

## SCRUTINY BOARD PROCEDURE RULES

### 1.0 GENERAL ARRANGEMENTS

1.1 The Council will have the Scrutiny Boards set out in Article 6 of its Constitution. It will appoint to them as it considers appropriate from time to time.

1.2 No Scrutiny Board may include an Executive Board Member.

#### 1.3 Working Groups

A Scrutiny Board may appoint a Working Group as it feels appropriate and necessary to assist in ensuring the effectiveness and efficiency of its work.

#### 1.4 Co-opted Members

Each Scrutiny Board shall be entitled to select non-voting co-opted members to assist in the discharge of the Board's role, in accordance with Article 6 of the Constitution.

Except as set out in Article 6, co-opted members may participate in the debate in the same way as Elected Members, but have no voting rights.

#### 1.5 Education Representatives

The Scrutiny Board (Children's Services) shall confirm the appointment of education representatives in accordance with Article 6 of the Constitution.

Any education representative appointed in accordance with Article 6 of the Constitution, shall serve as an education representative on all relevant Scrutiny Boards.<sup>1</sup>

#### 1.6 Matters within the terms of reference of more than one Scrutiny Board

The Scrutiny Officer<sup>2</sup>, after consultation with Scrutiny Chairs, shall arrange for any matter to be dealt with, where it falls within the terms of reference of more than one Scrutiny Board.

### 2.0 DECLARATIONS OF INTEREST

2.1 Elected Members and voting co-opted members of Scrutiny Boards must observe the Member's Code of Conduct.

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<sup>1</sup> A Scrutiny Board is a relevant Scrutiny Board where the Board's functions relate wholly or in part to any education functions which are the responsibility of the authority's executive.

<sup>2</sup> Designated in accordance with Section 9FB Local Government Act 2000 (the 2000 Act). See further Article 6

### **3.0 FREQUENCY AND PLACE OF MEETINGS OF THE SCRUTINY BOARDS**

- 3.1 Extraordinary meetings may be called from time to time as and when appropriate.
- 3.2 A Scrutiny Board meeting may be called by
- the Chair of the relevant Scrutiny Board; or
  - any three Members of the Board; or
  - the Scrutiny Officer if he/she considers it necessary or appropriate.
- 3.3 A Scrutiny Board may sit at such place and at such time as it considers necessary and appropriate.

#### Crime and disorder functions

- 3.4 The Scrutiny Board (Environment and Housing) must meet as the Scrutiny Board considers appropriate to review or scrutinise the exercise of crime and disorder functions<sup>3</sup> by responsible authorities<sup>4</sup>, but no less than once in every twelve month period<sup>5</sup>.

### **4.0 QUORUM / SUBSTITUTE MEMBERS**

- 4.1 The quorum for a Scrutiny Board shall be as set out for committees in the Council Procedures Rules in Part 4 of this Constitution.

~~4.2 The Council shall appoint substitute members, comprising all other members of the other Scrutiny Boards.~~

- 4.3 A substitute Member shall be entitled to attend a meeting of a Scrutiny Board in place of a regular Member.

### **5.0 NOTICES OF MEETINGS**

- 5.1 Notices for all meetings of a Scrutiny Board shall be issued from the office of the Chief Executive. No matter shall be considered at such meeting without the prior agreement of the Chief Executive who shall first have been provided with any written report or with full details of any intended verbal report.

### **6.0 ADMISSION TO MEETINGS**

- 6.1 Subject to any statutory prohibitions and to Rule 6.2 below, all meetings of a Scrutiny Board shall be open to the public in accordance with the Access to Information Procedure Rules<sup>6</sup>. This shall be without prejudice to any power of

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<sup>3</sup> As defined by Section 6 Crime and Disorder Act 1998 (the 1998 Act) (formulating and implementing crime and disorder strategies) - Section 19(11) Police and Justice Act 2006 (the 2006 Act)

<sup>4</sup> These are the bodies and persons responsible for crime and disorder strategies – Section 1(6) 2006 Act

<sup>5</sup> Regulation 4 Crime and Disorder (Overview and Scrutiny) Regulations 2009

<sup>6</sup> These are in Part 4 of the Constitution

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exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

- 6.2 A Scrutiny Board may resolve to exclude the press and public from a meeting (whether the whole or part only of the proceedings) by passing a resolution under the Access to Information Procedure Rules.

### **7.0 MINUTES**

- 7.1 All meetings of each Scrutiny Board shall be minuted. All oral evidence given to a Scrutiny Board may be recorded in full as shall appear to the Scrutiny Board to be appropriate, and shall be retained for an appropriate period of time to be determined in each case.

### **8.0 RIGHTS OF SCRUTINY BOARD MEMBERS TO DOCUMENTS**

- 8.1 In addition to their rights as Councillors, Members on a Scrutiny Board have additional rights to documents as set out in the Access to Information Procedure Rules.
- 8.2 When a Scrutiny Board conducts a review, every member of the Scrutiny Board<sup>7</sup> shall have a right of access to any documents which are relevant to the subject matter of the review.
- 8.3 Nothing in the above paragraph prevents more detailed liaison between the Executive and a Scrutiny Board as appropriate depending on the particular matter under consideration.

### **9.0 AGENDA ITEMS**

- 9.1 A Scrutiny Board shall as a minimum consider the following business at an Ordinary Meeting:
- appeals against refusal of inspection of documents;
  - exclusion of public;
  - late items;
  - declarations of interest;
  - apologies for absence;
  - minutes of the last meeting;
  - the Scrutiny Board's work programme; and
  - the business otherwise set out on the agenda for the meeting.

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<sup>7</sup> Information received as a member of a Scrutiny Board should be used only in this capacity. Such information should not for example be used by an elected Member to further their ward work.

## 10.0 WORK PROGRAMMING

10.1 No Scrutiny Board may undertake a review into:

- any decision of a Plans Panel, the Licensing Committee or a Licensing sub-committee;<sup>9</sup>
- any decisions which may be appealed against under the terms of reference of the Licensing Sub-Committees;
- any decision taken by an officer under delegated authority which falls within the terms of reference of a Plans Panel, the Licensing Committee or a Licensing Sub-Committee;<sup>10</sup>
- any decision taken prior to 24 May 1999<sup>11</sup>, except where such a decision has influenced to a significant degree any action or decision taken subsequently to 24 May 1999 which is the subject of a review; or
- except in exceptional circumstances, any decision in respect of which there are:
  - ongoing judicial proceedings, Ombudsman or audit inquiry or complaint under the Council's formal complaints procedure; or
  - individual personnel issues.

10.2 The role of the Scrutiny Boards in the development of the Council's Budget and Policy Framework is set out in the Budget and Policy Framework Procedure Rules.

## 11.0 REQUESTS FOR SCRUTINY

### Reviews requested by the Executive Board or Council

11.1 Where the Executive Board or Council resolves to recommend that a review should be undertaken into a particular matter, the Scrutiny Officer shall add this recommendation to the agenda for the next Ordinary Meeting of the relevant Scrutiny Board.

### Reviews requested by a member of a Scrutiny Board

11.2 Any member of a Scrutiny Board may propose that a review be undertaken by that Scrutiny Board into a particular matter. The Scrutiny Board will then consider whether to undertake the review. In doing so, it shall take into account the wishes of all members of that Board including those who are not Members of the political group(s) forming the administration.

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<sup>9</sup> In respect of a licence or permission granted to an individual or in respect of an individual premises

<sup>10</sup> In respect of a licence or permission granted to an individual or in respect of an individual premises

<sup>11</sup> This was the date of the commencement of scrutiny arrangements in Leeds.

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### Councillor calls for action

- 11.3 Any Member may refer any matter which is relevant to the functions of a Scrutiny Board<sup>12</sup>, but is not an excluded matter<sup>13</sup>, to that Scrutiny Board – a “councillor call for action”. In considering whether to refer a matter, the Member must have regard to any guidance issued by the Secretary of State.
- 11.4 All such referrals must be submitted in writing to the Scrutiny Officer. The Scrutiny Officer shall add this to the agenda for the next Ordinary Meeting of the relevant Scrutiny Board.
- 11.5 The Scrutiny Officer shall acknowledge all such referrals.
- 11.6 At the next Ordinary Meeting, the Scrutiny Board shall consider any referral which the Scrutiny Officer has added to the agenda.
- 11.7 The Member making the referral will be invited to attend the Scrutiny Board’s meeting to make representations as to why it would be appropriate for the Board to exercise its functions in relation to the matter. The Scrutiny Board Chair will decide how much time will be given to the Member for addressing the Scrutiny Board.
- 11.8 In deciding whether to carry out a review, the Scrutiny Board may have regard to:
- any powers which the Member may exercise in relation to the matter<sup>14</sup>; and
  - any representations made by the Member.
- 11.9 If the Scrutiny Board decides not to carry out a review into the matter, the Scrutiny Officer will inform the referring Member about the decision of the Scrutiny Board, and the reasons for it.

### Local crime and disorder matters

- 11.10 Any Member may refer any local crime and disorder matter<sup>15</sup> to the Scrutiny Board (Environment and Housing) as the Council’s designated Crime and Disorder Committee..
- 11.11 All such referrals must be submitted in writing to the Scrutiny Officer. The Scrutiny Officer shall add this to the agenda for the next Ordinary Meeting of the Scrutiny Board.
- 11.12 The Scrutiny Officer shall acknowledge all such referrals.

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<sup>12</sup> In accordance with Section 9FC Local Government Act 2000

<sup>13</sup> An excluded matter means any matter which is a local crime and disorder matter under Section 19 Police and Justice Act 2006 (see below), or a matter of any description specified in an order made by the Secretary of State (SI 2012/1022).

<sup>14</sup> Under Section 236 of the Local Government and Public Involvement in Health Act 2007

<sup>15</sup> This means a matter concerning:

- crime and disorder (including in particular forms of crime and disorder that involve antisocial behaviour or other behaviour adversely affecting the local environment); or
- the misuse of drugs alcohol and other substances

which affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area -Section 19(11) 2006 Act

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11.13 At the next Ordinary Meeting, the Scrutiny Board shall consider any such referrals which the Scrutiny Officer has added to the agenda.

11.14 The Member making the referral will be invited to attend the Scrutiny Board's meeting to make representations as to why it would be appropriate for the Board to exercise its functions in relation to the matter. The Scrutiny Board Chair will decide how much time will be given to the Member for addressing the Scrutiny Board.

### Social care matters referred by Healthwatch Leeds<sup>16</sup>

11.15 Healthwatch Leeds may refer any matter relating to social care services<sup>17</sup>, to the relevant Scrutiny Board.

11.16 The Scrutiny Officer shall add any such referral to the agenda for the next Ordinary Meeting of the relevant Scrutiny Board.

11.17 The Scrutiny Officer shall acknowledge receipt of all such referrals on behalf of the Scrutiny Board, within 20 working days of its receipt.

11.18 At the next Ordinary Meeting, the Scrutiny Board shall consider any such referral which the Scrutiny Officer has added to the agenda.

11.19 In deciding whether to exercise any functions in relation to social care matter, the relevant Scrutiny Board must take into account any relevant information provided by Healthwatch Leeds.

11.20 The Scrutiny Officer will inform Healthwatch Leeds about any action taken in relation to the matter.

### Requests for reviews from other sources

11.21 The appropriate Scrutiny Board shall consider a request from any other source<sup>18</sup> to conduct a review<sup>19</sup>, including any petition requesting Scrutiny<sup>20</sup>.

## **12.0 UNDERTAKING SCRUTINY INQUIRIES**

12.1 Where a Scrutiny Board undertakes an Inquiry the Scrutiny Board shall consult with any relevant Director<sup>21</sup> and Executive Member on the terms of reference.

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<sup>16</sup> For the purposes of these Rules, where relevant, any reference to Healthwatch Leeds should be construed as including reference to any relevant Local Healthwatch contractor

<sup>17</sup> These are services provided as part of the Council's social services functions (Section 226 Local Government and Involvement in Health Act 2007 – the 2007 Act)

<sup>18</sup> including Scrutiny Chairs.

<sup>19</sup> Except in exceptional circumstances, the Scrutiny Officer will not refer requests which solely relate to the interests of one individual or company to the Scrutiny Board for consideration.

<sup>20</sup> Where a Scrutiny Board Chair receives a petition in their capacity as a Scrutiny Chair, the Chair will respond to the petition organiser only. Thereafter, the Scrutiny Officer will be responsible for notifying the petition organiser of the date on which the petition will be considered, and of the outcome of that meeting. The Scrutiny Officer will ensure that the appropriate Executive Board Member receives a copy of the petition.

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- 12.2 Where any Scrutiny Board decides that there shall be an Inquiry, the Scrutiny Board shall
- consult with any relevant Director and Executive Member.
  - agree the Terms of Reference of the Inquiry;
  - agree the period within which the Inquiry's Report is to be completed;
  - compile a preliminary list of witnesses from whom the Scrutiny Board require evidence<sup>22</sup>; and
  - compile a preliminary list of documents which the Scrutiny Board require to be produced.
- 12.3 Where appropriate, all terms of reference for work undertaken by Scrutiny Boards will include:  
"To review how and to what effect consideration has been given to the impact of a service or policy on all equality areas, as set out in the Council's equality and Diversity scheme".

### 13.0 REPORTS AND RECOMMENDATIONS

- 13.1 At the conclusion of a review a Scrutiny Board shall, where it considers it to be appropriate, produce a written report summarising the evidence that it has taken and set out its recommendations.
- 13.2 Where a Scrutiny Board is considering making specific recommendations it shall invite advice<sup>23</sup> from the appropriate Director(s) prior to it finalising its recommendations. The Director shall consult with the appropriate Executive Member before providing any such advice. The detail of that advice shall be reported to the Scrutiny Board and considered before the Board's recommendations are finalised and published on the Council's website.
- 13.4 Where a Scrutiny Board is to publish or copy a report, it must comply with relevant statutory provisions relating to exempt or confidential information.
- 13.5 Where any voting member of the Scrutiny Board does not agree with the content of the Board's Report, they may produce a Minority Report setting out their findings and recommendations. The intention to submit a minority report should be declared within the Board meeting at the time the majority report is agreed and be both formally minuted and referred to in the final report as part of the Board's resolutions. The Chair can give this notice on behalf of a Member who cannot be present when the majority report is agreed. Where a Scrutiny Board has agreed its final report and there has been no declared intention to produce a minority report, a minority report cannot then be subsequently submitted. Where the intention to produce a

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<sup>21</sup> Any reference to a Director within these Rules should be deemed to include reference to all officers listed in Article 12 of the constitution.

<sup>22</sup> As an Inquiry proceeds it may become apparent that further witnesses are required

<sup>23</sup> Such advice may include but is not limited to the financial and resource implications of the recommendations being considered.

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minority report has been minuted, the Scrutiny Support Unit will contact the appropriate Member or Members to confirm submission dates. The minority report should be delivered to the Scrutiny Support Unit within 5 working days after the Scrutiny Board meeting. The Minority Report will be an appendix to the Scrutiny Board's Report.<sup>24</sup>

### Councillor calls for action

- 13.6 Where a Scrutiny Board is considering making a report or recommendations in relation to a matter referred as a councillor call for action, it may have regard to:
- any powers which the Member may exercise in relation to the matter<sup>25</sup>; and
  - any representations made by the Member.
- 13.7 If the Scrutiny Board decides not to make a report or recommendations into the matter, the Scrutiny Officer will inform the referring Member about the decision of the Scrutiny Board, and the reasons for its decision.
- 13.8 Where a Scrutiny Board has made a report or recommendations in relation to a local government matter, the Scrutiny Board must also send a copy of the report and recommendations to the Member who referred the matter..

### Crime and disorder functions

- 13.9 Where the Scrutiny Board (Environment and Housing) makes a report or recommendations to the Council or Executive about the exercise of crime and disorder functions by responsible authorities<sup>26</sup>, the Scrutiny Officer will provide a copy to
- each of the responsible authorities; and
  - each of the co-operating persons and bodies.
- 13.10 Whenever the Scrutiny Board provides a copy of a report or recommendation the Scrutiny Officer will also notify any authority, person or body to whom it provides the copy, of the steps they must take <sup>27</sup>.

### Local crime and disorder matters

- 13.11 In deciding whether to make a report or recommendations in relation to a local crime and disorder matter, the Scrutiny Board will have regard to:
- any powers which the Member may exercise in relation to the matter; and
  - representations made by the Member about why it should make a report or recommendations

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<sup>24</sup> The Scrutiny Board Procedure Rules Guidance Note provides guidance on Minority Reports.

<sup>25</sup> Under Section 236 of the 2007 Act

<sup>26</sup> See footnote 4

<sup>27</sup> In accordance with Section 19 (8B) 2006 Act.

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- 13.12 The Scrutiny Officer will inform the Member who submitted the referral about any decision of the Scrutiny Board not to make a report or recommendation, and the reasons for its decision.
- 13.13 Where the Scrutiny Board makes a report or recommendations to the Council or the Executive about any matter which is a local crime and disorder matter<sup>28</sup>, the Scrutiny Officer will copy the report to:
- the Member who referred the matter to the Scrutiny Board; and
  - to such of
    - (i) the responsible authorities; and
    - (ii) the co-operating persons and bodiesas it thinks appropriate.
- 13.14 Whenever the Scrutiny Board:
- makes a report or recommendation to the Council or to the Executive; or
  - provides a copy of a report or recommendation,
- the Scrutiny Officer will notify the Council or the Executive, authority, body or person receiving the report and recommendations, or a copy of it, of the steps they must take.

## 14.0 RESPONSES TO REPORTS AND RECOMMENDATIONS

- 14.1 Except as provided below, the Council, the Executive Board, Community Committees or officers shall consider any report and recommendations of a Scrutiny Board within two months of it being received<sup>29</sup>. The Council or Executive is under a duty to respond to the Scrutiny Board, indicating what action (if any) it proposes to take and to publish its response.<sup>30</sup>

### Partner authorities<sup>31</sup>

- 14.3 Where a Scrutiny Board makes a report or recommendations to the Council or the Executive, and the report or any of the recommendations relates to functions of a relevant partner authority so far as exercisable in relation to the authority's area, or the inhabitants of that area, the Scrutiny Board may by notice<sup>32</sup> in writing require the relevant partner authority to have regard to the report or recommendation in question in exercising their functions. The notice must be accompanied by a copy of the report or recommendations<sup>33</sup>.

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<sup>28</sup> See footnote 17

<sup>29</sup> Or (if later) the notice – Section 9FE of the 2000 Act

<sup>30</sup> Section 9FE of the 2000 Act

<sup>31</sup> This means any person who is a partner authority for the purposes of Chapter 1 of Part 5 of the 2007 Act, other than a chief officer of police. This provision will not apply if the partner authority is a relevant NHS body and the report was provided to the body under Rule 18.

<sup>32</sup> Subject to provisions relating to confidential and exempt information in Section 9FG of the 2000 Act

<sup>33</sup> Subject to provisions relating to confidential and exempt information in Section 9FG of the 2000 Act

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### Councillor calls for action

- 14.4 Where a Scrutiny Board has made a Report in relation to a councillor call for action, any response must also be sent to the Member who referred the matter.

### Crime and disorder functions

- 14.5 Where a relevant authority, or co-operating person or body has been notified by the Scrutiny Officer, it must:
- consider the report or recommendations;
  - respond in writing to the Scrutiny Board within 28 days of the date of the report or recommendations<sup>34</sup>, indicating what (if any) action it proposes to take; and
  - have regard to the report or recommendations in exercising its functions.

### Local crime and disorder matters

- 14.6 Where the Council or the Executive other relevant authority, person or body has been notified by the Scrutiny Officer, it must:
- consider the report or recommendations;
  - respond in writing to the Scrutiny Board within 28 days of the date of the report or recommendations<sup>35</sup>, indicating what (if any) action it proposes to take; and
  - have regard to the report or recommendations in exercising its functions.

### Flood risk management

- 14.7 A risk management authority must have regard to reports and recommendations of the relevant Scrutiny Board exercising statutory functions in relation to the scrutiny of flood risk management.
- 14.8 Where that Scrutiny Board requests a response to a report from a risk management authority, the risk management authority must:
- respond to the Board within 28 days or a longer period as agreed between the risk management authority and the Scrutiny Board, and
  - indicate what (if any) action the risk management authority proposes to take, if a response to a report is requested.

## **15.0 WITNESSES – GENERAL PRINCIPLES**

- 15.1 Where a Scrutiny Board wishes to take evidence from a witness, the Scrutiny Officer shall notify the witness of:-
- the date upon which their evidence is to be taken;
  - the matters upon which evidence is sought;

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<sup>34</sup> or if this is not reasonably possible, as soon as reasonably possible thereafter

<sup>35</sup> or if this is not reasonably possible, as soon as reasonably possible thereafter

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- any documents that the Scrutiny Board wishes to have produced; and
- the date upon which the Board requires any written evidence from the witness.

15.2 Those assisting the Scrutiny Board by giving evidence shall be treated with respect and courtesy<sup>36</sup>.

### **16.0 MEMBERS AND OFFICERS GIVING ACCOUNT/ INFORMATION**

16.1 A Scrutiny Board may require any Executive Member, or Member in relation to a matter where the Member has exercised functions<sup>37</sup>, the Chief Executive and/or any senior officer to attend before it to answer questions and provide information about any matter within its terms of reference;

16.2 It is the duty of those officers and Members to attend and to answer questions<sup>38</sup>.

16.3 The Chair of a Scrutiny Board will inform the Scrutiny Officer if the Scrutiny Board requires any Member (including an Executive Member) or officer to attend a Scrutiny Board under this provision. The Scrutiny Officer shall inform the Member or officer of this, giving at least 7 working days notice of the meeting at which he/she is required to attend.

16.4 The notice will state:

- the nature of the item on which he/she is required to attend to give account; and
- whether the Scrutiny Board requires him/her to produce any documents or reports.

16.5 Where the Scrutiny Board requires the person to produce a report, then the Scrutiny Officer will give the Member or officer concerned sufficient notice to prepare it.

16.6 The Chair of the Scrutiny Board will inform the Scrutiny Officer where a Scrutiny Board requires a Director to attend a Scrutiny Board in person.

16.7 Directors may be accompanied by any other officer the Director feels appropriate.

16.8 Where the Scrutiny Board does not require a Director to attend in person, he/she will be responsible for ensuring that an officer of sufficient knowledge and requisite seniority attends. Any such witness may be accompanied by such adviser(s) as he/she considers necessary.

16.9 Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Scrutiny Officer shall, in consultation with the Chair of the Scrutiny Board and the Member or officer, arrange an alternative date for attendance, or agree an appropriate substitute.

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<sup>36</sup> see Member/Officer Protocol in Part 5 of the Constitution.

<sup>37</sup> under Section 236 of the 2007 Act

<sup>38</sup> A Member or officer is not obliged to answer any question which he would be entitled to answer in or for the purposes of proceedings in a Court Section 9FA of the 2000 Act .

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### Crime and Disorder Committee

- 16.10 Subject to giving reasonable notice of the intended date of attendance, the Scrutiny Board (Environment and Housing)<sup>39</sup> may require an officer or employee of a responsible authority<sup>40</sup> or of a co-operating person or body<sup>41</sup> in order to answer questions.
- 16.11 The Scrutiny Board (Environment and Housing) may in writing request responsible authorities and co-operating persons and bodies to provide it with information.

### Partner authorities

- 16.12 Scrutiny Board may in writing request a partner authority to provide such information, as the Scrutiny Board may reasonably require in order to discharge its functions, being information which relates to the functions of the relevant partner authority so far as exercisable in relation to the authority's area, or the inhabitants of that area.
- 16.13 A partner authority must comply with any such request.<sup>42</sup>

### Flood risk management

- 16.14 The Scrutiny Board exercising the authority's statutory functions in relation to the scrutiny of flood risk management may request information from any risk management authority. This may be a request to attend to give information orally to the Board.
- 16.15 The risk management authority must comply with any such request made in writing within 28 days, or longer period as agreed between the risk management authority and the Board.
- 16.16 Where confidential information must be disclosed by a risk management authority, the Scrutiny Board must hold that meeting in private, and not disclose the information except as provided for in regulations.<sup>43</sup>

## **17.0 ATTENDANCE BY OTHERS**

- 17.1 A Scrutiny Board may invite members of the public or other persons to attend meetings, address it, discuss issues of local concern and/or answer questions on matters within its Terms of Reference<sup>44</sup>.

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<sup>39</sup> In its capacity as crime and disorder committee

<sup>40</sup> See footnote 4

<sup>41</sup> See footnote 4

<sup>42</sup> Subject to Regulations 5 and 6 Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2012 (SI 2012/1021).

<sup>43</sup> See further Flood Risk Management Overview and Scrutiny Committee (England) Regulations 2011/697

<sup>44</sup> It may for example wish to hear from residents, stakeholders, Members or officers in other parts of the public sector.

## **18.0 HEALTH SCRUTINY FUNCTIONS EXERCISED BY THE SCRUTINY BOARD (ADULT SOCIAL SERVICES AND PUBLIC HEALTH)<sup>45</sup>**

### **18.1 Information and explanations**

18.1.2 A relevant NHS body<sup>46</sup> or health service provider<sup>47</sup> must provide the Scrutiny Board with such information about the planning, provision and operation of health services in the area as the Board shall reasonably require in order to discharge its functions.<sup>48</sup>

18.1.3 Subject to giving reasonable notice of the intended date of attendance, the Board may require any member or employee of a relevant NHS body or relevant health service provider to attend and answer such questions as appear to the Board to be necessary for discharging its functions.<sup>49</sup>

### **18.2 Review and scrutiny of matters relating to the planning, provision and operation of the health service**

#### **18.2.1 Health matters referred by Healthwatch Leeds**

Healthwatch Leeds may refer any matter relating to the planning, provision and operation of the health service, to the Scrutiny Board. The Scrutiny Officer shall add any such referral to the agenda for the next Ordinary Meeting of the Scrutiny Board.

The Scrutiny Officer shall acknowledge receipt of all such referrals on behalf of the Scrutiny Board, within 20 working days of its receipt.

At the next Ordinary Meeting, the Scrutiny Board shall consider any such referral which the Scrutiny Officer has added to the agenda.

The Scrutiny Officer will inform Healthwatch Leeds about any action taken in relation to the matter.

#### **18.2.2 Comments and relevant information**

In exercising its functions to review and scrutinise any matter relating to the planning, provision and operation of the health service, the Scrutiny Board must:

- invite interested parties to comment on the matter, and
- take into account relevant information available to it, in particular any information provided by Healthwatch Leeds if it has referred the matter to the Board.

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<sup>45</sup> These are functions of the authority under Section 244 National Health Service Act 2006 delegated to the Board and exercised in accordance with regulations (SI 2013/218)

<sup>46</sup> The relevant NHS bodies for this purpose are: NHS England, CCGs which provide services to people living in the authority's area, and an NHS trust or NHS foundation trust which provides services to people who live in the authority's area.

<sup>47</sup> A relevant health service provider for this purpose is a body or person other than an NHS trust or NHS foundation trust, which provides any relevant services to people living in the area of the authority.

<sup>48</sup> In accordance with Regulation 26

<sup>49</sup> In accordance with Regulation 27.

### 18.2.3 Reports and recommendations

The Scrutiny Board may make reports and recommendations to a relevant NHS body, health service provider, or to full Council

Where the Scrutiny Board has completed its review and made reports and recommendations to relevant NHS bodies or health service providers,

The Scrutiny Officer will place a copy of the report on the Council's web-site.

Where the Scrutiny Board requests a response from a relevant NHS body or health service provider to whom it has made a report or recommendation, that body shall respond in writing to the Scrutiny Board within 28 days.

The Scrutiny Officer will also place a copy of the response on the Council's web-site.

## **18.3 Consultation by a relevant NHS body or health service provider**

18.3.1 A relevant NHS body or health service provider<sup>50</sup> must consult the Scrutiny Board where it has under consideration any substantial development of the health service in the authority's area, or for a substantial variation in the provision of a service<sup>51</sup>.

18.3.2 Where the NHS body is satisfied that a decision has to be taken without allowing time for consultation because of a risk to safety or welfare of patients or staff, the NHS body or health service provider shall notify the Scrutiny Board immediately of:

- the decision taken; and
- the reason why no consultation has taken place.

### Comments and recommendations

18.3.3 The Scrutiny Board may make comments (including recommendations) about the proposal, by the date specified by the NHS body or health service provider.

18.3.4 If the Board has not commented or made a recommendation about a proposal, the Board must inform the NHS body or health service provider whether it proposes to make a report to the Secretary of State, or the date when it will decide whether to make such a report. If the latter, the Board must make the decision by the given date, and inform the relevant NHS body or health service provider about it.

18.3.5 The NHS body or health service provider must notify the Board if they disagree with any of the Board's recommendations, in which case the NHS body or health service

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<sup>50</sup> Where the relevant NHS body or health service provider is an NHS trust, an NHS foundation trust or a relevant health service provider, and the proposal relates to services which a CCG or NHS England is responsible for arranging, the functions of the relevant NHS body or health service provider must be discharged by the responsible commissioner.

<sup>51</sup> Regulation 23, subject to exemptions set out in Regulation 24

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provider must take such steps as are reasonably practicable to try to reach agreement.

18.3.6 Subject to 18.3.7 below, the Scrutiny Board may report to the Secretary of State in writing where:

(a) it is not satisfied that:

- consultation on any proposal has been adequate in relation to content or time allowed; or
- where no consultation has been carried out, the reasons given by the NHS body or health service provider are adequate; or

(b) the Board considers that the proposal would not be in the interests of the health service in its area.

18.3.7 The Board may not make a report to the Secretary of State:

(a) where the relevant NHS body or health service provider has notified the Board that it disagrees with any recommendation, unless the Board is satisfied that:

- agreement has not been reached within a reasonable period of time;
- the relevant NHS body or health service provider has failed to comply with its duty to try to reach agreement; or

(b) where no comments or recommendations have been made, and the Board has not complied with 18.3.4 above.

18.3.8 A report to the Secretary in State must include:

- An explanation of the proposal;
- If the Board is not satisfied that consultation has been adequate, the reasons for this;
- If the Board is not satisfied that the reasons for not consulting are adequate, the reasons for this;
- Where the Board considers that the proposal would not be in the interests of the health service, a summary of the evidence considered, including any evidence of the effect or potential effect of the proposal on the sustainability of otherwise of the health services in the area of the authority;
- An explanation of any steps the Board has taken to try to reach agreement with the relevant NHS body or health service provider;
- Evidence that the Board has complied with the conditions in 18.3.7above;
- An explanation of the reasons for making the report;
- Any evidence in support of those reasons.

18.3.9 Where the Board has reported to the Secretary of State, the Secretary of State may (depending on the reasons in the report) make a decision about the adequacy of the consultation, reasons for non-consultation, or a final decision on the proposal.

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18.3.10 The Secretary of State may give a direction to NHS England or a CCG requiring consultation (or further consultation), or the matter to be determined in a particular way, or steps to be taken or not taken.