

**TELFORD & WREKIN COUNCIL**

**SCRUTINY MANAGEMENT BOARD– 16<sup>th</sup> NOVEMBER 2012**

**CHANGES TO THE CONSTITUTION AND SCRUTINY HANDBOOK**

**REPORT OF SCRUTINY GROUP SPECIALIST**

**1.0 PURPOSE**

- 1.1 To ask the Board to agree the changes to the Scrutiny Handbook as set out in Appendix 1 and agree the process to make changes to the constitution as set out in Section 5 of this report.

**2.0 RECOMMENDATIONS**

**That Members agree:**

- 2.1 The changes to the Scrutiny handbook as set out in Appendix 1 of this report**
- 2.2 The changes to the Constitution regarding Scrutiny made under the regulations of the Localism Act (2012) as set out in paragraphs 5.2 – 5.7 below.**
- 2.3 To delegate authority to the Statutory Scrutiny Officer and Chair of Scrutiny Management Board to take changes in respect of health scrutiny to the Council Constitution Committee.**

**3.0 PREVIOUS MINUTES**

- 3.1 None

**4.0 BACKGROUND INFORMATION**

- 4.1 Over the last 6 months there have been changes to the way Scrutiny works as a result of national legislation, decisions of Full Council and Scrutiny Management Board. It is appropriate to update the Constitution and Scrutiny handbook to reflect the changes that have already been made and make provision for the pending Health Scrutiny regulations.

## **5.0 CHANGES TO THE SCRUTINY SECTIONS OF THE CONSTITUTION**

- 5.1 The constitution sets out that any changes to Scrutiny sections of the Constitution must be agreed by Scrutiny Management Board and Council Constitution Committee. The Health and Social Care Act (2012) and the Localism Act (2012) have made the following changes to Scrutiny:
- 5.2 Regulations following the Localism Act (2012) set out that the Executive must now give 28 "clear" days notice of an intention to hold all or part of a Cabinet meeting in private and the reasons for doing so. There is also a requirement in respect of all key decisions, to publish a notice setting out details of that proposed key decision; such a notice must be published 28 clear days before the decision is taken. There is no longer a requirement for the Council to publish a monthly Forward Plan of key decisions.
- 5.3 If the 28 day timetable for notification of a key decision is impracticable, the decision can still be taken if the Proper Officer has informed the Chair of the relevant Scrutiny Committee in writing of the details of the decision to be made.
- 5.4 If there is less than 5 clear days notice before the decision is to be taken, there is a Special Urgency provision. Such a decision can only be taken if the decision-maker has received the permission of the Chair of the relevant Scrutiny Committee. This mirrors the previous arrangement where permission had to be sought of Scrutiny Chairs if a key decision was not in the Forward Plan or was very urgent.
- 5.5 A Notice of Key Decisions and Private Reports/Meetings will be published on a roughly monthly basis (to mirror the Cabinet timetable). This replaces the old Forward Plan of key decisions, but contains much the same information.
- 5.6 The new Regulations also give members of Overview & Scrutiny Committees additional rights to request the Executive to make available any material relating to past decisions. The requested information must be provided by no later than 10 clear days after the request is made. Confidential/Exempt information does not need to be provided by the Executive unless it relates to the Scrutiny work programme or to a decision that is being scrutinised.
- 5.7 If the Cabinet have taken a decision that was not treated as key, but in the opinion of Overview & Scrutiny should have been treated as a key decision, there is provision for Overview & Scrutiny to require the Cabinet to submit a report to full Council to explain why that decision

was not a key decision.

- 5.8 Scrutiny Management Board are asked to agree to make changes to the Constitution to ensure that it reflects these changes to the Scrutiny arrangements.
- 5.9 The Health and Social Care Act (2012) has given the health scrutiny power to the Local Authority with effect from April 2013. The Department of Health has not published its response to the consultation on Health Scrutiny regulations which will set out if this power can be delegated to the Health Scrutiny Committee and if referrals to the Secretary will have to be made by Full Council ( Joint HOSCs will retain the right of referral). The Regulations are due to be published early in 2013.
- 5.10 In order to make the necessary changes to the Constitution prior to April 2013, Scrutiny Management Board are asked to agree to delegate to the Statutory Scrutiny Officer and Chair of Scrutiny Management Board to take proposed changes to Council Constitution Committee.

## **6.0 UPDATING THE SCRUTINY HANDBOOK**

- 6.1 Over the last 6 months changes have been made both to the structure of the Scrutiny Committees and the way Scrutiny work is carried out by the Committees. A draft of the updated Scrutiny Handbook with track changes is attached as Appendix 1. Some of the significant changes are:
- Addition of the Housing Economy and Infrastructure Scrutiny Committee
  - Combining the remits of the Health and Adult Care Scrutiny Committees
  - All Scrutiny work is determined and carried out by Scrutiny Committees
  - Agreeing changes to the Scrutiny work programme
  - Terms of Reference for the Scrutiny Assembly
  - Data protection and confidentiality
- 6.2 Members of the Board are also asked to consider the inclusion of information in the Call-in section of the Scrutiny Handbook of the support that can be provided to Members who want to use the Call-In process.
- 6.3 Members are asked to agree to further work to include identify the criteria for identifying issues for the Scrutiny work programme.

## **7.0 EQUAL OPPORTUNITIES**

- 7.1 All Scrutiny Committees will consider the equal opportunity implications of the issues under Scrutiny.

## **8.0 ENVIRONMENTAL IMPACT**

- 8.1 There is no direct environmental impact resulting from this report.

## **9.0. LEGAL COMMENT**

- 9.1 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (SI: 2089) make provision for the new arrangements as set out in the body of this report. In accordance with Part 4 Section 5 of the Council's Constitution, the Scrutiny Management Board recommends changes regarding Scrutiny arrangements to the Council Constitution Committee.

## **10.0 LINKS WITH CORPORATE PRIORITIES**

- 10.1 The Scrutiny Committees look at cross cutting issues that link with the Corporate priorities.

## **11.0 OPPORTUNITIES AND RISKS**

- 11.1 Reviewing the Scrutiny rules and procedures ensures that the Scrutiny Committees are meeting the legislative requirements and developing best practice.

## **12.0 FINANCIAL IMPLICATIONS**

- 12.1 There are no direct financial implications arising from this report. All costs of administering Scrutiny are funded from their annual revenue budget of £138,630. Any financial issues will be highlighted as part of financial monitoring as appropriate.

## **13.0 WARD IMPLICATIONS**

- 13.1 There are no specific ward issues resulting from this report.

## **14.0 BACKGROUND PAPERS**

14.1 None

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