

# **CHAPTER 4 – POLICY AND** **SCRUTINY**

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# 1. INTRODUCTION TO THE POLICY AND SCRUTINY PROCESS AND THE COMMITTEES

## 1.1. SCRUTINY AT WESTMINSTER – VISION AND PURPOSE

Scrutiny is a vital function to promote transparency and accountability. On behalf of Westminster’s communities and stakeholders, local non-Executive Councillors will endeavour to ensure services in the city not only meet people’s needs but enhance lived experiences by:

- i. Championing the best possible outcomes for communities and stakeholders.
- ii. Holding the Council, its partner organisations and external bodies to account for decisions taken and the impacts on our communities.
- iii. Examining Council priorities, actively engaging in policy development and offering constructive challenge prior to decisions being taken.
- iv. Working strategically across the city to focus our efforts on policy and service areas where scrutiny can make the biggest impact.
- v. Demonstrating integrity and commitment by adhering to the Nolan Principles of Public Life.

## 1.2. SCOPE AND FUNCTIONS OF POLICY AND SCRUTINY COMMITTEES

The Council has appointed the Policy and Scrutiny Committees set out in the left-hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters broadly set out in the right-hand column of the same table. Detailed terms of reference for the Policy and Scrutiny Committees are set out separately in this Constitution.

<b>COMMITTEE</b>	<b>SCOPE</b>
<b>OVERVIEW AND SCRUTINY COMMITTEE</b>	To provide overall leadership to the Policy and Scrutiny function. To scrutinise cross-cutting or corporate areas of policy and/or service delivery and to approve the annual report of Policy and Scrutiny activity. Within this, to act as the statutory committee responsible for scrutinising decisions made to combat crime and disorder.
<b>CLIMATE ACTION, ENVIRONMENT AND HIGHWAYS POLICY AND SCRUTINY COMMITTEE</b>	To lead Policy and Scrutiny work relating to the work of the Council and others in the City to: <ul style="list-style-type: none"> <li>• Tackle the climate emergency</li> <li>• Keep the City clean</li> </ul>

	<ul style="list-style-type: none"> <li>• Provide sustainable transport options and green space</li> </ul>
<b>HOUSING AND REGENERATION POLICY AND SCRUTINY COMMITTEE</b>	<p>To lead Policy and Scrutiny work relating to the work of the Council and others in the City to:</p> <ul style="list-style-type: none"> <li>• Deliver exceptional housing services to tenants and lessees</li> <li>• Tackle rough sleeping</li> <li>• Build more affordable homes, including through regeneration and associated programmes</li> <li>• Build more homes</li> <li>• Regenerate places and areas of the City, including through place-shaping schemes</li> </ul>
<b>VULNERABLE ADULTS, HEALTH AND COMMUNITIES POLICY AND SCRUTINY COMMITTEE</b>	<p>To lead Policy and Scrutiny work relating to the work of the council and others in the City to:</p> <ul style="list-style-type: none"> <li>• Safeguard and support vulnerable adults</li> <li>• Drive improvements in public health</li> <li>• Provide community safety services</li> <li>• Support the voluntary and community sector</li> <li>• Provide health services, including acting as the statutory committee responsible for health scrutiny</li> </ul>
<b>YOUNG PEOPLE, LEARNING AND EMPLOYMENT POLICY AND SCRUTINY COMMITTEE</b>	<p>To lead Policy and Scrutiny work relating to the work of the Council and others in the City to:</p> <ul style="list-style-type: none"> <li>• Safeguard children and young people</li> <li>• Provide education, learning and skills development services and opportunities both at school age and beyond</li> <li>• Provide support for people to find and sustain work</li> <li>• Provide library services</li> <li>• Provide leisure services</li> </ul>

In addition the Council may appoint joint committees and the terms of reference for these are included in section 3 of this chapter.

### **1.3. GENERAL ROLE**

Within their terms of reference, Policy and Scrutiny Committees may:

- i. review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- ii. make reports and/or recommendations to the Full Council and/or the Executive and/or any policy, joint or area committee in connection with the discharge of any functions;
- iii. consider any matter affecting the area or its inhabitants;
- iv. question and gather evidence from any person (with their consent);

- v. establish Sub-Committees or Task Groups in line with the provisions set out in Section 2 of this Chapter;
- vi. consider any Councillor Calls for Action referred by a Ward Member to the Committee; and
- vii. exercise the right to call-in for decisions made but not yet implemented by the Executive.

#### **1.4. SPECIFIC FUNCTIONS**

##### **(1) Policy development (“pre-decision scrutiny”).** Policy and Scrutiny Committees may:

- i. undertake ‘pre-decision scrutiny’ in areas which will assist the Council and the Executive in key areas of policy or service development – this should be with the agreement of the Executive but there may be a small number of extraordinary circumstances where such agreement is either not appropriate or possible;
- ii. investigate areas and issues of emerging concern in the City with a view to making recommendations to the Executive on how to respond to these;
- iii. conduct research, community and other engagement in the analysis of policy issues and possible options; and
- iv. 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.

##### **(2) Review (“post-decision scrutiny”).** Policy and Scrutiny committees may:

- i. review and scrutinise decisions made by the Executive and/or committees and Council officers, and the impact of these decisions, both in relation to individual decisions as well as the aggregated impact of multiple decisions;
- ii. take a strategic approach to reviewing organisational performance against policy objectives or in relation to particular decisions, initiatives or projects – operational and individual service performance management is the responsibility of the Audit and Performance Committee;
- iii. upon referral by the Audit and Performance Committee, undertake in-depth reviews into individual areas of service performance which are high risk, of significant public or reputational interest or otherwise warrant more detailed consideration to resolve issues; and
- iv. review and scrutinise the decisions and performance of other organisations operating in the City and invite reports from them by requesting them to address the Policy and Scrutiny Committee and local people about their activities and performance.

## **1.5. PROCEEDINGS OF POLICY AND SCRUTINY COMMITTEES**

Policy and Scrutiny Committees will conduct their proceedings in accordance with the Policy and Scrutiny Procedure Rules and, so far as relevant, the Committee and Sub-Committee Procedure Rules set out in Chapter 5 of this Constitution.

## 2. POLICY AND SCRUTINY PROCEDURE RULES INCLUDING COUNCILLOR CALL FOR ACTION

### 2.1. POLICY AND SCRUTINY PROCEDURE RULES

#### 2.1.1 What will be the number and arrangements for Policy and Scrutiny Committees?

- (1) The Council will have the Policy and Scrutiny Committees set out in this Chapter. Such Committees may appoint **Sub-Committees** or Task Groups on **either a formal or informal basis**. Policy and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.
- (2) The Overview and Scrutiny Committee is responsible for overseeing and co-ordinating the activities of Policy and Scrutiny Committees generally and resolving any disputes between them.

#### 2.1.2 Who may sit on Policy and Scrutiny Committees?

- (3) All Councillors except Members of the Cabinet may be Members of a Policy and Scrutiny Committee, **Sub-Committee** or a Task Group. However, no Member may be involved in scrutinising a decision in which they been directly involved.

#### 2.1.3 Education representatives

- (1) Each relevant Policy and Scrutiny Committee or Task Group dealing with education matters shall include in its membership the following voting representatives:
  - (a) 1 Church of England diocese representative;
  - (b) 1 Roman Catholic diocese representative; and
  - (c) 2 parent governor representatives.
- (2) A relevant Policy and Scrutiny Committee/Task Group in this paragraph is a Policy and Scrutiny Committee, Sub-Committee or Task Group of a local education authority, where the Committee or Task Group functions relate wholly or in part to any education functions which are the responsibility of the authority's Executive. If the Policy and Scrutiny Committee/Task Group deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak with the permission of the Chair.
- (3) The Council has agreed to include additionally in the membership of the Policy and Scrutiny Committee with responsibility for education, two Headteachers of Westminster maintained schools as non-voting co-opted Members.

#### **2.1.4 Meetings of the Policy and Scrutiny Committees (including the Westminster Scrutiny Commission)**

- (1) Each Policy and Scrutiny Committee shall be responsible for deciding how many times it meets during the year. Extraordinary meetings may be called from time to time as and when appropriate. A Policy and Scrutiny Committee meeting may be called by the Chair of the relevant Policy and Scrutiny Committee in consultation with the Vice-Chair (if any) and the Opposition Party spokesperson on the Committee or by any three Members of the Committee or by the Proper Officer if they consider it necessary or appropriate.

#### **2.1.5 Quorum**

- (1) The quorum for a Policy and Scrutiny Committee shall be 3 voting Members of the Committee.

#### **2.1.6 Who Chairs Policy and Scrutiny Committee Meetings?**

- (1) Chairs of Policy and Scrutiny Committees will be drawn from among the Councillors sitting on the Committee, and subject to this requirement the Committee may appoint such a person as it considers appropriate as Chair. The Leader of the Council shall be entitled to nominate a member of the Committee as its Chair approval by the Committee/Sub-Committee.

#### **2.1.7 Work Programme**

- (1) The Policy and Scrutiny Committees/Task Groups will be responsible for implementing their own work programme and in doing so they shall take into account wishes of Members on that Committee who are not Members of the largest political group on the Council.
- (2) Each Policy and Scrutiny Committee shall undertake an annual work programming exercise with input from relevant Cabinet Members and senior officers to identify areas where scrutiny may be able to add most value and have most impact in the year ahead. Each Policy and Scrutiny Committee should then consider its work programme as a living document for regular review, including formally at each meeting of the Committee.
- (3) The Overview and Scrutiny Committee has responsibility for the allocation of tasks not included in a Committee's terms of reference to the most appropriate Policy and Scrutiny Committee. In the event of the allocation of the task being urgent and requiring allocation before the next meeting of the Overview and Scrutiny Committee, the Chief Executive shall allocate the task in consultation with the Chairs of all Policy and Scrutiny Committees.

#### **2.1.8 Rights of Members to request the inclusion of agenda items ("Councillor Call For Action")**

- (1) Having had regard to any guidance issued by the Secretary of State, any Member shall be entitled to give notice to the Chief Executive that they wish an item relevant to the functions of the Committee or Sub-Committee to be



included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Proper Officer will inform the Chair of the relevant Policy and Scrutiny Committee or Sub-Committee and ensure that it is included on the agenda for discussion at the next practicable meeting.

- (2) The Chief Executive will not include any matters on the relevant agenda where they have been excluded by any Orders made by the Secretary of State.
- (3) Where the relevant Committee decides not to exercise any of its powers in relation to any request made under (1) above, it will notify the Member of their decision, and the reasons for it.
- (4) Where the relevant Committee makes a report or recommendations to the authority it shall provide a copy of the report or recommendations to the Member who referred the matter in question and any other responsible authorities and co-operating persons and bodies as it thinks appropriate.
- (5) The protocol for the use of the Councillor Call for Action is set out at section 2.2.

### **2.1.9 Policy Review and Development**

- (1) The role of the Policy and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Policy and Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

- (2) Policy and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

### **2.1.10 Reports from Policy and Scrutiny Committee**

- (1) Once it has formed recommendations on proposals for development or concluded a scrutiny, the Policy and Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Cabinet or relevant Cabinet Member (if the recommendations are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendations would require a departure from or a change to the agreed budget and policy framework).

- (2) The Council, Cabinet or relevant Cabinet Member, as appropriate, shall consider the report of the Policy and Scrutiny Committee at the earliest practicable opportunity.

#### **2.1.11 Making sure that Policy and Scrutiny Reports are considered by the Executive**

- (1) In the event that a request from a Policy and Scrutiny Committee is not included on the agenda for a Cabinet or Cabinet Committee meeting or considered by the relevant Cabinet Member within 2 months of its submission to the Proper Officer, the Chair of the relevant Policy and Scrutiny Committee may require the report to be submitted to Full Council.

#### **2.1.12 Rights of Policy and Scrutiny Committee Members to Documents**

- (1) In addition to their rights as Councillors, Members of Policy and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in this Constitution.
- (2) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Policy and Scrutiny Committee as appropriate depending on the particular matter under consideration.

#### **2.1.13 Requirement for Members and Officers to attend and give account – (post-decision scrutiny)**

- (1) Any Policy and Scrutiny Committee, Sub-Committee or Task Group may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions, i.e. Executive decisions and decisions of non-Executive committees.
- (2) The power to scrutinise non-Executive decisions should normally, in line with Government guidance, be exercised as part of wider policy reviews and Policy and Scrutiny Committees should not normally scrutinise individual decisions made by non-Executive committees, particularly decisions in respect of development control, licensing, registration, consents and other permissions.
- (3) As well as reviewing documentation, in fulfilling the scrutiny role, Policy and Scrutiny Committees may require any Member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - i. any particular decision or series of decisions;
  - ii. the extent to which the actions taken implement Council policy; and/or
  - iii. service performance, subject to referral by the Audit and Performance Committee.

And it is the duty of those persons to attend if so required.

- (4) Where any Member or officer is required to attend a Policy and Scrutiny Committee under this provision, the Chair of that Committee will inform the

Proper Officer. The Proper Officer shall inform the Member or officer in writing giving at least 10 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (5) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Policy and Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance.
- (6) These provisions to require attendance are only to be used where necessary and, in most cases, more collegiate ways of working should generally be adopted whereby Cabinet Members and senior officers are invited to attend for particular discussions or to send a suitable alternative, but that their attendance is not mandated unless in exceptional circumstances.

#### **2.1.14 Attendance by Others**

- (1) A Policy and Scrutiny Committee may invite people other than those referred to above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend.

#### **2.1.15 Task Groups**

- (1) Each Policy and Scrutiny Committee will have the ability to establish Task Groups to scrutinise issues within their terms of reference. The Constitution and terms of reference of any Task Group, shall be determined by the relevant Policy and Scrutiny Committee. It will be possible to establish single member scrutiny where appropriate but otherwise the Opposition Group will be entitled to a seat on all Task Groups but proportionality generally will not apply. Task groups which in the opinion of the relevant Committee Chair need to be established as a matter of urgency and therefore cannot wait until the next programmed meeting may be established by the Chair who must consult all Members of the Committee before doing so. The establishment of the Task Group shall be confirmed at the next meeting.
- (2) Task Groups will operate on an informal basis and will not be subject to the formal requirements relating to meetings in respect of the issue of agendas, minutes and notice of meetings etc. However, meetings will at the discretion of the Task Group usually, be open to members of the public except where the normal rules on confidentiality apply or there is a reasonable reason for a meeting taking place in private.

- (3) Every Task Group will report on a regular basis to the parent Committee in the case of a prolonged or ongoing scrutiny. In other cases a formal report should be submitted for consideration by the Parent Committee once the investigations have been completed.
- (4) It will be possible to establish joint Task Groups comprising Members from more than one Policy and Scrutiny Committee in order to deal with cross-cutting issues.
- (5) A Policy and Scrutiny Committee may hold a special meeting or establish a formal Sub-Committee to conduct a scrutiny or any other of its business should it consider this desirable.
- (6) Task Group membership shall be drawn from the parent Committee or, where circumstances dictate, any Policy and Scrutiny Members. Members who do not sit on a Policy and Scrutiny Committee may not sit on a Task Group.

#### **2.1.16 Call-in**

- (1) When a decision is made by the Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. All the Members of the relevant<sup>1</sup> Policy and Scrutiny Committee(s) and all relevant Ward Members will be sent copies of the report, at the time of issue and a record of such decisions within the same timescale by electronic means by the person responsible for publishing the decision.
- (2) That notice will bear the date on which it is published and will (save where an exemption under 2.1.17 below applies) specify that the decision will come into force, and may then be implemented at 5pm on the 5<sup>th</sup> working day after the publication of the decision, unless (3) below applies. Where an exemption applies, the decision will come into force as soon as it is made.
- (3) During that period (if applicable), the Proper Officer shall call-in a decision for scrutiny by the relevant Committee if so requested by any 3 Members of the Committee entitled to vote on the subject matter of the decision and/or, in relation to a decision affecting a single Ward by all 3 Members of that ward and shall then notify the decision-taker of the call-in. They shall summon a meeting of the Committee on such date as they may determine, where possible after consultation with the Chair of the Committee, and in any case the meeting is to be held if possible within 10 working days of the decision to call-in or as soon as reasonably practicable thereafter as determined by the Proper Officer in consultation with the Committee Chair, where call-in is requested by all 3 Members of a Ward, those Members will be invited to the

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<sup>1</sup> As determined by the Monitoring Officer and Statutory Scrutiny Officer in cases of doubt

relevant meeting. In circumstances where 1 of the Ward Members is the decision taker or otherwise unable to act, the Ward call-in can be activated by the remaining 2 Ward Members. If at any time after the call-in has been triggered but prior to the Committee meeting taking place, 1 of the 3 Members withdraws their call-in request and therefore only 2 or 1 Members remain requesting the call-in, no further action in relation to the call-in shall take place. Members requesting the call-in shall be required to give reasons why they believe the decision not to be sound in order to assist the decision maker in preparing for the response.

- (4) If, having considered the decision, the Policy and Scrutiny Committee is, by majority vote, still concerned about the decision, then it may refer the decision back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or, if in the opinion of the Chief Executive the matter is contrary to the budget and policy framework, refer the matter to Full Council. If referred to the decision maker they shall then reconsider within a further 10 working days, or as soon as possible thereafter, amending the decision or not, adopting a final decision.
- (5) If following an objection to the decision, the Policy and Scrutiny Committee does not meet in the period set out in paragraph (3) above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Policy and Scrutiny meeting, or the expiry of that further 5 working day period, whichever is the earlier.
- (6) If the matter is referred to the Full Council, the Proper Officer shall include it on the agenda of the next possible meeting. If the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider within 10 working days of the Council request or as soon as practicable. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request or as soon as possible thereafter as determined by the Proper Officer in consultation with the Leader.
- (7) If the Council does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.

#### **2.1.17 Exception to call-in**

- (1) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

- (i) only key decisions are subject to call-in. The Proper Officer may apply the call-in provisions in cases of doubt as to whether a decision is key or not;
- (ii) the decision shall be referred back to the decision maker or to Full Council only where a majority of the Members of [ana](#) Policy and Scrutiny Committee are in agreement;
- (iii) the call in procedure may not be used where the decision is in accordance with the recommendations of the relevant Policy and Scrutiny Committee.
- (iv) in the case of Ward Member call-in (referred to in (3) above), a maximum of four such call-ins a year per Ward will be permitted.
- (v) Executive decisions made under joint arrangements with other Local Authorities shall not be capable of being called-in.

### **2.1.18 Call-in and Urgency**

- (1) The call-in procedure set out above shall not apply where the decision being taken is urgent under the provisions set out in Chapter 8 on this Constitution. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chief Executive, in consultation with the Chair(s) of the relevant Policy and Scrutiny Committee(s), must agree to the decision proposed being treated as a matter of urgency. In the absence of the Chief Executive, the Deputy Chief Executive or the Monitoring Officer shall be able to provide such consent, or in their absence a Deputy Monitoring Officer. Decisions taken as a matter of urgency must be reported to the Overview and Scrutiny Committee, together with the reasons for urgency, on an annual basis.
- (2) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Overview and Scrutiny Committee with proposals for review if necessary.

### **2.1.19 Procedure at Policy and Scrutiny Committee Meetings**

- (1) Policy and Scrutiny Committees and Sub-Committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) consideration of any matter referred to the Committee for a decision in relation to a call in of a decision;

- (iv) responses of the Cabinet or Cabinet Members to reports of the Overview and Scrutiny Committee; and
  - (v) the business otherwise set out on the agenda for the meeting in accordance with the work programme and as agreed by the Chair.
- (2) Where the Policy and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
- (i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (3) Following any investigation or review, the Committee/Sub-Committee shall prepare a report for submission to the Cabinet, Cabinet Member, Committee or Full Council as appropriate and shall make its report and findings public save where this would involve the disclosure of exempt or confidential information within the meaning of the Local Government Act 1972.

#### **2.1.20 Matters within the Remit of More than One Policy and Scrutiny Committee**

- (1) Where a Policy and Scrutiny Committee wishes to conduct a review or scrutinise a matter which also falls (whether in whole or in part) within the remit of another Policy and Scrutiny Committee, then the Committee conducting the review shall invite the Chair of the other Committee (or their nominee) to attend its meetings when the matter is being reviewed.
- (2) Where a matter for consideration by a Policy and Scrutiny Committee/Task Group also falls within the remit of one or more other Policy and Scrutiny/Task Group, the decision as to which Policy and Scrutiny/Task Group will consider it will be resolved by the Overview and Scrutiny Committee.

#### **2.1.21 Suspension of Procedural Requirements**

- (1) A procedural requirement of these rules may be suspended to the extent that the Monitoring Officer advises is strictly necessary to meet a legal requirement.

## **2.2. COUNCILLOR CALL FOR ACTION PROTOCOL**

### **2.2.1 Overview**

- (1) The “Councillor Call for Action” (CCfA) was introduced by Section 119 of the Local Government and Public Involvement in Health Act 2007 which inserted Section 21A(1)(c) into the Local Government Act 2000.
- (2) Section 21A (1) (c) enables any member of the Council to refer to the relevant Policy and Scrutiny Committee any local government matter which is relevant to the functions of the Committee.
- (3) In addition, the amended Section 19 of the Police and Justice Act 2006 came into force on 30 April 2009. This enables any Member of the Council to refer to their Crime and Disorder Committee any local crime and disorder matter which affects their Ward.
- (4) Any Councillor can refer a local government matter even if they have not been asked by a member of the public to consider the matter.

### **2.2.2 Limitations**

- (1) It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, try to overcome them.

### **2.2.3 Issues excluded from referral as a CCfA**

- (1) The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:
  - (i) any matter relating to a planning decision or pending application;
  - (ii) any matter relating to a licensing decision or pending application;
  - (iii) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
  - (iv) 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 overview and scrutiny committee or at a meeting of a sub-committee of that committee.
- (2) A matter will not be excluded under (a) – (c) where the allegation consists of the function not being discharged at all or that its discharge has failed or is failing on a systematic basis.



#### **2.2.4 Steps to be taken prior to making a Councillor Call for Action referral**

- (1) Prior to a Councillor referring a matter as a CCfA to a Policy and Scrutiny Committee, that Councillor should have tried to resolve the matter themselves using all mechanisms available to them.

#### **2.2.5 How to make a Councillor Call for Action referral**

- (1) If the matter cannot be resolved, then the Councillor can refer it to a Policy and Scrutiny Committee as a "Councillor Call for Action". To do this the Councillor should complete the CCfA form available from the Governance and Councillor Liaison Team and return it to the Chief Executive. The form requires the following details:

- The name of the Councillor and Ward they represent.
- The title of the CCfA and date of submission.
- Why you think the issue should be looked at and by which Policy and Scrutiny Committee.
- A brief synopsis of what the main areas of concern are.
- What evidence you have in support of your CCfA.
- Which, if any, areas or community groups are affected by the CCfA.
- What you have done to try and resolve the issue prior to requesting a CCfA.
- Is the CCfA currently the subject of legal action by any party (to your knowledge) or being examined by a formal complaints process?
- Are there any deadlines associated with the CCfA of which the Policy and Scrutiny Committee needs to be aware.
- Whether there are any other issues which may be of use to the Policy and Scrutiny Committee.

- (2) The Chief Executive will assess the matter to ensure that it is not excluded from referral to the Policy and Scrutiny Committee by virtue of any orders made by the Secretary of State. Only the Chief Executive in consultation with the Chair of the relevant Policy and Scrutiny Committee, can take the decision that the matter is an excluded matter.

- (3) If the matter is not an excluded matter, the Chief Executive will inform the Chair of the relevant Policy and Scrutiny Committee that the item will be included on the next Committee agenda. It is then up to the Members of the Committee to decide whether or not to exercise any of its powers under section 21 (2) of the Local Government Act 2000 in relation to that matter.

#### **2.2.6 Decision of the Committee whether to take the matter further**

- (1) When the Committee is considering whether or not it will exercise any of its powers in relation to the CCfA request (i.e. to undertake further, in-depth investigation), it will have regard to any representations made by the Councillor (making the CCfA request) as to why the Committee should exercise its powers.

- (2) The Councillor who submitted the CCfA request can either present their CCfA request without supporting papers (save for their CCfA request form), or prepare a report setting out their views.
- (3) The criteria the Committee will use to decide whether or not to exercise any of its powers in relation to the CCfA request will include:
- Is the Committee satisfied that all reasonable attempts have been made to resolve the issue by the Councillor submitting the request? And do the responses received by that Councillor demonstrate that the matter is not being progressed?
  - Has the Committee considered a similar issue recently – if yes, have the circumstances or evidence changed?
  - Is there a similar or related issue which is the subject of a review on the current work plan?
  - Relevant time pressures on resolving the CCfA should be taken into account.
  - Have all relevant service areas or partner organisations been informed and given enough time to resolve the issue? What response has the Councillor received?
  - Is this a case that is being or should be pursued via the Council's complaints procedure?
  - Is the issue part of an issue of genuine local concern which could have an impact on the local community?
  - And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring Member's Ward?
- (4) When considering a CCfA request, the Policy and Scrutiny Committee may invite the relevant Head of Service and/or an external organisation to discuss the issue with the Committee and answer any questions.
- (5) If the Committee decides not to accept the CCfA referral it will inform the Councillor (if that Councillor is not a member of the relevant Committee or Sub-Committee) and provide reasons.
- (6) If the Committee decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work programme and inform the Councillor of the action to be taken.

### **2.2.7 Potential Outcomes**

- (1) There are a number of potential outcomes following the consideration of the issue:
- The Committee could determine not to make a report or recommendations and will notify the Councillor (if that Councillor is not a Member of the relevant Committee or Sub-Committee) in writing;

- The Committee could determine that it is an issue that requires further investigation and will commission a scrutiny review of the issue;
  - The Committee could write a report and make recommendations on the CCfA to the Council, the Cabinet, relevant Cabinet Members, Committee or Chief Officers.
- (2) Once the Committee has completed its work on the CCfA referral the Member who made the CCfA request will receive a copy of the report or recommendations made. The report will also be made available on the Council's website.

### **2.2.8 Timescales**

- (1) Once a CCfA request has been assessed as not being an excluded matter, the item will be included on the next Committee agenda.
- (2) Should a CCfA request result in recommendations to Full Council or Cabinet an item will be placed on the agenda for the next ordinary meeting.
- (3) Should a CCfA request result in recommendations to partner organisations, such organisations will be invited to make a response to the recommendations.

## **2.3. SCRUTINY-CABINET PROTOCOL**

Recommended as good practice, this Scrutiny-Cabinet protocol sets out practical expectations for how Cabinet Members and Scrutiny Members interact with one another.

The protocol aims to contribute positively to delivery of the vision of scrutiny at Westminster and complement the existing rules and procedures set out elsewhere in the Constitution.

### **2.3.1 Work Programming**

- (1) Work programmes should be aligned to Council priorities, with a balance of pre-scrutiny and post-implementation scrutiny. Though work programmes are owned by Policy and Scrutiny Committees, Cabinet Members should have the opportunity to assist in the development of programmes by identifying opportunities for scrutiny to have impact, whilst respecting the independence of scrutiny.
- (2) Cabinet Members should also provide an annual update to Policy and Scrutiny Members on their policy priorities for the year ahead to aid scrutiny planning.
- (3) Senior officers play a role in advising both Cabinet and Scrutiny on how to maximise the impact of, and benefit from, scrutiny in the development of work programmes.

### **2.3.2 Policy Development**

- (1) Cabinet and senior officers should draw attention to major forthcoming decisions and engage with Policy and Scrutiny Committees early in the policy development process to enable meaningful and timely input from scrutiny.
- (2) Cabinet Members, Policy and Scrutiny Chairs and Committee Members should have regular meetings to: discuss how and when scrutiny can have the most impact in developing policies, keep scrutiny aware of planned decisions and inform scrutiny of proposals before publication on the executive decision forward plan.
- (3) Recognising the risks around sharing sensitive information, Cabinet should provide clear reasoning for any policy development scrutiny which needs to be held in private session. Policy and Scrutiny Members should examine the executive decision forward plan to identify priorities for scrutiny and, where possible, all Scrutiny Members should have, and attend, briefings on relevant policies and developments.

### **2.3.3 Behaviours**

- (1) All Members should adhere to the Nolan principles of Public Life in all interactions with one another, officers and the public, as well as in their work to engage with the Policy and Scrutiny process.
- (2) Specifically, Policy and Scrutiny Committee Members should:
  - Take a strategic perspective, focusing on the wider community outcomes.
  - Be clear about the purpose of their work, the challenge they seek to provide and the lines of questioning pursued.
  - Be objective, evidence-based and constructive, acting as a critical friend to the Cabinet with a view to improving decision making.
  - Aim for consensus, drawing on political insight, but unafraid to act through majority vote where consensus cannot be reached.
  - Work collaboratively with the Cabinet to while recognising that Cabinet will not always agree with scrutiny conclusions and recommendations.
  - Be well informed on subject matter, taking up briefing opportunities and coming fully prepared to meetings, thus being able to contribute to impactful, strategic discussions.
- (3) And Cabinet Members should:
  - Recognise and value the role of Policy and Scrutiny, and be open to constructive challenge.
  - Engage with Committee Chairs and Members to ensure they are kept informed as to the priorities and plans of the Cabinet at the earliest possible opportunity and proactively identify issues where Policy and Scrutiny Members may be able to support and influence their work.
  - Respect the independence of Policy and Scrutiny Committees and their chosen work programmes.
  - Properly and fully consider the conclusions, findings and recommendations of Policy and Scrutiny, responding to these appropriately.
- (4) To ensure purposeful challenge, questioning from Policy and Scrutiny Members to Cabinet Members should be focused, constructive, strategic and outcome-based. Where possible, Cabinet Members should attend all relevant scrutiny meetings and be open to constructive challenge.

### **2.3.4 Recommendations**

- (1) Recommendations from Policy and Scrutiny to Cabinet Members should be SMART (specific, measurable, achievable, relevant and timed). The development of recommendations should be an iterative process: led by Policy and Scrutiny Members, drafted with appropriate input from the Executive and have due regard to advice received from senior officers and the Monitoring Officer as well as input from the community. Ensuring recommendations are constructive, clear and outcome-based will aid impact.
- (2) In line with statutory requirements, the Executive should consider the recommendations of Policy and Scrutiny within two months and provide responses to recommendations including reasoning behind any

recommendations not being accepted. If necessary and proportionate, Scrutiny Chairs should attend Cabinet meetings to provide feedback. Policy and Scrutiny Committees will also track recommendations, including responses, and assess the impact of scrutiny.

### **2.3.5 Performance Management**

- (1) The Audit and Performance Committee is responsible for overall performance management of council services and receives quarterly performance reports to support this work.
- (2) It is not the role of Policy and Scrutiny to performance manage individual service areas or Cabinet Members. There is however provision built in for the Audit and Performance Committee to refer areas of concern regarding service performance to the relevant Policy and Scrutiny Committee and in such circumstances, the relevant Cabinet Member should attend a meeting of that Committee to explore the reasons behind the performance concerns and, where appropriate, receive feedback and recommendations from the Committee as to how to remedy any issues.

### **2.3.6 Monitoring**

- (1) This protocol should be monitored on a regular basis by Scrutiny Chairs and the Cabinet. The Statutory Scrutiny Officer and the Monitoring Officer should be responsible for overseeing compliance with the protocol as well as supporting and promoting a culture of scrutiny by fully reviewing the protocol as part of the annual review and evaluation of Policy and Scrutiny activity which is reported to Full Council.

### **3. POLICY AND SCRUTINY COMMITTEE TERMS OF REFERENCE**

#### **OVERVIEW AND SCRUTINY COMMITTEE**

#### **CONSTITUTION**

7 Members of the Council (4 nominated by the Majority Party and 3 by the Opposition Party) but shall not include a member of the Cabinet.

#### **TERMS OF REFERENCE**

1. To provide overall leadership to the Policy and Scrutiny function, coordinating across work programmes and requesting that other committees investigate particular issues where appropriate and necessary.
2. To scrutinise cross-cutting or corporate areas of policy and/or service delivery, including but not limited to:
  - Corporate strategy
  - Crime and disorder;
  - Emergency planning
  - The local economy
  - Overall Local Development Framework (Planning Policy)
  - Overall licensing policy
  - Overall financial management (to the extent that this is not handled by the Audit and Performance Committee)
  - Corporate Property
  - Commercial Services and Procurement
  - Staffing/HR
  - Legal
3. To approve the Annual Report of Policy and Scrutiny activity and submit this to Full Council where necessary.
4. To exercise call-in provisions for issues within the scope of this terms of reference or for any matter which does not fall within the scope of the terms of reference for any other Policy and Scrutiny Committee.
5. To discharge the Council's statutory responsibilities under Section 19 of the Police and Justice Act 2006, thus acting as the Council's crime and disorder committee and fulfilling all the duties that entails.

# **CLIMATE ACTION, ENVIRONMENT AND HIGHWAYS POLICY AND SCRUTINY COMMITTEE**

## **CONSTITUTION**

7 Members of the Council (4 Majority Party Members and 3 Opposition Party Members).

## **TERMS OF REFERENCE**

1. To undertake Policy and Scrutiny activity, in line with the functions set out in Section 1 of Chapter 4 of the Constitution, in respect of matters noted in this terms of reference.
2. To lead Policy and Scrutiny Activity for all matters relating to:
  - The climate action programme
  - Environmental enforcement
  - Waste and cleansing
  - Highways and parking
  - Parks and open spaces
  - Any other matter intended to achieve environmental improvement, tackle the climate emergency or otherwise improve the cleanliness of the City
3. Matters referred to in (2) above which are the responsibility of external agencies, and where the Committee may legitimately act to investigate.
4. Any other matter which the Overview and Scrutiny Committee has requested that this Committee investigates.



# **HOUSING AND REGENERATION POLICY AND SCRUTINY COMMITTEE**

## **CONSTITUTION**

7 Members of the Council (4 Majority Party Members and 3 Opposition Party Members).

## **TERMS OF REFERENCE**

1. To undertake Policy and Scrutiny activity, in line with the functions set out in Section 1 of Chapter 4 of the Constitution, in respect of matters noted in this terms of reference.
2. To lead Policy and Scrutiny Activity for all matters relating to:
  - Housing services and policies
  - Reducing rough sleeping
  - Housing regeneration schemes
  - Housing delivery and provision in the private and other sectors, and policies which enable this
  - Place-shaping schemes including Oxford Street
  - Any other matter intended to build housing, deliver housing services to residents and tackle homelessness and rough sleeping
3. Matters referred to in (2) above which are the responsibility of external agencies, and where the Committee may legitimately act to investigate, including housing associations.
4. Any other matter which the Overview and Scrutiny Committee has requested that this Committee investigates.

# **YOUNG PEOPLE, LEARNING AND EMPLOYMENT POLICY AND SCRUTINY COMMITTEE**

## **CONSTITUTION**

7 Members of the Council (4 Majority Party Members and 3 Opposition Party Member).

4 co-opted Members with voting rights i.e. one co-opted representative each from the Church of England and Roman Catholic Diocesan Education Boards and two Parent Governor Representatives. 2 co-opted Members without voting rights, i.e. 2 Headteachers of Westminster maintained schools.

NB: The voting rights of the co-opted only extend to matters relating to Education.

## **TERMS OF REFERENCE**

1. To undertake Policy and Scrutiny activity, in line with the functions set out in Section 1 of Chapter 4 of the Constitution, in respect of matters noted in this terms of reference.
2. To lead Policy and Scrutiny Activity for all matters relating to:
  - Children's safeguarding services
  - Schools and other pre-18 education options
  - Adult education, including further and higher education
  - Wider employment and skills programmes
  - Libraries
  - Leisure services and partnerships
  - Any other matter intended to support or safeguard young people, improve the learning environment of the City or provide leisure and library-related services
3. Matters referred to in (2) above which are the responsibility of external agencies, and where the Committee may legitimately act to investigate.
4. Any other matter which the Overview and Scrutiny Committee has requested that this Committee investigates.

## **VULNERABLE ADULTS, HEALTH AND COMMUNITIES POLICY AND SCRUTINY COMMITTEE**

### CONSTITUTION

7 Members of the Council (4 Majority Party Members and 3 Opposition Party Members).

### TERMS OF REFERENCE

1. To undertake Policy and Scrutiny activity, in line with the functions set out in Section 1 of Chapter 4 of the Constitution, in respect of matters noted in this terms of reference.
2. To lead Policy and Scrutiny Activity for all matters relating to:
  - Adult's safeguarding services
  - Public health improvement
  - Health services in the city
  - Community safety services
  - Voluntary and community sector relationships and investment
  - Any other matter intended to support or safeguard vulnerable adults, improve health and wellbeing and our communities and support the voluntary sector in the city
3. Matters referred to in (2) above which are the responsibility of external agencies, and where the Committee may legitimately act to investigate, in particular to scrutinise matters relating to the provision of Health Services within Westminster, including the consideration of any reports referred by the local HealthWatch
4. Any other matter which the Overview and Scrutiny Committee has requested that this Committee investigates.
5. To discharge the Council's statutory responsibilities under Section 7 and 11 of the Health and Social Care Act 2001 and Section 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 with regard to any planned substantial developments and variations to NHS services, except where joint arrangements are made.

# **NORTHWEST LONDON JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE**

## **CONSTITUTION**

One nominated voting member from each Council participating in the Northwest London Joint Health Overview and Scrutiny Committee plus one alternate member who can vote in the voting member's absence. In addition, one non-voting co-opted member of the London Borough of Richmond. This committee will require at least six voting members in attendance to be quorate. The Northwest London Joint Health Overview and Scrutiny Committee will elect its own Chair and Vice Chair. Elections will take place on an annual basis each May, or as soon as practical thereafter, to allow for any annual changes to the committee's membership.

## **TERMS OF REFERENCE**

1. To scrutinise the plans for meeting the health needs of the population and arranging for the provision of health services in North West London; in particular the implementation plans and actions by the North West Integrated Care System and their Integrated Care Board, focusing on aspects affecting the whole of North West London. Taking a wider view than might normally be taken by individual local authorities
2. To review and scrutinise decisions made, or actions taken by North West London Integrated Care System, their Integrated Care Board and/or other NHS service providers, in relation to the plans for meeting the health needs of the population and arranging for the provision of health services in North West London, where appropriate.
3. To make recommendations to North West London Integrated Care System and its Integrated Care Board, NHS England, or any other appropriate outside body in relation to the plans for meeting the health needs of the population and arranging for the provision of health services in North West London; and to monitor the outcomes of these recommendations where appropriate.
4. To require the provision of information from, and attendance before the committee by, any such person or organisation under a statutory duty to comply with the scrutiny function of health services in North West London. Individual local authority members of the North West London Joint Health Overview and Scrutiny Committee will continue their own scrutiny of health services in, or affecting, their individual areas (including those under the for North West London).
5. Participation in the Joint Health Overview and Scrutiny Committee will not preclude any scrutiny or right of response by individual boroughs. In particular, and for the sake of clarity, this joint committee is not appointed for and nor does it have delegated to it any of the functions or powers of the local authorities, either individually or jointly, under Section 23 of the local authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

## DURATION

The Joint Health Overview and Scrutiny Committee will continue until all participating authorities decide otherwise and does not preclude individual authorities from leaving the Committee if they choose to do so. The Committee will keep under review whether it has fulfilled its remit and recommendations of the Committee will be reported to a Full Council meeting of each participating authority at the earliest opportunity.

# **INNER WEST LONDON MENTAL HEALTH SERVICES RECONFIGURATION JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE**

## **1 Name**

- 1.1 Inner West London Mental Health Services Reconfiguration Joint Health Overview and Scrutiny Committee (RBKC and WCC).

## **2 Terms of Reference**

### **Purpose**

- 2.1 Health Services are required to consult a local authority's Health Overview and Scrutiny Committee about any proposals they have for a substantial development or variation in the provision of health services in their area. When these substantial developments or variations affect a geographical area that covers more than one local authority, the local authorities are required to appoint a Joint Health Overview and Scrutiny Committee (JHOSC) for the purposes of the consultation.
- 2.2 These terms of reference set out the arrangements for WCC and RBKC to operate a JHOSC to consider the Proposal made in relation to the services at the Gordon Hospital, the St Charles Mental Health Centre and wider community mental health services in the two boroughs, in line with the provisions set out in legislation and guidance.
- 2.3 This committee will cease to exist upon the conclusion of its work.

## **3. Remit**

- 3.1 The JHOSC will operate formally as a statutory joint committee i.e., where the councils have been required under Regulation 30 Local Authority (Public Health, Health and Well-being Boards and Health Scrutiny) Regulations 2013 to appoint a joint committee for the purposes of providing independent scrutiny.
- 3.2 Regulation 30 of the 2013 Regulations provides:
- Only the joint committee may respond to the consultation (i.e., rather than each individual local authority responding separately).
  - Only the joint committee may exercise the power to require the provision of information by the relevant NHS body or health service provider about the proposal.
  - Only the joint committee may exercise the power to require members or employees of the relevant NHS body or health service.
  - make comments on the proposal consulted on pursuant to regulation.

3.3 With the exception of those matters referred to in the paragraph above responsibility for all other health scrutiny functions and activities remain with the respective local authority Health Scrutiny Committees.

#### **4. Governance and Membership**

4.1 The JHOSC will be hosted by both authorities on rotation and meetings of the JHOSC will be conducted in accordance with the Standing Orders of the host local authority at the time.

4.2 Membership of the JHOSC will be appointed by the respective local authorities and their appointments notified to each other.

4.3 Each member of the JHOSC must be a properly elected Councillor to a seat on their respective authority and will cease to be a member of the JHOSC with immediate effect should they no longer meet this requirement.

4.4 Appointments by each authority to the JHOSC will be politically proportionate to that authority.

4.6 The quorum for meetings will be a minimum of 4 members, 2 from each authority. However, any vote on a referral to the Secretary of State will require all members to vote and be in agreement.

4.7 The chairing arrangements for the JHOSC for the duration of the Committee shall be elected and or decided at its first formal meeting and drawn from those Members in attendance at that meeting. Should the Chair cease to be a member of the JHOSC, a new Chair shall be elected at the next formal meeting.

4.8 The Vice-Chair of the JHOSC for the duration of the Committee shall be elected at its first formal meeting and drawn from those Members in attendance at that meeting. In the absence of the Chair, the Vice-Chair shall assume all chairing responsibilities. Should the Vice-Chair cease to be a member of the JHOSC, a new Vice-Chair shall be elected at the next formal meeting.

4.9 In the absence of both the Chair and Vice-Chair at any Meeting of the JHOSC, Members in attendance shall appoint a Chair for that Meeting from amongst their number, who shall, while presiding at that Meeting, have any power or duty of the Chair in relation to the conduct of the Meeting.

#### **5. Administration**

5.1 The overall coordination, facilitation of meetings, policy support and other administrative arrangements will be shared by the scrutiny and governance teams of both authorities.

5.2 Legal advice and support to the JHOSC will be provided by Bi-Borough Legal Services as well as the Monitoring Officers to both authorities.

6. **Reporting**

6.1 Members of the JHOSC may provide updates to the Full Council of their Local Authority on its proceedings in accordance with the requirements of their respective authority.

6.2 Any recommendations of the JHOSC shall be communicated to relevant parties in writing with a summary of the evidence and the matter under consideration.