

## **COUNCIL CONSTITUTION COMMITTEE**

### **Minutes of a meeting of the Council Constitution Committee held on Tuesday, 16<sup>th</sup> April, 2013 at Addenbrooke House, Ironmasters Way, Telford**

**PRESENT:** Councillors M.J. Smith (Chair), A.J. Eade, I.T.W. Fletcher, F.R. Picken, K.S. Sahota and R.J. Sloan

#### **CCC-12      MINUTES**

**RESOLVED** – that the minutes of the meeting of the Council Constitution Committee held on 19 February, 2013 be confirmed and signed by the Chair.

#### **CCC-13      APOLOGIES FOR ABSENCE**

Councillor G.M. Green

#### **CCC-14      DECLARATIONS OF INTEREST**

None.

#### **CCC-15      CHANGES TO THE COUNCIL'S CONSTITUTION**

The Assistant Director: Law, Democracy & Public Protection presented a report, attached to which was a copy of the proposed new format and content for the Constitution. Officers had been working for some time on changes to make the Constitution more accessible and easier to review. Significant changes were proposed to the format, but the actual contents had not been changed materially except where specifically identified in the report. There were a few sections that had not yet been completed, and which needed further work and refinement. However, it was felt that some parts of the revised Constitution (as appended to the report) could be brought forward now for approval, with the remainder to be considered later in the year.

It was proposed that the Constitution would exist primarily as an electronic document – with 'hyper links' being used to navigate around the document. The new structure deleted the current arrangements for articles and procedure rules, and instead had 3 main sections –

- i) an Introduction – a copy of which was appended to the report;
- ii) a section on Decision Making - appended to the report were the proposed terms of reference and rules for Council and Leader/Cabinet plus other decision making Committees. The Council rules had been drafted to take account of the proposal to have a Mayor and Speaker, and also included further information on their respective roles – as requested by Members at the last Council Meeting.
- iii) a section on Governance – appended to the report were revised Scrutiny rules along with terms of reference for a number of governance related Committees, as well as a Protocol on Member/Officer relations.

Also appended to the report was a draft Scheme of Delegation for consideration. A balance was being sought between what was legally required to be included and making the Scheme less complex and detailed. Members accepted that there was a need to review the Scheme of Delegation (including the balance between Member and Officer decision-making), and that this would be best achieved by delegating the task to a small working group.

In relation to the Terms of Reference for the Audit Committee (shown at Appendix 4), the Assistant Director reported a minor amendment at paragraph 1 by replacing the word “strategy” with the word “charter”.

Members suggested a number of minor “tidying-up” amendments to the Council and Leader/Cabinet Rules. In response to a question regarding the chairing of Council meetings, the Assistant Director advised that the Mayor would open the meeting and deal with the approval of the minutes from the previous meeting before handing over to the Speaker to chair the remainder of the meeting. This would be clarified in the wording at paragraphs 5 and 6 of the Council Rules. In terms of the allowances for the two roles, it was reported that the Special Responsibility Allowance for the Speaker would be paid for by taking that sum from the Mayor’s Allowance – so there was no additional cost from operating this arrangement.

#### **RESOLVED – to RECOMMEND to COUNCIL**

- (a) that the amended parts of the Constitution, as shown at Appendices 1 to 4 of the report, be approved for implementation with effect from the Annual Meeting on 23 May 2013, subject to inclusion of the minor amendments suggested at the meeting and any further minor changes identified by the Monitoring Officer following consultation with the Chair of the Constitution Committee;**
- (b) that authority be delegated to the Monitoring Officer to insert Access to Information Rules and notes on Key Decisions into the Constitution to reflect the legal position in respect of these matters;**
- (c) that authority be delegated to the Monitoring Officer, in consultation with the Chair of the Constitution Committee, to make further minor amendments that may be required to introduce the new Constitution, and ensure that it is loaded onto the internet as appropriate – including with any links or definitions that may be required to best explain the Constitution.**

#### **RESOLVED –**

- (d) that a review of the Scheme of Delegation be undertaken by a small Member working group, who will report back to the Committee in due course;**
- (e) that the position in respect of the Code of Conduct for Officers be noted;**
- (f) that the on-going development of the Financial Regulations (including Contract Rules) be noted;**

- (g) that the provisions regarding the role of Citizens and the Council be brought to the next meeting of the Constitution Committee for consideration.**

The meeting ended at 6.43 p.m.

**Chairman:** .....

**Date:** .....

**BOROUGH OF TELFORD & WREKIN**

**COUNCIL CONSTITUTION COMMITTEE – 18<sup>th</sup> JULY 2013**

**JOINT HEALTH SCRUTINY ARRANGEMENTS**

**REPORT OF THE SCRUTINY GROUP SPECIALIST**

**1.0 SUMMARY**

1.1 There are two issues that require consideration to ensure that the Health Scrutiny arrangements in Telford and Wrekin have the relevant provisions for Joint Health Scrutiny Committees:

- Voting rights for co-opted members on the Telford and Wrekin and Shropshire Joint Health Overview and Scrutiny Committee
- Provisions to establish a Joint Health Overview and Scrutiny committee with other Local Authority areas if required.

1.2 If agreed, both these issues will require amendments to the Council's constitution. Agreement of all Members is necessary in order to disapply political balance requirements.

**2.0 RECOMMENDATIONS**

**2.1 It is recommended that Council Constitution Committee make the following recommendations to Council:**

- **To agree the voting Scheme for the Co-opted Members of the Joint HOSC as set out in Appendix 1 and the consequent changes to the Constitution as set out in Appendix 2**
- **To agree the procedure to establish future Joint Health Overview and Scrutiny Committees as set out in section 5 of this report and the consequent changes to the constitution set out in Appendix 2.**

**3.0 MINUTES OF PREVIOUS MEETINGS**

3.1 FC – 50

**4.0. JOINT HEALTH SCRUTINY ARRANGEMENTS**

4.1 Telford and Wrekin Council values the contribution of co-opted members on the Council's Scrutiny Committees. At Full Council on the 29<sup>th</sup> October 2009 it was decided to confer voting rights on the 3 independent co-opted Telford

and Wrekin Members of the Joint Health Overview and Scrutiny Committee with Shropshire Council. Under this Scheme co-opted members can only exercise their right to vote in respect of matters relating to the re-configuration of health services that were subject to consultation by the Telford and Wrekin PCT and Shropshire PCT during 2009. The scheme set out that when the matter of the re-configuration of health services in Shropshire and Telford & Wrekin has been finally determined, this Scheme will be revoked. Shropshire Council subsequently agreed the same scheme to confer voting rights for Shropshire Council co-optees on the Joint HOSC.

- 4.2 The Joint HOSC considered the Full Business Case for the Service reconfiguration at the meeting on 12<sup>th</sup> April 2012 and has continued to monitor the implementation of the service changes and the travel and transport plan. The Joint HOSC is developing the work programme for 2013/14 and many of the issues are outside the remit of the current voting scheme e.g. Review of accident and emergency services, 111 service and stroke services.
- 4.3 Following discussions with the co-chairs of the Joint HOSC and Members of the relevant Scrutiny Committees it is proposed that both Telford and Wrekin Council and Shropshire Council extend the voting rights of the co-optees to all matters considered by the Joint HOSC, but that the scheme is time limited and reviewed every 3 years. A draft scheme is attached for consideration by Council Constitution Committee in Appendix 1 and the consequent changes to the Constitution are set out in Appendix 2.

## **5.0 PROVISION FOR ESTABLISHING FUTURE JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEES**

- 5.1 Telford and Wrekin has a long standing and successful Joint Health Overview and Scrutiny Committee with Shropshire Council. However the Local Authority needs to be in a position to respond to any proposed changes to NHS services that will affect a wider geographical areas than is covered by this Joint HOSC. The draft Health Scrutiny Guidance sets out that:
- The Health Scrutiny regulations require the appointment of a Joint HOSC where a health service commissioner or provider consults more than 1 local authority's health scrutiny function on substantial reconfiguration.
  - The Joint HOSC will need to reflect the political make up of the participating local authorities, unless exceptions under the Local Government and Housing Act 1989 apply.
  - Only the Joint HOSC may make comments on the proposal consulted on or require the health service commissioner or provider which has the proposal under consideration to provide information to them, or require a member or employee of that body or provider to attend before them to answer questions.

- Only the Joint HOSC can then make a report and recommendations back to the organisation proposing the change.
- The power to refer to the Secretary of State can be exercised by any of the local authorities participating in the Joint HOSC or by ( and only by) the Joint HOSC where the power to refer has been delegated to it.
- Local authorities will need to consider arrangements / protocols for joint Committees with other authorities so that these can be established quickly when the need arises.

5.2 The time required to establish a Joint HOSC which is politically balanced is considerable and could result in a short time for the Joint HOSC to consider the NHS proposals, gather the evidence required and respond to the consultation.

5.3 A model adopted by several other authorities waives the requirement for political balance on any future Joint HOSC established if all the other participating authorities also agree to this. Under these circumstances the Chair of the HOSC would be the Telford and Wrekin representative on this Joint HOSC and will share and discuss documents with the health spokespeople. If any of the participating authorities do not agree to waive political balance the Membership of the Joint HOSC will be appointed by the relevant Scrutiny Committee. The arrangements adopted by Solihull MBC are attached as an example in Appendix 3. Following discussion with the Chair of the HOSC it is proposed that this model is considered by CCC and, if agreed, recommended to Full Council in September as set out in Appendix 2.

## **6.0 EQUAL OPPORTUNITIES**

6.1 Co-opted Members on the Joint HOSC will be appointed in line with the Scrutiny policy on co-opted members.

## **7.0 ENVIRONMENTAL IMPACT**

7.1 There are no direct environmental implications resulting from this report.

## **8.0 LEGAL COMMENT**

8.1 The proposals in this report with regard to voting rights for co-optees accord with the requirements set out in the Local Government Act 2000 and the Local Authorities (Committee System) (England) Regulations 2012.

8.2 In accordance with section 17 Local Government and Housing Act 1989 in order for political balance requirements to be disapplied, no member present must vote against the proposal.

## 9.0 OPPORTUNITIES AND RISKS

9.1 There may be circumstances where the Council will need to respond quickly to a consultation on NHS service reconfiguration. Currently this would require working with other authorities to agree the political balance requirements of a Joint HOSC and Full Council appointing the Telford and Wrekin representatives. The arrangements proposed enable the Local Authority to respond appropriately with other Council's that have similar arrangements.

## 10.0 FINANCIAL IMPLICATIONS

10.1 There are no significant implications as the proposed changes can be accommodated within the existing base budget. However, there maybe a requirement for additional Scrutiny resource to deal with future specific and time limited consultations. Any request will be subject to resources being available at the time and with appropriate approvals being given.

## 11.0 WARD IMPLICATIONS

11.1 There are no ward implications resulting directly from this report.

## 12.0 BACKGROUND PAPERS

12.1 Health and Social Care Act 2012  
Draft Health Scrutiny Guidance

**Report prepared by: Fiona Bottrill Scrutiny Group Specialist and Statutory Scrutiny Officer 01952 383113**

**SCHEME MADE UNDER PARAGRAPH 12 OF SCHEDULE 1  
LOCAL GOVERNMENT ACT 2000  
SCHEME TO GIVE VOTING RIGHTS TO CO-OPTED MEMBERS  
OF THE JOINT HEALTH SCRUTINY COMMITTEE**

In accordance with Paragraph 12 of Schedule 1 to the Local Government Act 2000 (as inserted by section 115 Local Government Act 2003) the Borough of Telford & Wrekin has determined that the three co-opted members of the Joint Health Scrutiny Committee (that is those members of the committee who are not members of the authority) shall have permission to vote in accordance with this Scheme.

The co-opted members can exercise their right to vote in respect of any matters relating to the work of the Joint Health Overview and Scrutiny Committee. The Scheme will be revoked after 3 years at which point Council can determine if it should be renewed.

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## **Scrutiny Rules**

- 1. What is Scrutiny?**
- 2. How does it work?**
- 3. The Scrutiny Assembly**
- 4. Scrutiny Committees**
- 5. The Scrutiny Management Board and the role of individual Chairmen**
- 6. Working Practices**
- 7. Call-in**
- 8. Procedural Rules**

### **1. What is scrutiny?**

- 1.1. There is a Scrutiny Assembly, and a minimum of 2 and a maximum of 6 Scrutiny Committees (including the Scrutiny Management Board) that oversees and scrutinises the work of the Leader and his/ her Cabinet and the Council as a whole.
- 1.2. 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 Cabinet Members, senior officers of the Council and inviting people from outside the Council to give opinions and expert advice.
- 1.3. Scrutiny Committees also have the power to scrutinise the services provided by organisations outside the Council e.g. NHS services and the work of the Community Safety Partnership.
- 1.4. Scrutiny Committees can make reports and recommendations to Leader, the Council and some partner organisations. The Decision Takers are not required to implement the recommendations but do have to consider any recommendations made.
- 1.5. Scrutiny also monitors the decisions of Decision Takers. They can 'call-in' a decision which has been made by the Decision Taker but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Decision Taker reconsider the decision. They may also be consulted by the Leader, other Cabinet members or the Council on forthcoming decisions and the development of the Budget & Policy Framework.
- 1.6. The Council has appointed a Scrutiny Officer with statutory responsibilities to promote the role of the Council's scrutiny committees within the authority, support the work of the scrutiny committees by providing help and advice to scrutiny members but also those being scrutinised. (This role cannot be held by the Head of paid Services, the Chief Finance Officer or the Monitoring Officer.)
- 1.7. There is a Scrutiny Handbook which does not form part of the Constitution but contains the more detailed operational notes about how the scrutiny function is performed.

### **2. How does it work?**

- 2.1. Scrutiny is not designed for use for political purposes and accordingly the existence and nature of any party whip must be disclosed at the start of any Scrutiny Assembly or Scrutiny Committee meeting.

### 3. The Scrutiny Assembly

#### Who is on it

- 3.1. All members of the Council who are not Cabinet Members.
- 3.2. The scrutiny committee that covers education matters has statutory co-optees and other scrutiny committees may also co-opt members.
- 3.3. The Mayor does not sit on any committees but may attend and participate (but not vote) if he or she wishes.

#### What does it do?

- 3.3.1. The Scrutiny Assembly acts as a consultee on scrutiny matters. This may be done by e-mail or at meetings as deemed necessary.

### 4. Scrutiny Committees

#### Who is on them?

- 4.1. Membership of the Scrutiny Committees is determined at Annual Council but can be changed from time to time at the request of the relevant Group Leader to the Proper Officer.  
Membership of any Joint HOSCs other than the Joint Health Overview and Scrutiny Committee with Shropshire will be the Chair of the Scrutiny Committee with health Scrutiny powers if all participating authorities agree to waive political balance. If political balance is not waived then the Scrutiny Committee with Health Scrutiny powers will appoint the members of the Joint HOSC.

#### What do they do?

- 4.2. Each committee will:
  - 4.2.1. Scrutinise the work of the Council according to their terms of reference as included in the Scrutiny Handbook
  - 4.2.2. Agree the Committee's work programme and undertake this through formal committee meetings, Member Working Groups and sub-groups
  - 4.2.3. meet as required to deliver the work programme
  - 4.2.4. 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.
  - 4.2.5. Act as consultee for draft budget & policy framework policy proposals published by the Leader (Budget & Finance Scrutiny Committee only) and any alternative proposals developed by opposition groups
  - 4.2.6. Review the strategies and policies of the Leader and the Council and to scrutinise any matter affecting local people and make proposals to the Leader.
  - 4.2.7. Review the discharge by the Leader of any of his/ her functions, including comparison of performance against any appropriate targets, plans or standards.
  - 4.2.8. Review any decisions or proposed decisions of the Council and of Decision Takers, including call-in (Scrutiny Management Board only).
  - 4.2.9. 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 arising from that consideration.
  - 4.2.10. Consider any matter referred to it by the Scrutiny Management Board, from the Leader or the Council and make recommendations to the Leader or the Council accordingly.
  - 4.2.11. Consider applications for additional items to go on the Work Programme
  - 4.2.12. Consider any Councillor Calls for Action and/ or Petitions
  - 4.2.13. Scrutinise the planning and provision of NHS services for the population of Telford and Wrekin. This power has been delegated by Council to the Health and Adult Care Scrutiny Committee including the power of referral to the Secretary of State for Health.

4.2.14. Scrutinise the work of partner organisations in accordance with national legislation and good practice.

4.3. The Scrutiny Committees statutory and constitutional duties and powers include:-

4.3.1. 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

4.3.2. Scrutiny of the Crime and Disorder Reduction Partnership (as set out in **section 19 of the Police & Justice Act (2006)**).

4.3.3. Scrutiny of Flood and Water Management (as set out in the **Flood and Water Management Act 2010**)).

4.3.4. 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)**).

4.3.5. Statutory Scrutiny of Local Area Agreements (as set out in **section 21E of the Local Government Act 2000**)).

4.3.6. 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)**).

4.3.7. 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)**.

4.3.8. The powers of a Scrutiny Committee in relation to petitions as set out in the **Local Democracy, Economic Development and Economic Construction Act (2009)**.

4.3.9. Scrutiny of the Leader and Cabinet Executive's budget proposals as set out in the Policy Framework and Budget Procedure Rules of this Constitution.

## 5. Scrutiny Management Board and the role of individual Chairmen

### Who is on it?

The Chairman, appointed by Council, for each Scrutiny Committee and any other Members appointed by Council. (The Role Description for the Chairman of the Scrutiny Assembly will be set out in the Scrutiny Handbook.)

### What does it do?

5.1. The Scrutiny Management Board will:-

5.1.1. co-ordinate, oversee and monitor the delivery of the Scrutiny work programme.

5.1.2. oversee the allocation of scrutiny officer resources to the Scrutiny Committees.

5.1.3. allocate Scrutiny suggestions to the relevant Scrutiny Committee and may make recommendations about priorities for the work programme and joint scrutiny of issues.

5.1.4. 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.

5.1.5. 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.

5.1.6. receive / agree notification of Key Decisions falling within the terms of reference for their scrutiny committee that need to be taken but which are not included on the Notice of Key Decisions and Private Reports/Meetings in accordance with the rules on General Exceptions

- or agree to a Key Decision being considered as an Urgent Decision and therefore being exempt from call-in
- 5.1.7. review and make recommendations to the Council Constitution Committee regarding changes to Scrutiny Arrangements including Call-in. Scrutiny Assembly Members will be informed of any proposed changes.
  - 5.1.8. 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.
  - 5.1.9. periodically review and make changes to the Policy for Co-opting Scrutiny Members
  - 5.1.10. the Chairman will report annually to Council on the work of scrutiny in the previous year and priorities for the future.

## **6. Working Practices**

### **The Scrutiny Handbook**

- 6.1. Details about how to undertake scrutiny reviews and general provisions governing the management of the scrutiny process are contained in the Scrutiny Handbook. The Scrutiny Handbook includes details and protocols on:
  - 6.1.1. Agreeing the Scrutiny Work Programme
  - 6.1.2. Role of Cabinet Members in Scrutiny
  - 6.1.3. Scrutiny Member and Officer relations
  - 6.1.4. Councillor Call for Action
  - 6.1.5. Call – In
  - 6.1.6. Media Protocol
  - 6.1.7. Terms of Reference for the Scrutiny Assembly and Scrutiny Committees
  - 6.1.8. Role Description for the Scrutiny Chairmen
  - 6.1.9. The Policy for Co-opted Scrutiny members
- 6.2. Changes to the Scrutiny Handbook can be agreed by the Scrutiny Management Board in consultation with the Scrutiny Assembly.

### **Witnesses and other investigatory techniques**

- 6.3. Scrutiny Committees 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.
- 6.4. Members of the Cabinet and Officers (at Service Delivery Manager and above) can be called to attend Scrutiny Committees to answer questions within their remit about any particular decision or series of decisions, the extent to which the actions taken implement Council policy and/or the performance of the service. Members and Officers called must attend as soon as is practicable but must be given at least 14 days notice of the date of the meeting which notice shall include full details of the issues that they are to be questioned about (for more details see the Scrutiny Handbook).

## 7. Call-in

### What is it?

- 7.1. The call-in procedure allows, subject to certain limitations, Key Decisions which have been made but not yet implemented, to be referred back to a Decision-Taker for reconsideration. Call-in is split between call-in of decisions that are within the Budget & Policy Framework and those that are outside the Budget & Policy Framework.

### Call in and urgent decisions

- 7.2. Urgent decisions are exempt from call-in but will be monitored annually by the Scrutiny Management Board. Further information on the process to agree an urgent decision that is exempt from call-in is set out in the Scrutiny Handbook.

### How can you make a request for call-in of decisions within the budget and policy framework?

- 7.3. A request for call-in must be made, in writing, to the Proper Officer within 3 working days of the Record of Decisions being published. After this the decision becomes effective and can be implemented. If, however a request for a call-in is received within the time limit the decision to which the call-in request relates is suspended and cannot be implemented until the call-in process has been completed.
- 7.4. The request for a call-in must be signed by a minimum of 5 members (or Voting Co-optees) and detail the decision that is being called in and the reasons why it is being called in, having consideration to the Principles of Decision-Making.

### Limits on call-in

- 7.5. The call-in procedure does not apply to:
  - 7.5.1. Decisions taken by the Leader and Cabinet Executive that are urgent;
  - 7.5.2. Decisions of full Council;
  - 7.5.3. Any decisions taken by officers that are not key decisions;
  - 7.5.4. Recommendations from the Leader and Cabinet Executive to the Council;
  - 7.5.5. Specific or individual Employee Relations, Disciplinary or Grievance matters;
  - 7.5.6. Matters which are subject to formal or statutory appeal processes or are sub-judice;
  - 7.5.7. Individual appeal cases for example, Planning, Licensing, Housing, Education;
  - 7.5.8. Decisions of the Standards and Audit Committee or Regulatory Committees;
- 7.6. The Chairman of the Scrutiny Management Board will determine whether the call-in is valid within 3 days of receipt of the call-in request, he / she may, in consultation with the Monitoring Officer, determine that a request for call-in is not valid if he/she reasonably considers that the reason for the call-in does not *prima facie* comply with the Principles of Decision-making or falls outside the remit of call in as set out in 7.5 above.

### Before the call-in meeting.

- 7.7. The Proper Officer will record the time and date of receipt of the request and will inform the Decision Taker and the Chairman of the Scrutiny Management Board. The final wording of the call-in proposal will be accepted from the lead call in Member up to 2 days after receipt of the call in.
- 7.8. The Proper Officer will arrange a meeting of the Scrutiny Management Board and will notify the members who signed/ supported the request for call-in of the time and date and location of the meeting at which the request for call-in will be considered.

- 7.9. In exceptional circumstances where it is not possible to achieve a quorate meeting Scrutiny Management Board within the prescribed timescales, substitute members from the Scrutiny Assembly may be appointed by Group Leaders.
- 7.10. A call-in meeting of the Scrutiny Management Board must be held within 10 working days of the call-in request being received. If it not held within that time the decision being called-in will take effect from that date.
- 7.11. In the meantime the Decision-Taker may meet with some or all of the members supporting the call-in informally to clarify the points at issue and ensure that there is no confusion regarding the decision and to identify whether the concerns expressed in the request for call-in can be addressed by the Decision Taker in the original decision. This can include formal advice from the Monitoring Officer and Chief Finance Officer about whether or not the decision falls within, or is outside the Budget & Policy Framework
- 7.12. Any member may, in writing to the Proper Officer, withdraw their support for a request for call-in until no later than 24 hours before the start of the meeting of the relevant Scrutiny Committee that is due to consider the request for call-in. If, after one or more members have withdrawn their support, there are less than 5 members still in support of the request for call-in it will no longer be valid and the meeting will be cancelled.
- 7.13. The call-in papers which must be circulated to members of the Scrutiny Management Board and other parties involved in/ attending the meeting at least 48 hours prior to the meeting are:-
- 7.13.1. the original report on which the decision was based
  - 7.13.2. a copy of the call-in request
  - 7.13.3. one side of an A4 sheet of paper setting out the main points of their argument
  - 7.13.4. background information that supports these arguments, which could include budgetary information, statistical information, maps, consultation results or as summary of changes in legislation.

#### **The call-in meeting**

- 7.14. The Chairman of Scrutiny Management Board is responsible for the effective management of the call-in meeting and has discretion over the procedure for the meeting. Generally however he or she will ask the members making the request for call-in to identify a lead call-in member who will be invited to present their argument, ask any questions of the Decision-Taker and put forward alternative proposals (30 minutes) and, at the end of the meeting sum up their position if they want to (5 minutes). The Decision Taker (with officer support if appropriate) will have the opportunity to explain their decision and express their views on any alternative proposals (30 minutes) and, at the end of the meeting sum up their position if they want to (5 minutes). Members of the Scrutiny Committee will consider the papers and may ask questions of anyone in attendance at the meeting at any time or when invited to by the Chairman (no time limit) before considering their response to the request for call-in.
- 7.15. Any Scrutiny Committee member arriving at the meeting after the lead call-in member has started his or her 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 will be made clear on the agenda for the meeting.

#### **Decisions of the Scrutiny Committee on a call-in**

- 7.16. If having considered the proposal contained in the request for call-in, Scrutiny Management Board supports the original decision it may be implemented with immediate effect.
- 7.17. If, having considered the request for call-in Scrutiny Management Board is concerned about the original decision, then the decision remains suspended and it will be referred back to the Decision-Taker for reconsideration, or, if the decision is deemed to be outside the Policy and Budget Framework refer the matter to full Council. (see Call in of Decisions outside the Budget & Policy Framework below). These meetings will take place as follows:-
- 7.17.1. full Council - within 10 working days of the call-in meeting
- 7.17.2. Cabinet - at the next scheduled meeting of the cabinet
- 7.17.3. Individual Decision-Taker - within 3 working days of the call-in meeting.
- 7.18. 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.
- 7.19. A decision can only be called in once. However, if the Decision Taker significantly alters the decision after considering recommendations from the relevant Scrutiny Committee the new decision will also be capable of being called-in.

**Call in of decisions outside the Budget & Policy Framework**

- 7.20. When a request for call-in has been received and the Scrutiny Management Board consider that the decision is, or if made, would be contrary to the Budget & Policy Framework then the Chair will seek the advice of the Chief Finance Officer and Monitoring Officer if that advice has not already been sought by those making the request for call-in..
- 7.21. If either officer advises that the decision is outside the Budget & Policy Framework then,
- 7.21.1. if the decision has already been implemented then the relevant scrutiny committee will refer the advice of the Chief Finance Officer/ Monitoring Officer to Council for consideration along with a report from the Leader about the decision.
- 7.21.2. If the decision has not been made or has been made but not yet implemented the relevant scrutiny committee will refer the (proposed) decision to Council who must consider the advice within 10 working days during which time no further action will be taken in respect of the decision or proposed decision.
- 7.22. Having considered the advice Council may:-
- 7.22.1. endorse the decision of the Decision-Taker as falling within the existing Budget & Policy Framework;
- 7.22.2. amend the relevant financial regulations or policy to encompass the decision of the Decision-Taker and agree the original decision with immediate effect; or
- 7.22.3. Accept the decision of the Chief Finance Officer/ Monitoring Officer, agree no changes to the existing Budget and Policy Framework and require the Leader to re-consider the decision or proposed decision in accordance with the advice of the Chief Finance Officer and Monitoring Officer
- 7.23. If the advice is that the decision is within the Budget & Policy Framework then the report of the Chief Financial Officer/ Monitoring Officer and Leader will be reported back to the relevant scrutiny committee.

**8. Procedural Rules**

- 8.1. See Council Rules on Motions without notice, Points of Order, Personal Explanation and Conduct (except rule 12.1) (substituting the Chairman of the relevant scrutiny committee for the Mayor) which apply to all scrutiny meetings

**Scrutiny Assembly**

**Scrutiny Committees**

**Scrutiny Management  
Board**

<b>Appointment of Chairman/ Vice-Chairman</b>		
The Chairman of the Scrutiny Management Board is automatically the Chairman of the Scrutiny Assembly	Council (in year vacancies appointed by group leaders) Vice-Chairmen may be appointed by majority decision of the Committee.	Council
<b>Politically balanced</b>		
No	Yes except where the political balance requirement has been waived in respect of joint HOSC arrangements	Yes
<b>Membership</b>		
all non cabinet members and all co-opted members	8 and all co-opted members. The Mayor may not sit on a Scrutiny Committee.  <u>Joint Shropshire and Telford and Wrekin HOSC 3 elected members and 3 voting co-optees from each local authority</u>  <u>Other joint HOSC arrangements to be determined as agreed by Council :</u>  <u>If requirement for political balance is waived by all participating authorities then the chair of the relevant Scrutiny Committee with Health Scrutiny powers will be the Telford and Wrekin representative on the Joint HOSC</u>  <u>If the requirement for political balance is not waived then the membership of the Joint HOSC will be appointed by the relevant Scrutiny Committee with Health Scrutiny powers</u>	7 (or as to make the Board politically balanced)
<b>Quorum</b>		

n/a	3 Elected Members The quorum for the Joint HOSC is set out in the Terms of Reference for this Committee in the Scrutiny Handbook.	3
<b>Substitutes</b>		
n/a	no	no(except for call-in)
<b>Co-optees</b>		
yes – but with no voting rights	Yes – but with no voting rights except:- <b>Special Rules</b> <b>children &amp; young people –4</b> co-optees with voting rights (in respect of educational matters only) ( 1 Church of England and 1 Roman Catholic diocesan representative and 2 parent governors) <b>Joint HOSC (<del>delete health and adult care</del>)3</b> co-optees with voting rights as approved by Council ( <del>delete – in respect of the reconfiguration if hospital services</del> )	no
Co-optees can be appointed for a fixed term or as a standing member – there is a 1 month notice period on either side. Members of one Scrutiny Committee can be co-opted to work with another Scrutiny Committee.		
<b>Meetings</b>		
As and when required	Meet approximately 6 times a year. Meetings may be formal public meetings, informal working group or sub-group meetings as necessary to deliver the work programme Joint Scrutiny Committees with other authorities can be established. The Members of the Joint HOSC with Shropshire is a sub-	Meets formally six times a year

	committee of the Health and Adult Care Scrutiny Committee.	
<b>Meetings held in public</b>		
Yes (subject to rules on exempt information and confidential information)	Yes (subject to rules on exempt information and confidential information)	Yes (subject to rules on exempt information and confidential information)
<b>Joint working/ working groups</b>		
	<p>Scrutiny Committee(s) can hold joint meetings/ scrutiny reviews with one or more other Scrutiny Committees and establish working groups, sub groups, joint committees and joint sub committees where the Chairman/ Chairmen of the relevant Scrutiny Committee(s) agree that it is conducive to the efficient delivery of the scrutiny function. Where 2 Scrutiny Committees work jointly on an issue under scrutiny and the meeting is held as a formal public Committee meeting one Scrutiny Committee will be the lead Committee for this area of work.</p> <p>Working Groups are not formal Council meetings and do not have to meet in public or meet the political balance requirements as any findings/ recommendations are reported to the relevant Scrutiny Committee(s) for consideration.</p>	
<b>Calling meetings</b>		
The Chairman may ask the Proper Officer to call a meeting.	A schedule of meetings is agreed by the Committee as required to deliver the work programme or the Chairman may ask the Proper Officer to call a meeting.	A schedule of meetings is agreed annually by the Board or the Chairman may ask the Proper Officer to call a meeting
<b>Agenda items</b>		
Agreed by the Chair of the Scrutiny Management Board	Agenda items are approved by the Scrutiny Committee Chairman as required to	Agenda items are approved by the Chair of the Scrutiny Management

	deliver the work programme agreed by the Scrutiny Committee.	Board as required to deliver the agreed work programme.
<b>Scrutiny Reports</b>		
n/a	Scrutiny reports are sent to the Proper Officer for inclusion on the Cabinet agenda (if within the Budget and Policy Framework) and Council (if outside the Budget and Policy Framework).	Scrutiny reports are sent to the Proper Officer for inclusion on the Cabinet agenda (if within the Budget and Policy Framework) and Council (if outside the Budget and Policy Framework).

## **Extract of Overview and Scrutiny Management Board**

**2<sup>nd</sup> June 2009**

### **JOINT HEALTH OVERVIEW & SCRUTINY COMMITTEES**

The Board considered the report of the Director of Corporate Governance with regard to proposals across Health Overview and Scrutiny Committees (HOSCs) in the West Midlands to have a clear framework for the formation of joint HOSCs to respond to consultations by Healthcare Organisations that are considered substantial variations to services and how the Board may potentially take part in these arrangements.

The Department of Health had issued a directive that in cases where a substantial variation affects more than one local authority area (and the HOSCs for that area agree it to be substantial), then a joint Committee **must** be established. Where a joint HOSC is established the NHS body concerned is required to consult only with that joint Committee. HOSCs that choose not to participate in the joint Committee will not be consulted separately, although the Chairman of the Health Social Care & Partnerships Scrutiny Board had been assured he that this would not prevent an authority from submitting a minority report. .

The report explained the challenges faced in establishing a joint Committee in particular the need for the joint Committee to be politically balanced unless the requirement is waived by all Councils concerned.

It was noted that the Health, Social Care & Partnerships Scrutiny Board had considered a similar report and had supported the recommendations with the rider "that in situations where the Chairman acts as the representative on any joint HOSC, that any paperwork be shared and discussed with the spokespeople".

#### **RESOLVED**

That Full Council be asked to agree the following recommendations: -

- (i) The Council agree to waive the requirement of political proportionality for Joint HOSCs in order to prevent delays in establishing a Joint HOSC and in order to ensure an effective and appropriately sized Joint HOSC,
- (ii) In the first instance, the Chairman act as the representative of the Health, Social Care and Partnerships Scrutiny Board for any Joint HOSCs that need to be established,
- (iii) That in situations where the Chairman acts as the representative on any Joint HOSC, that any paperwork be shared and discussed with the spokespeople,
- (iv) The Chairman and Spokespeople act as the representatives of the Health, Social Care and Partnerships Scrutiny Board for any Joint HOSCs that need to be established where membership larger than just Chairmen is deemed necessary by the Chairmen of all the HOSCs involved,

- (v) That should political proportionality of a Joint HOSC be enforced by any other Local Authority requiring it, that the Chairman and Spokespeople of the Health, Social Care and Partnerships Scrutiny Board determine which Member(s) of the Health, Social Care and Partnerships Scrutiny Board should participate,
- (vi) That the Chairman of the Health, Social Care and Partnerships Scrutiny Board continue to be a Member of the Regional Health Scrutiny Chairs Group for the purposes of information gathering and sharing, and as a Joint HOSC when required,
- (vii) That the Chairman of the Health, Social Care and Partnerships Scrutiny Board report back to the Health, Social Care and Partnerships Scrutiny Board on the activities of the Regional Health Scrutiny Chair's Group, and
- (viii) That the Health, Social Care and Partnerships Scrutiny Board consider any framework for Joint HOSCs developed by the Regional Health Scrutiny Chair's Group.

This was subsequently agreed by Full Council on 14<sup>th</sup> July 2009.