

# Appendix 5 - Improvement and Scrutiny Procedure Rules

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

The Council will have four Improvement and Scrutiny Committees, their size to be determined at the Annual Meeting of the Council, and terms of reference as set out in Article 6. Such Committees may appoint Sub-Committees or Panels as they consider appropriate.

## 2. **Who may sit on Improvement and Scrutiny Committees?**

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

## 3. **Education Representatives and Co-optees**

The Improvement and Scrutiny Committee (People) will include in its membership the following representatives with voting rights:

- (a) One Church of England diocese representative;
- (b) One Roman Catholic diocese representative;
- (c) Two parent governor representatives; and

Where the Committee is dealing with matters other than education, these representatives shall not vote but may stay in the meeting and speak.

Each Improvement and Scrutiny Committee, or sub-committee shall be entitled to appoint other non-voting co-opted members to assist in carrying out their work as they consider appropriate.

## 4. **Meetings of the Improvement and Scrutiny Committees**

Each Improvement and Scrutiny Committee will meet in accordance with a timetable of meetings approved by the Council. Normally each Committee will meet bi-monthly but may be called from time to time as and when appropriate. A meeting may also be called by the Chairman of the relevant Improvement and Scrutiny Committee, or if requisitioned by one third of the number of members of the Committee (rounded up).

## 5. **Quorum**

The quorum for an Improvement and Scrutiny Committee shall be one quarter of the number of members of the committee (rounded up).

## **6. Who Chairs Improvement and Scrutiny Committee Meetings?**

Chairmen of Improvement and Scrutiny Committees/Sub-Committees will be drawn from among the Councillors sitting on the Committee/Sub-Committee, and subject to this requirement the Committee/Sub-Committee may appoint such person as it considers appropriate as Chairman.

## **7. Work Programme**

Each Improvement and Scrutiny Committee will be responsible for setting their own work programme and in doing so shall take account of the wishes of the members of the Committee. The work programme should include matters on which there are requests from the Council or the Cabinet for advice.

## **8. Agenda Items**

Any member of an Improvement and Scrutiny Committee shall be entitled to give notice to the Director of Legal & Democratic Services that he/she wishes an item, relevant to the functions of the Committee, to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Director of Legal & Democratic Services will ensure that it is included on the next available agenda. Members who are not appointed to the Improvement and Scrutiny Committee in question may ask their party group spokesman to give notice of an item.

Improvement and Scrutiny Committees shall also 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 Committees shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Improvement and Scrutiny Committee at their next available meeting.

## **9. Policy and Project Reviews**

- (1) The role of the Improvement and Scrutiny Committees in relation to the development of the Council's budget and policy and framework is set out in detail in the Budget and Policy Framework Procedure Rules.

- (2) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Improvement and Scrutiny Committees may make proposals to the Cabinet and/or Council relating to matters within their terms of reference.
- (3) Improvement and Scrutiny Committees may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers to assist them in this process. They may go on site visits, conduct surveys, hold public meetings, commission research and do other things that are reasonably considered necessary to inform their deliberations. They may ask witnesses to attend a meeting on matters under consideration and, if appropriate, pay advisers and witnesses a reasonable fee and expenses for doing so.

#### **10. Reports from Improvement and Scrutiny Committee**

- (1) Once it has formed recommendations on proposals, the Improvement and Scrutiny Committee will prepare a formal report and submit it either to the Cabinet or to the Council as the Committee thinks appropriate.
- (2) If one single final report cannot be agreed, then a minority report may be prepared and submitted alongside the majority report.
- (3) The Cabinet or Council will receive the final scrutiny report and respond usually within two months confirming acceptance or otherwise of the report's recommendation and an action plan for implementation.

#### **11. Rights to documents**

- (1) Members of Improvement and Scrutiny Committees have the rights to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Appendix 6 of this Constitution. Members will also be informed of the Council's forward plan of key decisions; and of Cabinet decisions of the Council, Cabinet and Committees.
- (2) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Improvement and Scrutiny Committees as appropriate depending on the particular matter under consideration.

#### **12. Attendance at Improvement and Scrutiny Committees**

(1) An Improvement and Scrutiny Committee may scrutinise and review decisions made or actions taken or proposed to be taken in connection with the discharge of the Council's functions. As well as reviewing documentation, in fulfilling its Improvement and Scrutiny role, it may request any member with Cabinet responsibilities, senior officer of the Council, or other person to attend and provide information within their remit on:

- Measures to improve the implementation of Council policies
- Any particular decision or series of decisions;
- The extent to which actions taken implement Council policy
- Service performance

The overriding intention is to seek improvements in the delivery of Council's services.

(2) Where the response to any question or request for information would disclose confidential or exempt information within the meaning of Schedule 12A of the Local Government Act 1972, the Committee shall be so advised by the member or officer and the Chairman shall move that the answer is taken in confidential session and the question shall be put without being seconded or debate. No member or officer giving evidence to an Improvement and Scrutiny Committee shall be under any obligation to disclose publicly personal information about an individual employee, child in care or at school, or any recipient of Council services.

(3) An Improvement and Scrutiny Committee may invite people other than members or officers to discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, service users and representatives from other public sector organisations.

### **13. Call-in**

Call-in should only be used in exceptional circumstances. These are where members have evidence which suggests that issues have not been handled in accordance with the decision-making principles set out in Article 7 (decision-making).

(1) When a decision is made by Cabinet, an individual member of Cabinet, a Committee of Cabinet, or a key decision is made by an officer with delegated authority from Cabinet or under joint arrangements the decision shall be published, including where

possible by electronic means and shall be available at the main offices of the Council, normally within one week of the decision being made.

All Members will be informed of the decision made.

- (2) Notice of the decision will bear the date upon 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 four Councillors, including two Councillors from at least two political groups give notice to the Director of Legal & Democratic Services requesting a call-in of that decision.
- (3) The Director of Legal & Democratic Services upon receiving a request for the call-in of a decision shall notify the decision taker of the call-in and inform the appropriate Chairman of the Improvement and Scrutiny Committee. A meeting of the appropriate Improvement and Scrutiny Committee will then consider the requisitioned call-in decision at its next available meeting.
- (4) If, having considered the decision, the Improvement and Scrutiny Committee is still concerned about it, it may then refer it back to the decision-making person or body for reconsideration setting out in writing the nature of the concerns or refer the matter to full Council. If the Improvement and Scrutiny Committee has no objection to the decision, those requesting the call-in shall be so informed and the decision implemented.
- (5) If the matter was referred to full Council and the Council does not object to a decision which has been made then the decision will be effective. However, if the Council does object and the decision is within its terms of reference the decision will be amended according to the Council's wishes. In those cases where the Council does object and has no locus to make decisions in respect of Cabinet decisions, the Council will refer any decision to which it objects back to the decision-making person or body together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not, before reaching a final decision and implementing it.

### **Call-in and Urgency**

- (6) The call-in procedure set out above shall not apply where the decision being taken by Cabinet 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 interest. All reports

recommending that decisions be taken should say whether or not it is proposed that call-in be waived. 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. The Chairman of the appropriate Improvement and Scrutiny Committee should agree both the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency should be reported to the next available meeting of the Council, together with the reasons for urgency.

- (7) The operation of the provisions in relation to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

#### **14. Procedure at Improvement and Scrutiny Committee Meetings**

- (1) Improvement and Scrutiny Committees shall consider the following business:
  - (a) Minutes of the last meeting.
  - (b) Consideration of any matter referred to the Committee for a decision in relation to call-in for a decision.
  - (c) Responses of Cabinet or Council to reports of the Improvement and Scrutiny Committee.
  - (d) Business as otherwise set out in the agenda.
- (2) Where Improvement and Scrutiny Committees conduct investigations and reviews, the Committees may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:
  - (a) 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.
  - (b) That those assisting the Committee by giving evidence be treated with respect and courtesy and see that the investigation be conducted so as to maximize the efficiency of the investigation or analysis.
- (3) 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.

**15. Matters within the remit of more than one Improvement and Scrutiny Committee**

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

(2) To enable the work of the three Improvement and Scrutiny committees to be co-ordinated, monthly meetings of the chairmen will be held to discuss future work programmes and agree the allocation of project reviews to appropriate Committees.

**16. Councillor Call For Action**

Issues may be reported to an Improvement and Scrutiny Committee as a last resort under the Guide for Derbyshire County Councillors or Councillor Call for Action (February 2009).

**CALL-IN PROCEDURES**

**Procedure to be Adopted when a Decision is Called-In**

1. The Director of Legal & Democratic Services on receiving a request for the call-in will check that the call-in notice is signed by the requisite number of Members. The call-in notice must identify which principle(s) of decision making in Article 7 of the constitution have allegedly been breached and give reasons. This requirement will be checked by the Director of Legal & Democratic Services.
2. The Director of Legal & Democratic Services will arrange a meeting of the appropriate Committee, in consultation with the Chairman of that committee.
3. The Director of Legal & Democratic Services will acknowledge the call-in notice and notify the appropriate Cabinet member.

4. The Scrutiny Officer will invite the signatories to the call-in notice, the relevant Council Cabinet member(s) and the relevant Strategic Director to attend the call-in meeting. The call-in signatories and the relevant Council Cabinet member or a Cabinet member nominee would be expected to attend. The relevant Strategic Director may nominate a second or third tier officer to attend in his/her place. If none of the call-in signatories attend, the Committee will decide whether to proceed. If the Committee decides not to proceed, then the call-in will be decided on the basis that the Committee does not have any concerns it wishes to refer to the Council Cabinet, and the Council Cabinet will not be required to reconsider the decision.
5. The Scrutiny Officer will send copies of the call-in notice, minute of Council Cabinet/Cabinet Member meeting and any associated reports to members of the Committee with the agenda for the meeting.
6. The Scrutiny Officer will liaise with the Chairman and the Vice Chairman of the Committee over any other appropriate arrangements for the call-in, e.g. additional information. witnesses etc. If the Chairman or Vice Chairman have signed the call-in notice, the SO will liaise with another member of the Committee nominated by the Chairman or Vice Chairmen.
7. The aim of the Committee meeting when the call-in is considered should be inquisitorial not adversarial. The Meeting Procedure for a call-in of a Council Cabinet decision will be adopted.

## **Meeting Procedure for a Call-in of a Council Cabinet Decision**

### **The role of the Chair**

1. This procedure shall be implemented at the meeting by the Chairman and any deviation from this procedure will be at the discretion of the Chairman. The Chairman will advise attendees at a Call-in meeting of any reasonable intention to deviate from the procedure at the start of the meeting where possible.
2. In the absence of the Chairman, the meeting will be led by the Vice Chairman. In the absence of both, the Monitoring Officer or their representative shall facilitate a vote of Members so that a Chairman

shall be appointed. The appointed Member will chair for the duration of the meeting or until the Chairman or Vice Chairman is present.

3. Where the Chairman is in attendance, the Vice Chairman shall be treated in the same way as every other Member of the Board.

#### **Role of signatories to the Call-in notice and the Council Cabinet member**

4. Signatories to the Call-in notice and the Council Cabinet Member will be invited to provide evidence to the Committee, both in terms of a presentation and by answering questions put to them by the Committee.
5. There is no provision for either the signatories to the Call-in or the Cabinet Member to question each other, either directly or through the Chairman.

#### **Role of officers in attendance**

6. Supporting Officers will be present from Democratic Services (providing procedural advice to the Chairman and Committee as required and recording decisions) and Improvement and Scrutiny (advising the Chairman and the Committee as required on relevant scrutiny of the decision under consideration). The Monitoring Officer or their representative may also be present and may undertake any of these duties in addition to providing any legal advice if required.
7. Executive Directors or Assistant Directors or Heads of Service may provide support to the Council Cabinet Member and contribute to the meeting as required by advising the Committee on the strategic, technical or operational basis of decisions taken or considerations given relevant to the Call-in, or by responding to questions referred by the Council Cabinet Member to them.

#### **Procedure at the meeting**

8. The signatories to the Call-in notice will be invited to address the Committee on the Call-in, and will be required to focus on justifying why they considered the council's decision-making principles to have been breached as raised in the signed Call-in Notice lodged with the Monitoring Officer. The order in which signatories are invited to speak

will be at the discretion of the Chair. Signatories shall limit their contributions to the reasons for the call-in.

9. After all signatories have made their contributions, members of the Committee will be invited to put questions to the signatories and receive responses to those questions.
10. The Council Cabinet Member will then be invited to address the Committee on the call-in by the Chairman and will be required to respond to the assertions relating to the council's decision-making principles as set out in the Call-in notice.
11. Members of the Committee to make any contributions they may wish prior to the vote being taken. Each member of the Committee shall be permitted to make one speech lasting no more than ten minutes.

Voting on whether decision-making principles have or have not been breached

12. The Chairman shall then ask each Member in turn to state whether they consider the decision-making principles identified in the Call-in Notice were, or were not, breached giving reasons. Where a Member considers that a principle has been breached, they will be required, at this stage, to state which principles they consider to have been breached. This information shall be recorded by the Monitoring Officer or their representatives.
13. The Chairman may, at their discretion, state whether they believe the decision-making principles identified in the Call-in Notice were or were not breached, giving reasons.

### **Finding of no breach**

14. In the event that a majority of Members consider that there was not a breach, the Chairman will state that the Committee has resolved that the Council Cabinet Decision identified in the Call-in Notice did not breach the decision-making principles and close the meeting.

### **Finding of a breach**

15. In the event that a majority of Members consider that there was a breach in the decision making procedure, the Chairman will invite the Monitoring Officer or their representative to address the Committee. The Monitoring Officer or their representative will state which decision making principles were individually identified by Committee members as having been breached, and which of those principles were identified by a majority of Members present as having been breached.
16. The Chairman will declare the outcome of the vote and the resultant resolution and close the meeting referring the decision back to the next meeting of the Council Cabinet.

**Consideration of multiple Call-in notices in relation to the one decision of Council Cabinet**

17. In the event that more than one Call-in notice is received in relation to a single matter, the Chairman will use their discretion to vary the procedure accordingly to afford signatories to all Call-in notices equal opportunity to state their case.