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Scrutiny changes to the Constitution

CHAPTER 1

Part 1 – Summary and Explanation

THE COUNCIL’S CONSTITUTION

The Constitution sets out how the Council will operate, how decisions are made, and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Constitution is divided into 16 articles which set out the basic rules governing the Council’s business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

WHAT’S IN THE CONSTITUTION?

Article 1 of the Constitution commits the Council to exercising all its powers and duties in accordance with the law and this Constitution in pursuit of the Council’s vision for

“A successful, prosperous and healthy community which offers a good quality of life for all the people of Telford & Wrekin.”.

Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council (Article 5).
- Scrutiny of decisions (Article 6).
- The Leader and Cabinet Executive (Article 7).
- Regulatory and other committees (Article 8).
- The Standards Committee and the Audit Committee (Article 9).
- Area working arrangements (Article 10)
- Joint arrangements (Article 11).
- Officers (Article 12).
- Decision making (Article 13).
- Finance, contracts and legal matters (Article 14).
- Review and revision of the Constitution (Article 15).
- Suspension, interpretation and publication of the Constitution (Article 16).

HOW THE COUNCIL OPERATES

The Council is composed of 54 councillors elected every four years. Councillors are democratically accountable to residents of their Ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the Code of Conduct.

All councillors meet together as the Council. Meetings of the Council take place approximately every 2 months and are open to the public unless items to be discussed are of a confidential nature. Here Councillors decide the Council’s overall policies and set the budget each year. The Council appoints the Leader of the Council who decides upon the number and membership and powers of the Leader and Cabinet Executive which is the body which takes decisions about the running of the Council and the implementation of its

policies. The Council appoints the members of the Scrutiny Committees and all other committees/boards of the Council.

The Council holds the Leader & Cabinet Executive and the other Council committees and boards to account by receiving reports from them at its meetings and receiving questions and answers on these reports. Some Council meetings will include “public assembly sessions” where spokespersons of partner organisations will be invited to participate with Councillors in debates about key issues affecting the Borough. In addition, there may be an annual “State of the Borough” debate, again involving partner organisations, which will be used to inform the policy framework and budget setting.

HOW DECISIONS ARE MADE

The Leader and Cabinet Executive is the part of the Council which is responsible for most operational decisions. The Leader and Cabinet Executive is made up of the Leader and up to 9 other Councillors appointed by the Leader. When major decisions (called “Key” Decisions) are to be discussed or made, these are published in the Forward Plan in so far as they can be anticipated. This Plan must include at least those decisions which the Leader and Cabinet Executive anticipates it will have to make over the next 4 months. If a Key Decision needs to be made which is not in the Forward Plan, special provisions exist to enable this to happen.

If these major decisions are to be discussed at a meeting of the Cabinet, this will be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council’s overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

SCRUTINY

The Scrutiny Assembly and Scrutiny Committees, including a Scrutiny Management Board, support the work of the Cabinet and the Council as a whole. This allows members outside the Cabinet and citizens to have a greater say in Council matters by investigating issues of local concern. This can include questioning officers of the Council and inviting people from outside the Council to give opinions and expert advice. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Scrutiny Committees and Scrutiny Assembly also monitor the decisions of the Cabinet. They can ‘call-in’ a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate.

They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

Scrutiny Committees also have the power to scrutinise outside bodies. The power to scrutinise NHS services has been delegated to the relevant Scrutiny Committee, including the power of referral to the Secretary of State for Health.

AREA WORKING ARRANGEMENTS

In order to give citizens a greater say in local affairs, the Council may consider the introduction of area working arrangements. The Council will decide on whether to introduce these arrangements in all or parts of the Borough.

THE COUNCIL’S EMPLOYEES

The Council employees (called ‘officers’) give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the

Council acts within the law and uses its resources wisely. A Protocol governs the relationships between officers and councillors

CITIZENS' RIGHTS

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights. This and other useful links can be found on the Council's website www.telford.gov.uk.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- access a copy of the Constitution;
- see agendas and reports and attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Cabinet;
- find out, from the Cabinet's Forward Plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- attend meetings of the Cabinet where decisions are being discussed or decided;
- see reports and background papers, and records of decisions made.
- complain to the Council about Council services or how they feel they have been treated by the Council;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process. Telephone: 01952 380000;
<http://www.telford.gov.uk/Council+democracy/Customer+complaints/Complaints+comments+and+compliments.htm>
- complain to the local Standards Committee if they have evidence which they think shows that a councillor has not followed the Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

Where members of the public use specific council services, for example as a parent of a school pupil, they have additional rights. These are not covered in this Constitution.

The Council welcomes participation by its citizens in its work. For further information, or if you would like to join the Telford & Wrekin Community Panel, details can be found on the Council's website at www.telford.gov.uk

Article 6 – Scrutiny Committees

SCRUTINY

Explanatory Comment

The scrutiny function is a central element to this constitution. The Scrutiny Committees and Scrutiny Assembly will meet in public to discuss and make recommendations on the development of policies and hold the Cabinet to account for their actions. They will also have a key role in considering other matters of local concern.

The guiding principle for the work of scrutiny is that it should be consensual and positive. The emphasis of the work should be on making a proactive and positive contribution to the development of policy and the discharge of the Council's functions. This is best achieved by an inclusive process covering members, partners, service users and employees.

Structure:

- Scrutiny will be undertaken by the Scrutiny Assembly, Scrutiny Management Board and Scrutiny Committees. There will be a minimum of 2 and a maximum of 6 Scrutiny Committees, including the Scrutiny Management Board.
- Group Leaders will appoint their own representatives to the Scrutiny Committees in line with political balance requirements. These representatives cannot be Cabinet Members, or the Mayor.
- All Members of the Council will automatically become members of a Scrutiny Assembly, excluding Cabinet Members or the Mayor.
- All scrutiny standing co-optees will be members of the Scrutiny Assembly.
- The Scrutiny Committees may appoint standing groups to which they can delegate areas of responsibility to scrutinise in detail.

Roles:

- The Scrutiny Committees' role is to scrutinise the work of the Council and relevant partner organisations. The Scrutiny Chairmen will liaise with the Leader and Cabinet Members. The power to scrutinise NHS organisations has been delegated by Council to the relevant Scrutiny Committee including the power of referral to the Secretary of State for Health.
- The Lead Scrutiny Member must report annually to full Council on the workings of Scrutiny in the previous municipal year and key issues for the future..
- The Scrutiny Committees and Scrutiny Assembly will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

Other than the statutory representatives with voting rights on education matters, co-opted members of scrutiny will not have voting rights unless agreed by Full Council.

Article 8 – Regulatory and Other Committees

Explanatory Comment

Committees will need to be created to undertake non-Leader and Cabinet Executive functions under powers delegated from full Council. By way of example planning and licensing are not functions for the Leader and Cabinet Executive.

8.01 Regulatory and other committees

The following committees will be appointed by full Council. Delegated powers will be given to these committees to discharge their relevant functions.

Committees

Functions

Plans Board

- Town and Country Planning and Development Control
- Miscellaneous powers in relation to footpaths, bridleways, use and enjoyment of highways and duty to keep definitive map and statement under review.
- Tree Preservation Orders (where objections have been received)
- Protection of important hedgerows

Licensing Committee

- Licensing and Registration functions excluding those relating to social care.
- Elections.
- Health & Safety at Work.
- Health Act 2006 Part 1 Chapter 1
- The naming and status of areas and individuals.
- Power to make, amend, revoke or re-enact bye-laws.
- Power to promote or oppose local or personal Bills.
- To make payments etc in cases of maladministration.
- Licensing Act 2003
- Gambling Act 2005

Standards Committee

- Matters relating to ethics, standards and governance.

Audit Committee

- Matters relating to governance and overseeing the audit, risk management and financial statements processes.

Council Constitution Committee

- To review and recommend changes to the Constitution of the Council

Committees

Scrutiny Committees

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Appeals Committee

Personnel Board

Functions

- To scrutinise the work of the Council, its Committees and the Cabinet
- To scrutinise the work of other organisations in accordance with national legislation and good practice
- to scrutinise NHS services including the power of referral to the Secretary of State for Health.
- To hear and determine all appeals except those which by statute require to be determined by a separate body, e.g. social services appeals
- Appointment of Directors and Statutory Officers
- Local Government Pension Scheme
- To agree at a strategic level all matters relating to the Council's employees

Footnote

- (i) General functions relating to all committees are listed above which also include Standards Committee, Audit Committee and the Scrutiny Committees.
- (ii) The following functions listed for Licensing Committee will be reserved to full Council for determination: -
 - power to make, amend, revoke or re-enact bye-laws
 - power to promote or oppose personal bills

Part 4 – Rules of Procedure

Section 2 – Access to Information Procedure Rules

The requirements for access to information in respect of decision-taking by the Council are very largely set out in statute and regulations. This section provides a summary of those statutory provisions together with a more detailed statement where the Council has decided to grant rights of access over and above the statutory provision.

1. Council Functions

All decisions in respect of Council functions are regulated by **Sections 100A to 100K of the Local Government Act 1972**.

The Council has made no supplemental provisions for access to information in respect of Council functions.

2. Cabinet Functions

All decisions in respect of Cabinet functions are regulated by the **Local Authorities (Executive Arrangements) (Access to Information)(England) Regulations 2000**, as amended as follows:

a) Advance notice of forthcoming decisions

- i) The requirement for advance notice of forthcoming Leader and Cabinet Executive decisions apply to “Key Decisions”, which are defined by Regulation 8 to comprise any executive decision which is likely to:
 - result in significant expenditure or significant savings, or
 - be significant in terms of its effects on two or more wards or electoral divisions within the authority’s area.
- ii) The Leader is required, at least 10 working days before the start of each calendar month, to prepare a Forward Plan which sets out details (as set out in Regulation 14) of any matters which he/she considers are likely to be the subject of a Key Decision within the next 4 calendar months.
- iii) The Leader shall instruct that the authority shall advertise annually the existence and availability of the Forward Plan
- iv) Where a Key Decision is required ~~but to be taken which has not been publicised in the – 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. 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. the decision-taker must give at least 5 working days notice of the proposed decision and a copy of any report to the Chairman of the appropriate Scrutiny Committee. Where the urgency of the decision is such that even that notice cannot be given, the decision-taker must obtain the agreement of the Chairman of the Scrutiny Committee (or in their absence the Mayor or Deputy Mayor of the Council) that the decision does need to be taken as a matter of such urgency.~~

Part 4 – Rules of Procedure

Section 4 – Cabinet Decision Procedure Rules

1. HOW THE CABINET OPERATES

1.1 Who may make Cabinet decisions – Schedule 1, Part 4, Local Government Act 2000

The arrangements for the discharge of Cabinet functions are set out in the Cabinet Arrangements (Article 13 and Part 3). They provide for Cabinet functions to be discharged by:

- i) the Cabinet as a whole;
- ii) an individual member of the Cabinet including the Leader;
- iii) an officer;
- iv) joint arrangements; or
- v) another local authority.

1.2 Delegation by the Leader

At the Annual Council Meeting, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's Scheme of Delegation. The document presented by the Leader will contain the following information about Cabinet functions in relation to the coming year:

- i) the extent of any authority delegated to Cabinet members both collectively and individually, including details of the limitation on their authority;
- ii) the nature and extent of any delegation of Cabinet functions to any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint committee for the coming year; and

1.3 Sub-delegation of Cabinet functions

- (a) Where the Cabinet acting as a whole or an individual member of the Cabinet is responsible for a Cabinet function, they may delegate further to a committee exercising joint arrangements or an officer .
- (b) Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated it.

1.4 The Council's Scheme of Delegation and Cabinet functions

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 of this Constitution.
- (b) The Leader is able to decide whether to delegate Leader and Cabinet Executive functions and may amend the scheme of delegation relating to Leader and Cabinet Executive functions at any time during the year. To do so, the Leader must give written notice to the Assistant Director: Law, Democracy & Public Protection and to the

person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole.

- (c) Where the Leader seeks to withdraw delegation from a joint committee, notice will be deemed to be served on that joint committee when he/she has served it on its Chairman.

1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this will be dealt with as set out in the Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this will be dealt with as set out in the Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of a Leader and Cabinet Executive function has been delegated to an individual member of the Cabinet or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Code of Conduct for Members in Part 5 of this Constitution.

1.6 Cabinet meetings – when and where?

The Cabinet will meet at least once per month (except in July and August) at times to be agreed by the Leader or the Managing director. The Cabinet shall normally meet at Civic Offices, Telford or another location to be agreed by the Leader.

A meeting of the Cabinet shall be summoned by the Assistant Director: Law, Democracy & Public Protection who will give a minimum of five working days notice and comply with the processes contained within the Access to Information Rules.

1.7 Public or private meetings of the Cabinet?

Meetings of the Cabinet will be held in public except in so far as the matters for decision relate to issues which can be dealt with in private in accordance with the Access to Information Rules as set out in Part 4 of this Constitution.

1.8 Quorum

The quorum for a meeting of the Cabinet shall be four members of the Cabinet.

1.9 How are decisions to be taken by the Cabinet?

Cabinet decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

2. HOW ARE CABINET MEETINGS CONDUCTED?

2.1 Who presides?

The Leader will preside at any meeting of the Cabinet at which he/she is present, and in his/her absence the Deputy Leader will preside. In the absence of both the Leader and Deputy Leader the members present may appoint another member of the Cabinet to preside.

2.2 Who may attend?

Members of the public (which may include non-Cabinet members of the Council and officers at the discretion of the Cabinet) may attend all meetings of the Cabinet except when exempt or confidential information is being considered where the press and public (including non-Cabinet members of the Council), may be excluded by resolution of the Cabinet in accordance with the Access to Information Rules contained in Part 4 of this constitution.

2.3 What business?

Meetings of the Cabinet will include the following business:

- i) consideration of the minutes of the last meeting;
- ii) apologies for absence
- iii) declarations of interest, if any;
- iv) matters referred to the Cabinet (whether by a Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Scrutiny Procedure Rules or the Policy Framework and Budget Procedure Rules set out in Part 4 of this Constitution;
- v) consideration of reports from individual members of the Cabinet;
- vi) consideration of reports from a Scrutiny Committee
- vii) Forward Plan;
- viii) reports of Statutory Officers; and
- ix) matters set out in the agenda for the meeting, and which shall indicate which are Key Decisions.

Items (iv) – (ix) shall require written reports except in cases of urgency where it is impractical to do so.

2.4 Consultation

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the policy framework and budget should contain details of the nature and extent of consultation undertaken with stakeholders and Scrutiny Committees. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5 Who can put items on the Cabinet agenda?

- (a) Any member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. The proper officer will comply, subject to the agreement of the Leader.
- (b) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by the Scrutiny Committees and Scrutiny Assembly. However the number of items per Cabinet meeting, will have regard to the amount of business on the agenda.
- (c) Any resolution of the Council which is required to be considered by the Cabinet will be so considered within fifteen working days of the date of the Council resolution, or at the next scheduled meeting of the Cabinet.

- (d) The Managing director, Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where the Head of Paid Service or Chief Financial Officer or Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

2.6 Timescales

In considering matters in relation to budgetary issues the Leader and Cabinet Executive will have due regard to any appropriate timescale within which the budget has to be approved by the Council. By way of example the timespan required to deal with this will include consultation with partners and other external agencies plus reference to the relevant Scrutiny Committee.

2.7 Key Decisions

Key Decisions shall only be taken provided that the matter in question ~~is contained within the Forward Plan~~ has been publicised in the Notice of Key Decisions and Private Reports/ Meetings, 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. 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 (or in their absence the Mayor or Deputy Mayor of the Council) ~~or if not in the Forward Plan, after giving five working days notice, together with a report to the Chairman of the appropriate Scrutiny Committee and with the consent of the Chairman of the relevant Scrutiny Committee.~~

2.8 Recording of Decisions

All decisions including Key Decisions are to be made by a simple majority of these Members of the Cabinet present and voting, except for voting on appointments where two or more persons are nominated for any position in which case if there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

Following a meeting of the Cabinet at which a report (whether oral or in writing) has been received and at which a Cabinet decision has been made or a decision of a individual Cabinet member after consideration of a report, the proper officer shall ensure that a written record will be published

2.9 Officer Attendance

No decision will be made by the full Cabinet unless there is present at the meeting the senior officer responsible for the service or their representative and/or the Proper Officer for recording the meeting.

A written statement of the decision taken will be produced by the proper officer four working days following the Cabinet meeting or after the individual Cabinet member instructs the officer to do so.

2.10 Urgent Decisions and Call-in

Where an urgent decision has been taken by the Cabinet this should be recorded and this decision will not be subject to call-in (see Scrutiny Procedure Rules).

Part 4 – Rules of Procedure

Section 1 – Scrutiny Procedure Rules

1.0 ARRANGEMENTS FOR SCRUTINY

1.1 There will be a Scrutiny Assembly, and a minimum of 2 and maximum of 6 Scrutiny Committees including a Scrutiny Management Board.

~~1.1.2~~ Council will delegate the Powers for Health Scrutiny and the power to refer issues to the Secretary of State to the relevant Scrutiny Committee. The procedure to agree timescales for any referral and to notify Council of the intention to refer will be set out in the Scrutiny Handbook.

~~1.21.3~~ Appointment to the Committees will be agreed at Annual Council.

~~1.31.4~~ The Scrutiny Assembly will be made up of all Members of the Council except the Leader, other Cabinet Members and the Mayor.

~~1.41.5~~ The Chairman of the Scrutiny Management Board will also be the Lead Scrutiny Member and Chairman of the Scrutiny Assembly.

~~1.51.6~~ Each Scrutiny Committee will be politically balanced.

~~1.61.7~~ The scrutiny work programme and methods of scrutiny will be determined by the Scrutiny Assembly and Scrutiny Committees.

~~1.71.8~~ Details of the scrutiny structure and procedures will be set out in the Scrutiny Handbook as may be amended from time to time.

2.0 SCRUTINY ASSEMBLY

2.1 Terms of Reference for the Scrutiny Assembly will be set out in the Scrutiny Handbook.

2.2 The Scrutiny Assembly will meet as deemed necessary for the effective execution of the scrutiny function.

3.0 SCRUTINY MANAGEMENT BOARD

3.1 The Scrutiny Management Board will co-ordinate, oversee and monitor the delivery of the Scrutiny work programme.

3.2 The Scrutiny Management Board will oversee the allocation of scrutiny officer resources to the Scrutiny Committees.

3.3 The Scrutiny Management Board will allocate Scrutiny suggestions to the relevant Scrutiny Committee and may make recommendations about priorities for the work programme and joint scrutiny of issues.

3.4 The Scrutiny Management Board will be responsible for scrutiny in relation to Leader and Cabinet Executive decisions made but not implemented as set out in **section 21(3) of the Local Government Act 2000** i.e. Call-in of decisions taken but not yet implemented.

- 3.5 The Scrutiny Management Board will receive requests from the Leader and Cabinet Executive or individual Members and/or the Full Council for reports from the Scrutiny Committee and to allocate them if appropriate to one or more Scrutiny Committees.
- 3.6 Subject to the provision of 1.1 the Scrutiny Management Board may make changes to the scrutiny structure and processes after consulting with the Scrutiny Assembly. The Scrutiny Handbook will be updated to reflect the changes. Changes will be reported back to the next full Council meeting.
- 3.7 The Role Description for the Chairman of the Scrutiny Assembly will be set out in the Scrutiny Handbook.
- 3.8 The Scrutiny Management Board may periodically review and make changes to the Policy for Co-opting Scrutiny Members.

4.0 SCRUTINY COMMITTEES

- 4.1 The Scrutiny Committees will scrutinise the work of the Council as set out by the **Local Government Act (2000)**. The Committees will:
 - Review the strategies and policies of the Leader and Cabinet Executive and the Council and scrutinise any matter affecting local people;
 - Review the discharge by the Leader and Cabinet Executive of any of its functions, including comparison of performance against any appropriate targets, plans or standards;
 - Review any decisions or proposed decisions of the Council and of the Leader and Cabinet Executive;
 - Consider any matters which affect the Council or its administrative area or the inhabitants of that area and to make recommendations to the Council or the Leader and Cabinet Executive arising from that consideration;
 - Consider any matter referred to Scrutiny by the Leader and Cabinet Executive or the Council and recommend to the Leader and Cabinet Executive or the Council accordingly.
- 4.2 The Scrutiny Committees will scrutinise the work of partner organisations in accordance with national legislation and good practice.
- 4.3 The Scrutiny Committees will undertake scrutiny in accordance with statutory duties and powers, and the requirements of the Council's Constitution:
 - The powers of a Scrutiny Committee in relation to Leader and Cabinet Executive decisions made but not implemented as set out in **section 21(3) of the Local Government Act 2000** i.e. Call-in of decisions taken but not yet implemented. This power will be exercised by the Scrutiny Management Board.
 - Scrutiny of the Crime and Disorder Reduction Partnership (as set out in **section 19 of the Police & Justice Act (2006)**).
 - Scrutiny of Flood and Water Management (as set out in the **Flood and Water Management Act 2010**).
 - Consideration of ~~Social Care~~ referrals on health and social care issues from Healthwatch as set out in the regulations for the Health and

~~Social Care Act (2012) for the Local Involvement Network (LINK) (as set out in section 226 of the Local Government and Public Involvement Act (2007)).~~

- Statutory Scrutiny of Local Area Agreements (as set out in **section 21E of the Local Government Act 2000**)).
 - Statutory health scrutiny function including ~~referral to the Secretary of State for Health and appointing Members and Co-optees to~~ any Joint Health Scrutiny arrangements (as set out in **Section 7 of the Health & Social Care Act (2001) and amended by the National Health Service Act (2006) the Health and Social Care Act (2012)**).
 - The powers of a Scrutiny Committee in relation to the consideration of Councillor Calls for Action in relation to the relevant Council priority as set out in **section 21A of the Local Government Act 2000 and section 19(3) of the Police & Justice Act (2006)**.
 - The powers of a Scrutiny Committee in relation to petitions as set out in the **Local Democracy, Economic Development and Economic Construction Act (2009)**.
 - Scrutiny of the Leader and Cabinet Executive's budget proposals as set out in the Policy Framework and Budget Procedure Rules of this Constitution.
- 4.4 The Scrutiny Committees will meet as required to deliver the work programme.
- 4.5 The Scrutiny Committees will be entitled to appoint Co-optees in accordance with legislation and the Policy for Co-opting Scrutiny Members as set out in the Scrutiny Handbook.
- The relevant Scrutiny Committee shall include in its membership the following voting representatives for education matters:
 - (a) Church of England diocese representatives (one);
 - (b) Roman Catholic diocese representative (one);
 - (c) parent governor representatives (two).
 - The meaning of "education matters" in this paragraph relates wholly or in part to any education functions which are the responsibility of the Authority's Cabinet. If the Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may play a full part in the work of the Committee and the Scrutiny Assembly.
 - Other than statutory education co-optees, the co-optees will not have voting rights unless agreed by Full Council.
- 4.6 The quorum for the Scrutiny Committees shall be as set out for committees in the Council Procedure Rules of this Constitution.
- 4.7 Terms of Reference for the Scrutiny Committees will be set out in the Scrutiny Handbook.

4.8 The Role Description for the Scrutiny Committee Chairmen will be set out in the Scrutiny Handbook.

4.9 The protocol for Scrutiny reports will be set out in the Scrutiny Handbook.

5.0 MEMBERS AND OFFICERS GIVING ACCOUNT

5.1 Scrutiny groups may scrutinise and review decisions made or actions taken in connection with the discharge of any Cabinet and Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, they may require any member of the Cabinet, the Head of Paid Service and/or any senior officer (Service Delivery Manager, Assistant Director or Director) 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) the performance of the service

5.2 and it is the duty of those persons to attend if so required within 1 month of being requested.

5.3 Scrutiny Members must confine their questions to the particular issue on the agenda.

5.4 Information obtained as a Scrutiny member in the course of scrutiny reviews may be sensitive and if it is must be treated as confidential and not used for purposes other than for scrutiny.

5.5 In addition to those people referred to above the Scrutiny Assembly or Scrutiny Committee members may invite groups, organisations and individuals to address them, discuss issues of local concern and/or answer questions.

5.6 The Scrutiny Handbook sets out the protocol for Members and Officers giving account

6.0 PROTOCOL FOR THE CALL-IN OF DECISIONS (EXCEPT DECISIONS OUTSIDE THE POLICY FRAMEWORK AND BUDGET) WHICH ARE SET OUT IN THE POLICY FRAMEWORK AND BUDGET RULES

6.1 The call-in procedure allows for any member of the Council, subject to the call-in procedure rules and this protocol, to refer decisions which have been made by Leader and Cabinet Executive or delegated key decisions taken by officers, but not yet implemented, back to the appropriate decision making body for reconsideration. This is intended to be a check on the decision-making responsibilities of the Leader and Cabinet Executive and the delegated key decisions taken by officers. This also includes the statutory co-optees for decisions upon which they can vote. This protocol clarifies the call-in process and the documentation required for the process.

6.2 If call-in is triggered, the decision is effectively suspended pending reconsideration. If call-in were used too frequently it would delay the decision making process and work against the principle of speeding up decision making. The call-in procedure and protocol has therefore been carefully designed to ensure that there is an appropriate balance between effectively holding the Cabinet to account, being able to question decisions before they are implemented, and allowing effective and efficient decision making by the Leader and Cabinet Executive.

6.3 There is also reference to call-in under Budget and Policy Framework Procedure Rules.

- 6.4 This protocol will be subject to review and change by the Council Constitution Committee.
- 6.5 All decisions of the Leader and Cabinet Executive (whether taken collectively or individually) must be recorded. The record must show the reasons for the decision, details of alternative options considered, record of any conflict of interest declared, and any dispensation granted by Standards Committee, where appropriate. When a decision is made by the Leader and Cabinet Executive, or a key decision is made by an officer with delegated authority from the Leader and Cabinet Executive, or an area committee 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 within 4 working days of being made. Members will be sent copies of the records of all such decisions within the same timescale, by the Assistant Director: Law, Democracy & Public Protection.
- 6.6 That notice will bear the date on which it is published and will specify when the decision will come into force, and may then be implemented, on the expiry of 3 working days after the publication of the decision, unless the decision is subject to call-in.
- 6.7 The call-in procedure does not apply to:
- a) Decisions taken by the Leader and Cabinet Executive that are urgent;
 - b) Decisions of full Council;
 - c) Any decisions taken by officers that are not key decisions;
 - d) Recommendations from the Leader and Cabinet Executive to the Council;
 - e) Specific or individual Employee Relations, Disciplinary or Grievance matters;
 - a. Matters which are subject to formal or statutory appeal processes or are sub-judice;
 - f) Individual appeal cases for example, Planning, Licensing, Housing, Education;
 - g) Decisions of the Standards and Audit Committee or Regulatory Committees;
- 6.8 Any request for call-in must be made in writing to the Assistant Director: Law, Democracy & Public Protection on a "Call-in Request form" within 3 working days of the decision being published. The form must be signed by a minimum of 5 members. A faxed form or emailed form will be accepted.
- 6.9 When the Call-in has been received, the Assistant Director: Law, Democracy & Public Protection will record the time and date of receipt on the request form and will inform the decision taker. The call-in of decisions will be effected by the Chairman of the Scrutiny Management Board or, in his/her absence, by the Vice Chairman of the Scrutiny Management Board, or in their absence by the Chairman of an appropriate Scrutiny Committee, upon a request in writing from a minimum of 5 members, stipulating a draft proposal to be debated at the Scrutiny Management Board. The final wording of the proposal will be accepted from the lead call-in member up to 48 hours after receipt of the call-in form in writing via email, fax or handwritten to the Assistant Director: Law, Democracy & Public Protection. So far as education matters only are concerned this minimum number of 5 may include the statutory voting co-optees referred to in the procedure rules.

- 6.10 All call-ins will be considered by the Scrutiny Management Board. In exceptional circumstances where it is not possible to achieve a quorate meeting of the Scrutiny Management Board within the prescribed timescales, substitute members may be appointed by group leaders from the Scrutiny Assembly.
- 6.11 The Chairman of the Scrutiny Management Board will determine within 3 working days whether the call-in request is valid. The Chairman of the Scrutiny Management Board, or in his or her absence the Vice-Chairman of the Scrutiny Management Board, or in their absence a Chairman of a Scrutiny Committee, will sign the call-in request form to verify that it is valid. The members who signed the call-in request form shall be notified that the call-in has been received and will be given notice of the meeting at which the matter will be considered.
- 6.12A decision can only be called in once. If the Leader and Cabinet Executive significantly alter the decision after call-in by scrutiny, the new decision will be capable of being called-in.
- 6.13 The decision is suspended from the time of receipt of the request for call-in, pending the decision of the Scrutiny Management Board.
- 6.14 An informal meeting will be held between members supporting the call-in, the decision taker and the Assistant Director: Law, Democracy & Public Protection or his/her representative.
- 6.15 The objectives of this meeting are to clarify the points at issue and ensure that there is no confusion regarding the decision and to identify whether the concerns expressed on the call-in request form can be addressed by the decision taker in the original decision. After this meeting members supporting the call-in will be able to withdraw their support if they wish to do so in the light of further information or assurances gained at this meeting. If less than 5 signatories remain, the call-in will no longer be valid. If 5 or more signatories remain, the call-in request remains valid and the Scrutiny Management Board will meet to consider the call-in request.
- 6.16 To prevent unnecessary delay to the implementation of the decision, while the informal meeting is being arranged, the necessary arrangements to hear a call-in will also continue, as set out below.
- 6.17A member may withdraw their support for a call-in request no later than 24 hours before the start of the call-in meeting by letter, fax or e-mail to the Assistant Director: Law, Democracy & Public Protection. If after one or more members have withdrawn their support there are less than five members still in support of the call-in request the call-in will no longer be valid.
- 6.18 The papers despatched for the meeting will be the original report on which the decision was based together with a copy of the call-in request. In addition, both sides of the call-in are requested to produce basic information to enable the Scrutiny Committee to come to an informed decision. This should include:
- One side of an A4 sheet of paper setting out the main points of their argument which will be distributed to each member of the Scrutiny Management Board to use during the meeting. This will be the maximum amount of paperwork that each party will be allowed to table at the call-in meeting.
 - Any background information that supports these arguments, which could include budgetary information, statistical information, maps, consultation results or as summary of changes in legislation. This must be circulated to scrutiny members and other parties involved in the meeting at least 48 hours prior to the meeting.

6.19 The Assistant Director: Law, Democracy & Public Protection will liaise with the Chairman of the Scrutiny Management Board to determine whether a site visit should be organised prior to the call-in meeting taking place.

6.20 It is acceptable for the Scrutiny Management Board (or substitute) members to ask questions of anyone sitting at the table in the call-in meeting, including any external witnesses.

6.21 Any Scrutiny Management Board members arriving at the meeting after the lead call-in member has started their presentation will be allowed to remain in the meeting as an observer but will not be allowed to take part in the debate or the voting process. This should be made clear on the agenda for the meeting.

6.22 Proceedings at the meeting will follow the format set out below. Time limits will be strictly adhered to by the Chairman of the meeting, except in exceptional circumstances by determination of the Chairman:-

a) If having considered the proposal, the appropriate Scrutiny Management Board supports the original decision it may be implemented with immediate effect.

b) If, having considered the proposal, the Scrutiny Management Board is still concerned about the original decision, then it may refer it back to the decision maker for reconsideration, or refer the matter to full Council only if the decision is deemed to be outside the policy and budget framework. If referred to full Council, the decision is further suspended pending a meeting of full Council, which must take place within 10 working days of the decision to refer to full Council.

If referred to the Leader and Cabinet Executive the decision taker shall then reconsider amending the decision or not before adopting a final decision. If the decision has been made by an officer with delegated authority, that person shall then reconsider within 3 working days of the call-in meeting, amending the decision or not.

c) If a call-in meeting of the Scrutiny Management Board has not been held within 10 working days of a valid call-in request being received, the decision being called-in will take effect from that date.

d) Call-in of decisions outside the policy framework or budget are covered in Part 4 Rules of Procedure, Section 3 – Policy Framework and Budget Procedure Rules in this Constitution.

6.23 The Scrutiny Management Board having reviewed the decision can:

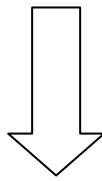
1) reject the call-in proposal and note the original decision. The decision will take effect on the date of the call-in meeting;

2) accept the proposal set out on the call-in form and refer back to the decision taker. The decision-taker shall then reconsider, amending the decision or not before adopting the final decision. If the decision has been made by an officer with delegated authority, that person shall then reconsider within a further 3 working days amending the decision or not, before adopting a final decision;

3) accept the proposal set out on the call-in form and refer the matter to full Council if the decision is deemed to be outside the policy and budget framework.

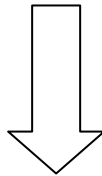
- 6.24 Whether a call-in proposal is supported or not, members may come to agreement on any comments they wish to pass to the decision taker. The Chairman will sum up and clarify any points which member wish to pass to Cabinet. These will be reported to the Cabinet by the Scrutiny Management Board.
- 6.25 If after a call-in is received the Scrutiny Management Board does not meet in the period set out above, the decision shall take effect on the expiry of 10 working days after the call-in form has been received.

**SUMMARY OF TIMETABLE FOR CALL-IN
DECISION MADE**



4 working days

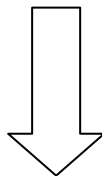
DECISION PUBLISHED



3 working days

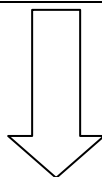
CALL-IN REQUEST DEADLINE (with at least 5 eligible signatures)

Final proposal will be accepted up to 2 working days after receipt of the call-in form. A final decision on validity of call-in within a further working day.



3 working days

**CHAIRMAN OF SCRUTINY COMMITTEE DECIDES VALID OR
INVALID**



7 working days

MEETING OF SCRUTINY COMMITTEE

To decide:

Accept proposal and refer back to decision taker (forwarding comments if members wish to)

OR Reject proposal and note Leader and Cabinet Executive decision, decision is implemented (forwarding comments if members wish to)

If the Scrutiny Committee does not meet in the period set out above, the decision shall take effect on the expiry of 10 working days after the call-in form is received.

TELFORD & WREKIN COUNCIL

15.0 NON-APPLICATION OF CALL-IN AND URGENCY

15.1 The call-in procedure set out above shall not apply where the decision being taken 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. 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 relevant Scrutiny Committee, or in his or her absence, the Chairman of the Scrutiny Management Board and in the absence of both, the Vice-Chairman of the Scrutiny Management Board, must agree both that 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 must be reported to the next available meeting of the Council, together with the reasons for urgency.

15.2 The operation of the provisions relating to call-in and urgency shall be monitored at least annually by the Scrutiny Management Board, and a report submitted to the Council Constitution Committee with proposals for review if necessary by the Scrutiny Management Board and the Assistant Director: Law, Democracy & Public Protection.

16.0 THE PARTY WHIP

16.1 Scrutiny is intended to operate outside the party whip system. However, when considering any matter in respect of which a member of scrutiny 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 scrutiny deliberations on the matter. The Declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

16.2 The expression "party whip" can be taken to mean: "Any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner."

17.0 PROTOCOL FOR SCRUTINY MEMBER AND OFFICER RELATIONS

17.1 All officers of the Council have an equal responsibility to serve both Cabinet and Scrutiny Members. The Council has good well-established officer/member working relationships based on respect, dignity, trust and integrity. The Member/Officer Protocol contained within the Constitution supports this position and applies to all officer/member relations, whether Cabinet, Scrutiny or other. The Scrutiny protocol for Scrutiny and Officer relations set out in the Scrutiny Handbook supplements this protocol and provides clarity for officers when serving both the Cabinet and Scrutiny functions.

18.0 PUBLIC RELATIONS AND SCRUTINY

18.1 The protocol for public relations and scrutiny will be set out in the Scrutiny Handbook

19.0 CHANGES TO THE CONSTITUTION REGARDING SCRUTINY

19.1 The Scrutiny Management Board will recommend changes to the Council Constitution Committee regarding Scrutiny arrangements including Call-In. Scrutiny Assembly Members will be informed of any proposed changes.

20.0 COUNCILLOR CALL FOR ACTION

20.1 The Council will maintain a protocol for the operation of Councillor Call for Action and this will be maintained in the Scrutiny Handbook in accordance with legislation.

