

CANNOCK CHASE COUNCIL

ANNUAL COUNCIL

21 MAY 2008

REPORT OF THE DIRECTOR OF GOVERNANCE AND MONITORING OFFICER

RESPONSIBLE PORTFOLIO LEADER:

CHANGES TO THE COUNCILS CONSTITUTION

1. Purpose of Report

- 1.1 This report seeks Council approval to the changes in the arrangements relating to Scrutiny Committee and former Select Committees, proposed to be reconfigured as Policy Development Committees.

2. Recommendations

Council is recommended to:-

- (a) note the changes to the Scrutiny and Select Committee arrangements as specified in Annex A.
- (b) establish a Constitution Working Group to report to Council no later than August 2008 on any proposed changes to the Council's Constitution. The membership shall be 2 Members from each political group with each Group Leader notifying the Chief Executive of such Members within 5 working days.

Scrutiny Committee and Select Committee

In order to focus the role of Scrutiny and in particular the power of call-in and the exercise of a clear scrutiny function for the Council, it is proposed that the Scrutiny Committee remain in its existing format and that all Scrutiny functions vest within the Scrutiny Committee and no other Committee. This will mean that the current Select Committees will change their purpose and will not therefore form part of the Council's Scrutiny role. The Select Committees will become Policy Development Committees which will include as the Membership the relevant the Portfolio Holder from Cabinet and the Shadow Portfolio Member (if he/she so wishes). The Chairman will not be the Portfolio Holder. The Policy Development Committees are proposed to be constituted of 9 Members and will include the existing Select Committee areas (aligned to the LAA) with an additional Committee for Housing Policy Development.

Executive Members will not be able to sit on the Scrutiny Committee of the Council (as currently). The Scrutiny Committee may still continue to call-in any item of a Cabinet in accordance with the Council Procedure Rules and Regulations, and may discharge specific areas of review in accordance with the Scrutiny role, as determined by the single FSR.

The FSR shall constitute 6 Members from Scrutiny, only one FSR shall be created and it will determine its area of review plan in accordance with the Council's Value for Money ambitions.

It is proposed that the Scrutiny Committee will consider the establishment of a Performance and Partnership Scrutiny Sub-Committee which will be a Sub-Committee of Scrutiny with a membership of 9. The remit of the Sub-Committee will be similar to the current Select Committee and the terms of reference for the sub-committee will be determined by Scrutiny Committee.

It is also proposed to establish a Constitution Working Group to report to Council no later than August 2008 on any proposed changes to the Council's Constitution. The membership shall be 2 Members from each political group with each Group Leader notifying the Chief Executive of such Members.

### Background Papers

#### Annexes

Annex A      Changes to Select Committees to create Policy Development Committee

# *PART 2*

# *ARTICLES OF THE CONSTITUTION*

# *Article 1*

## *The Constitution*

### **1.1 POWERS OF THE COUNCIL**

The Council will exercise all its powers and duties in accordance with the law and this Constitution

### **1.2 THE CONSTITUTION**

This Constitution, and all its appendices, is the Constitution of the Cannock Chase District Council

### **1.3 PURPOSE OF THE CONSTITUTION**

- a) The purpose of the Constitution is to:
- i) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations
  - ii) support the active involvement of citizens in the process of local authority decision-making
  - iii) help councillors represent their constituents more effectively
  - iv) enable decisions to be taken efficiently and effectively
  - v) create a powerful and effective means of holding decision-makers to public account
  - vi) ensure no-one will review or scrutinise a decision in which they were directly involved
  - vii) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions, and
  - viii) provide a means for improving delivery of services to the community

b) The Council’s role has now developed beyond its essential objective of providing continuously improving services to providing leadership to the whole community. This role is reflected in the Council’s leadership of the Local Strategic Partnership whose vision is :

- to meet the needs and improve the quality of life of existing and future generations in Cannock
- to improve accessibility of services and opportunities for all within Cannock Chase by reducing inequalities, raising aspirations, respecting diversity and engaging with the community
- to develop common aims and joint priorities and co-ordinate local delivery of services
- involve the community in the decisions which affect their lives

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c) This is reflected, in turn, in the Council’s Vision :

“By 2015, Cannock Chase District will be recognised as a place where everyone’s lives are enriched by a strong cultural identity, vibrant local economy and pride in the outstanding natural environment.”

d) The Council’s strategic objectives are represented by the acronym - **C.H.A.S.E.**

Children & Young People - A place where children, young people and their families have a good start in life and remain healthy, safe from harm, achieve their potential in education and skills to make a positive contribution to their community and become economically secure

Healthier Communities, Housing and Older People - A place where people are healthy, have opportunities to live in a decent house in a good environment. Where people have greater choice and control over their own lives and have an active role in the community with access to the support they need to remain living as independently as they choose

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Access to Skills, Economic Development and Enterprise	-	A place with a thriving economy providing diverse employment opportunities to a workforce that is increasing its skills, knowledge and value by making the area more competitive and attractive to investors
Safer and Stronger Communities	-	A place where individuals, neighbourhoods and communities feel free from crime and anti-social behaviour; where communities become stronger and the quality of life is improved for all
Environment	-	A place where the community values their local environment and contributes to its conservation, enhancement and management to meet the needs of the present without compromising the ability of future generations to meet their own needs

#### 1.4 INTERPRETATION AND REVIEW OF THE CONSTITUTION

- a) Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option which it considers is most appropriate to achieve its objectives.
- b) Where there is any conflict between the provisions of this Constitution and any primary or secondary legislation or any statutory guidance, then statutory provisions shall prevail.
- c) The Council will monitor and evaluate the operation of the Constitution as set out in Article 16.

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# Article 2

## Members of the Council

### 2.1 COMPOSITION AND ELIGIBILITY

- a) **Composition.** The Council will comprise 41 members (otherwise called councillors). One or more councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- b) **Eligibility.** Only registered voters of the District or those living or working there (who are not disqualified in law to stand as a Councillor) will be eligible to hold the office of councillor.

### 2.2 ELECTION AND TERMS OF COUNCILLORS

The ordinary election of a third (or as near as may be) of all councillors will be held on the first Thursday in May in each year beginning in 2003 except that in 2005 and every fourth year after there will be no regular election. The terms of office of councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### 2.3 ROLES AND FUNCTIONS OF ALL COUNCILLORS

All councillors will:

- a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- b) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- c) represent their communities and bring their views into the Council's decision-making process i.e. become the advocate of and for their communities;
- d) participate in the governance and management of the Council;
- e) balance different interests identified within their ward and represent the interest of the ward as a whole;

- f) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- g) be involved in decision making;
- h) be available to represent the Council on other bodies;
- i) maintain the highest standards of conduct and ethics.

## 2.4 RIGHTS AND DUTIES

- a) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- b) Councillors will not make public information, which is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than a councillor or officer entitled to know it, unless done so in accordance with the Councillor's Code of Conduct.
- c) For these purposes "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

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## 2.5 CONDUCT

Councillors will at all times observe the Members' Code of Conduct and the Protocol for Member/Officer Relations set out in Part 5 of this Constitution.

## 2.6 ALLOWANCES

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

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# Article 3

## Citizens and the Council

### 3.1 CITIZENS' RIGHTS

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and to start and/or sign a petition to request a referendum for an elected mayor form of Constitution.
- b) **Information.** Citizens have the right to :
  - i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and that part of the meeting is therefore held in private;
  - ii) attend open meetings of the Cabinet;
  - iii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
  - iv) see reports and background papers, and any records of decisions made by the Council in accordance with the Access to Information Procedure Rules set out in Part 4; and
  - v) inspect the Council's accounts and make their views known to the external auditor.
- c) **Participation.** Citizens have the right to participate in the Council's question time in accordance with the Council Procedure Rules set out in Part 4.
- d) **Complaints.** Citizens have the right to complain to :
  - i) the Council itself under its complaints procedure;
  - ii) the Local Government Ombudsman usually after using the Council's own complaints procedure;

iii) the Council's Monitoring Officer about a breach of the Councillors' Code of Conduct.

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### 3.2 CITIZENS' RESPONSIBILITIES

Citizens must not be violent, abusive, threatening or discriminatory to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

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# Article 4

## The Full Council

### 4.1 INTRODUCTION

The Local Government Act 2000 gives the Council responsibility for approving the Policy Framework and Budget. The core statutory elements of the Council's Policy Framework are the Community Strategy and the Corporate and Performance Plan. These are supported by a range of policy/service plans and strategies all of which together form the Policy Framework.

### 4.2 DEFINITIONS

a) **Policy Framework.** The policy framework means the following plans and strategies:

(i) those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and other legislation to be adopted by the Council:

- ~~The Sustainable (Community Strategy) Plan~~
- Corporate and Performance Plan
- Safer and Stronger Communities Strategy
- District Transport Strategy
- Plans and strategies which together comprise the Local Development Framework
- Asset Management Plan

(ii) those recommended for adoption in accordance with the statutory guidance:

- Food Law Enforcement Service Plan
- Plans and strategies which together comprise the Housing Investment Programme

(iii) other plans and strategies which the Council has decided should be adopted by the Council:

- Economic Regeneration Strategy

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- E-Government Strategy

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b) **Budget.** The budget includes:

- the allocation of financial resources to different services and projects
- proposed contingency funds
- the council tax base
- setting the council tax
- decisions relating to the control of the Council's borrowing requirements
- the control of its capital expenditure, and
- the setting of virement limits.

c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval

- of a programme of disposal of 500 or more properties
- to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985

#### 4.3 FUNCTIONS OF THE FULL COUNCIL

Only the Council will exercise the following functions:

- a) adopting and changing the Constitution
- b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer
- c) considering and approving any amendments to the Policy Framework and the Budget in accordance with the Budget and Policy Framework Procedure Rules
- d) adopting the Council's code of conduct for both Councillors and Officers
- (e) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision-maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget

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- f) appointing the Leader of the Council and receiving notification from the Leader of the Council on the number and nature of Cabinet Portfolios and the identity of Cabinet Members
- g) receiving notification from the Leader of the Opposition on the number and nature of the Shadow Cabinet portfolios and the identity of Shadow Cabinet Members
- h) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them
- i) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council
- j) adopting a Members' Allowance Scheme
- k) changing the name of the area
- l) determining electoral matters which fall within the remit of the Council
- m) confirming the appointment and removal of the Head of Paid Service
- n) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills
- o) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet, and
- p) all other matters which, by law, must be reserved to the Council.

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#### 4.4 COUNCIL MEETINGS

There are three types of Council meetings :

- a) the annual meeting
- b) ordinary meetings
- c) extraordinary meetings

and they will be conducted in accordance with the Council's Procedure Rules in Part 4 of this Constitution.

#### 4.5 RESPONSIBILITY FOR FUNCTIONS

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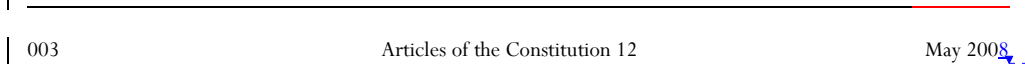
The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

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# Article 5

## Chairing The Council

### 5.1 ROLE AND FUNCTION OF THE CHAIRMAN

The Chairman and Vice-Chairman will be elected at the Annual Meeting of the Council. The Chairman of the Council and, in his/her absence, the Vice-Chairman, will have the following roles and functions :

- a) the Chairman of the Council is the civic head of the Council and will represent the Council at such civic and ceremonial functions as the Council and he/she determine appropriate
- b) to preside over meetings of the Council so that its business can be carried out efficiently and effectively having regard to the rights of councillors and the interests of the community
- c) to uphold and propose the purposes of the Constitution and to interpret the Constitution when necessary
- d) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members determine strategic objectives, policies and programmes to be followed
- e) to promote public involvement in the Council's activities
- f) to maintain the dignity of the office and at no time to bring discredit to it or the Council
- g) to be available for consultation on any matter upon which consultation with the Chairman of the Council is required under this Constitution

# Article 6

## Overview and Scrutiny Committees

### 6.1 TERMS OF REFERENCE

The Council will appoint, in accordance with legislation;

a) a Scrutiny Committee;

b) non-elected members and representatives to the Committee as its Sub-Committees considers appropriate.

All Members of the Council are eligible to be Members of the Scrutiny Committee and its Sub-Committees except those who are Members of the Cabinet and Members of the Audit and Governance Committee.

Membership of the Scrutiny Committee and its Sub-Committees will be subject to the requirements as to political balance set out by Section 15 of the Local Government and Housing Act 1989 (as amended).

### 6.2 GENERAL ROLE

a) The Scrutiny Committee will:

- i) review and/or scrutinise cross-cutting issues in relation to the discharge of the Council's functions,
- ii) be available for consultation in accordance with the Policy and Budget Framework Procedure Rules,
- iii) make reports and/or recommendations to the full Council and/or Cabinet in connection with the discharge of any functions,
- iv) exercise the right to call-in for consideration the decisions made but not yet implemented by the Cabinet, and

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v) will scrutinise and/or review the performance of the Council and its Local Strategic Partners

vi) may refer performance related matters to the appropriate Policy Development Committees for consideration of policy matters.

vii) review and scrutinise organisations and institutions charged with delivering health services in accordance with appropriate legislation.

In relation to (c) above the Policy Development Committees shall not act in a defined Scrutiny function.

### 6.3 SPECIFIC FUNCTIONS

#### b) Scrutiny.

The Scrutiny Committee may:

i) review and scrutinise executive decisions made by the Cabinet in accordance with the 'call-in' procedures set out in Part 4 of this Constitution

ii) review and scrutinise cross-cutting issues in relation to the discharged of the Council's functions.

iii) in undertaking i) and ii), question members of the Cabinet and Directors about their decisions, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions,

iv) make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process, and

v) question and gather evidence from any person (with their consent).

vi) review in accordance with the legislation other public bodies in the area (including the Local Strategic Partnership), invite reports (both written and oral) from them and invite them to address the Committee about their activities and/or performance.

vii) review and scrutinise the performance of the Council and its Local Strategic Partners in relation to the objectives and targets set out in the Local Area Agreement.

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viii) review and scrutinise the performance of the Council, Cabinet and Directors in relation to its policy objectives, performance targets and/or particular service areas.

ix) question members of the Cabinet and Directors about their performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular initiatives or projects,

x) question members of the Local Strategic Partnership and Directors from those organisations which form the Local Strategic Partnership about their performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular initiatives or projects as identified in the Local Area Agreement,

xi) make recommendations to the Cabinet, Council and/or the Local Strategic Partnership arising from the outcome of the scrutiny process, and

xii) question and gather evidence from any person (with their consent).

#### 6.4 PROCEEDINGS OF THE SCRUTINY COMMITTEE

The Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

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# Article 8

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## The Executive (Cabinet)

### 7.1 ROLE

The Cabinet will carry out all of the Council's functions which it is required to do by law or allowed to do under this Constitution. These are identified in Part 3 of this Constitution.

### 7.2 FORM AND COMPOSITION

- a) The Cabinet will consist of the Leader of the Council (the Leader) together with at least 2 but not more than 9 Councillors appointed to the Cabinet by the Leader.
- b) The Leader shall determine the number of Cabinet members and the nature of their portfolios but will be expected to identify a lead Cabinet member for each of the service blocks represented within the Local Area Agreement as agreed by the Council and its partner local authorities within Staffordshire (or such other statutory local mechanism as may exist from time to time).
- c) The Leader shall report the form and composition of the Cabinet to the Annual Council Meeting each year and, should any changes occur during the municipal year, to the first available meeting of the Council thereafter.
- d) The Cabinet may create such Sub-Committees (referred to as Cabinet Sub-Committees) for any such purposes if so deemed necessary

### 7.3 LEADER

- a) The Leader will be a councillor elected to the position of the Leader by the Council usually at its Annual General Meeting (AGM). The Leader will hold office for four years or until any of the following events occur (if earlier):

i) \_\_\_\_\_ he/she resigns from office, or

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ii) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension), or

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iii) he/she is no longer a councillor, or

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iv) he/she is removed from office by resolution of the Council following consideration of a written motion of no confidence signed by a minimum of 25% of the membership of the Council, or

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v) he/she is removed by Council in order to implement a recommendation of the Standards Board for England or the Council's Standards Committee following a local determination.

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b) For the avoidance of doubt the same councillor may be re-elected on one or more occasions if the Council so wishes.

c) The Leader shall notify the form and composition of the Cabinet to the Annual Council Meeting each year and, should any changes occur during the municipal year, to the first available meeting of the Council thereafter.

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#### 7.4 OTHER CABINET MEMBERS

a) Other Cabinet members shall be appointed by the Leader usually at its AGM and shall hold office for such time as the Leader determines or until any of the following events occur (if earlier) :

i) they resign from office, or

ii) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension), or

iii) they are no longer councillors, or

iv) they are removed from office, either individually or collectively, by the Leader, or

v) they are removed by Council in order to implement a recommendation of the Standards Board for England or the Council's Standards Committee following a local determination, or

vi) the Leader for the time being ceases to hold that office following the occurrence of any event listed in paragraph 7.3 a) i) to v).

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a) For the avoidance of doubt the same councillor may be re-appointed on one or more occasions if the Leader so wishes.

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c) The Leader may co-opt any such member as he/she deems appropriate to assist the Cabinet (or its Sub-Committee) in its decision-making. Such co-opted members shall not have voting rights and shall not constitute a 'member' for the purposes of a quorum. The co-optee shall be an advisory appointment only.

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## 7.5 PROCEEDINGS OF THE CABINET

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Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

## 7.6 RESPONSIBILITY FOR FUNCTIONS

- a) The Leader may determine which Cabinet delegations are to be exercised by the Cabinet as a whole and which may be delegated to Cabinet Committees and/or officers.
- b) Individual members of the Cabinet will have responsibility for speaking on service specific matters as determined by the Leader and as indicated in Part 3 of this Constitution, the Cabinet will exercise collective responsibility for decision-making.

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# Article 8

## Shadow Cabinet

### 8.1 ROLE

- a) The Shadow Cabinet or any one or more members of the Shadow Cabinet will be entitled to attend and speak at any Cabinet meeting on giving at least 48 hours prior written notice to the Chief Executive.
- b) The Leader of the Council may request the attendance at a Cabinet meeting of any one or more members of the Shadow Cabinet on giving at least 72 hours prior written notice to that member; the notice to be formally given by the Chief Executive on behalf of the Leader.

### 8.2 FORM AND COMPOSITION

- a) Should no political group on the Council consider itself able to constitute the formal opposition to the Cabinet, there will be no Shadow Cabinet.
- b) The Shadow Cabinet will consist of the Leader of the Opposition (Opposition Leader) together with at least 2 but not more than 9 Councillors appointed to the Shadow Cabinet by the Opposition Leader.
- c) The Opposition Leader shall determine the number of Shadow Cabinet members and shall identify a lead Shadow Cabinet member to be the opposition spokesperson in respect of each of the service blocks represented within the Local Area Agreement as agreed by the Council and its partner local authorities within Staffordshire (or such other statutory local mechanism as may exist from time to time).

### 8.3 OPPOSITION LEADER

- a) The Opposition Leader shall be the Leader:
  - i) of the largest political group which does not hold any seats on the Cabinet and considers itself to constitute the formal opposition to the Cabinet, and
  - ii) who has accepted that office at a Council meeting

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- b) Where there is more than one opposition group of the same size who claims to be the formal opposition, the Opposition Leader shall be the leader of the group whose members have the longest combined record of service with the Council and its predecessors.
- c) The Opposition Leader shall hold that position for as long as his political group fulfil the criteria in paragraphs 8.3 a) and/or b) or until any of the following events occur (if earlier) :
  - i. he/she resigns from office, or
  - ii. he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension), or
  - iii. he/she is no longer a Councillor, or
  - iv. he/she is removed from the position of Group Leader by his/her political group, or
  - v. he/she is removed by Council in order to implement a recommendation of the Standards Board for England or the Council's Standards Committee following a local determination, Deleted: .
- d) The Opposition Leader shall report the form and composition of the Shadow Cabinet to the Annual Council Meeting and, should any changes occur during the municipal year, to the first available meeting of the Council thereafter.

#### 8.4 OTHER SHADOW CABINET MEMBERS

- a) Other Shadow Cabinet members shall be appointed from the opposition groups on the Council by the Opposition Leader and shall hold that position for such time as the Opposition Leader determines or until any of the following events occur (if earlier) :-
  - i. they resign from office, or
  - ii. they are suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension), or
  - iii. they are no longer a Councillor, or

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iv. they are removed from that position, either individually or collectively, by the Opposition Leader, or

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v. they are removed by Council in order to implement a recommendation of the Standards Board for England or the Council's Standards Committee following a local determination.

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vi. the Opposition Leader for the time being ceases to hold that office following the occurrence of any event listed in paragraph 8.3 c) i) to v).

b) For the avoidance of doubt the same Councillor may be re-appointed on one or more occasions if the Opposition Leader so wishes.

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# Article 9

## Regulatory and other Committees

### 9.1 REGULATORY AND OTHER COMMITTEES

The Council will appoint the committees set out in the left hand column of the table 'Responsibility for Council Functions' in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

### 9.2 PROCEEDINGS OF REGULATORY AND OTHER COMMITTEES

Proceedings of Regulatory and other committees, sub-committees and panels shall take place in accordance with the Terms of Reference set out in Part 3 of this Constitution.

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# Article 10

## The Standards Committee

### 10.1 STANDARDS COMMITTEE

The Council will at its annual meeting establish a Standards Committee.

### 10.2 COMPOSITION

a) The Standards Committee does not have to comply with the requirements of Section 15 of the Local Government and Housing Act 1989 in respect of political balance.

b) **Membership.** The Standards Committee will be composed of at 20 members from the following :

i) seven councillors (other than the Leader of the Council)

ii) five persons who are not a councillor or an officer of the Council or any other body having a standards committee (independent members)

iii) one member of each parish council wholly or mainly in the Council's area (a parish member) (8 in total).

c) **Independent Members.** Independent Members will be entitled to vote.

d) **Parish Members.** Parish members must be present when matters relating to parish councils or their members are being considered.

~~e) **Hearing Panels, Initial Assessment Panels, Appeal Panels and** Hearing panels will be called from the membership of the Committee.~~

f) **Chairing the Committee.** A member of the Cabinet may not chair the Committee.

### 10.3 ROLE AND FUNCTION

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Deleted: <#>Sub-Committees. The Standards Committee will include one Sub-Committee:¶  
¶ <#>a Parish Councils Standards Sub-Committee which will have at least one Independent Member and one Parish Member to exercise the functions set out in Article 9.3 viii) below¶

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a) The Standards Committee will have the following roles and function in accordance with legislation and guidance;

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- i) promoting and maintaining high standards of conduct by councillors and co-opted members,
- ii) assisting the councillors and co-opted members to observe the Members' Code of Conduct,
- iii) advising the Council on the adoption or revision of the Members' Code of Conduct,
- iv) monitoring the operation of the Members' Code of Conduct,
- v) advising, training or arranging to train councillors and co-opted members on matter relating to the Members' Code of Conduct,
- vi) granting dispensations to councillors and co-opted members from requirements relating to interest set out in the Members' Code of Conduct,
- vii) dealing with any reports from a case tribunal and/or interim case tribunal and any report or investigation from the Monitoring Officer on any matter,
- viii) the exercise of i) to vii) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils,

**Deleted:** which is referred by an Ethical Standards Officer to the Monitoring Officer,

ix) to deal with any other matter referred to it by Council or by the Monitoring Officer.

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¶  
<#>Members where this does not conflict with the powers and functions of the Standard Board for England, and¶  
¶  
<#>Senior officers in accordance with the Human Resource Guidelines set out in Part 4 of this Constitution¶

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# Article 11

## Area Committees and Forums

### 11.1 AREA COMMITTEES AND FORUMS

- a) The Council may appoint such committees or forums as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision-making.
- b) If it is considering establishing area committees, the Council will consult with relevant parish and town councils and the chairmen of relevant parish meetings when and how to establish such area committees.

### 11.2 FORM, COMPOSITION AND FUNCTION

- a) The Council will appoint such Community Forums covering the area of the District as it considers appropriate.
- b) The Chairman of each Community Forum will be appointed by Council usually at the Annual General Meeting.
- c) A Community Forum will have an advisory role and provide an arena for councillors to raise Ward issues, concerns and problems; for the Council and Cabinet to carry out consultations\*; and to liaise with outside bodies. It may submit reports on matters of concern locally to Cabinet and/or the Council at such intervals as determined by the Council.
- d) Members of a Community Forum will be the councillors for the area covered by that Community Forum together with invitees representing local organisations being other public bodies, commercial and voluntary organisations. The public will be invited to participate in the business of the Community Forums as part of the Council's commitment to community engagement.
- e) As Community Forums are advisory, there is no requirement for political balance.

\* including Budget Consultations

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### 11.3 EXECUTIVE MEMBERS ON COMMUNITY FORUMS

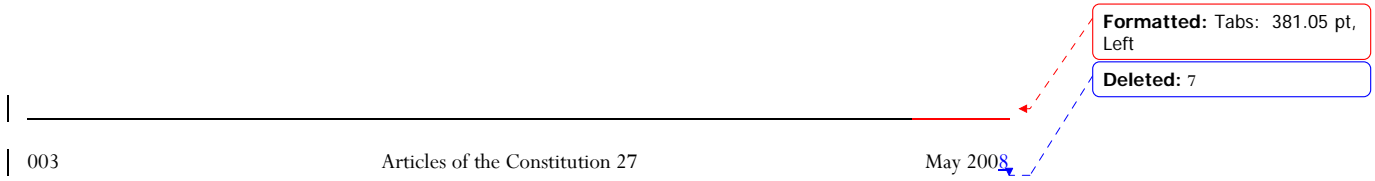
A member of the Cabinet may serve on a Community Forum if otherwise eligible to do so as a councillor.

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# Article 12

## Joint Arrangements

### 12.1 ARRANGEMENT TO PROMOTE WELL BEING

- a) The Cabinet in order to promote the economic, social or environmental well-being of its area and subject to statutory requirements, may :
  - i) enter into arrangements or agreements with any person or body,
  - ii) co-operate with, or facilitate or co-ordinate the activities of, any person or body, and
  - iii) exercise on behalf of that person or body any functions of that person or body.

### 12.2 JOINT ARRANGEMENTS

- a) The Council may establish joint arrangement with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the joint authority as a whole.
- d) Cabinet may appoint members to a joint committee from outside the executive in the following circumstances :
  - the joint committee has functions for only part of the area of the authority and that area is smaller than two-fifths of the authority by area or population. In such cases, Cabinet may appoint to the joint

- committee any councillor who is a member for a ward which is wholly or partly contained within the area.
  - the political balance requirements do not apply to such appointments.
- e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of authorities in Part 3 of this Constitution.

### 12.3 ACCESS TO INFORMATION

- a) The Access to Information Rules in Part 4 of this Constitution apply.
- b) If all the members of a joint committee are members of the executive in each of the participating authorities then the access to information rules as applied to the executive by the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 will apply.
- c) If the joint committee contains members who are not on the executive of any participating authority the access to information rules in Part VA of the Local Government Act 1972 will apply.

### 12.4 DELEGATION TO AND FROM OTHER LOCAL AUTHORITIES

- a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- b) The Cabinet may delegate executive functions to another local authority or the executive or another local authority in certain circumstances.
- c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### 12.5 CONTRACTING OUT

The Council in respect of non-executive functions and Cabinet in respect of executive functions may contract out to another body or organisation functions which may be exercised by an officer and which are subject to specific legislative provisions, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

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- b) **Restrictions on functions** ~~For the purposes of Good Governance~~ the Head of Paid Service may not be the monitoring officer ~~or the~~ chief finance officer.

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### 13.3 FUNCTIONS OF THE MONITORING OFFICER

- a) **Maintaining the Constitution** The Monitoring Officer will ensure that an up-to-date version of the Constitution is maintained and will ensure that it is widely available for consultation by Members, officers and the public.
- b) **Ensuring lawfulness and fairness of decision making** After consulting ~~(only)~~ with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the full Council, or to the Cabinet in relation to an executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) **Supporting the Standards Committee** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support ~~and services~~ to the Standards Committee.
- d) **Receiving reports** The Monitoring Officer will receive and act on reports made by ~~investigators (internally)~~ ethical standards officers and decisions of the case tribunals.
- e) **Conducting investigations** The Monitoring Officer will conduct investigations into matters referred ~~to him by the Standards Committee Initial Assessment Panel (or Review Panel) and/or the~~ ethical standards officers and make reports or recommendations in respect of them to the Standards Committee ~~/ Hearing Panel as necessary~~.
- f) **Proper Officer for access to information** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- g) **Advising whether Cabinet decisions are within the budget and policy framework** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

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- h) **Providing advice** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- i) **Restrictions on posts** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### 13.4 FUNCTIONS OF THE CHIEF FINANCE OFFICER

- a) **Ensuring lawfulness and financial prudence of decision making**  
After consulting only with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- b) **Administration of financial affairs** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- c) **Contributing to corporate management** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d) **Providing advice** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- e) **Give financial information** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### 13.5 DUTY TO PROVIDE SUFFICIENT RESOURCES TO THE MONITORING OFFICER AND CHIEF FINANCE OFFICER

The Council will provide the Monitoring Officer and the Chief Finance Officer with such officers, accommodation and other resources as are sufficient in the Monitoring Officer's and the Chief Finance Officer's opinions respectively to allow them to perform their duties.

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### 13.6 CONDUCT

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Officers will comply with such protocol that is specific to their role, the Protocol for Member/Officer Relations and the Officers' Code of Conduct set out in Part 5 of this Constitution.

### 13.7 EMPLOYMENT

The recruitment, selection and dismissal of officers will comply with the Human Resources Guidelines set out in Part 4 of this Constitution.

- <sup>1</sup> For the purposes of this Article, 'Directors' includes the Deputy Chief Executive
- <sup>2</sup> Responsibilities in accordance with the Local Government and Housing Act 1989 and the Local Government Act 2000; the appointment to be effective from 1 June 2007.
- <sup>3</sup> Responsibilities in accordance with the Local Government Act 1972 and the Local Government Finance Act 1988

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# Article 14

## Decision making

### 14.1 RESPONSIBILITY FOR DECISION MAKING

The Council will require a record to be issued and kept up to date setting out what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### 14.2 PRINCIPLES OF DECISION MAKING

All decisions of the Council will be made in accordance with the following principles :

- a) proportionality (i.e. the action must be proportionate to the desired outcome). This is a defining principle of the approach to implementing the Human Rights Act 1998 and reflects the need to find a fair balance between the protection of individual rights and the interests of the community at large.
- b) due consultation and the taking of professional advice
- c) a presumption in favour of openness
- d) clarity of aims and desired outcomes
- e) respect for human rights including equality and non discrimination
- f) explaining what options were considered, and
- g) giving reasons for the decision.

### 14.3 TYPES OF DECISIONS

- a) **Decisions reserved to full Council** Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.
- b) **Key Decisions**

- i) A key decision is defined by the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 as a decision likely
  - to result in the Council incurring expenditure or making savings which are significant having regard to the Council’s budget for the service or function to which the decision relates, or
  - to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Council’s area.
- ii) It is for the Council to determine what is ‘significant’ in each case. For Cannock Chase Council this is :
  - a threshold for expenditure or savings of 1% of the gross turnover of the Council, or
  - a decision affecting communities living or working in two or more Wards.
- iii) A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules and Access to Information Rules set out in Part 4 of this Constitution.

**14.4 DECISION MAKING BY THE FULL COUNCIL**

Subject to Article 13.8, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

**14.5 DECISION MAKING BY THE CABINET**

Subject to Article 13.8, Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

**14.6 DECISION MAKING BY SCRUTINY COMMITTEE**

The Scrutiny Committee will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matters.

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## 14.7 DECISION MAKING BY OTHER COMMITTEES AND SUB-COMMITTEES ESTABLISHED BY THE COUNCIL

Subject to Article 13.8, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

## 14.8 DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS

a) The Council, any of its Committees or Panels or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

b) Examples of such decisions are :

- determining a planning application
- determining an application for a license
- determining an appeal from an employee in respect of employment matters
- determining a complaint made against the Council in accordance with the Council's Comments, Compliments and Complaints Procedure
- reviewing a decision on entitlement to Housing or Council Tax Benefit
- reviewing a decision to terminate an Introductory Tenancy of a Council House

- Determination of matters concerning the Councillor Code of Conduct.

This list is not exhaustive.

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# Article 15

## Finance, Contracts and Legal Matters

### 15.1 FINANCIAL MANAGEMENT

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

### 15.2 CONTRACT

Every contract made by the Council will comply with either the Financial Regulations or the Contracts Procedure Rules set out in Part 4 of this Constitution depending on the value of the contract. Thresholds determining whether contracts are required to comply with Financial Regulations or Contracts Procedure Rules are set out in Annex 2 to the Financial Regulations.

### 15.3 LEGAL PROCEEDINGS

The Solicitor to the Council<sup>1</sup> (or whosoever he/she delegates) is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interest.

### 15.4 AUTHENTICATION OF DOCUMENTS

- a) Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- b) Any contract entered into on behalf of the Council in the discharge of an executive function shall be made in writing. Unless otherwise authorised

under Contract Procedure Rules, any such contract with a value exceeding £40,000 must either be signed by a duly authorised officer or, where the value exceeds £75,000, made under the Common Seal of the Council attested by at least one authorised officer.

## 15.5 COMMON SEAL OF THE COUNCIL

The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. A decision of the Council or of any part of it will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed. The affixing of the Common Seal will be attested by the Chief Executive or some other person authorised by him/her.

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# Article 16

## Review and Revision of the Constitution

### 16.1 DUTY TO MONITOR AND REVIEW THE CONSTITUTION

The Director of Governance will annually monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

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### 16.2 CHANGES TO THE CONSTITUTION

- a) **Approval** Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer and the Chief Executive
- b) **Change from a Leader and Cabinet form of executive to alternative arrangements or a mayoral form** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

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# Article 17

## Suspension, Interpretation and Publication of the Constitution

### 17.1 SUSPENSION OF THE CONSTITUTION

- a) **Limit to suspension** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- b) **Procedure to suspend** A motion to suspend any Rules will not be moved without notice unless at least two-thirds of the whole number of councillors are present. The extent and duration of the suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension:**
- Council Procedure Rules
  - Cabinet Procedure Rules
  - Finance Regulations
  - Contracts Procedure Rules

### 17.2 INTERPRETATION

The ruling of the Chairman of the Council as to the construction or application of this Constitution or as to any proceedings of the Council should be final and shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1. The Chairman of the Council is advised to take legal advice before making any ruling under this Article.

### 17.3 PUBLICATION

- a) The Chief Executive will ensure that a printed copy of this Constitution to each member of the authority upon delivery to him/her of a copy of that individual's declaration of acceptance of office on the member first being elected to the Council
- b) The Director of Governance will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- c) The Director of Governance will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

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# Schedule 1

## Description of Executive Arrangements

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 Overview and Scrutiny Committees and the Overview and Scrutiny Procedure Rules
2. Article 7 The Executive (Cabinet) and the Cabinet Procedure Rules
3. Article 10 Area Committees and Forums
4. Article 11 Joint Arrangements
5. Article 13 Decision making
6. Part 3 Responsibility for Functions

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make reports and/or recommendations to Council, Cabinet, other Committees and to the Council's partners through the Local Strategic Partnership in connection with the performance of any functions which it has scrutinised

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c) The Council's Policy Development Committees will:

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Other Select Committees will:

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review current Council policies and consider future policy development

ii) consider matters referred to them by the other Committees or Cabinet

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Performance and Partnerships Select Committee

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iii) make reports and/or recommendations to Council, Cabinet, Scrutiny and/or other Committee in connection with Council policies and their implementation, and

iv) consider any matter affecting the area or its

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inhabitants

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### Policy Development and Review.

The

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Policy Development Committees

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other than the Performance and Partnerships Select Committee, may:

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assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues,

assist the Council and the Cabinet in the development of policies other than those which form part of the Council's budget and policy framework,

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consider mechanisms to encourage and enhance community participation, engagement and empowerment in the development of policy options and implement and/or recommend such mechanisms as appropriate,

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assist and advise members of the Cabinet (and Directors<sup>1</sup>

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) about issues and proposals affecting the area, and

invite to meetings

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such individuals and/or representatives of organisations/public bodies as they consider may be able to make a contribute to their deliberations in respect of policy development.

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including the Council's performance in the broadest sense,

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The Performance and Partnerships Select Committee may:

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Committees whilst considering policy development

review in accordance with the legislation other public bodies in the area (other than the Local Strategic Partnership), invite reports (both written and oral) from them and invite them to address the Select Committee about their activities and/or performance

question and gather evidence from any person (with their consent).

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# *Article 7*

## *Policy Development*

### *Committees*

#### **7.1 TERMS OF REFERENCE**

The Council will appoint Policy Development Committees, as necessary.

All Members of the Council are eligible to be Members of the Policy Development Committees. The relevant Portfolio Holder from Cabinet shall be a Member of the Policy Development Committee relating to that portfolio (such membership shall form part of the political balance calculation for the Committee's membership).

Membership of the Policy Development Committees will be subject to the requirements as to political balance set out by Section 15 of the Local Government and Housing Act 1989 (as amended).

#### **7.2 GENERAL ROLE**

The Council's Policy Development Committees will:

- i) review current Council policies and consider future policy development
- ii) consider matters referred to them by the other Committees or Cabinet
- iii) prepare a formal report and submit it to the Cabinet. Cabinet will determine if such a report should be presented to any other Committee and/or Council.
- iv) consider any matter affecting the area or its inhabitants

For the avoidance of doubt the Policy Development Committees shall not act as the Scrutiny Committee.



### 7.3 SPECIFIC FUNCTIONS

#### a) **Policy Development and Review.**

The Policy Development Committees shall:

- i) assist the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues,
- ii) assist the Cabinet in the development of policies other than those which form part of the Council's budget and policy framework,
- iii) consider mechanisms to encourage and enhance community participation, engagement and empowerment in the development of policy options and implement and/or recommend such mechanisms as appropriate,
- iv) assist and advise members of the Cabinet (and Directors<sup>1</sup>) about issues and proposals affecting the area, and
- v) invite to meetings such individuals and/or representatives of organisations/public bodies as they consider may be able to make a contribute to their deliberations in respect of policy development.
- vi) recommend to other Policy Committees that it should undertake a review of any performance issues which have been identified by any other Policy Development Committees whilst considering policy development
- vii) review in accordance with the legislation other public bodies in the area (other than the Local Strategic Partnership), invite reports (both written and oral) from them and invite them to address the Select Committee about their activities and/or performance
- viii) question and gather evidence from any person (with their consent).

For the avoidance of doubt the Policy Development Committees shall not act in a defined Scrutiny function.

# *PART 4*

## *SECTION 5*

# *OVERVIEW AND SCRUTINY PROCEDURE RULES AND TERMS OF REFERENCE*

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**1. THE SCRUTINY COMMITTEE**

1.1 The Council's overview and scrutiny functions will be undertaken on behalf of the Council by the Scrutiny Committee.

1.2 The responsibilities of the Scrutiny Committee are detailed in Article 6.

1.3 The Council shall appoint a Scrutiny Committee to :

(i) provide an effective mechanism for scrutinising executive decisions using the call-in process and undertaking fundamental reviews and reviewing health provision for the District

(ii) To provide an effective mechanism for scrutinising and reviewing current policies and make recommendations to Council, Cabinet or other Committees as appropriate.

1.4 Where the Scrutiny Committee identifies the need to appoint sub-committees and/or panels, it may recommend to Council to do so provided that it has consulted with interested parties, if appropriate.

**2. CO-OPTees**

2.1 The Scrutiny Committee shall be entitled to appoint individuals and/or representatives of organisations as non-voting co-optees, unless there is a statutory power for them to vote.

**3. MEETINGS OF THE SCRUTINY COMMITTEE**

3.1 The meetings of the Scrutiny Committee will be held as and when required to deal with call-ins and any other business as it arises.

3.2 The meetings of any time-limited panels will be convened as their work programme requires.

3.3 The Chairman of the Scrutiny Committee shall have discretion to convene additional meetings as the work programme requires.

**4. WORK PROGRAMME**

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A Performance and Partnerships Select Committee to provide an effective mechanism for scrutinising the performance of the Council internally and externally when acting jointly with its partners, in particular the Local Strategic Partnership.¶
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4.1 The work programme of the Scrutiny Committee will be determined by the Committee in consultation with other stakeholders, including representatives from partner organisations which will include health reviews.

## 5. AGENDA ITEMS

5.1 Any overview and scrutiny member who wishes to do so may request that an item be included on an agenda for consideration at a future meeting of the Scrutiny Committee.

5.2 Such requests must be in writing and received by the Chief Executive at least 21 working days prior to the date of the meeting at which the matter is to be considered, with a copy of the letter being forwarded by the Chief Executive to the Chairman of the Committee.

## 6. REPORTS FROM SCRUTINY COMMITTEE

6.1 When the Scrutiny Committee has considered a matter and reached a conclusion they will prepare a formal report and submit it to the Council, Cabinet, Scrutiny or other Committee as appropriate.

6.2 Once a report has been prepared, it shall be considered by Cabinet or the appropriate committee within 6 weeks. If for any reason it is not considered within 6 weeks then the matter will be referred to Council for review. The Chief Executive will call a Council meeting to consider the report and make an appropriate recommendation.

6.3 On consideration of the report by Cabinet, if it is determined that the recommendations would require a departure from or a change to the agreed budget and policy framework, Cabinet will refer its recommendations to Council for consideration.

## 7. ATTENDANCE OF CABINET MEMBERS AND LEAD OFFICERS

7.1 Although members of the Cabinet cannot be members of the Scrutiny Committee they may be invited by the Chairman of the committee to attend meetings and speak but not vote.

7.2 As well as reviewing performance and policies, in fulfilling the overview and scrutiny role, the Scrutiny Committee may require any member of the Cabinet, the head of paid service, any director<sup>1</sup> and/or head of service 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

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(iii) the performance of the service delivered

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

**7.3** Where any member or **Director** is required to attend a Scrutiny Committee under this provision, the chairman of that committee will inform the Chief Executive. The Chief Executive shall inform the member or lead officer in writing giving at least 10 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is 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 person who has been called to attend will be given sufficient notice to allow for preparation of that documentation and its circulation at least 5 clear working days before the meeting.

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**7.4** Where the member or lead officer is unable to attend on the required date, then the Chairman of the Scrutiny Committee shall in consultation with that member or lead officer arrange an alternative date for attendance.

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## **8. ATTENDANCE BY OTHERS**

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**8.1** The Scrutiny Committee and their panels may invite other people, external to the organisation, such as residents, stakeholders and members, officers and employees from other public sector organisations, to discuss issues of local concern and/or answer questions.

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## **9. LIAISON WITH CABINET**

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**9.1** Liaison meetings will be held between the Cabinet and the Chairman of the Scrutiny Committee as a means of facilitating communication between the Cabinet and Scrutiny members.

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## **10. THE CALL-IN PROCEDURE**

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**12.1** A key function of overview and scrutiny committees is to hold the Executive to account for the discharge of its functions. This can have **three** principal elements: -

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- (i) Scrutinising Executive decisions before they are implemented;
- (ii) Scrutinising decisions after they have been implemented; and
- (iii) Reviewing the performance of the Executive.

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12.2 The ‘call-in’ mechanism may be used to review the decisions of the Cabinet prior to implementation. Call-in should only be used where Members have evidence which suggests that the Cabinet did not take the decision in accordance with the following principles, set out in Article 14 (Decision Making):

- (i) Proportionality (i.e. the action must be appropriate to the desired outcome).
- (ii) Due consultation and the taking of professional advice.
- (iii) A presumption in favour of openness.
- (iv) Respect for human rights.
- (v) Explain what options were considered.
- (vi) Giving reasons for the decision.

12.3 The Statutory Guidance requires local authorities to make provision in their executive arrangements:

- (i) To ensure that there is an appropriate balance between effectively holding the executive to account, being able to question decisions before they are implemented and allowing effective and efficient decision making by the executive within the Policy Framework and Budget;
- (ii) To ensure that any call-in procedure is not abused or used unduly to delay decisions or slow down the process of decision making; and
- (iii) To develop local conventions and protocols to prevent abuse of an Overview and Scrutiny Committee’s powers to recommend that decisions made, but not yet implemented, be reconsidered.

12.4 In order to meet these requirements the Council adopts the following procedure:

- (i) The Cabinet (Executive) publishes within 5 working days decisions made at a Cabinet meeting. There is then a period of 7 working days during which decisions can be subject to call-in.
- (ii) To call-in a decision five Members, none of whom are Cabinet Members, must complete and return forms requesting and supporting the request for a decision to be called in, within 7 working days after the publication of the decision. The request for call-in must clearly state the reason for the call-in, explaining why it is considered that the Cabinet did not take the decision in accordance with either or all of the principles outlined above. The call-in form should also present a motion which will be proposed at the Scrutiny Committee.
- (iii) The Director of Governance is responsible for notifying the appropriate Director to ensure that all action to implement a decision subject to call-in is suspended and that the decision is not implemented for the duration of the call-in. The matter is then referred to Scrutiny Committee for consideration.

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- (iv) A meeting of the Scrutiny Committee is to be held within 20 working days from the end of the call-in period. A report will be prepared by the appropriate Director (which identifies those Members who have made and support the call-in), containing the original Cabinet report and an extract from the Cabinet Minute.
- (v) Arrangements will be made by the Chief Executive Officer to invite to the Scrutiny Committee those persons who the person requesting the call-in wishes to be present (as specified on the call-in form) such as the Cabinet Portfolio Leader(s), appropriate employees of the Council etc. On occasions, other people, such as representatives from other organisations and members of the public, may be invited to attend to provide the Scrutiny Committee with information.

12.5 The procedure for debating the call-in at the meeting will be as follows:

- (i) The Proposer of the call-in shall read their motion and give a brief reason for the call-in. There will be no Secunder required at this stage.

(If at the meeting (or any adjourned meeting) the proposer of the call-in is not present, one of the five Members who supported the request for the call-in may stand in as the proposer for the duration of the meeting. In the event that there be no stand-in proposer, the motion will fall and the Scrutiny will end. The resolution of Cabinet will then be implemented).

- (ii) The Proposer shall introduce those persons to support his/her case. Each person will be requested to come in turn before the Committee. The Proposer shall ask questions of the invited persons. Such questions will be for clarity and will relate only to the reasons given for the call-in. Any such person called by the Proposer shall remain available for questioning by the Portfolio Holder.
- (iii) Members of the Scrutiny Committee (only) will be invited to ask questions of the persons called by the Proposer. Once the Members of the Committee have finished asking questions of the person invited by the Proposer, the Proposer may ask a brief set of questions to clarify any matters which have not been already established by the Committee.
- (iv) When the Proposer has called all of his/her witnesses, the Portfolio Holder shall come forward and present his/her response to the call-in. The Portfolio Holder will give a summary response to the decisions made by the Cabinet which is the subject of the call-in. The Portfolio Holder will call any invited persons to support the executive decision and to respond to the call-in. Each person will be requested to come forward one at a time.
- (v) The Members of the Committee will be given an opportunity to ask each person invited by the Portfolio Holder any questions relating to the information given by

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them. Such questions will be limited to points of clarification. No debate on the merits of the call-in shall be undertaken directly or indirectly through the process of questioning. The Proposer of the motion may also ask questions of the persons invited by the Portfolio Holder who have not been previously questioned.

- (vi) The Portfolio Holder may also ask those persons invited by the Proposer to support his/her case to come forward again for questioning by the Portfolio Holder. In the event that the Portfolio Holder asks questions of persons originally invited by the Proposer, the Proposer may subsequently ask questions of clarity (by way of re-examination) of the invited persons following their responses to the questions by the Portfolio Holder.
- (vii) The Portfolio Holder will then summarise his/her response to the call-in but will not call any further persons in support of his case. Questions may be asked by the Proposer and the Committee following his/her response unless exceptional circumstances arise. The Proposer of the call-in will not be given a further opportunity to make a statement to the Committee (as this will have been dealt with during the opening statements by the Proposer and in the course of asking questions of those invited by him).
- (viii) The Proposer will be invited to read out his/her motion. In the event that the Proposer is no longer present and any member of the Committee who supported the original call-in may act as the Proposer.
- (ix) A Secunder will be requested to the Proposers motion.
- (x) Prior to Members of the Committee debating the call-in, other Members of the Council present and other invited persons who are not Members of the Scrutiny Committee will be requested to sit in a public gallery. All Members of the Cabinet will be required to leave the meeting in accordance with the Council's Code of Conduct.
- (xi) During the course of the debate Members of the Committee may propose minor amendments to the motion with the consent of the Proposer (or the stand-in Proposer). The accepted amendments must be incorporated by the proposer of the call-in at the meeting before it is voted upon.
- (xii) After sufficient time, the discussions shall be brought to a close and the Proposer requested to sum up before the motion shall be put to the vote.
- (xiii) The Committee may:-
  - (i) vote on the original motion (or as amended) or
  - (ii) vote on a motion to seek an adjournment or
  - (iii) request an extension of time from the Cabinet or

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- (iv) to refer the matter to the Council's Statutory Officers (Monitoring Officer and Chief Finance Officer and Head of Paid Service) for an opinion as to whether or not the decision of the executive falls outside the policy framework and/or budget framework in full or part. In such circumstances such a report shall be presented to the Council.
- (xiv) If, having considered the decision, the Scrutiny Committee is still concerned about the matter, it may refer it back to the Cabinet for reconsideration, setting out in writing the nature of its concerns. The Cabinet will then reconsider and make a decision. Cabinet may also be requested to allow further time for the Scrutiny Committee to seek the advice of the Monitoring Officer and/or Chief Finance Officer and/or Head of Paid Service as to whether the decision of Cabinet is contrary (wholly or in part) with the policy framework or budget framework and, if applicable, to refer the matter to full Council for a final decision.
- (xv) If, following the objection to the decision, the Scrutiny Committee meets but does not refer the matter back to the Cabinet or concurs with the Cabinet's decision; the decision shall take effect on the date of the Scrutiny Committee meeting and will not be reported back to the Cabinet.
- (xvi) A formal decision will be made on the call-in within ten days of the Scrutiny Committee first meeting.

12.6 The procedure for handling items which have been called in is attached at Annex 1.

### Call-In and Urgency

12.7 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. 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 be subject to call-in.

### Safe Guards

12.8 The following safeguards will apply so as to ensure that decisions are not called-in unnecessarily or that the call-in process is abused:

- (i) The Cabinet (Executive) minutes contain sufficient information to explain the decision and the reasoning behind it. The Cabinet (Executive) minutes are

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structured in such a way as to indicate clearly which matters are subject to Call-in.

- (ii) No matter may be Called-in more than once.
- (iii) Any Member proposing that a matter be called-in should first discuss this with the appropriate portfolio Leader or in his absence the Council Leader or Deputy Leader. This provides opportunity for detailed explanation of the decision and further information.
- (iv) The request for call-in, detailed on the form, must clearly state the intention of the call-in and present a motion which will be proposed at the Scrutiny Committee.
- (v) The portfolio leader has the right to attend the Scrutiny Committee and speak on an item where a call-in is received in respect of their portfolio area.
- (vi) Members of the Scrutiny Committee are to be present for all of the evidence and debate prior to them exercising their vote to ensure that Members of the Committee make an informed decision based on the evidence presented.

### Support from Officers

- 12.9 The role of Directors is to support both the Scrutiny and Executive functions and as such they will provide impartial and objective advice to all Members. Directors will avoid being drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by Directors on the Executive's policies and actions will always be consistent with the requirement for officers to remain politically impartial.
- 12.10 Directors in supporting the Scrutiny function may exercise this role in person, they may be supported by other officers or they may choose to nominate a particular officer to assist the Scrutiny Committee with a specific issue.
- 12.11 Members of the Scrutiny Committee may wish to seek the advice of the Monitoring Officer where it is considered that a decision of the Executive might be contrary to the policy framework.
- 12.12 Any Member submitting a request for a matter to be called-in, will be entitled to receive advice and support from Directors as appropriate and/or the Chief Executive Officer's Policy Unit.

## **11. THE PARTY WHIP**

- 13.1 When considering any matter in respect of which a member of the Scrutiny Committee or Select Committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the committee's

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deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

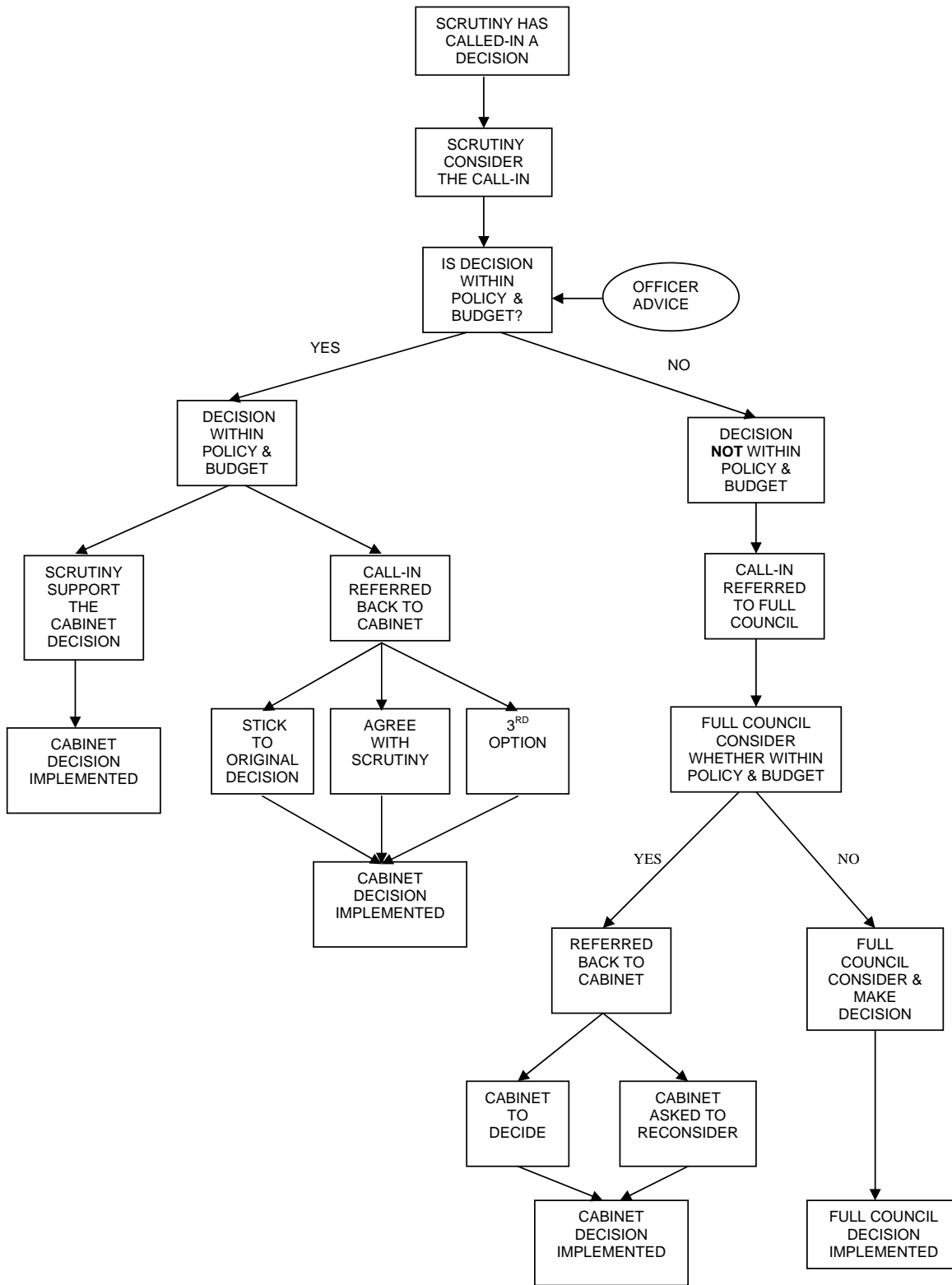
#### 14. BEST VALUE REVIEWS

- 14.1 In order to discharge the statutory requirement to undertake cross-cutting best value reviews of all the Council's services an annual fundamental review will be undertaken.
- 14.2 The programme and arrangements for fundamental reviews will be determined by the Scrutiny Committee.
- 14.3 Fundamental reviews will be carried out through panels of Overview and Scrutiny Members. These panels will be time-limited to the duration of the review. Meetings will be called as and when necessary and not on a strict cycle. Members will be expected to take a 'hands on' approach to reviews and should seek views from key stakeholders and specialists.
- 14.4 The report of the Fundamental Review Panel will be presented to the Scrutiny Committee. The Scrutiny Committee may add recommendations to the report to be considered by the Cabinet.

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PROTOCOL FOR HANDLING ITEMS WHICH HAVE BEEN CALLED-IN



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# Scrutiny Committee

## Terms of Reference

### 1. STATUS

- 1.1 The Scrutiny Committee is a committee of the Council with the purpose of providing an effective mechanism for holding the Cabinet to account through the call-in of executive decisions, providing a forum for consultation in accordance with the Budget and Policy Framework Rules and undertaking fundamental reviews.

### 2. MEMBERSHIP AND METHOD OF APPOINTMENT

- 2.1 All members of the Council are eligible to be members of the Scrutiny Committee except those members of both the Cabinet and Audit and Governance Committee.
- 2.2 The Scrutiny Committee will comprise such Members as are appointed by the Council in compliance with Section 15 and Schedule 1 of the Local Government and Housing Act 1989 concerning political balance.

### 3. CHAIRMAN

- 3.1 The Chairman and Vice-Chairman will be appointed by Council.

### 4. ATTENDANCE BY NON-MEMBERS

- 4.1 Council Procedure Rules 6(6) and 19 will apply.

### 5. FREQUENCY OF MEETINGS

- 5.1 The meetings of the Scrutiny Committee will be held as and when required.
- 5.2 The meetings of Time Limited Panels will be convened as the work programme requires.

### 6. NOTICE OF MEETING

- 6.1 Prior to the meeting of the Scrutiny Committee, the Chief Executive will circulate to all Members of the Council, Agenda and Reports to be considered by the Scrutiny Committee.

## 7. MINUTES OF MEETING

7.1 Reports in the form of Minutes detailing recommendations and/or resolutions will be submitted to the Council, which may accept, amend or reject any recommendation, but not resolutions, of the Scrutiny Committee.

## 8. FUNCTIONS

8.1 The Scrutiny Committee may:

- a) Make reports and/or recommendations to Cabinet in connection with the discharge of any function on which it has been consulted in accordance with the Budget and Policy Framework Rules.
- b) Exercise the right to call-in for consideration the decisions made but not yet implemented by the Cabinet.

8.2 To carry out its functions, the Scrutiny Committee will be able to call upon any Member, Officer or representative of external bodies or organisations in accordance with paragraphs 9 and 10 of the Overview and Scrutiny Procedure Rules to submit written and/or oral evidence.

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8.3 The Scrutiny Committee will report its findings and recommendations to the Cabinet, Council or other committee as appropriate.

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## 9. DELEGATED POWERS

9.1 The Scrutiny Committee is empowered to deal with any functions detailed above.

9.2 The Scrutiny Committee shall be entitled to appoint individuals and/or representatives of organisations as non-voting co-optees.

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# Policy Development Committees Terms of Reference

## 1. STATUS

The Policy Development Committees are committees of the Council with the purpose of undertaking policy review and development and service provision within the District.

## 2. MEMBERSHIP AND METHOD OF APPOINTMENT

2.1 All members of the Council including members of Cabinet are eligible to be members of the Policy Development Committees as the role of the Committees does not include Scrutiny.

2.2 A Policy Development Committee will comprise such Members as are appointed by the Council in compliance with Section 15 and Schedule 1 of the Local Government and Housing Act 1989 concerning political balance.

2.3 For the avoidance of doubt, the relevant Cabinet (and Shadow Cabinet) Portfolio holder will be members of Policy Committee.

## 3. CHAIRMAN

3.1 The Chairman and Vice-Chairman will be appointed by Council.

3.2 The Chairman of the Policy Development Committee will not be a member of the Cabinet.

## 4. ATTENDANCE BY NON-MEMBERS

4.1 Council Procedure Rules 6(6) and 19 will apply.

4.2 The Scrutiny Committee and their panels may invite other people, external to the organisation, such as residents, stakeholders and members, officers and employees from other public sector organisations, to discuss issues of local concern and/or answer questions.

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## 5. FREQUENCY OF MEETINGS

The meetings of the Policy Development Committees will be held generally on a six-weekly basis with the Chairman of a Policy Development Committee having discretion to convene additional meetings as the work programme requires.

The meetings of Time Limited Panels will be convened as the work programme requires.

## 6. NOTICE OF MEETING

6.1 Prior to the meeting of a Policy Development Committee the Chief Executive will circulate to all Members of the Council, Agenda and Reports to be considered by the Select Committee.

## 7. MINUTES OF MEETING

7.1 Reports in the form of Minutes detailing recommendations will be submitted to the Cabinet which may accept, amend or reject any recommendations.

## 8. FUNCTIONS

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

8.2 The Policy Development Committee shall not act as a Scrutiny Committee.

8.3 Policy Development Committees may:

- (a) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues
- (b) assist the Cabinet in the development of policies other than those which form part of the Council's budget and policy framework
- (c) review current Council policies and consider future policy development
- (d) consider mechanisms to encourage and enhance community participation in the development of policy options and implement and/or recommend such mechanisms as appropriate
- (e) question members of the Cabinet and Directors about issues and proposals that affect the area

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¶ . (a) review and scrutinise the decisions made by and performance of the Cabinet and . Council officers in relation to individual decisions and over time . ¶

¶ . (b) review and scrutinise the performance of the Council in relation to its . performance targets and/or particular services areas¶

¶ . (c) review and scrutinise the performance of the Chase Community Partnership in relation to its performance targets as set out in the Local Area Agreement and the Sustainable Community Strategy¶

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- (f) invite to meetings of a Policy Development Committee such individuals and/or representatives of organisations/public bodies as they consider may be able to make a contribution to their deliberations in respect of policy development
- (g) refer performance-related issues to the Scrutiny Committee for further investigation
- (h) consider any matter affecting the area or its inhabitants

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8.4 To carry out its functions, a Policy Development Committee will be able to call upon any Member, Director or representative of external bodies or organisations to submit written and/or oral evidence.

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8.5 The Policy Development Committees will make reports and/or recommendations to Cabinet in connection with Council policies and their implementation and/or performance as appropriate.

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8.6 Where a matter for consideration by a Policy Development Committee also falls within the remit of one or more other Committees, the decision as to which Committee will consider it will be resolved at a meeting of the Chairmen of the Policy Development Committees and the Cabinet.

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9. TIME LIMITED PANELS

9.1 A Policy Development Committee may set up panels to undertake reviews of specific issues, which fall within its terms of reference. These panels will be time-limited to the duration of the review.

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10. REPORTS FROM POLICY DEVELOPMENT COMMITTEES

10.1 When the Policy Development Committee has considered a matter and reached a conclusion they will prepare a formal report and submit it to the Cabinet. Cabinet will determine if such a report should be presented to any other Committee and/or Council.

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10.2 Once a report has been prepared, it shall be considered by Cabinet within 6 weeks. If for any reason it is not considered within 6 weeks then the matter will be referred to Council for review. The Chief Executive will call a Council meeting to consider the report and make an appropriate recommendation.

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10.3 On consideration of the report by Cabinet, if it is determined that the recommendations would require a departure from or a change to the agreed budget and policy framework, Cabinet will refer its recommendations to Council for consideration.

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## 11. LIAISON WITH CABINET

11.1 Liaison meetings will be held between the Cabinet and the Chairman of the Scrutiny Committee as a means of facilitating communication between the Cabinet and Scrutiny members.

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## 12. DELEGATED POWERS

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12.1 The Policy Development Committees are empowered to deal with any functions detailed above.

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12.2 The Policy Development Committees shall be entitled to appoint individuals and/or representatives of organisations as non-voting co-optees.

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and the Select Committees

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**AND SELECT COMMITTEES**

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The meetings of the Select Committees will be held generally on a six-weekly basis.

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and of each Select Committee

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and Select Committees

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The work programme for the Health Select Committee will be determined by the Select Committee in consultation with other stakeholders, including representatives from Cannock Chase Primary Care Trust.

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## **MATTERS WITHIN THE REMIT OF MORE THAN ONE**

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**POLICY DEVELOPMENT COMMITTEE**

Where a matter for consideration by a

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Policy Development

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Committee also falls within the remit of one or more other

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Committees, the decision as to which

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Committee will consider it will be resolved at a meeting of the Chairmen of the

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Policy Development Committee.

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relevant

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or

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Policy Development Committee, even if the member making that request is not a member of the relevant committee. If the requesting member is not a member of the

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relevant committee, the Chairman may invite that requesting member to address the committee.

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appropriate

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## POLICY REVIEW AND DEVELOPMENT – THE POLICY DEVELOPMENT COMMITTEES

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Policy Committee in relation to the process to be followed in adopting the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

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In relation to the development of the Council's approach to other matters not forming part of the process for adopting its policy and budget framework, the

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Policy Development Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

The Policy Development Committee shall not act as a Scrutiny Committee.

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**POLICY DEVELOPMENT**

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Committees

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In addition, the Performance and Partnerships Select Committee may prepare reports for submission to the Local Strategic Partnership in respect of its scrutiny of the performance of the Partnership in delivering its targets as set out in the Local Area Agreement.

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If a Cabinet member is unable to attend (in exceptional circumstances) they shall send a nominee

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may be members of Policy Development Committees.

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In accordance with the Local Government Act 1972 and the Local Government and Housing Act 1989, a member of Staffordshire County Council shall be appointed as a co-opted member to the Performance and Partnerships

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Policy Committee. In turn, the Chairman of the Performance and Partnerships

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Policy Committee shall be appointed as a co-opted member to that Committee(s) of Staffordshire County Council with equivalent responsibility and remit as the Performance and Partnerships

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Policy Committee may:

- (a) review and scrutinise the decisions made by and performance of the Cabinet and Council officers in relation to individual decisions and over time
- (b) review and scrutinise the performance of the Council in relation to its performance targets and/or particular services areas
- (c) review and scrutinise the performance of the Chase Community Partnership in relation to its performance targets as set out in the Local Area Agreement and the Sustainable Community Strategy
- (d) question members of the Cabinet, Officers and partners about their decisions and performance, whether generally or in comparison with service plans and targets over a period of time, or in relation to particular initiatives or projects

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