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## Report of the Chief Democratic Services Officer

### Full Council – annual meeting

Date: 21 May 2009

### Subject: Recommendations from General Purposes Committee – Constitution amendments

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#### Electoral Wards Affected:

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

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## Executive Summary

1. This report sets out recommendations to Council from the General Purposes Committee at its meeting on 13 May 2009, relating to amendments to the Constitution. The principal recommendations are detailed below.
2. The report sets out recommendations to amend Article 9 (for clarification) and Article 14 (to authorise directors to sign contracts up to the value of £100,000).
3. It also sets out a number of recommendations for minor amendments to:
  - the terms of reference of Standards Committee;
  - the list of functions reserved to full Council;
  - the terms of reference of Plans Panels; and
  - the Council delegation to the Chief Planning Officer.
4. The report sets out a recommendation for a minor amendment to the Council officer delegation scheme for clarification.
5. The report sets out a recommendation to amend the footnote to the terms of reference of the Scrutiny Board (City Development) to reflect two new concurrent chief officer posts.
6. The report also sets out a recommendation to amend the Council Procedure Rules, to secure the wider ten minute right to sum up in all instances.
7. The report also sets out recommendations in relation to the Council's scrutiny arrangements, principally in relation to legislative changes implementing:
  - Councillor calls for action;

- Scrutiny of crime and disorder functions; and
- Local Involvement Networks (LINks).

## **1.0 Purpose Of This Report**

1.1 This report presents recommendations to Council from the General Purposes Committee, for amendments to the constitution.

## **2.0 Background Information**

2.1 General Purposes Committee is authorised to consider proposals to amend the constitution, and make recommendations to full Council. At its meeting on 13 May 2009, the General Purposes Committee considered an item relating to the annual review of the constitution. This report sets out the recommendations from General Purposes Committee relating to that item.

## **3.0 Main Issues**

### Amendments to Articles

3.1 Article 9 sets out details in relation to the membership and functions of the Governance Committees. The General Purposes Committee recommend revised provisions about the Standards Committee, as follows:

- to re-order for clarity;
- to remove the description of general functions;
- to include full details of the relevant legislative provisions in the provisions in relation to membership of the Committee and in relation to the different types of Committee Members; and
- to remove the reference to a Parish Council's Sub Committee.

3.2 Appendix 1 to this report sets out the revised Article 9.

3.3 Article 14.5 currently authorises the Chief Executive and the Assistant Chief Executive (Corporate Governance) to sign contracts on behalf of the Council. Both officers, however, subsequently sub-delegated this authority, (subject to exceptions), to directors (defined as including chief officers with concurrent delegations).

3.4 To promote accountability, the General Purposes Committee recommend Article 14.5 is revised for clarity and to directly authorise directors (or other person authorised by each of them) to sign contracts relating to functions within their remit, which are under £100,000<sup>1</sup>.

3.5 Appendix 2 to this report sets out the revised Article 14.5.

### Standards Committee's terms of reference

3.8 The General Purposes Committee also recommend Council to amend the Standards Committee's terms of reference for clarification, as follows:

- insert new Paragraph 1 to confirm the situation in law and in practice at Leeds, namely that it is full Council and not the Standards Committee which has the authority to adopt or revise the Members' Code of Conduct;
- amend paragraphs 3 and 4 to clarify the distinction between them; and
- remove the reference to the Members' Allowances Scheme to reflect amendments to that Scheme.

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<sup>1</sup> Contracts with a value above £100,000 must be executed as a deed by an authorised officer from the Procurement Unit (Contracts Procedure Rule 21.1).

- 3.10 The recommended amendments to the Standards Committee's terms of reference are set out in Appendix 3 to this report.

Legislative updates - Council functions

- 3.11 Functions which are carried out by **full Council** are set out in Part 3, Section 2A of the constitution.
- 3.13 Regulations which identify council functions have been amended to identify as council functions, the functions relating to changes in elections scheme<sup>2</sup> (that is, the power to move to full Council elections) introduced under the Local Government and Public Involvement in Health Act 2007.
- 3.14 The General Purposes Committee therefore recommend Council to amend Section 2A, to include these functions within the list of functions carried out by full Council.
- 3.15 Regulations have also now identified additional functions relating to common land as council functions. These need to be reflected in the terms of reference of Plans Panels, by way of an amendment to a footnote. The General Purposes Committee therefore recommend amendments to the terms of reference for Plans Panel, as set out in the Appendix 4 to this report.

Officer delegation scheme (council functions)

- 3.16 For the avoidance of doubt, the General Purposes Committee recommend to Council that the officer delegation scheme (council functions) confirms that officers with authority under the scheme may sub-delegate their authority.
- 3.17 The following wording is recommended as an insertion into the scheme, and by way of a footnote to each individual postholder:
- “The fact that a function has been delegated to the (officer) does not require the (officer) to give the matter his/her personal attention and the (officer) may arrange for such delegation to be exercised by an officer of suitable experience and seniority. However the (officer) remains responsible for any decision taken pursuant to such arrangements.”
- 3.18 The General Purposes Committee also recommend to Council that the officer delegation to the Chief Planning Officer, be amended to:
- refer to new functions relating to common land (subject to an exception where objections are received);
  - delete the existing exception to the Chief Planning Officer's functions in relation to hedgerows and trees; and
  - insert functions relating to safety certificates (these are concurrent with the Director of City Development, following the Leader confirming that the Chief Planning Officer is to have concurrent executive delegations with that officer).
- 3.19 Appendix 5 to this report sets out the delegation to the Chief Planning Officer, incorporating all of the recommended amendments.

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<sup>2</sup> These are functions relating to consulting on change of scheme for elections (Sections 33(2), 38 (2) and 40(2)), publicity (Sections 35, 41 and 52), notice to Electoral Commission (Sections 36 and 42), and power to alter the years of ordinary elections of parish councillors (Section 53).

- 3.20 The General Purposes Committee also recommend a minor amendment to the footnote to the terms of reference of the Scrutiny Board (City Development) to reflect that from the date of the annual meeting, there are two additional chief officers with concurrent executive delegations (the Chief Planning Officer and the Chief Officer (Libraries, Arts and Heritage) to those of the Director of City Development.

#### Council Procedure Rules

- 3.21 At the Council meeting held on 19<sup>th</sup> November 2008 a reference back was moved under the Environmental Services portfolio. In accordance with the provisions of Council Procedure Rule 14.8(b), the portfolio holder was allowed five minutes in which to sum up. In the absence of any comments on the minutes within the same portfolio, the portfolio holder was obliged to forego the ten minutes of summing up time allowed under Council Procedure Rule 14.5(a).
- 3.22 The five minutes restriction on the summing up in respect of a reference back arose from the assumption that the Member summing up would also have a ten minute right in relation to comments on their portfolio/committee and that the resultant combined fifteen minutes would be adequate for all purposes.
- 3.23 The General Purposes Committee considered that the portfolio holder/Chair should be allowed the ten minutes of summing up at the conclusion of a debate on their section of the minutes irrespective of the nature of that debate. The Committee therefore recommend that the Council Procedure Rule 14.8(b) be amended accordingly, as set out in appendix 6 to this report.

#### Scrutiny arrangements

- 3.24 The General Purposes Committee also recommend changes to the Council's scrutiny arrangements, principally in relation to legislative changes implementing:
- Councillor calls for action;
  - Scrutiny of crime and disorder functions (including local crime and disorder matters); and
  - Local Involvement Networks (LINKs).
- 3.25 In particular, the General Purposes Committee recommend Council to approve changes to the terms of reference for the Scrutiny Board (Environment and Neighbourhoods) so that it can act as the authority's crime and disorder committee. The recommended amendments are set out in Appendix 7 to this report.
- 3.26 The General Purposes Committee also recommend a revised Article 6 of the Constitution (as set out in Appendix 8 to this report), and Scrutiny Board Procedure Rules (as set out in Appendix 9) to implement all of the new provisions, as set out above, and for clarification.

### **4.0 Implications For Council Policy and Governance**

- 4.1 It is in accordance with good governance principles to review and update the constitution on a regular basis, and in accordance with legislative changes.

### **5.0 Legal And Resource Implications**

- 5.1 The amendments proposed will update the Constitution in accordance with legislative changes. There are no resource implications arising from the proposed amendments.

## **6.0 Conclusions**

- 6.1 The Constitution should be amended to keep it up to date with the legislation, and clarify responsibilities.

## **7.0 Recommendations**

- 7.1 General Purposes Committee recommend Council to approve:
- 7.1.1 the amended Article 9 of the Constitution, attached as Appendix 1 to this report;
  - 7.1.2 the amended Article 14 of the Constitution, attached as Appendix 2 of this report;
  - 7.1.3 amendments to the Standards Committee's terms of reference as set out in Appendix 3 to this report;
  - 7.1.4 amendments to Section 2A, Part 3 of the Constitution (functions of full Council), as set out in paragraph 3.13 of this report;
  - 7.1.5 an amendment to the terms of reference of Plans Panel, relating to common land functions, as set out in Appendix 4 of this report;
  - 7.1.6 amendments to the delegation to the Chief Planning Officer, as set out in appendix 5 to this report;
  - 7.1.7 an amendment to the footnote to the terms of reference of the Scrutiny Board (City Development) to reflect the concurrent delegations to the Chief Planning Officer and the Chief Officer (Libraries, Arts and Heritage) as referred to in paragraph 3.20 of this report;
  - 7.1.8 the amendment to Council Procedure Rule 14.8(b) as detailed in appendix 6 to this report;
  - 7.1.9 the amendments to the terms of reference for the Scrutiny Board (Environment and Neighbourhoods) set out in appendix 7 to this report;
  - 7.1.10 the amended Article 6, attached as appendix 8 to this report; and
  - 7.1.11 the amended Scrutiny Board Procedure Rules, attached as appendix 9 to this report.

### Background Documents

Leeds City Council Constitution

Police and Justice Act 2006

Local Government and Public Involvement in Health Act 2007

Crime and Disorder (Overview and Scrutiny) Regulations 2009

Local Authorities (Functions and Responsibilities) (England) Regulations 2000

Report to the General Purposes Committee 13 May 2009

## ARTICLE 9 – GOVERNANCE COMMITTEES

### 9.1 GENERAL PURPOSES COMMITTEE

9.1.1 In accordance with Article 15 the General Purposes Committee has authority to consider proposals for amending the constitution and making recommendations to full Council.

### 9.2 CORPORATE GOVERNANCE AND AUDIT COMMITTEE

9.2.1 Members of the Executive; and Political Group Leaders and Whips from the administration and the major opposition Group are precluded from being members of the Corporate Governance and Audit Committee.

9.2.2 The Chair of Standards Committee will be a non voting co-opted member of the Committee

### 9.3 STANDARDS COMMITTEE

9.3.1 The Council meeting will establish a Standards Committee.

9.3.2 The Terms of Reference for the Standards Committee, the Assessment Sub-Committee and the Review Sub-Committee are set out in Part 3, Section 2B of the Constitution.

#### 9.3.3 Membership

The Standards Committee will be composed of:

- Seven Elected members of Leeds City Council (Elected Members)
- Four Independent Members (Independent Members); and
- Three Parish Members (a Parish Member).<sup>2</sup>

#### 9.3.4 Elected Members

9.3.4.1 Shall be Councillors other than the leader, three of whom shall be representatives of the three largest political groups; and of the remaining four, at least one being a representative from a political group not being one of the three largest.

9.3.4.2 A maximum of one Elected Member may also be an Executive Member<sup>3</sup>.

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<sup>2</sup> Following appointment to the Standards Committee a Parish member will remain a Member of the Standards Committee until their term of office on the Committee expires, unless at any such time they cease to be Members of their Parish Council (i.e. they resign, are disqualified or are not re-elected or re-appointed to the Parish Council). A temporary cessation in their membership of their Parish Council during election periods is not to be taken as terminating their appointment to the Standards Committee.

<sup>3</sup> Regulation 4(b) Standards Committee (England) Regulations 2008

## *Article 9 - Governance Committees*

9.3.4.3 An Elected Member may also be a Member of a Parish or Town Council in the Leeds City Council Area.

### **9.3.5 Independent Members**

9.3.5.1 Shall be people who are not Members or officers of Leeds City Council or any other Relevant Authority<sup>4</sup> (although a person who is an independent member of the standards committee of another relevant authority may be appointed as an independent member of the standards committee), and

9.3.5.2 They shall not have been a Member or officer of Leeds City Council within the 5 years preceding the date of their appointment, and

9.3.5.3 They shall not be a relative or close friend of a Member or officer of Leeds City Council.<sup>5</sup>

9.3.5.4 Appointment of a new Independent Member to the Standards Committee will be made by Full Council upon the recommendation of a panel. The Panel will include the Assistant Chief Executive (Corporate Governance) and the Chair of the Standards Committee.

9.3.5.5 An Independent Member shall not be appointed to serve more than two terms.

9.3.5.6 Independent Members will be entitled to vote at meetings.

9.3.5.7 The Chair of the Committee will be appointed from the Independent Members appointed to it.<sup>6</sup>

### **9.3.6 Parish Members**

9.3.6.1 Shall be Members of a Parish or Town Council wholly or mainly in the Leeds City Council's area, and

9.3.6.2 Shall not also be Members of Leeds City Council<sup>7</sup>

9.3.6.3 A Parish Member must be present when matters relating to Parish Councils or their Members are being considered. The Parish Member is entitled to vote.

### **9.3.7 Sub Committees of the Standards Committee**

#### **9.3.5.2 Assessment Sub-Committee**

The Standards Committee shall appoint an Assessment Sub-Committee to exercise the function of assessing allegations of misconduct made against Members and

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<sup>4</sup> Section 49(6) Local Government Act 2000

<sup>5</sup> Regulation 5 (2 & 3) Standards Committee (England) Regulations 2008

<sup>6</sup> Section 53(4) Local Government Act 2000

<sup>7</sup> Regulation 4(2) Standards Committee (England) Regulations 2008



determining whether the allegations should be referred to the Monitoring Officer<sup>8</sup> for investigation or other action.<sup>9</sup>

The sub-committee membership will be composed of one Independent Member, two Elected Members and one Parish Member<sup>10</sup>.

The Chair of the Assessment Sub-Committee will be appointed from the Independent Members appointed to the Standards Committee.<sup>11</sup>

### 9.3.7.1 Review Sub-Committee

The Standards Committee shall appoint a Review Sub-Committee to exercise the function of reviewing a decision made by the Assessment Sub-Committee that no action should be taken in relation to an allegation.<sup>12</sup>

The Sub-Committee membership will be composed of one Independent Member, two Elected Members and one Parish Member<sup>13</sup>. Members of the Assessment Sub Committee which made the initial assessment of an allegation will not be eligible for membership of the Review Sub Committee in relation to the same allegation.

The Chair of the Review Sub-Committee will be appointed from the Independent Members appointed to the Standards Committee<sup>16</sup>

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<sup>8</sup> Or to the Standards Board for England Section 57A(2)(b) Local Government Act 2000

<sup>9</sup> Regulation 6, Standards Committee (England) Regulations 2008 No.1085/2008

<sup>10</sup> The Parish Member only need attend if the matters being discussed by the Sub-Committee involve a Town/Parish Council Member.

<sup>11</sup> Regulation 6, Standards Committee (England) Regulations 2008 No.1085/2008

<sup>12</sup> <sup>12</sup> Regulation 6, Standards Committee (England) Regulations 2008 No.1085/2008, and Section 57B Local Government Act 2000

<sup>13</sup> The Parish Member only need attend if the matters being discussed by the Sub-Committee involve a Town/Parish Council Member.

<sup>16</sup> Regulation 6, Standards Committee (England) Regulations 2008 No.1085/2008

**ARTICLE 14 – FINANCE, CONTRACT AND LEGAL MATTERS****14.1 FINANCIAL MANAGEMENT**

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this Constitution.

**14.2 CONTRACTS**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

**14.3 LEGAL PROCEEDINGS**

The Assistant Chief Executive (Corporate Governance) is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or any part of it or in any case where the Assistant Chief Executive (Corporate Governance) considers that such action is necessary to protect the Council's interests.

**14.4 COMMON SEAL OF THE COUNCIL****• Custody**

The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Chief Executive (Corporate Governance).

**• Authority to Use Seal**

A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Assistant Chief Executive (Corporate Governance) should be sealed. The affixing of the Common Seal will be attested by the Assistant Chief Executive (Corporate Governance) or some other person authorised by him/her.

**• Attestation**

The Common Seal shall be attested by the signature (including the facsimile of the signature by whatever process reproduced) of the Assistant Chief Executive (Corporate Governance) and entry shall be made by the Assistant Chief Executive (Corporate Governance) or some other person authorised by him/her in a book to be provided for that purpose of every deed and other document to which the Common Seal has been affixed.

## **14.5 SIGNATURE OF DOCUMENTS**

- **Contracts in writing**

Any contract with a value exceeding £100,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the Council attested by at least one officer.

- **Signature of Contracts**

The Chief Executive and the Assistant Chief Executive (Corporate Governance) (or other person authorised by each of them) shall each be authorised to sign as Agent for the Council all contracts agreed to be entered into by the Council, or any part of it.

All Directors (or other person authorised by a Director) shall be authorised in relation to matters within their remit, to sign as Agent for the Council all contracts of a value below £100,000 agreed to be entered into by the Council or any part of it.

- **Authentication of Documents for Legal Proceedings**

Where any document will be a necessary step in legal proceedings on behalf of the Council, it shall be signed by the Chief Executive or the Assistant Chief Executive (Corporate Governance) or other person authorised by him/her unless any enactment otherwise requires or authorises, or the Council give the necessary authority to some other person for the purpose of such proceedings

## **The Standards Committee**

The Standards Committee is authorised to discharge the following functions<sup>1</sup>:

1. to advise the authority on the adoption or revision of a Code of Conduct for Members<sup>2</sup> and to promote, monitor and review the operation of the Members' Code of Conduct.
2. to consider and determine one or more local codes of conduct for Members or protocols for Member/officer relations<sup>3</sup> and to promote, monitor, review and amend such codes of conduct or protocols;
3. to appoint sub-committees<sup>4</sup> to consider and initially assess<sup>5</sup> or review decisions not to act<sup>6</sup> in respect of any written allegations<sup>7</sup> made against Members;
4. to consider and determine any complaints<sup>10</sup> made against Members and to determine any sanction to be imposed on a finding of misconduct;
5. to consider and determine applications for dispensations<sup>11</sup>;
6. to make recommendations to the Corporate Governance and Audit Committee where representations (on behalf of the Council) are required to be made to external agencies,<sup>12</sup> about any matter relating to general principles of conduct, model codes of conduct and the codes of conduct or protocols approved from time to time by or on behalf of the Council and to make representations on its own behalf;

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<sup>1</sup> 'Functions' for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions. The functions derive from Part 3 of the Local Government Act 2000 and are discharged both in relation to Leeds City Council and its Members, and parish councils wholly or mainly in its area and the Members of those parish councils.

<sup>2</sup> Section 54(2)(a) Local Government Act 2000

<sup>3</sup> To be known as 'Local Codes'

<sup>4</sup> Regulation 6, Standards Committee (England) Regulations 2008 No. 1085/2008

<sup>5</sup> Section 57A Local Government Act 2000

<sup>6</sup> Section 57B Local Government Act 2000

<sup>7</sup> written allegations made by any person under section 57A Local Government Act 2000

<sup>10</sup> "complaints" for these purposes to mean allegations of breach of

- the Members Code of Conduct adopted by Leeds City Council; or
- the National Code of Local Government Conduct where the alleged breach is committed before 5 April 2002; or
- any of the Authority's Local Protocols/Codes which refer to the conduct of Members, other than the Code of Conduct;

which have been the subject of an investigation resulting in a finding of failure to comply (or in relation to which the Standards Committee have resolved not to accept a finding of no failure to comply) and are therefore referred to the Committee by the Monitoring Officer

<sup>11</sup> In accordance with the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2002

<sup>12</sup> Such external agencies may include, but are not restricted to, the District or Approved Auditor, the Commission for Local Government, the Standards Board for England, an Ethical Standards Officer, the Adjudication Panel for England or an adjudication case panel

## *Council Committees' Terms of Reference*

7. to provide advice and guidance to Members and officers and to make arrangements for training in matters relating to codes of conduct and protocols;
8. to consider and advise the Council with respect to the adoption or amendment of a Code of Conduct for Officers and to promote, monitor and review the Code of Conduct.<sup>13</sup>

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<sup>13</sup> It is not the function of the Committee to determine or become involved in individual officer conduct or disciplinary cases but rather to provide an overview of the application of the provisions of the Code across the Council.

## Plans Panels

The Plans Panels are authorised<sup>1</sup> to discharge<sup>2</sup> the following functions<sup>3</sup>

1. all Council (non-executive)<sup>4</sup> functions relating to:
  - (a) town and country planning and development control<sup>5</sup>;
  - (b) safety certificates for sports grounds and fire certificates<sup>6</sup>;
  - (c) common land or town and village greens<sup>7</sup>;
  - (d) street works and highways<sup>8</sup>;
  - (e) public rights of way<sup>9</sup>;
  - (f) the protection of hedgerows and the preservation of trees<sup>10</sup>; and
  - (g) high hedges<sup>11</sup>
  
2. in respect of any approval, consent, licence, permission, or registration which they may grant:
  - (a) to impose conditions limitations or restrictions;
  - (b) to determine any terms;
  - (c) to determine whether and how to enforce any failure to comply;
  - (d) to amend, modify, vary or revoke; and/or
  - (e) to determine whether a charge should be made or the amount of such charge.
  
3. to discharge any licensing function<sup>12</sup>, where full Council has referred a matter to the panel.

<sup>1</sup> Each Plans Panel is authorised to discharge functions in respect of its own geographical area as indicated on the plan attached (A larger scale more detailed copy of the plan is maintained by the Chief Planning Officer)

<sup>2</sup> With the exception of any licensing function under the Licensing Act 2003, the Panels and the Council may arrange for any of these functions to be discharged by an officer – the functions for the time being so delegated are detailed in Section 2 of Part 3 of this Constitution.

<sup>3</sup> "Functions" for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions

<sup>4</sup> Local Authorities (Functions and Responsibilities)(England)Regulations 2000 as amended

<sup>5</sup> Items 5-31, Para. A of Schedule 1 of the 2000 Regulations

<sup>6</sup> Items 26 and 27 of Para B of Schedule 1 of the 2000 Regulations

<sup>7</sup> Items 37, 38 and 72 of Para B and Items 51-53 of Para I of Schedule 1 of the 2000 Regulations

<sup>8</sup> Items 41,46A to 55 of Para B of Schedule 1 of the 2000 Regulations

<sup>9</sup> Part I of Para I of Schedule 1 of the 2000 Regulations

<sup>10</sup> Items 46 and 47 of Para I of Schedule 1 of the 2000 Regulations

<sup>11</sup> Item 47A of Para. I of Schedule 1 of the 2000 Regulations

<sup>12</sup> (section 7 (5) (a) of the Licensing Act 2003) The matter must relate to:

- a licensing function of the licensing authority and
- a function which is not a licensing function

Unless the matter is urgent, the Panel must consider a report of the Licensing Committee in respect of the matter before discharging the function concerned (Section 7 (6))

*Officer Delegation Scheme (Council (non-executive) functions)*

**Chief Planning Officer**

Subject to the exceptions listed below, the Chief Planning Officer<sup>1</sup> is authorised to discharge the following Council (non-executive) functions:

**Town and Country Planning and Development Control**

(a)	To determine application for planning permission	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990
(b)	To determine applications to develop land without compliance with conditions previously attached	Section 73 of the Town and Country Planning Act 1990
(c)	To grant planning permission for development already carried out	Section 73A of the Town and Country Planning Act 1990
(d)	To decline to determine application for planning permission	Section 70A of the Town and Country Planning Act 1990
(e)	Duties relating to the making of determinations of planning applications	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (SI 1995/419) and directions made thereunder
(f)	To determine application for planning permission made by a local authority, above or jointly with another person	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (SI 1992/1492)
(g)	To make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418)
(h)	To enter into agreement regulating development or use of land	Section 106 of the Town and Country Planning Act 1990
(i)	To issue a certificate of existing or proposed lawful use or development	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990
(j)	To serve a completion notice	Section 94(2) of the Town and Country Planning Act 1990
(k)	To grant consent for the display of advertisements	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992
(l)	To authorise entry onto land	Section 196A of the Town and Country Planning Act 1990
(m)	To require the discontinuance of a use of land	Section 102 of the Town and Country Planning Act 1990
(n)	To issue a temporary stop notice	Section 171E of the Town and Country Planning Act 1990

<sup>1</sup> The fact that a function has been delegated to the Chief Officer does not require the Chief Officer to give the matter his/her personal attention and the Chief Officer may arrange for such delegation to be exercised by an officer of suitable experience and seniority. However the Chief Officer remains responsible for any decision taken pursuant to such arrangements.

*Officer Delegation Scheme (Council (non-executive) functions)*

(o)	To serve a planning contravention notice, breach of condition notice or stop notice	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990
(p)	To issue an enforcement notice	Section 172 of the Town and Country Planning Act 1990
(q)	To apply for an injunction restraining a breach of planning control	Section 187B of the Town and Country Planning Act 1990
(r)	To determine applications for hazardous substances consent, and related powers	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990
(s)	To determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c 25) and paragraph 6(5) of Schedule 14 to that Act
(t)	To require proper maintenance of land	Section 215(1) of the Town and Country Planning Act 1990
(u)	To determine application for listed building consent, and related powers	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990
(v)	To determine applications for conservation area consent	Section 16(1) of the Planning (Listed Buildings and Conservation Areas Act 1990 , as applied by section 74(3) of that Act
(w)	Duties relating to applications for listed building consent and conservation area consent	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 26 of Department of the Environment , Transport and the Regions Circular 01/01
(x)	To serve a building preservation notice, and related powers	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings and Conservation areas) Act 1990
(y)	To issue enforcement notice in relation to demolition of listed building in conservation area	Section 38 of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990
(z)	To acquire a listed building in need of repair and to serve a repairs notice	Sections 47 and 48 of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990
(aa)	To apply for an injunction in relation to a listed building	Section 44A of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990
(bb)	To execute urgent works	Section 54 of Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990
(cc)	To issue, amend or replace safety certificates (whether general or special) for sports grounds	The Safety of Sports Grounds Act 1975



### Officer Delegation Scheme (Council (non-executive) functions)

(dd)	To issue, cancel, amend or replace safety certificates for regulated stands at sports grounds	Part II of the Fire Safety and Safety of Places of Sport Act 1987
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### Commons Registration

(a)	To register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to (i) an exchange of lands affected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c 67) or (ii) an order section 147 of the Inclosure Act 1845 (c8 & 9 Vict c 118)	Regulation 6 of the commons Registration (New Land) Regulations 1969 (SI 1969/1843)
(b)	To register variation of rights of common	Regulation 29 of the Commons Registration (General) Regulations 1966 (SI 1966/1471)
(c)	Functions relating to the registration of common land and town or village greens	<a href="#">Part 1 of the Commons Act 2006 (c.26)</a> and the <a href="#">Commons Registration (England) Regulations 2008</a> (S.I. 2008/1961)
(d)	Power to apply for an enforcement order against unlawful works on common land	<a href="#">Section 41</a> of the <a href="#">Commons Act 2006</a>
(e)	Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	<a href="#">Section 45(2)(a)</a> of the <a href="#">Commons Act 2006</a> .
(f)	Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens	<a href="#">Section 45(2)(b)</a> of the <a href="#">Commons Act 2006</a>

### Hedgerows and Trees

(a)	The protection of important hedgerows	The Hedgerows Regulations 1997
(b)	The preservation of trees	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999

### High Hedges

(a)	Complaints about high hedges	Part 8 of the Anti-Social Behaviour Act 2003
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### Exceptions:

The Chief Planning Officer is not authorised<sup>2</sup> to discharge the following functions:

<sup>2</sup> Under this delegation scheme (council functions). A Plans Panel may however arrange for the discharge of **any** of its functions by the Chief Planning Officer - (Section 101(2) Local Government Act 1972).

**Town and Country Planning and Development Control**

(a)	the determination of applications following a written request <sup>4</sup> to the Chief Planning Officer by <ul style="list-style-type: none"> <li>• a Ward Member concerning an application within his/her ward</li> <li>• a Chair of a Area Committee, concerning an application within his/her Area Committee area</li> </ul> that an application be referred to the relevant Plans Panel;
(b)	the determination of applications for development that would constitute a significant departure <sup>5</sup> from the Development Plan, including a significant departure from any Local Development Framework currently in force;
(c)	the determination of applications for development that would be materially different from any supplementary planning guidance or planning brief approved by or on behalf of the Council;
(d)	the determination of applications for major development <sup>6</sup> which would have significant impacts on local communities;
(e)	the approval of applications, where approval would reverse a previous decision taken by Plans Panel;
(f)	the approval of applications, where approval would conflict with an objection raised by a statutory technical consultee;
(g)	where the Chief Planning Officer considers that the application should be referred to the relevant Plans Panel for determination because of the significance, impact or sensitivity of the proposal;
(h)	the determination of applications submitted in a personal capacity by or on behalf of Members, the Chief Executive, Deputy Chief Executive, an Assistant Chief Executive, Director, Chief Officer or any officer who carries out development control functions.

**Commons Registration**

(a)	Where objections have been received.
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<sup>4</sup> This request must be made to the Chief Planning Officer within 21 days of the date of notification and must include reason(s) for the requested referral based on material planning consideration(s) and must give rise to concerns affecting more than neighbouring properties (these being those which are notified by means of a letter as part of the Council's policy regarding publicity on householder planning applications).

<sup>5</sup> "Significant" in the context of the Town and Country Planning (Development Plans and Consultations) (Departures) Directions 1999.

<sup>6</sup> "Major Development" for these purposes means:

- Residential development involving the erection of ten or more dwellings or, if the number of dwellings are not known, sites of 0.5 hectares or more.
- Other development proposals (apart from minerals and waste development) where the application would result in the erection of gross floorspace of not less than 1,000 msq, or sites of 1 hectare or more.
- Minerals and waste development where the application may require an Environmental Impact Assessment

**COUNCIL PROCEDURE RULES****14.0 RULES OF DEBATE****14.1 No Speeches Until Motion Seconded**

A motion or amendment shall not be discussed unless it has been proposed and seconded.

**14.2 Right to require motion in writing**

Unless notice has already been given in accordance with Rules 12.1 or 13 it shall be put into writing and handed to the Lord Mayor before it is further discussed or put to the meeting

**14.3 Secunder's Speech**

A Member when seconding a motion or amendment may, if the intention to do so is declared, reserve that speech until a later period of the debate.

**14.4 Content of Speeches**

Members shall direct their speech to the question under discussion, a personal explanation or a point of order.

**14.5 Period Permitted for Speeches**

- (a) Except by the leave of Council (and as follows), no speaker may speak for more than five minutes. The speech of the mover of a motion or an amendment, the winding-up speech of the mover of a motion, or in relation to business moved under Rule 2.2 (o), the speech of an Executive Member or Chair when summing up on minutes within their portfolio or in respect of their committee, board or panel, shall not exceed ten minutes. (This rule shall not apply to the Lord Mayor or to matters which are not the ordinary business of the Council). In instances where there are two Executive portfolio holders within a single portfolio, the Support Executive Member shall be allowed to sum up in respect of his/her part of the portfolio for a period not exceeding ten minutes, immediately prior to the Lead Executive Member exercising his/her right to sum up.
- (b) The Member moving the business referred to in Rule 2.2 (o) (receipt of minutes) shall, in addition to the ten minutes allowed for winding up purposes, be allowed to speak for a period not exceeding five minutes to respond to comments made on the Leader's portfolio immediately after such comments have been made.
- (c) The summing up rights of an Executive Member or Chair as provided for in 14.5(a) above shall, in the absence of an Executive Member or Chair, be exercisable by such member as may be nominated by the absent member or, failing that, by the relevant Party Whip.

## *Council Procedure Rules*

### 14.6 When a Member May Speak Again

A Member who has spoken on any motion shall not speak again whilst it is the subject of debate except:

- (i) if the motion has been amended since the Member last spoke, to move a further amendment;
- (ii) in exercise of a right of reply given by Rule 14.12;
- (iii) to raise a point of order in accordance with Rule 14.16; or
- (iv) to make a personal explanation, as defined in Rule 14.17.

For the purpose of this Rule only, comments on the minutes in each portfolio section of the Executive Board and each committee, board or panel moved under Rule 2.2(o) shall be regarded as being comments upon separate motions and such comments shall be relevant to such section of the minutes as are under debate.

### 14.7 Amendments to Motions

(a) An amendment must be relevant to the motion and will be to:-

- (i) refer a subject of debate to an appropriate body or individual for consideration or reconsideration;
- (ii) leave out words;
- (iii) leave out words and insert or add others; or
- (iv) insert or add words.

provided that such omission, insertion or addition of words shall not have the effect solely of negating the motion

- (b) Subject to Rule 14.7(c), only one amendment may be moved and discussed at any time. No further amendment shall be moved until the amendment under discussion has been disposed of.
- (c) Amendments to White Paper motions shall be moved and discussed in the order in which notice thereof has been given and the voting thereon shall be taken after the winding-up speech of the mover of the original motion.

### 14.8 Amendments (Reference Back) to a Motion to receive the Minutes

- (a) Only one amendment may be moved to any given minute under a motion to receive the minutes. This shall be one to request the decision-maker to reconsider the decision.
- (b) The Executive Member or Chair responsible for the section of the minutes to which the amendment relates shall have five minutes to comment as the last

speaker in the debate on the amendment in addition to his/her rights under Rule 14.5(a). (In the event that the amendment is the sole matter discussed under the given section of the minutes then the ten minutes allowed under Rule 14.5(a) shall be applied.)

- (c) The vote will be taken on the amendment before proceeding to comments on that section of the minutes.
- (d) If a Member wishes to move a second or further amendment and has not given due notice thereof where required in accordance with Rule 13.1 the Member shall give notice of the proposed amendment during the discussion on the first or other earlier amendment and, subject to the consent of the Lord Mayor (which question shall not be open to discussion), may move this amendment at such time as the Lord Mayor shall decide. Subject to this, all amendments shall be considered in the order in which notice thereof has been given.

## Appendix 7

### **Scrutiny Board (Environment and Neighbourhoods)**

1. In relation to **Environment and Neighbourhoods**<sup>1</sup>, to exercise the functions of a Scrutiny Board including the following:
  - (a) to review or scrutinise the exercise of any council or executive function, or any other related matter<sup>2</sup>;
  - (b) to make reports or recommendations to Council or the Executive in connection with the exercise of any functions of the Council or the Executive including proposals for changes to policies and practices;
  - (c) to receive and review external audit and inspection reports;
  - (d) to act as the appropriate Scrutiny Board<sup>3</sup> in relation to the Executive's initial proposals for a plan or strategy within the Budget and Policy Framework; and
  - (e) to review corporate performance indicators and to make such reports and recommendations as it considers appropriate;
  - (f) to review outcomes, targets and priorities within the Leeds Strategic Plan and to make such reports and recommendations as it considers appropriate; and
  - (g) to review or scrutinise executive decisions made but not implemented.<sup>4</sup>
2. To exercise the functions of a **crime and disorder committee**<sup>5</sup>, including the following:
  - (a) to review or scrutinise the exercise of crime and disorder functions<sup>6</sup> by responsible authorities<sup>7</sup>;
  - (b) to review or scrutinise any local crime and disorder matter in relation to a Member<sup>8</sup>;

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<sup>1</sup>These are the functions delegated to the Director of Environment and Neighbourhoods, the Chief Officer (Environmental Services), the Chief Officer (Housing Services) and the Chief Officer (Regeneration) under the officer delegation schemes (council functions) and the officer delegation scheme (executive functions), and the functions which the authority has agreed that another person should exercise as agent of the authority (Section 27 of the Housing Act 1985).

<sup>2</sup> including matters pertaining to outside bodies and partnerships to which appointments have been made by the authority

<sup>3</sup> under the Budget and Policy Framework Procedure Rules

<sup>4</sup> which have been called-in under Rule 22 of the Scrutiny Board Procedure Rules.

<sup>5</sup> In accordance with Section 19 Police and Justice Act 2006

<sup>6</sup> As defined by Section 6 Crime and Disorder Act 1998 (formulating and implementing crime and disorder strategies).

<sup>7</sup> These are the authorities responsible for crime and disorder strategies (Section 5 of the Crime and Disorder Act 1998)

<sup>8</sup> This is any matter concerning-

## *Council Committees' Terms of Reference*

- (c) to make a report or recommendations to the Council or the Executive about the exercise of crime and disorder functions<sup>9</sup> or any local crime and disorder matter in relation to a Member<sup>10</sup>.
- 3. To receive and monitor formal responses to any reports or recommendations made by the Board.

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- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) or
  - (b) the misuse of drugs alcohol and other substances in that area 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.

<sup>9</sup> See footnote 6 above

<sup>10</sup> See footnote 8 above

<b>ARTICLE 6 – SCRUTINY BOARDS</b>
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**6.1 ROLE**

The Council will appoint the Scrutiny Boards set out in the left hand column of the table below to exercise functions (conferred by section 21 of the Local Government Act 2000 and in accordance with the National Health Service Act 2006) in relation to the matters set out in the right hand column of the table.

<b>Scrutiny Board</b>	<b>Scope<sup>1</sup></b>
Scrutiny Board (Adult Social Care)	Matters relating to adult services.
Scrutiny Board (Central and Corporate Functions)	Matters relating to central and corporate functions;
Scrutiny Board (Children's Services)	Matters relating to children's services.
Scrutiny Board (City Development)	Matters relating to city development
Scrutiny Board (Environment and Neighbourhoods)	Matters relating to environment and neighbourhoods  The authority's crime and disorder committee <sup>2</sup>
Scrutiny Board (Health)	Matters relating to the planning, provision and operation of health services
Scrutiny Board (City and Regional Partnerships)	Matters relating to the authority's key and strategic partnerships.

**6.2 GENERAL FUNCTIONS**

In exercising, or deciding to exercise any of their functions, Scrutiny Boards must have regard to any guidance issued by the Secretary of State<sup>3</sup>.

Within their terms of reference, all Scrutiny Boards will

- review or scrutinise the exercise of any function of the Council or Executive;
- make reports or recommendations to Council or the Executive in connection with the exercise of any functions of the Council or the Executive; and

<sup>1</sup> See further Terms of Reference set out in Part 3 of the Constitution

<sup>2</sup> Section 19 Police and Justice Act 2006

<sup>3</sup> Section 21 Local Government Act 2000



## Article 6 - Scrutiny Boards

- make reports or recommendations to the Council or the Executive on any matter affecting the area or its inhabitants;
- exercise the right to Call-In decisions made but not yet implemented by the Executive, for reconsideration<sup>4</sup>

The Scrutiny Board (Health) will also:

- review or scrutinise any matter relating to the planning, provision and operation of health services in the authority's area;
- make reports and recommendations to local NHS bodies<sup>5</sup> and to the Council or the Executive on any matter reviewed or scrutinised by it; and
- be consulted by local NHS body<sup>6</sup>.

The Scrutiny Board (Environment and Neighbourhoods) is the Council's crime and disorder committee. In this capacity it will:

- review or scrutinise the exercise of crime and disorder functions<sup>7</sup> by responsible authorities<sup>8</sup>;
- review or scrutinise any local crime and disorder matter in relation to a Member<sup>9</sup>; and
- make reports or recommendations to the Council or the Executive about the exercise of crime and disorder functions<sup>10</sup> or any local crime and disorder matter in relation to a Member<sup>11</sup>.

### 6.3 SPECIFIC ROLES

#### Policy development and review

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<sup>4</sup> The Scrutiny Board (Health) cannot exercise the right to Call-in decisions, nor can the Scrutiny Board (Environment and Neighbourhoods) in its capacity as crime and disorder committee.

<sup>5</sup> NHS bodies in Leeds include the Primary Care Trust, the Leeds Teaching Hospitals NHS Trust, NHS Yorkshire and the Humber and the Leeds Mental Health Teaching NHS Trust

<sup>6</sup> in accordance with the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 as amended

<sup>7</sup> As defined by Section 6 Crime and Disorder Act 1998 (formulating and implementing crime and disorder strategies).

<sup>8</sup> These are the authorities responsible for crime and disorder strategies (Section 5 of the Crime and Disorder Act 1998)

<sup>9</sup> This is any matter concerning-

(a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) or

(b) the misuse of drugs alcohol and other substances in that area

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.

<sup>10</sup> See footnote 8

<sup>11</sup> See footnote 10

All Scrutiny Boards may:

- assist the Council and the Executive in the development of the Budget and Policy Framework by in-depth analysis of policy issues;
- conduct research, community and other consultation in the analysis of policy issues and possible options;
- consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- question Members of the Executive and Directors about their views on issues and proposals affecting the area; and
- liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

### **Scrutiny**

All Scrutiny Boards may:

- review and scrutinise the decisions made by and performance of the Executive and/or committees and Directors both in relation to individual decisions and over time;
- review and scrutinise the performance of the Council and the Executive in relation to policy objectives, performance targets and/or particular service areas;
- question Members of the Executive, other Members<sup>12</sup> and/or committees and Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- make recommendations to the Executive and/or appropriate committees and/or Council arising from the outcome of the scrutiny process;
- review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Board and local people about their activities and performance; and
- question and gather evidence.

The Scrutiny Board (Health) may also review or scrutinise:

- arrangements made by local NHS bodies to secure hospital and community health services to the inhabitants of the authority's area;

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<sup>12</sup> in relation to a matter where the Member has exercised functions under Section 236 Local Government and Public Involvement in Health Act 2007(exercise of functions by local Members)

## Article 6 - Scrutiny Boards

- the provision of such services to those inhabitants;
- the provision of family health services, personal medical services, personal dental services, pharmacy and NHS ophthalmic services;
- the public health, health protection and specialist health promotion arrangements in the area;
- the planning of health services by NHS bodies, including plans made in co-operation with local authorities setting out a strategy for improving both the health of the local population and the provision of health care to that population; and
- the arrangements made by NHS bodies for consulting and involving patients and the public;

and make recommendations to the local NHS bodies arising from the outcome of the scrutiny process.

### **Annual Report**

The Proper Officer<sup>13</sup> will produce an annual report for Council about the work of the Scrutiny function.

#### **6.4 FINANCE**

The Proper Officer<sup>14</sup> shall exercise overall responsibility for the finances made available to the Scrutiny Boards.

#### **6.5 OFFICERS**

The Proper Officer<sup>15</sup> shall exercise overall responsibility for the work programme of the officers employed to support the work of the Scrutiny Boards.

#### **6.6 PROCEEDINGS**

Scrutiny Boards will conduct their proceedings in accordance with the Scrutiny Board Procedure Rules set out in Part 4 of this Constitution.

#### **6.7 CO-OPTED MEMBERS**

##### Education Representatives

The following shall be appointed as voting representatives on each relevant Scrutiny Board dealing with educational matters<sup>16</sup>:

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<sup>13</sup> This is the Head of Scrutiny and Member Development. This will be done in consultation with the Scrutiny Board Chairs

<sup>14</sup> This is the Head of Scrutiny and Member Development.

<sup>15</sup> This is the Head of Scrutiny and Member Development

<sup>16</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

- (a) For a term of office which does not go beyond the next Annual Meeting of the Council:
- one Church of England diocese representative
  - one Roman Catholic diocese representative
- (b) For a four year term of office:
- three parent governor representatives

If the relevant Scrutiny Board deals with other matters, these representatives shall not vote on those other matters. They may stay in the meeting and speak.

### Crime and Disorder Committee

Subject to the following provisions, in its capacity as crime and disorder committee, the Scrutiny Board (Environment and Neighbourhoods) may co-opt additional members to serve on the Board<sup>17</sup>.

The Scrutiny Board can only in this capacity co-opt as a member a person who:

- (a) is an employee, officer or member of a responsible authority<sup>18</sup> or of a co-operating person or body<sup>19</sup>; and
- (b) is not an Executive Member.

Unless the Scrutiny Board decides otherwise, any such co-opted member shall not be entitled to vote.

The Scrutiny Board may limit a co-opted person's membership to the exercise of the Board's powers in relation to a particular matter or type of matter.

The Scrutiny Board may withdraw the co-opted person's membership at any time.

### Additional co-opted members

The following may be appointed to each Scrutiny Board<sup>20</sup>:

- (a) For a term of office which does not go beyond the next Annual Meeting of the Council:
- up to five **non-voting** co-opted members
- (b) For a term of office which relates to a particular Scrutiny Inquiry:
- up to two **non-voting** co-opted members

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<sup>17</sup> The Crime and Disorder (Overview and Scrutiny) Regulations 2009

<sup>18</sup> See footnote 9

<sup>19</sup> People or bodies with which the responsible authorities have a duty to co-operate (Section 19(2)(b) Police and Justice Act 2006)

<sup>20</sup> Co-option would normally only be appropriate where the co-opted member has some specialist skill or knowledge, which would be of assistance to the Scrutiny Board.

*Article 6 - Scrutiny Boards*

**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.

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

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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*

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.

Crime and disorder functions

- 3.4 The Scrutiny Board (Environment and Neighbourhoods) must meet as the Scrutiny Board considers appropriate to review or scrutinise the exercise of crime and disorder functions<sup>5</sup> by responsible authorities<sup>6</sup>, but no less than once in every twelve month period<sup>7</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 A substitute Member shall be entitled to attend a Call In meeting of a Scrutiny Board in place of a regular Member.<sup>8</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

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

<sup>7</sup> Crime and Disorder (Overview and Scrutiny) Regulations 2009 Regulation 4

<sup>8</sup> The defined pool of substitutes will be any member of a Scrutiny Board *excluding* those who have been signatures to the Call In.

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 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>9</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>10</sup> shall have a right of access to any documents which are relevant to the subject matter of the review.<sup>11</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.

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<sup>9</sup> The Scrutiny Board Procedure Rules Guidance Note provides guidance on the use of taped evidence to Scrutiny Boards.

<sup>10</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>11</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.



## 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;
- 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>12</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>13</sup>
- any decision taken prior to 24 May 1999<sup>14</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>15</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.

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<sup>12</sup> In respect of a licence or permission granted to an individual or in respect of an individual premises

<sup>13</sup> In respect of a licence or permission granted to an individual or in respect of an individual premises

<sup>14</sup> This was the date of the commencement of scrutiny arrangements in Leeds.

<sup>15</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.

- 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.

## 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 by that Scrutiny Board 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.

### Councillor Calls for Action

- 12.3 Any Member may refer any local government matter<sup>16</sup> to the relevant Scrutiny Board. In considering whether to refer a matter, the Member must have regard to any guidance issued by the Secretary of State.
- 12.4 All such requests for an Inquiry must be submitted in writing to the Proper Officer. The Proper Officer shall add this 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 The Member making the request 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.

### Local crime and disorder matters

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<sup>16</sup> This means a matter which relates to the discharge of any function of the authority, affects all or part of the electoral area for which the member is elected or any person who lives or works in that area, and which is not an excluded matter as defined by Section 21(11) Local Government Act 2000.

### *Scrutiny Board Procedure Rules*

- 12.8 Any Member may refer any local crime and disorder matter<sup>17</sup> to the Scrutiny Board (Environment and Neighbourhoods).
- 12.9 All such referrals must be submitted in writing to the Proper Officer. The Proper Officer shall add this to the agenda for the next Ordinary Meeting of the Scrutiny Board.
- 12.10 The Proper Officer shall acknowledge all such referrals.
- 12.11 At the next Ordinary Meeting, the Scrutiny Board shall consider any such referrals which the Proper Officer has added to the agenda.
- 12.12 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.

#### Health and social care matters

- 12.13 The Local Involvement Network may refer any matter relating to:
- the planning, provision and operation of health services; or
  - social care services<sup>18</sup>
- to the relevant Scrutiny Board.
- 12.14 The Proper Officer shall add any such referral to the agenda for the next Ordinary Meeting of the relevant Scrutiny Board.
- 12.15 The Proper Officer shall acknowledge receipt of all such referrals on behalf of the Scrutiny Board, within 20 working days of its receipt.
- 12.16 At the next Ordinary Meeting, the Scrutiny Board shall consider any such referral which the Proper Officer has added to the agenda.

#### Requests for Inquiries from other sources

- 12.17 The appropriate Scrutiny Board shall consider a request from any other source<sup>19</sup> to conduct an Inquiry<sup>20</sup>.

### **13.0 SELECTING SCRUTINY INQUIRIES**

- 13.1 Before deciding to undertake a scrutiny Inquiry<sup>22</sup>, a Scrutiny Board must:

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<sup>17</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)

<sup>18</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>19</sup> including Scrutiny Chairs.

<sup>20</sup>See further Scrutiny Board Procedure Rules guidance notes

<sup>22</sup> That is, a full scrutiny Inquiry with formal terms of reference

- consider how the proposed Inquiry meets criteria approved from time to time<sup>23</sup>; and
- consider the current workload of the Scrutiny Board and the available resources required to carry out the work.

#### Councillor Calls for Action

- 13.2 In deciding whether to carry out an Inquiry into a local government matter<sup>26</sup> referred under Rule 12 the Scrutiny Board may have regard to:
- any powers which the Member may exercise in relation to the matter<sup>27</sup>; and
  - any representations made by the Member.
- 13.3 If the Scrutiny Board decides not to carry out an Inquiry into the matter, the Proper Officer will inform the referring Member about the decision of the Scrutiny Board, and the reasons for its decision.

#### Health and social care matters

- 13.4 In deciding whether to exercise any functions in relation to any health or social care matter referred under Rule 12, the relevant Scrutiny Board must take into account any relevant information provided by the Local Involvement Network.
- 13.5 The Proper Officer will inform the Local Involvement Network about any action taken in relation to the matter.

#### General

- 13.6 Where any Scrutiny Board decides that there shall be an Inquiry, the Scrutiny Board shall
- consult with any relevant Director<sup>28</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>29</sup>; and
  - compile a preliminary list of documents which the Scrutiny Board require to be produced.

## **14.0 INQUIRY REPORTS AND RECOMMENDATIONS**

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<sup>23</sup> set out in the Scrutiny Board Procedure Rules Guidance Notes

<sup>26</sup> See footnote 16

<sup>27</sup> Under Section 236 of the 2007 Act

<sup>28</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, and in relation to Scrutiny Board Health, the Director of Public Health

<sup>29</sup> As an Inquiry proceeds it may become apparent that further witnesses are required

### *Scrutiny Board Procedure Rules*

- 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 set out its recommendations.
- 14.2 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>30</sup>. The detail of that advice shall be reported to the Scrutiny Board and considered before the report is finalised.
- 14.3 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>31</sup> ;
  - a list of all documentation that has been considered by the Board; and
  - any conclusions and recommendations on the matter reviewed or scrutinised.
- 14.4 The Scrutiny Board should note whether any documents contain exempt or confidential information on the list of documents.<sup>32</sup>
- 14.5 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 Minority Report will be an appendix to the Scrutiny Board's Report.<sup>33</sup>
- Councillor calls for action
- 14.6 Where a Scrutiny Board is considering making a report or recommendations in relation to a local government matter<sup>34</sup>, it may have regard to:
- any powers which the Member may exercise in relation to the matter<sup>35</sup>; and
  - any representations made by the Member.
- 14.7 If the Scrutiny Board decides not to make a report or recommendations into the matter, the Proper Officer will inform the referring Member about the decision of the Scrutiny Board, and the reasons for its decision.
- 14.8 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 under Rule 12<sup>36</sup>.

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<sup>30</sup> The Director shall consult with the appropriate Executive Member before providing any such advice.

<sup>31</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.

<sup>32</sup> In order to preclude inadvertent disclosure of any such document.

<sup>33</sup> The Scrutiny Board Procedure Rules Guidance Note provides guidance on Minority Reports.

<sup>34</sup> See footnote 16

<sup>35</sup> Under Section 236 of the 2007 Act

<sup>36</sup> Subject to the provisions of Section 21D LGA 2000 re confidential and exempt information

Health Service Scrutiny Functions

14.9 The Scrutiny Board (Health) may make reports and recommendations to local NHS bodies, or the Executive or Council. Such reports and recommendations shall include:

- an explanation of the matter reviewed or scrutinised;
- a summary of the evidence considered;
- a list of the participants involved; and
- any recommendations on the matter reviewed or scrutinised.

14.10 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;
- Local Involvement Network; and
- Other bodies or organisations that have expressed an interest in the Inquiry.

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

Crime and disorder functions

14.12 Where the Scrutiny Board (Environment and Neighbourhoods) makes a report or recommendations to the Council or Executive about the exercise of crime and disorder functions<sup>37</sup> by responsible authorities<sup>38</sup>, the Proper Officer will provide a copy to

- each of the responsible authorities<sup>39</sup>; and
- each of the co-operating persons and bodies<sup>40</sup>.

14.13 Whenever the Scrutiny Board provides a copy of a report or recommendation under Rule 14.12 the Proper Officer will also notify any authority, person or body to whom it provides the copy, of the steps they must take<sup>41</sup>.

Local crime and disorder matters

14.14 In deciding whether to make a report or recommendations in relation to a local crime and disorder matter<sup>42</sup> referred under Rule 12, the Scrutiny Board will have regard to:

- any powers which the Member may exercise in relation to the matter<sup>43</sup>; and
- representations made by the Member about why it should make a report or

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<sup>37</sup> See footnote 5.

<sup>38</sup> See footnote 6

<sup>39</sup> See footnote 6

<sup>40</sup> These are the persons or bodies with whom the responsible authorities have a duty to co-operate under Section 5(2) of the 1998 Act.

<sup>41</sup> In accordance with Section 19 (8B) 2006 Act.

<sup>42</sup> See footnote 17

<sup>43</sup> Under Section 236 of the 2007 Act

*Scrutiny Board Procedure Rules*  
recommendations.

14.15 The Proper 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.

14.16 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>44</sup>, the Proper 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.

14.17 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 Proper 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.

General

14.18 Any Scrutiny Board may publish their report or recommendations<sup>45</sup>. Subject to any provisions above, the Scrutiny 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>46</sup> The Scrutiny Board must require the Executive or the Council to:

- consider the report or recommendations;
- indicate what (if any) steps the Executive or the Council propose to take;
- publish their response<sup>47</sup>; and
- provide a copy to their response to the referring Member.<sup>48</sup>

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

General

15.1 Except as provided below, the Council, the Executive Board, Area Committees or officers shall consider any report and recommendations of a Scrutiny Board within two months of it being submitted by the Proper Officer. 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>49</sup> Where a Scrutiny Board has sent a report or recommendations to another body, except as provided below the body

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<sup>44</sup> See footnote 17

<sup>45</sup> Section 21B LGA 2000

<sup>46</sup> A Scrutiny Board may also send a copy of a report to any relevant partnership.

<sup>47</sup> If the Scrutiny Board published the report or recommendation

<sup>48</sup> Where the report or recommendations are about a local government matter

<sup>49</sup> (Section 21B LGA 2000)

concerned will be asked to send its response to the Board within two months<sup>50</sup> of receipt of the report or recommendations.

15.2 The body should set out in response to the recommendations made:<sup>51</sup>;

- the views of the body
- details of any action already taken in response to the recommendations;
- proposed action and timescales; or
- reasons for inaction.

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

Councillor calls for action

15.4 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 under Rule 12.

Crime and Disorder Functions

15.5 Where a relevant authority, or co-operating person or body has been notified by the Proper Officer under Rule 14.11, 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>52</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

15.6 Where the Council or the Executive other relevant authority, person or body has been notified by the Proper Officer under Rule 14.16, 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>53</sup>, indicating what (if any) action it proposes to take; and
- have regard to the report or recommendations in exercising its functions.

Health Scrutiny Functions

15.7 Where the Scrutiny Board requests a response from a local NHS body to whom it has made a report or recommendation, that body shall respond to the Scrutiny Board within 28 days.

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<sup>50</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>51</sup> Where a recommendation is to a Director, the Director shall consult with the appropriate Executive Member when formulating a proposed response. The Scrutiny Board report and proposed response will be considered by the Executive Board prior to a response being sent to the Scrutiny Board

<sup>52</sup> or if this is not reasonably possible, as soon as reasonably possible thereafter

<sup>53</sup> or if this is not reasonably possible, as soon as reasonably possible thereafter



## *Scrutiny Board Procedure Rules*

15.8 The response should also be copied to:

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

## **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>54</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>55</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;
  - Local Involvement Network; 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>56</sup> of receipt of the Statement.
- 16.7 The body should set out in response to the recommendations made:<sup>57</sup>
- the views of the body
  - details of any action already taken in response to the recommendations;
  - proposed action and timescales; or
  - reasons for inaction.

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<sup>54</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>55</sup> The Director shall consult with the appropriate Executive Member before providing any such advice.

<sup>56</sup> For NHS Bodies this time limit is 28 days (the Local Authority (Overview and Scrutiny Committee Health Scrutiny Functions) Regulations 2002).

<sup>57</sup> Where a recommendation is to a Director, the Director shall consult with the appropriate Executive Member when formulating a proposed response. The Scrutiny Board report and proposed response will be considered by the Executive Board prior to a response being sent to the Scrutiny Board

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;
- Local Involvement Network; 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>58</sup>.

17.3. When a Member with a prejudicial interest in a matter is giving evidence to the Scrutiny Board<sup>59</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/ INFORMATION**

18.1 A Scrutiny Board may require any Executive Member, or Member in relation to a matter where the Member has exercised functions<sup>60</sup>, the Chief Executive and/or any senior officer to attend before it to answer questions and 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>58</sup> see Member/Officer Protocol in Part 5 of the Constitution.

<sup>59</sup> Members' Code of Conduct paragraph 12(2)

<sup>60</sup> under Section 236 of the 2007 Act

## *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>61</sup>
- 18.11 Scrutiny Board (Health) in carrying out the review and scrutiny of a particular matter shall:
- invite interested parties to comment on the matter; and
  - take account of relevant information available to it and, in particular relevant information provided to it by the Local Involvement Network.
- 18.12 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>62</sup>

### Crime and Disorder Committee

- 18.13 Subject to giving reasonable notice of the intended date of attendance, the Scrutiny Board (Environment and Neighbourhoods)<sup>63</sup> may require an officer or employee of

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<sup>61</sup> In accordance with Regulations 6 and 10 Local Authorities (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 as amended. Officer includes a Chief Executive.

<sup>62</sup> Regulation 5 Local Authorities (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 as amended.

<sup>63</sup> In its capacity as crime and disorder committee

a responsible authority<sup>64</sup> or of a co-operating person or body<sup>65</sup> in order to answer questions.

18.14 The Scrutiny Board (Environment and Neighbourhoods) may in writing request responsible authorities<sup>66</sup> and co-operating persons and bodies<sup>67</sup> to provide it with information<sup>68</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>69</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>70</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 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

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<sup>64</sup> See footnote 6

<sup>65</sup> See footnote 40

<sup>66</sup> See footnote 6

<sup>67</sup> See footnote 40

<sup>68</sup> This must be provided in accordance with the Crime and Disorder (Overview and Scrutiny) Regulations 2009.

<sup>69</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>70</sup> Members' Code of Conduct paragraph 12(2)

## *Scrutiny Board Procedure Rules*

- 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.

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>71</sup>.

## **22.0 CALL-IN<sup>72</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>73</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>74</sup>:

- decisions made under regulatory arrangements;
- decisions made by Joint Committees; or

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<sup>71</sup> See Access to Information Procedure Rules

<sup>72</sup> There is a separate Guidance Note which sets out in full the operation of the Call-In

<sup>73</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>74</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.

- 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>75</sup>. The Proper Officer will call a meeting of the relevant Scrutiny Board to review or scrutinise the decision.

22.7 A request for Scrutiny must be made on the approved pro forma and contain the original signatures of those Calling In the decision.

22.8 At the meeting the Scrutiny Board will invite signatories to the notification<sup>76</sup> to explain the reasons for the Call-In<sup>77</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.

22.9 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.

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<sup>75</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>76</sup> or their nominees

<sup>77</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.

### *Scrutiny Board Procedure Rules*

22.10 A Call In meeting may be adjourned for a maximum of 5 working days only if the Scrutiny Board resolves to receive information not available at the time and is considered crucial to the Scrutiny Board in order to reach a decision.

22.11 If the Scrutiny Board resolves that a decision is to be referred back for consideration, the Proper Officer will prepare a report<sup>78</sup> to the decision-maker within three working days of the Scrutiny Board meeting.

22.12 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>79</sup>; nor
- where the decision is in relation to a matter which has been the subject of a previous Call-In.<sup>80</sup>

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

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>81</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.

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<sup>78</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>79</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>80</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

<sup>81</sup> Under the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 as amended.

- 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>82</sup> annually about how the authority has carried out its overview and scrutiny functions.

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<sup>82</sup> After consultation with the Scrutiny Chairs.