

SCRUTINY PROCEDURE RULES

These Rules are divided into three sections relating to the different types of scrutiny meeting:

- **Section A:** Overview and Scrutiny Commission (Commission/OSC) Procedures.
- **Section B:** Specific Scrutiny Panel Procedures.
- **Section C:** Specific Joint Scrutiny Procedures.

SECTION A: OVERVIEW AND SCRUTINY COMMISSION (COMMISSION/OSC) PROCEDURES

1. COMMISSION MEMBERSHIP

- 1.1. All Councillors, except Cabinet Members, will be eligible for appointment as a Commission Member. However, no Councillor may be involved in scrutinising a decision in which they have been directly involved.

2. SCHEDULED COMMISSION MEETINGS

- 2.1. Ordinary meetings of the Overview and Scrutiny Commission will take place as scheduled in the Calendar of Meetings unless amended with the agreement of the Chair of the Commission, or in the Chair's absence, the Vice Chair of the Commission.

3. ORDER OF BUSINESS

- 3.1. Agendas for ordinary meetings of the Commission (and Scrutiny Panel meetings for items a-c only) will incorporate:
 - a) Apologies for absence.
 - b) Declarations of interest from Councillors.
 - c) Approve the minutes of the previous meeting.
 - d) Public Question Time.
 - e) Scrutinise and comment upon reports including the Budget and Policy Framework Documents that the Cabinet, or other Committees, will be making decisions upon.
 - f) Review and scrutinise the Transformation Plan and receive presentations.
 - g) Cabinet Member and Chief Executive Discussions as appropriate.
 - h) Monitor the Cabinet's Forward Plan.
 - i) Consider the business otherwise detailed on the agenda.
 - j) Consider any urgent business.
- 3.2. Other items that may be considered include the following:
 - a) Approve and co-ordinate an annual work programme.
 - b) Appoint Scrutiny Panels, set the terms of reference, their duration and their Chairs.

- c) Receive and review the Scrutiny Panel findings.
- d) Respond to requests from the Cabinet for Scrutiny involvement in policy review and development.
- e) Scrutinise any matter referred to the Commission which may include inviting/requesting the evidence of third parties, that impacts upon the Borough's residents and, where appropriate, make recommendations to the Full Council or the Cabinet (exclusions may apply – see Rule 4).
- f) Consider petitions (50-999 signatories).
- g) Consider decisions which have been Called-In.
- h) Ensure that any reports by the Joint Scrutiny Task and Finish Groups be reported to the appropriate decision maker via the Commission, and that the appropriate decision maker responds accordingly to the West Sussex Joint Scrutiny Steering Group.
- i) Where appropriate, recommend to the Full Council the appointment of Co-optees to serve on the Commission following discussions between the Head of Legal, Democracy and HR and Group Leaders. Co-optees will not have voting rights.
- j) Where appropriate, to appoint Co-optees to serve on Scrutiny Panels (following discussions between the Chair of the Commission, Head of Legal, Democracy and HR and Group Leaders). Co-optees will not have voting rights.
- k) Where appropriate, and having received a request in writing for information relating to the functions of a relevant partner authority, obtain the information and require Executives of local authorities to exclude confidential and exempt information when publishing their response to reports and recommendations of the Commission.

4. EXCLUDED MATTERS

4.1. Matters which must not be considered by Scrutiny include:

- a) Any matters relating to a planning decision, a licensing decision or where a person has right of recourse to a review or right of appeal.
- b) Any matter which is vexatious, discriminatory or not reasonable; any matter referring to an individual complaint.
- c) Any local crime and disorder matter excluded under S.19 of the Police and Justice Act 2006.

4.2. A matter is not considered excluded if it consists of 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.

5. INTERPRETATION OF THE PROCEDURE RULES

5.1. The Chair or in their absence the person chairing the meeting will decide on all matters of order and interpretation of these rules and their decision will be final and not open to discussion. In presenting a ruling they must explain their decision.

5.2. In reaching their decision, they must give due consideration to the advice of the Democratic Services Officer. The Chair may defer to the Democratic Services Officer to provide the interpretation on their behalf.

6. NOTICE AND SUMMONS TO MEETINGS

- 6.1. The Head of Legal, Democracy and HR will give notice to the public of the time and place of Commission and Scrutiny Panel meetings in accordance with the Access to Information Procedure Rules. The summons (in the form of an agenda) will be published at least five clear working days before a meeting and will detail the time, location and items to be discussed including any associated reports being considered. The date and time of scheduled Commission meetings will be published in the Calendar of Meetings.

7. CANCELLATION OF SCHEDULED COMMISSION OR SCRUTINY PANEL MEETINGS

- 7.1. A scheduled meeting may be cancelled in writing by the Head of Legal, Democracy and HR if there is insufficient business, following consultation with the Chair of the Commission or the relevant Scrutiny Panel.

8. EXTRAORDINARY MEETINGS OF THE COMMISSION

- 8.1. An Extraordinary meeting of the Commission may be called:
- a) If the Head of Legal, Democracy and HR considers it necessary or appropriate.
 - b) At the written request of any three Commission Members or the Chair.
- NB: No business, other than that contained within the issued summons/agenda shall be considered at Extraordinary Commission meetings.*
- 8.2. Notice of the time, date and location of any Extraordinary meeting will be sent by the Head of Legal, Democracy and HR to every Councillor no less than five clear working days before the meeting is to be held.

9. COMMENCEMENT OF MEETING

- 9.1. All Commission meetings will commence at the time specified in the scheduled Calendar of Meetings, unless the summons/agenda issued by the Head of Legal, Democracy and HR, following consultation with the Chair, alters this time.

10. ATTENDANCE AT THE MEETING

- 10.1. **Apologies for Absence:** Councillors who have conveyed their apologies for absence will be recorded as such in the minutes. Councillors who are not in attendance, but who have not conveyed their apologies, will also be recorded in the minutes of a meeting as being absent. Should the Chair or Vice Chair not be present then a Commission Member must be elected to chair the meeting.
- 10.2. **Quorum:** The quorum of a Commission or Scrutiny Panel meeting shall be one quarter of the whole number of Councillors rounded up where necessary to the next number and no less than three Councillors.

- 10.3. **Council Officers:** Officers attending Commission or Scrutiny Panel meetings may, with the consent of the Chair contribute by presenting any report under consideration or by providing advice and guidance. Officers may also attend to answer questions relating to performance targets, their service area, initiatives, issues or projects.
- 10.4. **Cabinet Members:** If requested by the Commission or a Scrutiny Panel, Cabinet Members must attend a meeting of the Commission or Scrutiny Panel to answer questions relating to performance targets, service areas, initiatives, issues or projects within their portfolio responsibilities.
- 10.5. **Non-Commission Councillors:** Every Councillor has the right to attend any Commission or Scrutiny Panel meeting. A non-Commission Councillor is only entitled to take part in the proceedings if they obtain the Chair's consent to speak on a particular item. They will not under any circumstances be entitled to vote. Non-Commission Councillors will sit separately from Commission Members.

11. DECLARATIONS OF INTEREST

- 11.1. In accordance with the Code of Conduct for Councillors, Councillors are required to declare interests as appropriate.

12. THE PARTY WHIP

- 12.1. To enable the Commission to serve its purpose, whipping on any scrutiny matter should not occur. If a member of the Commission or one of its Panels feels they are subject to a party whip, they must declare this during the Declarations of Interest item.

13. MINUTES

- 13.1. Each Commission or Panel meeting will consider and sign the minutes of the previous meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy and any questions as to their accuracy shall be voted on accordingly. Once the minutes have been agreed by the Commission/Panel they shall be signed by the Chair.

14. PUBLIC QUESTION TIME (INCLUDING PETITIONS) PROCEDURE

- 14.1. Public Question Time will only occur at an ordinary meeting of the Commission and will last for a maximum of 15 minutes.
- a) Members of the public do not need to give prior notice of their questions.
 - b) The question should be relevant to any item on the agenda, a Scrutiny Panel or potential review. The question must not relate to an individual case which should be dealt with under the Council's complaints procedure or any other formal appeals procedure.
 - c) The question must not be in essence the same as a question which has been put to the Commission in the past 6 months.
 - d) The Chair of the Commission, at their discretion, may answer the question or invite other Councillors or officers to respond.

- e) After the question has been answered, the person asking the question may ask one supplementary question relating to the same matter.

14.2. Petition organisers may address the Commission in accordance with the Council's Petition Scheme and may speak for a maximum of 3 minutes.

15. FORTHCOMING DECISION NOTICES

15.1. Commission Members have the right to examine the Forthcoming Decision Notices and identify whether a decision should be scrutinised prior to it being taken. This can be done either through a provisional or full referral. The Commission must consider the following when referring an item:

- a) Will the Scrutiny Commission add value?
- b) Is it controversial?
- c) Can the OSC influence the debate?
- d) Do the report's proposals go against existing policy?
- e) Where else has, or will, the item be considered?
- f) Would an informal discussion with the report's author resolve any problems?
- g) Is the referral a good use of officer resources?

15.2. Items should not be identified for Commission consideration if a Councillor's queries could easily be answered by reference to the appropriate Head of Service or relevant Cabinet Member.

16. REPORTS FROM THE COMMISSION

16.1. The Commission will produce reports to the appropriate decision maker when a particular piece of work has been completed.

16.2. These reports will be presented by the Chair of the Commission (or the Councillor who led the review). Where the Full Council is to receive the report, a copy of the report should go via the Cabinet and they may wish to comment upon the report which will also be presented to the Full Council.

16.3. If the Commission cannot agree on one single report, then no more than one minority report may be prepared and submitted for consideration with the majority report.

17. CRIME AND DISORDER

17.1. The Commission is designated as the Council's "Crime and Disorder Committee" in accordance with the Police and Justice Act 2006, the Crime and Disorder (Overview and Scrutiny) Regulations 2009 and the Crime and Disorder Act 1998.

17.2. The Commission's responsibility is to:

- a) Annually review or scrutinise decisions made, or action taken, in connection with the discharge by the "Responsible Authorities" of their crime and disorder functions.
- b) Make reports and recommendations to the Full Council with regard to the discharge of the Responsible Authorities' function.

18. VOTING

- 18.1. **Procedure:** The Chair will give clear instructions and guidance when a vote is to be taken, this may include an explanation as to the questions being voted upon and a summary of the debate.

The Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting unless a recorded vote is requested (Rule 18.4). All Councillors will be expected to indicate their voting intentions VERY clearly.

- 18.2. **Majority:** All matters will be decided by a simple majority of those Councillors voting and present in the room at the time the question is put to the vote. The Chair will ascertain the numbers voting for or against any question, or not voting on it and shall announce those numbers and declare the result.
- 18.3. **Chair's Casting Vote:** If there are equal numbers of votes for and against, the Chair or the person presiding will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.
- 18.4. **Recorded Vote:** A recorded vote will be taken if any Councillor present at the meeting demands it. In the event of a recorded vote, the Democratic Services Officer shall call the names of each Councillor present in alphabetical order. Each Councillor will then declare themselves for or against the recommendation or abstaining from voting. This process will be taken down in writing and entered into the minutes. The Chair will declare the result.
- 18.5. **Right to Require Individual Vote to be Recorded:** Any Councillor may request that the minutes record how they voted, be it for or against the recommendation or abstaining from voting. Such a request must be made immediately after the relevant vote is taken.

19. EXCLUSION OF PUBLIC

- 19.1. Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules of this Constitution or Rule 21.

20. COUNCILLORS' CONDUCT

In addition to the general requirements of the Code of Conduct for Councillors, the following shall apply to meetings of the Commission and Scrutiny Panels:

- 20.1. **Every Councillor present at the meeting shall:**
- a) Treat others with courtesy and respect.
 - b) Conduct themselves in a way which does not cause offence to others or limits in any way others' ability to participate at the meeting.
 - c) Only speak when called on by the Chair or speak through the Chair.
- 20.2. **Unacceptable conduct includes:**
- a) Using abusive or inappropriate language, or making comments of a personal nature about another person.
 - b) Derogatory remarks or actions.

- c) Preventing others from expressing their views by interrupting or talking while they are speaking.

20.3. **Only One Councillor Shall Speak at a Time:** A Councillor when speaking shall address the Chair. If two or more Councillors indicate a wish to speak, the Chair shall call on one to speak and any others shall wait to be called. While a Councillor is speaking other Councillors shall remain quiet, unless raising a procedural motion.

20.4. **Chair Speaking:** When the Chair speaks during a debate any Councillor speaking at the time must stop. The meeting must be silent.

20.5. **Councillor Not to be Heard Further:** If a Councillor persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair or another Councillor may move that the Councillor not be heard further. If seconded, the motion will be voted on without discussion.

20.6. **Councillor to Leave the Meeting:** If the Councillor continues to behave improperly after such a motion is carried, the Chair may move that either the Councillor leaves the meeting or that the meeting is adjourned briefly and in any event for no longer than 15 minutes. If seconded, the motion will be voted on without discussion. If a motion that the Councillor leave the room is carried, the Councillor will leave the room immediately.

20.7. **General Disturbance:** If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary so that order may be restored.

21. DISTURBANCE BY PUBLIC

21.1. If there are general disturbances by a member of the public, the Chair has a number of powers, including:

- a) To warn a particular person or order their removal from the meeting.
- b) To adjourn the meeting to allow order to be restored.
- c) To clear all or part of the public areas as necessary.
- d) To adjourn the meeting to another date and time as the Chair deems appropriate so that the business of the meeting can be conducted.

22. ROLE AND FUNCTION OF THE CHAIR

22.1. The Chair of the Commission, and in their absence the Vice Chair, will have the following roles and functions:

- a) To chair meetings of the Commission impartially, encouraging contributions from all Commission Members.
- b) To promote and develop the profile and impact of overview and scrutiny.
- c) To consider how Scrutiny work might be assisted by:
 - Arranging informal discussions outside the Committee process or undertaking visits.
 - Inviting outside contributors to attend Commission meetings.
 - Calling for reports from the Chief Executive, or relevant officers or commissioning research.

- d) To produce and present a report to the Cabinet, at a Committee and/or the Full Council, as appropriate.
- e) To be consulted on and/or approve use of the urgent rules as defined in the Access to Information Procedure Rules.
- f) To represent the Commission on the West Sussex Joint Scrutiny Steering Group.

NB: A substitute should be accepted if a Councillor appointed to the Steering Group is unable to attend a particular meeting.

NB: Where there is more than one political group on the Council, either the position of Chair or Vice Chair of the Overview and Scrutiny Commission will go to a Councillor nominated by an Opposition Group.

SECTION B: SPECIFIC SCRUTINY PANEL PROCEDURES

23. ESTABLISHMENT OF SCRUTINY PANELS

- 23.1. The Overview and Scrutiny Commission may establish time-limited Scrutiny Panels; the number to be running at any one time will be subject to resource constraints.

24. REMIT OF SCRUTINY PANELS

- 24.1. Scrutiny Panels will:
 - a) Carry out an in-depth investigation into specific service areas, policy or issues of genuine importance to the town (The exclusions set out in Rule 4 may apply).
 - b) Work to a specific brief set out by the Commission.
 - c) Report to the Commission.

25. PANEL MEMBERSHIP

- 25.1. Membership of the Scrutiny Panels must be drawn from non-Cabinet Members and include at least one Commission Member. However, no Councillor may be involved in scrutinising a decision in which they have been directly involved. The size and membership will be agreed in consultation with Group Leaders and the secretaries, and will be politically balanced unless they agree otherwise. The Commission will agree the Chair of the Scrutiny Panel (who will not necessarily be a Commission Member).

26. ATTENDANCE RELATING TO SCRUTINY PANEL INVESTIGATIONS

- 26.1. Where Scrutiny Panels conduct investigations, they may ask people to attend to give evidence in accordance with the following principles:
 - a) That the investigation be conducted fairly and all members of the Panel be given the opportunity to ask questions of attendees and to contribute.
 - b) That those assisting the Panel by giving evidence be treated with respect and courtesy.
 - c) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

- d) Following any investigation or review, the Panel shall prepare a public report, for submission to the Commission, relevant Committee and/or the Full Council as appropriate.

SECTION C: SPECIFIC JOINT SCRUTINY PROCEDURES

27. ESTABLISHMENT OF JOINT SCRUTINY ARRANGEMENTS

- 27.1. A formal but flexible joint scrutiny arrangement was established in West Sussex in 2011 and is led by the West Sussex Joint Scrutiny Steering Group.

28. SCOPE OF JOINT SCRUTINY WORK

- 28.1. The issues for joint scrutiny will be based on County, District and Borough Overview and Scrutiny Committees' work programmes and the Steering Group takes the following matters into account:
 - a) What added value joint scrutiny can bring.
 - b) Whether or not the issue is being scrutinised elsewhere.
 - c) Who the group is intending to influence.
 - d) Whether the issue has been identified by the public/key stakeholders.
 - e) The resource implications of any scrutiny reviews and how these will be supported (e.g. identify officer support/research needs etc.).

29. REMIT OF THE JOINT TASK AND FINISH GROUP

- 29.1. The Task and Finish Groups will investigate issues of common concern affecting either the whole county or the areas of more than one District/Borough Council. Any joint scrutiny will be outcomes-focused (i.e. where it is felt that improvements can be achieved for the community), and will scrutinise performance as opposed to processes. Whilst issues under joint scrutiny may relate to the work of organisations with a wider remit than local authorities, any scrutiny will not be of the organisations themselves, but rather of relevant issues relating to their work/role.

30. TASK AND FINISH GROUP MEMBERSHIP

- 30.1. Although there should normally be a minimum number of three members and no maximum is imposed, the number of members will be agreed by the Steering Group dependent on the requirements of the issue under scrutiny. However, membership of task groups should be non-political and geographically balanced (as appropriate). The Steering Group may wish to recommend Co-opted Members from relevant authorities, but ultimately this should be the decision of the task group.
- 30.2. Any joint scrutiny will be carried out by non-Cabinet Members of County, District and Borough Councils. Non-Executive County Council Councillors who are Cabinet Members on District or Borough Councils (or vice-versa) will not carry out any joint scrutiny activities that relate to their portfolio area.

31. REPORTING BY TASK AND FINISH GROUPS

- 31.1. Task groups will generally report to the relevant decision-makers within the West Sussex local authorities. A copy of the report will be sent to the Steering Group.
- 31.2. The task group members will liaise with their authority's responsible colleagues for the issue under review – the Cabinet Member and the lead Chief Officer/officer – as well as the Scrutiny Officer to ensure that the review and its outcomes are communicated more widely within the authority in order that all members may be informed and involved.
- 31.3. The task group report will be finalised by task group members before circulation to the relevant decision-makers. It is therefore important for all members of the group to agree the recommendations.
- 31.4. Members of the task group will be responsible for information sharing and liaison with other colleagues within their Authority to ensure the recommendations are inline with their required outcomes.