to be invited to contribute and the persons to be invited to attend.
- Time limit
- Officer involvement

Those putting forward suggestions for items for inclusion in the programme should therefore keep the above requirements in mind.

- (c) In-year variations of the programme may be made in accordance with the provisions set out in the Committee's terms of reference in Part 2 of this Constitution.

8 Agenda items

- (a) Any member of the Council may give written notice to the Head of Democratic Services that they wish an item to be included on the agenda of the Scrutiny Committee. If the Head of Democratic Services receives such a notification, then he/she will include the item on the first available agenda of the Scrutiny Committee for consideration by the Committee. If the matter is urgent and cannot await the next ordinary meeting of the Committee, an extraordinary meeting of the Committee shall be called by the Chair of the Committee or the Council's senior legal officer if at least three members of the Committee are in agreement with that course of action.
- (b) The Scrutiny Committee shall also respond, as soon as its 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 Committee 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 Committee at their next available meeting.

9 Policy Review and Development

- (a) The role of the Scrutiny Committee 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 Committee may make proposals to the Cabinet for

developments in so far as they relate to matters within its terms of reference.

- (c) The Scrutiny Committee 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 out of the budget allocated to them by the Council.
- (d) The members of the Scrutiny Committee should have regard to the forward plan of key decisions including the timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Scrutiny Committee following consultation on possible policy/service developments, the Committee will at least have the opportunity of responding in the course of the Cabinet's consultation process in relation to any key decision. If at least five members of the Committee are in agreement that consideration should be given to a matter contained in the forward plan and so inform the Head of Democratic Services, the Chair of the Committee will call a meeting of a Panel of the Scrutiny Committee. The number of councillors to serve on such a Panel (which shall be politically proportionate except that the Leader of a political group may decide to offer one of their Group's places to another political group or an Independent member) shall be determined by the Chair with the councillors being nominated by the respective Group Leaders.

10 Means of Conducting Scrutiny and Best Value Reviews and Other Activities

- (a) The Scrutiny Committee should normally set up Panels of three or five councillors to undertake scrutiny and best value reviews as they arise on a task and finish basis and may similarly set up Panels to undertake other activities which the Committee wishes to delegate to them. The Panels will report their conclusions direct to Cabinet/Council as appropriate. The Panels will not have decision making powers.
- (b) The number of councillors to serve on a Panel shall be determined by the Scrutiny Committee with the councillors being nominated by the respective Group Leaders. The Panels shall be politically proportionate except that the Leader of a political

group may decide to offer one of their Group's places to another group or an Independent member. Should the leader of a political group decline to nominate councillors to serve on a panel or to offer one of their Group's places to another Group or an Independent Member, the matter shall be referred back to the Committee.

- (c) The Scrutiny Committee will set the Panels' terms of reference and time-scale for completing each review or activity. Should pressure on officer resources be such that the agreed timescale might become unrealistic, the matter shall be referred back to the Committee.
- (d) The quorum of a Panel shall be a majority of the number of members of the Panel.
- (e) Each Panel shall appoint a Chair from within its membership.
- (f) No more than four Panels shall be in existence at any one time (excluding those convened to consider call-in requests or matters identified in the forward plan of key decisions).

11 Reports from the Scrutiny Committee

- (a) Once it has formed recommendations on proposals for development, the Scrutiny Committee or Panel will prepare a formal report and submit it to the Council's senior legal officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (eg if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the Scrutiny Committee or Panel cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council with the majority report.
- (c) The Council or Cabinet shall consider the report of the Scrutiny Committee or Panel at their next available meeting and in any event within three months of it being submitted to the Council's senior legal officer.

12 Making sure that Scrutiny Committee Reports are considered by Council or Cabinet

- (a) Once the Scrutiny Committee or Panel has completed its deliberations on any matter it will forward a copy of its final report to the Council's senior legal officer who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy

framework. If the Council's senior legal officer refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Cabinet will at its next available meeting respond to the Scrutiny Committee or Panel report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from the Scrutiny Committee or a Panel on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the Scrutiny Committee proposals.

13 Rights of Scrutiny Committee Members to Documents

- (a) In addition to their rights as councillors, members of the Scrutiny Committee or 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 the Scrutiny Committee as appropriate depending on the particular matter under consideration.

14 Members and Officers Giving Account

- (a) The Scrutiny Committee or a Panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. 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 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 councillor or officer is required to attend the Scrutiny Committee or Panel under this provision, the Chair of that Committee or Panel will inform the Council's senior legal officer. The Council's senior legal officer shall inform the councillor 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 Committee or Panel. Where the account to be given to the Committee or Panel will require the production

of a report, then the councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances agreed by the relevant Director/Head of Service in respect of their staff or the Chief Executive in the case of Directors/Heads of Service and Group Leaders in the case of councillors, the councillor or officer is unable to attend on the required date, then the Scrutiny Committee or Panel shall, in consultation with the councillor or officer, arrange an alternative date for attendance.

15 Attendance by Others

The Scrutiny Committee or Panel may invite people other than those people referred to in paragraph 14 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 in the area or whose work impinges upon the area and shall invite such people to attend.

16 Call-in

- 16.1** The draft decisions of the Cabinet will be e-mailed to councillors normally within three working days of the close of the meeting or the date of the draft decision as appropriate. In this rule and in rule 17 below "Cabinet" shall be read as including any committee of the Cabinet or a decision made by a Cabinet Member or a key decision made by an officer with delegated authority from the Cabinet or under joint arrangements.
- 16.2** For non-urgent draft decisions made by the Leader or by a Cabinet Member, a copy of the officer report and decision-making proforma shall be sent to the Leader/Cabinet Member and relevant Ward Councillor(s) three working days prior to the decision being made. In the case of urgent decisions made by the Leader or by a Cabinet Member, a copy of the report and proforma shall be sent to the relevant Ward Councillor(s) at the same time as it is sent to the Leader/Lead Councillor.
- 16.3** Any councillor is entitled to submit a request by email or fax setting out the reason why she/he wishes any such decision to be called in by the Scrutiny Committee for consideration by a Scrutiny Panel. The request must be submitted to the Head of Democratic Services within three working days of the date of the email.
- 16.4** The Head of Democratic Services will transmit by email to all members of the Scrutiny Committee a copy of the reason for requesting a review submitted by the councillor.

16.5 Members of the Scrutiny Committee must decide within two working days whether they support the request for the decision to be reviewed and if they do so they should email a response to the Head of Democratic Services accordingly. If at least six members of the Committee are in favour of calling in the decision the Chair of the Committee will call a meeting of a Panel of the Scrutiny Committee within five working days where possible. The number of councillors to serve on a Panel (which shall be politically proportionate except that either the Leader of a political group may decide to offer one of their Group's places to another Group or an Independent member) shall be determined by the Chair with the councillors being nominated by the respective Group Leaders.

16.6 The decision of the Cabinet will not be implemented until:

- (i) The time period in paragraph 16.5 has expired and six members of the Scrutiny Committee have not stated they are in favour of calling in the decision; or
- (ii) A Panel of the Scrutiny Committee considers the matter and resolves not to intervene in the decision of Cabinet; or
- (iii) A Panel of the Scrutiny Committee resolves to refer the matter back to Cabinet for further consideration and to take account of any recommendation of the Panel, in which case the Cabinet will reconsider the decision as soon as is reasonably practicable; or
- (iv) In the case of any question relating to the budget or policy framework, the Panel of the Scrutiny Committee has reported to the meeting of the Council that will consider the budget or policy framework or any component part of it (if there is insufficient time for the matter to be referred back to the Cabinet).

16.7 Once a decision of the Cabinet has been referred to a Panel of the Scrutiny Committee it shall not be subject to further consideration by a Panel of the Scrutiny Committee or the Committee itself and shall not again be referred by any individual councillor.

17 Call-in and Urgency

- (a) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent.
Definition of Urgency: A decision will be urgent if, in the view of the decision-maker, any delay likely to be caused by the call in process would, for example, 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 person or body, the decision is an urgent one, and therefore not subject to call-in. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- (b) 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.

18 The Party Whip

- (a) When considering any matter in respect of which a member of the Scrutiny Committee or Panel 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 or Panel's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

19 Procedure at Scrutiny Committee Meetings

- (a) The Scrutiny Committee and their Panels (if any) shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations);
 - (iii) responses of the Cabinet to reports of the Committee or its Scrutiny Panels; and
 - (iv) the business otherwise set out on the agenda for the meeting.
- (b) Where the Scrutiny Committee conducts investigations (eg with a view to policy development), the Committee may also ask people to attend to give evidence at Scrutiny 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 Scrutiny Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

20 Procedure at a Scrutiny Panel

- 20.1** A preliminary meeting will be held attended by the councillors appointed to the Panel, the Performance Officer (Scrutiny) and any relevant Officers for the purposes of:
- (a) Determining the overall content and scope of the issue, subject to any terms of reference already established by the Scrutiny Committee.
 - (b) Agreeing the persons to be invited to answer questions and/or give evidence.
 - (c) Setting the approach to be taken (eg workshops, interviews, presentations, etc).
 - (d) Scheduling sessions (eg full day, one or two half days).
- 20.2** A Scrutiny Panel shall meet in public and public notice of its meetings shall be given in accordance with the Council's Access to Information Procedure Rules.
- 20.3** Scrutiny Panel sessions shall normally include:
- (a) Interviews, discussions, representations involving councillors, officers and external invitees as appropriate, followed by:
 - (b) Councillors debating the matter and making decisions upon their findings and recommendations.
- 20.4** Paragraphs 19(a)(ii), 19(b) and 19(c) above shall apply to a Scrutiny Panel.
- 20.5** References to the rights of the Scrutiny Committee to request councillors and officers to attend and to invite persons from outside the Council to attend (paragraphs 14 and 15 above) shall apply in respect of the proceedings of a Scrutiny Panel.
- 20.6** The Performance Officer (Scrutiny) will be responsible for preparing the report and findings on behalf of the Panel.
- 20.7** The reports, findings and recommendations of a Scrutiny Panel shall be made public except where disclosure of information would be classed as either exempt or confidential.
- 20.8** In view of the short time scale for a Scrutiny Panel to consider decisions of Cabinet which are 'called-in' the Panel may choose not to follow the procedure set down in this paragraph with the exception of sub-paragraph 20.4.

21 Officer Support for the Scrutiny Committee and Scrutiny Panels

- 21.1** Officers of the Committee Section shall have a role in ensuring the efficient and effective operation of the scrutiny process. So far as is practical (within a small team of committee staff) the Performance Officer (Scrutiny) and Cabinet Secretary roles will be kept separate and not be undertaken at any one time by the same person.
- 21.2** The Scrutiny and Committee Officer will maintain an overview of the progress of scrutiny work. Where recommendations of the Scrutiny Committee are approved (either in full or in part) by either the Cabinet or the Council, the Performance Officer (Scrutiny) shall monitor implementation of those recommendations and draw the Scrutiny Committee's attention to any failures to "follow through" in line with agreed action plans.
- 21.3** The Performance Officer (Scrutiny) will not be expected to undertake detailed research or investigation on behalf of the Scrutiny Committee or Panel and such support will be drawn from the Council's resources as a whole. It is accepted that for a small Council like Lewes it is not feasible to provide the Scrutiny Committee or a Panel of the Committee with a separate team of officer support. Officers must be able to provide impartial advice and support and feel free to do so without fear of any discrimination as a result.
- 21.4** With respect to the proceedings of a Scrutiny Panel, the Performance Officer (Scrutiny) shall co-ordinate invitations, venue and facilities. Appropriate Officers shall produce research and background documentation.
- 21.5** The arrangements for preparing the agenda for meetings of the Scrutiny Committee will be as follows:
- The Performance Officer (Scrutiny) will draw up a menu of items drawing upon the work programme, outstanding issues or requests by the Committee and items referred by Cabinet or other Council bodies.
 - The menu will be the subject of informal discussion between the Chair and the relevant Director prior to issue of the formal agenda.