

## 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<sup>1</sup>.

#### 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 select 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>2</sup>

1.6 Matters within the terms of reference of more than one Scrutiny Board  
The Proper Officer, 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 authority's Code of Conduct.

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<sup>1</sup> These must be appointed to carry out specific tasks such as visits to premises or other information gathering activities. The Scrutiny Board Procedure Rules Guidance Note provides guidance on Working Groups.

<sup>2</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.

## *Scrutiny Board Procedure Rules*

- 2.2 Where any non-voting co-opted member of a Scrutiny Board has an interest in an item, he/she must declare the interest and may be required by the Chair of the Scrutiny Board to withdraw from the meeting at which that issue is under discussion.
- 2.3 The Scrutiny Board (Health) may include Members who are involved in the executive of a particular NHS body<sup>3</sup>, as a member or an employee. Where such a Member has a personal or prejudicial<sup>4</sup> interest in a matter, they must declare the interest. If the interest is prejudicial they must not participate in any Inquiry or consultation process which concerns that NHS body. In addition Scrutiny Board (Health) Members may not be involved in any scrutiny exercise that may advantage the NHS body where they have a prejudicial interest.

### **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 Proper 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.

### **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 A substitute Member shall be entitled to attend a Call In meeting of a Scrutiny Board in place of a regular Member.<sup>5</sup>

### **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 sub-paragraph 6.2 below, all meetings of a Scrutiny Board shall be open to the public in accordance with the Access to Information Procedure Rules. This shall be without prejudice to any power of

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<sup>3</sup> In Leeds this means the Leeds Primary Care Trust, the Leeds Teaching Hospitals NHS Trust, the Leeds Mental Health Teaching NHS Trust and the NHS Yorkshire and Humber.

<sup>4</sup> See the Members Code of Conduct paragraphs 8 to 12 on Interests

<sup>5</sup> The defined pool of substitutes will be any member of a Scrutiny Board *excluding* those who have been signatures to the Call In.

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.
- 7.2 All oral evidence given to a Scrutiny Board shall be recorded in full, either in writing or by such other method (such as tape recording) as shall appear to the Scrutiny Board to be appropriate.
- 7.3 The tapes of oral evidence must be kept for an appropriate period of time to be determined in each case.<sup>6</sup>

## **8.0 CHAIRS**

- 8.1 The Chair of a Scrutiny Board will be appointed in accordance with the Council's Procedure Rules.

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

- 9.1 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 in Part 4 of this Constitution.
- 9.2 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.<sup>8</sup>
- 9.3 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.

## **10.0 AGENDA ITEMS**

- 10.1 A Scrutiny Board shall as a minimum consider the following business at an Ordinary Meeting:
- appeals against refusal of inspection of documents;

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<sup>6</sup> The Scrutiny Board Procedure Rules Guidance Note provides guidance on the use of taped evidence to Scrutiny Boards.

<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.

<sup>8</sup> The Protocol for Elected Member/Education Leeds Relations sets out rights of access to information relating to the activity of Education Leeds. Rights of access are subject to the Data Protection Act 1998.

- 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.

## **11.0 WORK PROGRAMMING**

### **11.1 No Scrutiny Board may undertake a review into:**

- any decision of a Regulatory Panel or the Licensing Committee or a Licensing sub-committee;<sup>9</sup>
- any decisions which may be appealed against to a Regulatory Panel;
- any decision taken by an officer under delegated authority which falls within the terms of reference of a Regulatory Panel or 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 an Inquiry; 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;<sup>12</sup> or
  - individual personnel issues.

### **11.2 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.**

### **11.3 In relation to the development of plans and strategies which are not part of the authority's Budget and Policy Framework, a Scrutiny Board may investigate the available options for policy development.**

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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.

<sup>12</sup> It might be appropriate for a Scrutiny Board to conduct an Inquiry at the conclusion of any of the proceedings referred to. For example it could investigate why proceedings were started. Such an Inquiry should not however act as an appeal against those proceedings.

## **12.0 REQUESTS FOR SCRUTINY**

### Inquiries requested by the Executive or Council

- 12.1 Where the Executive or Council resolves to recommend that an Inquiry should be undertaken into a particular matter, the Proper Officer shall add this recommendation to the agenda for the next Ordinary Meeting of the relevant Scrutiny Board. Where a Scrutiny Board decides not to undertake an Inquiry recommended by the Executive or Council, the reasons for the decision shall be minuted by Scrutiny Board.

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

- 12.2 Any member of a Scrutiny Board may propose an Inquiry be undertaken into a particular matter. The Scrutiny Board will then consider whether to undertake the Inquiry. 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 Council's administration on the Council.

### Requests for Inquiries from other sources

- 12.3 The appropriate Scrutiny Board shall consider a request from any other source<sup>13</sup> to conduct an Inquiry<sup>14</sup>.
- 12.4 All such requests for an Inquiry must be submitted in writing to the Proper Officer. The Proper Officer shall add the request to the agenda for the next Ordinary Meeting of the relevant Scrutiny Board.
- 12.5 The Proper Officer shall acknowledge all such requests for an Inquiry.
- 12.6 At the next Ordinary Meeting, the Scrutiny Board shall consider any request for an Inquiry which the Proper Officer has added to the agenda.
- 12.7 Where the request has not come from the Executive or the Council, the person or body making the request will be invited to attend the Board's meeting to explain the reasons for the request. The Scrutiny Board Chair will decide how much time will be given to the person or body for addressing the Scrutiny Board.
- 12.8 The Proper Officer will inform whoever submitted the request and any other relevant parties about the decision of the Scrutiny Board.<sup>15</sup>

## **13.0 SELECTING SCRUTINY INQUIRIES**

- 13.1 Before deciding to undertake a scrutiny Inquiry, a Scrutiny Board must:

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<sup>13</sup> including Scrutiny Chairs.

<sup>14</sup> Except in exceptional circumstances, the Proper Officer will not refer requests which relate solely to the interests of one individual or company to the Scrutiny Board for consideration, and will refer requests relating to matters of purely local concern to the relevant Area Committee.

<sup>15</sup> Other parties may include relevant Directors, and Area Committees.

## *Scrutiny Board Procedure Rules*

- consider how the proposed Inquiry meets criteria approved from time to time<sup>16</sup>; and
- consider the current workload of the Scrutiny Board and the available resources required to carry out the work.

13.2 Where a Scrutiny Board decides that there shall be an Inquiry, the Scrutiny Board shall

- consult with any relevant Director<sup>17</sup> 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>18</sup>; and
- compile a preliminary list of documents which the Scrutiny Board require to be produced.

## **14.0 INQUIRY REPORTS AND RECOMMENDATIONS**

14.1 At the conclusion of an Inquiry a Scrutiny Board shall, where it considers it to be appropriate, produce a written report summarising the evidence that it has taken and setting out its recommendations.

14.2 The Board shall submit its report to the Proper Officer for consideration by the Executive (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate.<sup>19</sup>

14.3 Where a Scrutiny Board is considering making specific recommendations it shall invite advice from the appropriate Director(s) prior to it finalising its recommendations<sup>20</sup>. The detail of that advice shall be reported to the Scrutiny Board and considered before the report is finalised.

14.4 The Inquiry Report shall include:

- an explanation of the matter reviewed or scrutinised;
- a list of the participants involved in the Inquiry (save where the Board considers that a name of a witness should be withheld for reasons of confidentiality)<sup>21</sup>;
- a list of all documentation that has been considered by the Board; and
- any conclusions and recommendations on the matter reviewed or scrutinised.

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<sup>16</sup> set out in the Scrutiny Board Procedure Rules Guidance Notes

<sup>17</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. These include chief officers with concurrent delegations to directors.

<sup>18</sup> As an Inquiry proceeds it may become apparent that further witnesses are required

<sup>19</sup> A Scrutiny Board may also send a copy of a report to any relevant partnership.

<sup>20</sup> The Director shall consult with the appropriate Executive Member before providing any such advice.

<sup>21</sup> Where it is necessary to preserve the confidentiality of a witness, their name need not be disclosed nor where the evidence which they gave amounted to exempt information, need this be disclosed if it would breach the witness's confidentiality.

- 14.5 The Scrutiny Board should note whether any documents contain exempt or confidential information on the list of documents.<sup>22</sup>
- 14.6 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 Minority Report will be an appendix to the Scrutiny Board's Report.<sup>23</sup>
- 14.7 The Council, the Executive Board, Area Committees or officers shall consider a Report of a Scrutiny Board within two months of it being submitted to the Proper Officer.

#### Health Service Scrutiny Functions

- 14.8 The Scrutiny Board (Health) may make specific recommendations to a local NHS body.
- 14.9 Where the Scrutiny Board (Health) has completed its scrutiny and made reports and recommendations to local NHS bodies scrutinised, the Proper Officer will copy the report to:
- Local MPs and MEPs;
  - NHS Yorkshire and Humber;
  - PCT and other NHS Trusts;
  - Leeds Voice;
  - Patient and public involvement forums; and
  - Other bodies or organisations that have expressed an interest in the Inquiry.
- 14.10 The Proper Officer will place a copy of the report on the Council's web-site.

### **15.0 RESPONSE TO INQUIRY REPORTS AND RECOMMENDATIONS**

- 15.1 Where a Scrutiny Board has sent a Report to a body, the body concerned will be asked to send its response to the Board within 2 months<sup>24</sup> of receipt of the Report.
- 15.2 The body should set out in response to the recommendations made:
- the views of the body<sup>25</sup>;
  - details of any action already taken in response to the recommendations;
  - proposed action and timescales; or
  - reasons for inaction.

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<sup>22</sup> In order to preclude inadvertent disclosure of any such document.

<sup>23</sup> The Scrutiny Board Procedure Rules Guidance Note provides guidance on Minority Reports.

<sup>24</sup> For NHS Bodies this time limit is 28 days (the Local Authority (Overview and Scrutiny Committee Health Scrutiny Functions) Regulations 2002. Where a Scrutiny Board has sent a report to a partnership the partnership is not required under these Rules to provide a response. Any partnership not otherwise required to provide a response will be invited to do so.

<sup>25</sup> Where a recommendation is to a Director, the Director shall consult with the appropriate Executive Member when formulating a response.

## *Scrutiny Board Procedure Rules*

15.3 In the case of responses from NHS bodies the response should also be copied to:

- Local MPs and MEPs;
- NHS Yorkshire and Humber;
- PCT and other NHS Trusts;
- Leeds Voice;
- Patient and public involvement forums; and
- Other bodies or organisations that have expressed an interest in the Inquiry

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

## **16.0 RECOMMENDATIONS MADE OUTSIDE THE FORMAL SCRUTINY INQUIRY PROCESS**

16.1 It is recognised that from time to time Scrutiny Boards may wish to make comment or issue recommendations which have been generated outside of the formal Scrutiny Inquiry process.

16.2 Where a Scrutiny Board makes a recommendation outside of the formal Scrutiny Board Inquiry process this will be set out in a Statement<sup>26</sup> from the Scrutiny Board.

16.3 Where a Scrutiny Board is considering making specific recommendations it shall invite advice from the appropriate Director(s) prior to it finalising its recommendations<sup>27</sup>. The detail of that advice shall be reported to the Scrutiny Board and considered before the Statement is finalised.

16.5 Where the Scrutiny Board (Health) has made recommendations to local NHS bodies scrutinised, the Proper Officer will copy the Statement to:

- Local MPs and MEPs;
- NHS Yorkshire and Humber;
- PCT and other NHS Trusts;
- Leeds Voice;
- Patient and public involvement forums; and
- Other bodies or organisations that have expressed an interest in the issue.

16.6 Where a Scrutiny Board has sent a Statement to a body, the body concerned will be asked to send its response to any recommendations to the Board within 2 months<sup>28</sup> of receipt of the Statement.

16.7 The body should set out in response to the recommendations made:

- the views of the body<sup>29</sup>;
- details of any action already taken in response to the recommendations;
- proposed action and timescales; or

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<sup>26</sup> Statements from Scrutiny Boards result from work undertaken by a Scrutiny Board outside the formal Inquiry process in order to allow the Scrutiny Board to express comments and recommendations.

<sup>27</sup> The Director shall consult with the appropriate Executive Member before providing any such advice.

<sup>28</sup> For NHS Bodies this time limit is 28 days (the Local Authority (Overview and Scrutiny Committee Health Scrutiny Functions) Regulations 2002).

<sup>29</sup> Where a recommendation is to a Director, the Director shall consult with the appropriate Executive Member when formulating a response.



- reasons for inaction.

16.8 In the case of responses from NHS bodies the response should also be copied to:

- Local MPs and MEPs;
- NHS Yorkshire and Humber;
- PCT and other NHS Trusts;
- Leeds Voice;
- Patient and public involvement forums; and
- Other bodies or organisations that have expressed an interest in the Inquiry.

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

## **17.0 WITNESSES – GENERAL PRINCIPLES**

17.1 Where a Scrutiny Board wishes to take evidence from a witness, the Proper Officer shall notify the witness of:-

- the date upon which their evidence is to be taken;
- the matters upon which evidence is sought;
- any documents that the Scrutiny Board wishes to have produced; and
- the date upon which the Board requires any written evidence from the witness.

17.2 Those assisting the Scrutiny Board by giving evidence shall be treated with respect and courtesy<sup>30</sup>.

17.3. When a Member with a prejudicial interest in a matter is giving evidence to the Scrutiny Board<sup>31</sup>, they should ensure they act as a witness by moving to the area in which other witnesses are giving evidence. The Member should only be present in the room when giving the evidence and must leave the room once they have given their evidence and answered any questions.

## **18.0 MEMBERS AND OFFICERS GIVING ACCOUNT**

18.1 A Scrutiny Board may require any Executive Member, the Chief Executive and/or any senior officer to attend before it to provide information about:

- any particular decisions or series of decisions;
- the extent to which actions taken implement Council policy; and/or
- their performance.

18.2 It is the duty of those officers and Members to attend.

18.3 The Chair of a Scrutiny Board will inform the Proper Officer if the Scrutiny Board requires any Member (including an Executive Member) or officer to attend a Scrutiny Board under this provision. The Proper 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.

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<sup>30</sup> see Member/Officer Protocol in Part 5 of the Constitution.

<sup>31</sup> Members' Code of Conduct paragraph 12(2)

## *Scrutiny Board Procedure Rules*

18.4 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.

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

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

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

18.8 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.

18.9 Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Proper 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.

### Health Scrutiny Functions

18.10 Scrutiny Board (Health) may require an officer of a local NHS body to attend and answer such questions as appear to the Scrutiny Board to be necessary for discharging its functions.<sup>32</sup>

18.11 An NHS body 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>33</sup>

## **19.0 ATTENDANCE BY OTHERS**

19.1 A Scrutiny Board may invite members of the public or other persons to address it, discuss issues of local concern and/or answer questions<sup>34</sup>.

19.2 A Scrutiny Board may appoint advisers and assessors to assist them in their work.

19.3 A Member with a prejudicial interest in a matter may make representations and/or answer questions at a Scrutiny Board<sup>35</sup>. In such circumstances the Member should move to the area of the room in which such other members of the public or persons are seated, and should only be present in the room while making representations and/or answering questions. The Member must leave the room once they have

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<sup>32</sup> Regulation 10 Local Authorities (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 as amended. Officer includes a Chief Executive.

<sup>33</sup> Regulation 5 Local Authorities (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 as amended.

<sup>34</sup> It may for example wish to hear from residents, stakeholders, Members or officers in other parts of the public sector and shall invite such people to attend.

<sup>35</sup> Members' Code of Conduct paragraph 12(2)

made their representations and/or answered any questions until the end of that item.

## **20.0 EXECUTIVE DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 20.1 The relevant Director shall seek the agreement of the Chair of the relevant Scrutiny Board that a decision can be taken as a matter of urgency where:
- a proposed decision is contrary to the Council's policy framework, or is not wholly in accordance with the budget approved by full Council; and
  - the decision is a matter of urgency; and
  - it is not practical to convene a quorate meeting of the full Council.
- 20.2 The Director shall give detailed reasons to the Chair about why it is not practical to convene a quorate meeting of full Council when seeking his/her agreement.
- 20.3 In the absence of the Chair of the relevant Scrutiny Board, the Director may obtain agreement from the Lord Mayor or in the absence of both, the Deputy Lord Mayor.
- 20.4 The Director must note on the record of the decision:
- the consent of the Chair of the relevant Scrutiny Board to the decision being taken as a matter of urgency; and
  - the Chair's reasons for giving consent.
- 20.5 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining:
- the decision;
  - the reasons for it; and
  - the reason why taking the decision was treated as a matter of urgency.

## **21.0 KEY DECISIONS NOT CONTAINED WITHIN THE FORWARD PLAN**

### General exception

- 21.1 Where it is proposed to take a Key Decision which has not been included in the Forward Plan, the relevant Director will give the Chair of the relevant Scrutiny Board not less than 5 days written notice of the matter on which the decision is to be made.

### Special urgency

- 21.2 If by virtue of the date by which a decision must be taken, it is not possible to give 5 days written notice of the matter, the decision taker (if an officer) or the Chair of the body making the decision shall seek the agreement of the Chair of the relevant Scrutiny Board that the decision cannot reasonably be deferred.

## *Scrutiny Board Procedure Rules*

21.3 In the absence of the Chair of the relevant Scrutiny Board, the Director may obtain agreement from the Lord Mayor or in the absence of both, the Deputy Lord Mayor.

### Report to Council

21.4 A Scrutiny Board can require the Executive to submit a report to Council where it considers that a Key Decision has been taken which was not in the Forward Plan or which has not been the subject of the general exception or special urgency provisions<sup>36</sup>.

## **22.0 CALL-IN<sup>37</sup>**

22.1 Subject to the exceptions set out below, the following may be called in to be reviewed and scrutinised by the relevant Scrutiny Board<sup>38</sup>:

- all decisions of the Executive Board;
- executive decisions taken by Area Committees; and
- Key and Major Decisions taken by Officers.

22.2 The power to call in decisions does not extend to<sup>39</sup>:

- decisions made under regulatory arrangements;
- decisions made by Joint Committees; or
- decisions not taken by the authority.

22.3 When a decision is made which is subject to Call-In, the Chief Democratic Services Officer shall publish the decision, and make it available on the Council database within two days of the decision being made.

22.4 He/she will also send each elected Member of the relevant Scrutiny Board an electronic copy of the record of the decision within two days of it being made.

22.5 The notice will bear the date on which it is published. It will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the decision is called in.

22.6 During that period, the Proper Officer shall Call-In a decision for scrutiny by the relevant Scrutiny Board if:

- two non executive elected Members (who are not from the same political group) or
- any five non executive elected Members

request him/her to do so<sup>40</sup>. The Proper Officer will call a meeting of the relevant Scrutiny Board to review or scrutinise the decision.

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<sup>36</sup> See Access to Information Procedure Rules

<sup>37</sup> There is a separate Guidance Note which sets out in full the operation of the Call-In

<sup>38</sup> Where a decision falls within the terms of reference of more than one Scrutiny Board, the Proper Officer will determine the relevant Scrutiny Board, after consultation with Scrutiny Chairs.

<sup>39</sup> A decision which is a direct consequence of implementing a previous key or major decision, cannot be called in – see definition of key and major decisions, guidance notes on delegated decision-making.

22.7 At the meeting the Scrutiny Board will invite signatories to the notification<sup>41</sup> to explain the reasons for the Call-In<sup>42</sup>. The relevant member of the Executive Board, Area Committee Chair or officer (as appropriate) shall be required to attend the Meeting and shall be given the opportunity to respond to the reasons given for the Call-In. The Scrutiny Board shall make such further enquiries as it considers necessary and appropriate. The Scrutiny Board may also extend the invitation to other relevant witnesses, as considered appropriate, in order to specifically assist the Board in its deliberations over the called in decision.

22.8 The Scrutiny Board shall then either;

- release the decision for implementation; or
- recommend to the decision-maker that the decision should be reconsidered; or
- where the decision is considered to fall outside the agreed budget or policy framework, recommend to the decision-maker that the decision should be reconsidered, and notify the decision-maker that if it is not, the Scrutiny Board will refer the matter to full Council.

22.9 If the Scrutiny Board resolves that a decision is to be referred back for consideration, the Proper Officer will prepare a report<sup>43</sup> to the decision-maker within three working days of the Scrutiny Board meeting.

22.10 In exceptional circumstances, the Scrutiny Board may resolve to adjourn the meeting to consider information regarded as essential for the Board to come to a conclusion. The maximum time allowed for an adjournment is 5 working days.

### **23.0 CALL-IN EXCEPTIONS**

23.1 The Call-In procedure set out above shall not apply:

- where the decision being taken is stated by the decision maker to be urgent<sup>44</sup>; nor
- where the decision is in relation to a matter which has been the subject of a previous Call-In.<sup>45</sup>

### **24.0 NHS BODIES - CONSULTATION WITH THE SCRUTINY BOARD (HEALTH)**

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<sup>40</sup> A Member cannot be a signatory to call-in a decision of the Area Committee of which they are a member. This also excludes members of the Scrutiny Board to which the Call In will be referred.

<sup>41</sup> or their nominees

<sup>42</sup> The signatories should specify which of the principles of decision making (set out in Article 13.2 of the constitution) has not been followed. The signatories may also provide further written evidence provided this supports the stated reasons for calling in the decision.

<sup>43</sup> the provisions relating to a minority report do not apply to any decision of the Committee in relation to a matter which has been called in.

<sup>44</sup> A decision may be declared urgent by the decision-maker if they consider that any delay in implementing the decision would seriously prejudice the authority's interest or the public interest.

<sup>45</sup> This includes a decision which has been modified by the decision making body following a recommendation by a Scrutiny Board after call in of the earlier decision

### *Scrutiny Board Procedure Rules*

- 24.1 A local NHS body must consult the Scrutiny Board (Health) 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>46</sup>.
- 24.2 The Scrutiny Board may make comments on the proposal consulted on by such date as may be specified by the NHS body.
- 24.3 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 shall notify the Scrutiny Board immediately of:
- the decision taken; and
  - the reason why no consultation has taken place.
- 24.4 Where the Scrutiny Board (Health) is not satisfied that:
- consultation on any proposal referred to in paragraph 24.1 has been adequate in relation to content or time allowed; or
  - where paragraph 24.3 applies, the reasons given by the NHS body are adequate;
- it may report this to the Secretary of State in writing. The Secretary of State may require the local NHS body concerned to carry out such consultation, or such further consultation, with the Scrutiny Board as he/she considers appropriate.
- 24.5 Where further consultation has been required, the local NHS body shall, having regard to the outcome of such further consultation, reconsider any decision it has taken in relation to the proposal in question.
- 24.6 In any case where the Scrutiny Board (Health) considers that the proposal would not be in the interests of the health service in the authority's area, it may report this to the Secretary of State in writing. The Secretary of State may make a final decision on the proposal and require the local NHS body to take such action, or desist from taking such action, as he/she may direct.

## **25.0 ANNUAL REPORT TO COUNCIL**

- 25.1 The Proper Officer will report to Council<sup>47</sup> annually about how the authority has carried out its overview and scrutiny functions.

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<sup>46</sup> Under the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 as amended.

<sup>47</sup> After consultation with the Scrutiny Chairs.