

## SCRUTINY BOARD PROCEDURE RULES

### A - GENERAL

1. The Council will have the Scrutiny Boards as set out in Article 6 of its Constitution.

### B - MEMBERSHIP, ATTENDANCE AND QUORUM

2. Subject to the provisions of this Part the Council will appoint Members to each Scrutiny Board as it considers appropriate from time to time.
3. No Scrutiny Board may include an Executive Member<sup>1</sup>.

#### *Crime and Disorder Representatives<sup>2</sup>*

4. The Scrutiny Board with responsibility for crime and disorder may co-opt additional members to serve on the Board and may withdraw that appointment at any time.
5. Crime and Disorder Representatives shall be appointed subject to such terms of appointment as the Scrutiny Board may impose. In particular these shall determine:-
  - 5.1. Any limit on the matter or type of matter in relation to which the co-optee may participate;
  - 5.2. Whether the co-optee shall be entitled to vote;
  - 5.3. The term of the co-optee's appointment.

#### *Education Representatives<sup>3</sup>*

6. Each relevant Scrutiny Board dealing with educational matters<sup>4</sup> shall appoint the following voting representatives:
  - 6.1. For a term of office which does not go beyond the next Annual Meeting of the Council:
    - i one Church of England diocese representative
    - ii one Roman Catholic diocese representative
  - 6.2. For a four year term of office:

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<sup>1</sup> S9FA(3) Local Government Act 2000

<sup>2</sup> Police and Justice Act 2006 S20; Crime and Disorder (Overview and Scrutiny) Regulations 2009/942

<sup>3</sup> Local Government Act 2000 Schedule A1, paragraph 6-8; Parent Governor Representatives (England) Regulations 2001/478

<sup>4</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*

i three parent governor representatives

7. Any education representative appointed shall serve as an education representative on all relevant Scrutiny Boards.

### *Additional non-voting co-opted members*

8. A Scrutiny Board may appoint additional non-voting Co-opted Members as follows:-

8.1. For a term of office which does not go beyond the next Annual Meeting each Board may appoint up to five non-voting co-opted members

8.2. For a term of office which relates to a particular Scrutiny Inquiry each Board may appoint up to two non-voting co-opted members

9. A substitute member, appointed in accordance with the Council Procedure Rules shall be entitled to attend a Scrutiny Board meeting in place of a regular Member.

10. The quorum for any Scrutiny Board shall be as set out in the Council Procedure Rules.

## **C - MEETINGS**

11. Scrutiny Board meetings shall be held at such frequency, time and place as the relevant Chair considers appropriate, having taken advice from the Scrutiny Officer.

12. The Scrutiny Board designated special responsibility for crime and disorder must meet as the Scrutiny Board considers appropriate to review or scrutinise the exercise of Crime and Disorder Functions by Responsible Authorities, but shall consider the exercise of those functions no less than once in every twelve month period<sup>5</sup>.

13. An extraordinary meeting of a Scrutiny Board may be called by the Scrutiny Officer where necessary and appropriate or by Scrutiny Board Members in accordance with the Council Procedure Rules.

14. Notice of Scrutiny Board meetings shall be given in accordance with the Access to Information Procedure Rules.

15. Subject to any statutory prohibitions and to the provisions of this Part, all formal 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.

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<sup>5</sup> Reg 4 Crime and Disorder (Overview and Scrutiny) Regulations 2009/942

### *Scrutiny Board Procedure Rules*

16. 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.
17. Minutes of Scrutiny Board meetings will be published in accordance with the Access to Information Procedure Rules.

## **D - PARTICIPATION AND VOTING OF BOARD MEMBERS**

18. Subject to the provisions of this Part voting shall be in accordance with the Council Procedure Rules.
19. Co-optees appointed in accordance with Part B above shall be entitled to participate and vote as follows:-
  - 19.1. Crime and Disorder Representatives shall be entitled to participate in accordance with the terms of their appointment by the relevant Scrutiny Board.
  - 19.2. Education Representatives shall be entitled to vote in relation to education matters. 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.
  - 19.3. Additional non-voting co-opted Members shall be entitled to participate in the debate but shall not be entitled vote in relation to any matter.

## **E - BUSINESS**

20. Each Scrutiny Board shall exercise the functions set out in the Terms of Reference with regard to matters within its remit as set out in Article 6.
21. Any member of a Scrutiny Board may request that the Scrutiny Board of which they are a member considers a matter relevant to that Board's functions<sup>6</sup>.
22. Each Scrutiny Board shall participate in the development of the Council's Budget and Policy Framework as set out in the Budget and Policy Framework Procedure Rules.
23. Where a matter falls within the remit of more than one Scrutiny Board, the Scrutiny Officer, shall arrange for any matter to be dealt with following consultation with the relevant Scrutiny Board Chairs.

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<sup>6</sup> S9FC(1a&b) Local Government Act 2000

## **F – ORDER OF BUSINESS**

24. 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;
- items referred to the Scrutiny Board in accordance with Part I of these rules;
- the business otherwise set out on the agenda for the meeting; and
- the Scrutiny Board's work programme

## **G - REFERRAL OF MATTERS TO SCRUTINY BOARDS<sup>7</sup>**

25. The Scrutiny Officer may receive referrals for scrutiny from:-

- 25.1. The Executive Board;
- 25.2. Full Council;
- 25.3. Healthwatch Leeds<sup>8</sup> in relation to the planning, provision and operation of the health service in the Leeds City Council area<sup>9</sup>, or social care services<sup>10</sup>; or
- 25.4. Any Member of the authority<sup>11</sup> in relation to a matter which is relevant to the functions of a Scrutiny Board<sup>12</sup> and is not<sup>13</sup>:-
  - a a planning decision;
  - b a licensing decision;

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<sup>7</sup> S9FC Local Government Act 2000; S19(3&4) Police and Justice Act 2006; Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

<sup>8</sup> As the Local Healthwatch Organisation for the Leeds area

<sup>9</sup> Reg 21 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218; S221 Local Government and Public Involvement in Health Act

<sup>10</sup> S226 Local Government and Involvement in Health Act 2007

<sup>11</sup> Sometimes known as a Councillor Call for Action - In considering whether to exercise this right to refer the Member shall consider any guidance for the time being issued by the Secretary of State.

<sup>12</sup> Local Crime and Disorder Matters shall only be referred to the Scrutiny Board with responsibility for Crime and Disorder functions S19(3b) Police and Justice Act 2006 and S9FC(5a) Local Government Act 2000.

<sup>13</sup> Local Government Act 2000 S9FC; Overview and Scrutiny (Reference by Councillors)(Excluded Matters)(England)Order 2012/1022

## *Scrutiny Board Procedure Rules*

- c Any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal conferred by or under any enactment;
- d Any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Scrutiny Board.
- e For the avoidance of doubt the following matters will not be considered reasonable to include in the agenda for a meeting of a Scrutiny Board:-
  - i Matters which are subject to ongoing judicial proceedings, Ombudsman or audit inquiry;
  - ii Matters which are subject to an ongoing complaint under the Council's formal complaints procedure;
  - iii Matters which relate to individual personnel issues.

25.5. The exclusions set out in Rule 28.4 shall not prevent a Member from referring an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis.

26. Referrals under this Part shall be made in writing to the Scrutiny Officer who will:-

26.1. Acknowledge receipt of the referral<sup>14</sup> within 20 working days beginning with the date on which the referral was made; and

26.1.1. add the referral to the agenda for the next meeting of the relevant Scrutiny Board and advise the referrer as to which Scrutiny Board will consider the referral and the date of the meeting at which that consideration will take place; or

26.1.2. inform the referrer that the matter will not be considered by a Scrutiny Board giving reasons for this decision; and

26.2. keep the referrer informed of any action taken in relation to the matter.

27. The Scrutiny Officer will receive requests for Call In in accordance with Part 5 of the Executive and Decision Making Procedure Rules

## **H – CONSIDERATION OF REFERRAL**

28. Any matter referred to a Scrutiny Board in accordance with Part G of these rules shall be included in the agenda and discussed at a meeting of that Scrutiny Board.

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<sup>14</sup> Acknowledgement of receipt and all other correspondence will be with the Referrer, in the case of a petition requesting Scrutiny this will be the petition organiser.

## *Scrutiny Board Procedure Rules*

29. The person making the referral will be invited to attend the relevant 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 for the person to address the Scrutiny Board.
30. The Scrutiny Board shall consider whether to exercise its power to review or scrutinise the matter referred and may have regard to:-
- 30.1. Any relevant information provided by or representations made by the Referrer as to why it would be appropriate for the Scrutiny Board to exercise any of its powers in relation to the matter; and
- 30.2. The principles set out within the 'Vision for Leeds at Scrutiny' document as part of Article 6.
31. If the Scrutiny Board decides not to exercise its powers in relation to the matter it will notify the Referrer of its decision and the reasons for it.

## **I - UNDERTAKING SCRUTINY INQUIRIES**

### Terms of Reference

32. Where any Scrutiny Board decides that there shall be an inquiry, the Scrutiny Board shall
- 32.1. consult with any relevant Director and Executive Member;
- 32.2. agree the Terms of Reference of the Inquiry including where appropriate:-  
"To review how and to what effect consideration has been given to the impact of a service or policy on all equality areas, as set out in the Council's equality and Diversity scheme";
- 32.3. agree the period within which the Inquiry's Report is to be completed;
- 32.4. compile a preliminary list of witnesses from whom the Scrutiny Board require evidence<sup>15</sup>; and
- 32.5. compile a preliminary list of evidence including any relevant documents which the Scrutiny Board require to be produced.<sup>16</sup>

### Working Groups

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<sup>15</sup> As an Inquiry proceeds it may become apparent that further witnesses are required

<sup>16</sup> As an inquiry proceeds it may become apparent that further evidence is required

## *Scrutiny Board Procedure Rules*

33. A Scrutiny Board may resolve to establish a Working Group if it is necessary to assist in ensuring the effectiveness and efficiency of its work.
34. Meetings of any Working Group appointed by a Scrutiny Board shall not be formal meetings; they shall not be open to the public and rules relating to Access to Information set out at Part F above shall not apply.
35. A summary of issues considered by a Working group must be considered by a Scrutiny Board prior to recommendations being made.

### Provision of Information and Attendance of Witnesses<sup>17</sup>

36. A Scrutiny Board may require:-

- any Executive Member;
- the Chief Executive and/or any Director<sup>18</sup>; or
- a Council contractor<sup>19</sup>

36.1. to attend before it to answer questions and / or

36.2. to provide information about any matter within its terms of reference

37. It shall be the duty of any person required in accordance with Rule 39 above to attend and to answer questions<sup>20</sup>.

38. A Scrutiny Board may invite any other person to attend a meeting to share information in the course of an inquiry or review.

### *Crime and Disorder Committee<sup>21</sup>*

39. The relevant Scrutiny Board may, when undertaking an inquiry in relation to a Crime and Disorder Function:-

39.1. request Responsible Authorities and Co-Operating Persons and Bodies to provide it with information; and / or

39.2. require an officer or employee of a Responsible Authority or of a Co-Operating Person Or Body to attend a meeting of the Board in order to answer questions.

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<sup>17</sup> S9FA(8-10)

<sup>18</sup> 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.

<sup>19</sup> In accordance with contract terms and conditions.

<sup>20</sup> Although a Member or officer is not obliged to answer any question which he would be entitled to refuse to answer in or for the purposes of proceedings in a Court (S9FA of the 2000 Act)

<sup>21</sup> S20(6A) Police and Justice Act 2006; Reg (5&6) Crime and Disorder (Overview and Scrutiny) Regulations 2009/942

## *Scrutiny Board Procedure Rules*

- 39.3. A request under this rule shall be made in writing and shall specify the date by which the information shall be provided<sup>22</sup>.
- 39.4. The Responsible Authority or Co-operating Person or Body shall only be required to respond to a request under this Rule where reasonable notice of the intended date of attendance has been given.

### *Flood risk management*<sup>23</sup>

40. In the course of an inquiry into Flood Risk Management Functions the relevant Scrutiny Board may request information from a Risk Management Authority and the Risk Management Authority shall comply.

### *Health Scrutiny*<sup>24</sup>

41. The relevant Scrutiny Board shall, when undertaking an inquiry in relation to the planning, provision and operation of the health service in its area take into account:-
- 41.1. relevant information available to it; and
- 41.2. relevant information provided by Healthwatch Leeds.
42. The relevant Scrutiny Board may request a Responsible Person to provide such information about the planning, provision and operation of health services in its area as is reasonably necessary to discharge its functions<sup>25</sup>.
43. The relevant Scrutiny Board may require any member or employee of a Responsible Person to attend to answer such questions as are necessary to discharge its functions

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<sup>22</sup> Upon receipt of such request the Responsible Authority or Co-operating Person or Body shall provide the information requested by the date indicated unless some or all of the information cannot be provided in that time in which case that information shall be provided as soon as possible. Information provided shall be

- depersonalised information unless the identification of an individual is necessary or appropriate to enable the Board to appropriately exercise its powers; and
- shall not include information that would be reasonably likely to prejudice legal proceedings or current or future operations of the Responsible Authorities, whether acting together or individually, or the Co-Operating Persons Or Bodies.

<sup>23</sup>S9FH Local Government Act 2000

<sup>24</sup> Reg 21 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

<sup>25</sup> Upon receipt of such request the Responsible Person shall provide the information requested by the date indicated. Information provided shall not include

- Confidential information which relates to and identifies a living individual unless disclosed in a form from which the identity of the individual cannot be ascertained, or the individual consents to the disclosure; or
- Information the disclosure of which is prohibited by or under any enactment unless that prohibition arises because the information is capable of identifying an individual and the information can be disclosed in a form from which the identity of the individual cannot be ascertained.



## *Scrutiny Board Procedure Rules*

and where reasonable notice has been given it shall be the duty of that member or employee to attend and to answer questions<sup>26</sup>.

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<sup>26</sup>The person will not be required to answer any question that would breach the requirements set out in footnote 29 above, or which they would be entitled to refuse to answer in or for the purpose of proceedings in Court in England or Wales.

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### *Partner authorities<sup>27</sup>*

44. A Scrutiny Board may request a partner authority to provide information which relates to the functions of the relevant partner authority so far as those functions are exercised in relation to the authority's area, or the inhabitants of that area.

44.1. A request under this rule shall be made in writing and shall specify the date by which the information shall be provided<sup>28</sup>.

### Witnesses

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

45.1. the date upon which their evidence is to be taken;

45.2. the matters upon which evidence is sought;

45.3. any documents or reports that the Scrutiny Board wishes to have produced<sup>29</sup>; and

45.4. the date upon which the Board requires any written evidence from the witness.

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

47. Those assisting the Scrutiny Board by giving evidence shall be treated with respect and courtesy.

48. All oral evidence given to a Scrutiny Board may be recorded in full as shall appear to the Scrutiny Board to be appropriate.

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<sup>27</sup>Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2012/1021

<sup>28</sup> Information shall not be provided if:-

- that information was obtained by the authority from any other person and provision of the information to the Scrutiny Board would constitute a breach of confidence actionable by any person;
- the disclosure would, or would be likely to, prejudice the exercise of functions of the authority or the legitimate interests of any persons (including the authority holding it);
- it is personal information unless the disclosure is permitted by or under data protection legislation and cannot be revised so as the individual concerned cannot be identified; or
- disclosure is prohibited by or under any enactment

<sup>29</sup> Sufficient notice shall be given for any document or report to be prepared

## **J - REPORTS AND RECOMMENDATIONS**

49. At the conclusion of an inquiry a Scrutiny Board shall determine whether it is appropriate to make a report to:-
- 49.1. the authority or the executive; or
  - 49.2. when the inquiry or review relates to the planning, provision and operation of the health service in its area, to the Responsible Person <sup>30</sup>.
50. In making a report under this Part the Scrutiny Board shall consider any representations made by the Referrer about why it should make a report or recommendations
51. A report under this Part shall be made in writing and shall include<sup>31</sup>:-
- 51.1. An explanation of the matter reviewed or scrutinised;
  - 51.2. A list of the participants involved in the review;
  - 51.3. A summary of the evidence that the Scrutiny Board has taken; and
  - 51.4. An explanation of any recommendations.
52. Before finalising any recommendations to be made the Scrutiny Board shall invite advice<sup>32</sup> from the appropriate Director(s). The Director shall consult with the appropriate Executive Member before providing any such advice. The detail of that advice shall be reported to the Scrutiny Board and considered before the Board's recommendations are finalised.
53. If the Scrutiny Board decides not to make a report or recommendations into the matter, the Scrutiny Officer will inform the Referrer about the decision of the Scrutiny Board, and the reasons for its decision.

## **K - MINORITY REPORTS**

54. Where any voting member of the Scrutiny Board does not agree with the content of a report made under Part J, they may produce a Minority Report in accordance with this Part setting out their findings and recommendations.

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<sup>30</sup> Reg 22 Local Authority (public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

<sup>31</sup> S9F Local Government Act 2000; Reg 22(6) Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

<sup>32</sup> Such advice may include but is not limited to the financial and resource implications of the recommendations being considered.

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55. The Member<sup>33</sup> should declare their intention to submit a minority report within the Board meeting at the time the majority report is agreed. This declaration shall be both formally minuted and referred to in the final report as part of the Board's resolutions.
56. Where a Scrutiny Board has agreed its final report and there has been no declared intention to produce a minority report, a minority report cannot then be subsequently submitted.
57. Where the intention to produce a minority report has been minuted:-
- 57.1. The minority report should be delivered to Governance and Scrutiny Support within 5 working days after the Scrutiny Board meeting<sup>34</sup>;
- 57.2. The Scrutiny Officer will arrange for the Minority Report to be attached as an appendix to the Scrutiny Board's Report.

## **L - SHARING AND PUBLICATION OF REPORTS<sup>35</sup>**

58. Where a Scrutiny Board is to share or publish a report, it must comply with relevant statutory provisions relating to exempt or confidential information<sup>36</sup>.
59. Where a Scrutiny Board has made a report or recommendations to the Council or Executive it shall share a copy of the report with the Referrer.

### *Crime and Disorder Functions<sup>37</sup>*

60. Where the Scrutiny Board with responsibility for crime and disorder makes a report or recommendations to the Council or Executive about the exercise of Crime And Disorder Functions by Responsible Authorities, the Scrutiny Officer will provide a copy to
- each of the Responsible Authorities; and
  - each of the Co-Operating Persons And Bodies.

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<sup>33</sup> In the Member's absence the Chair shall make the declaration on their behalf

<sup>34</sup> The Scrutiny Officer will confirm submission dates with the appropriate Member or Members

<sup>35</sup> S9FD Local Government Act 2000; S19(8) Police and Justice Act 2006

<sup>36</sup> S9FG Local Government Act 2000

<sup>37</sup> S19(8B) Police and Justice Act 2006; Reg 7 Crime and Disorder (Overview and Scrutiny Regulations 2009/942

## **M - RESPONSE TO A REPORT**

### *Functions of the authority<sup>38</sup>*

61. Except as provided below, the Council, or the Executive shall consider any report and recommendations of a Scrutiny Board and shall respond to the Board, indicating what action (if any) it proposes to take and shall publish its response.

### *Crime and Disorder Functions<sup>39</sup>*

62. Where following an inquiry into Crime And Disorder Functions the relevant Scrutiny Board provides a report to a Relevant Authority, Or Co-Operating Person Or Body, that authority, person or body must:

- 62.1. consider the report or recommendations;
- 62.2. respond in writing to the Scrutiny Board within 28 days of the date of the report or recommendations or if this is not reasonably possible, as soon as reasonably possible thereafter, indicating what (if any) action it proposes to take; and
- 62.3. have regard to the report or recommendations in exercising its functions.

### *Flood Risk Management Functions<sup>40</sup>*

63. Where following an inquiry into Flood Risk Management Functions the relevant Scrutiny Board provides a report to a Risk Management Authority that authority shall:-

- 63.1. Have regard to the report and any recommendations made by the Scrutiny Board; and
- 63.2. Comply with any request from the Scrutiny board to provide a response.

### *Health functions<sup>41</sup>*

64. Where following an inquiry into the planning, provision and operation of the health service in its area the relevant Scrutiny Board provides a report to a Responsible Person that Responsible Person must respond in writing to the Scrutiny Board within 28 days of the date of the report or recommendations.

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<sup>38</sup> S9FE Local Government Act 2000

<sup>39</sup> S19(8B) Police and Justice Act 2006; Reg 7 Crime and Disorder (Overview and Scrutiny Regulations 2009/942

<sup>40</sup> S9FH(3)(b) & (5) Local Government Act 2000

<sup>41</sup> Reg 22 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

## Scrutiny Board Procedure Rules

### *Functions of Partner Authorities<sup>42</sup>*

65. This Rule applies where a Scrutiny Board makes a report or recommendations to the Council or the Executive, and the report or any of the recommendations relates to:

- a functions of a relevant partner authority so far as exercisable in relation to the authority's area, or
- b the inhabitants of that area.

65.2. Where this rule applies and the relevant Scrutiny Board gives notice in writing accompanied by a copy of the report and recommendations, the relevant partner authority shall have regard to the report or recommendation in exercising its functions

## **N - MANDATORY CONSULTATION BY A RESPONSIBLE PERSON<sup>43</sup>**

66. This Part applies to the Scrutiny Board with responsibility for Health matters.

### I - Proposal

67. Save where a joint consultation is undertaken<sup>44</sup>, the Board shall consider any consultation from a Responsible Person in relation to a proposal for a substantial development or substantial variation in the provision of the health service in the area.

68. The Board will consider any notification from a Responsible Person that it 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.

### II - Response

69. The Board may:-

69.1. Make comments on the proposal by the date provided by the Responsible Person; or

69.2. Decide not to comment or make a recommendation about the proposal by the date provided in which case the Board shall inform the Responsible Person whether it proposes to make a report to the Secretary of State in accordance with Section III below below, or the date when it will decide whether to make such a report. If the latter, the Board shall decide by the given date, and inform the Responsible Person of that decision.

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<sup>42</sup> S9FF Local Government Act 2000

<sup>43</sup> Reg 23 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

<sup>44</sup> Reg 30(5) Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

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70. Where the Responsible Person disagrees with a recommendation included in the Scrutiny Board's comments and has notified the Board of that disagreement the Board shall take such steps as are reasonably practicable to reach agreement.

### *III - Reporting to the Secretary of State*

71. The Board may report to the Secretary of State in writing where:

- 71.1. it is not satisfied that consultation on any proposal has been adequate in relation to content or time allowed; or
- 71.2. where no consultation has been carried out, and it is not satisfied that the reasons given by the Responsible Person are adequate;
- 71.3. the Board considers that the proposal would not be in the interests of the health service in its area;
- 71.4. the Responsible Person has notified the Board that it disagrees with a recommendation and agreement has not been reached within a reasonable period of time or the Responsible Person has failed to comply with its duty to try to reach agreement; or
- 71.5. the Board has decided not to make comments or recommendations in relation to the consultation and has advised the Responsible Person of its intention to refer the matter to the Secretary of State under Section II above.

72. A report to the Secretary in State shall include:

- 72.1. An explanation of the proposal and the reasons for making the report together with any evidence in support of those reasons which shall where relevant include:-
  - a Where the Board is not satisfied that consultation has been adequate, or the reasons for not consulting are adequate:-
    - i the reasons for this; and
    - ii an explanation of any steps taken to try to reach agreement with the Responsible Person about this
  - b Where the Board considers that the proposal would not be in the interests of the health service, a summary of the evidence considered, including any evidence of the effect or potential effect of the proposal on the sustainability or otherwise of the health services in the local area;
  - c Where the Responsible Person does not agree with the recommendations of the Board, an explanation of any steps the Board has taken to try to reach agreement with the Responsible Person; or

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- d Where the Board has decided not to make recommendations in relation to the proposal, evidence that the Board has informed the Responsible Person of its intention to make a report.

### **O - INTERPRETATION**

73. These Rules shall be read and construed in accordance with the legislation and any statutory instruments or guidance from time to time in force in relation to the Council's overview and scrutiny functions.
74. References to the Council Procedure Rules, the Executive and Decision Making Procedure Rules or the Access to Information Procedure Rules shall mean those relevant rules set out in Part 4 of the Council's Constitution as amended from time to time.
75. The following words and phrases shall have the meanings set out below:-
  - 75.1. Co-Operating Persons And Bodies shall mean the bodies and persons specified at Section 5(2) Crime and Disorder Act 1998<sup>45</sup>
  - 75.2. Crime and Disorder functions shall mean those functions conferred by or under Section 6 Crime and Disorder Act 1998<sup>46</sup>;
  - 75.3. Director shall mean all those officers listed at Article 12.1 of the Council's Constitution;
  - 75.4. Flood Risk Management Functions shall mean those functions defined at S4 Flood and Water Management Act 2010;
  - 75.5. Local Crime and Disorder Matter shall mean a matter concerning crime and disorder (including 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.<sup>47</sup>;
  - 75.6. Scrutiny Officer shall mean the officer designated in accordance with Section 9FB Local Government Act 2000 (the 2000 Act) as specified in Article 6
  - 75.7. Referrer shall mean the person or body from whom a request for Scrutiny is received;
  - 75.8. Responsible Authorities shall mean the bodies and persons specified at Section 5 Crime and Disorder Act 1998<sup>48</sup>;
  - 75.9. Responsible Person shall mean a relevant NHS Body or a relevant health service provider under S244 National Health Service Act 2006<sup>49</sup>;

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<sup>45</sup> S19(2)(b) Police and Justice Act 2006

<sup>46</sup> S19(11) Police and Justice Act 2006

<sup>47</sup> S19(11) Police and Justice Act 2006

<sup>48</sup> S19(1) Police and Justice Act 2006



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75.10. Risk Management Authority shall mean those authorities listed S6(13) Flood and Water Management Act 2010