

Scrutiny Rules

These rules set out how the Scrutiny function is undertaken and the structure of the Scrutiny Committees.

1 Arrangements for Overview and Scrutiny

The Scrutiny function will be undertaken and directed by the Chairs and Vice Chairs of the Scrutiny Committees. The four themed Scrutiny Committees will each comprise of nine members. The rules of political balance will apply. Such Committees may appoint Sub-Committees and Working Groups as they consider appropriate.

A protocol setting out the working relationship between Cabinet and the Scrutiny Committees is attached as an appendix to these Scrutiny Rules.

2 Appointment of Scrutiny Committees

All Councillors, except Members of the Cabinet, may be Members of a Scrutiny Committee. Members of the Scrutiny Committees will be appointed annually by the Council Meeting.

3 Meetings of the Scrutiny Committees

The Scrutiny Committees' work may be project based, and they may need to meet in addition to their scheduled meeting dates included in the Council's Calendar of Meetings. The Scrutiny Committees will process the work efficiently against output targets and timetables will be drawn up to monitor action in respect of the work. A special meeting of any Scrutiny Committee may be requisitioned by not less than four Members of that Committee, on giving 10 working days written notice, setting out the item required for the agenda.

4 Quorum

The quorum for the Scrutiny Committees shall be as set out for Committees in the Council Procedure Rules in this Constitution.

5 Chairing Scrutiny Committees

The Chairs and Vice Chairs of each Scrutiny Committee will be appointed by Council.

6 Work Programme

The four Scrutiny Committees will deal with policy review and development work on a project by project basis. The work programme

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will be formulated in consultation with the four Scrutiny Chairs, the Directors, the Assistant Director of Governance & Monitoring Officer and the Senior Scrutiny Officer, who will have already taken suggestions on the programme from the Senior Management Team. The Committee work programmes will be referred to Members of Cabinet for noting.

Elements of the work programme will be undertaken by the appropriate Scrutiny Committee. The relevant Portfolio Member will be informed of the work carried out.

7 Agenda Items

Any Member of a Scrutiny Committee shall be entitled to give notice to the Senior Scrutiny Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request, the Senior Scrutiny Officer will ensure that it is included on the next available agenda.

The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests to review particular areas of Council activity as mentioned in paragraph 6 above. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or the Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Committee at their next available meeting.

8 Policy Review and Development

- (a) The role of the Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

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9 Reports from Scrutiny Committees

- (a) Once it has formed recommendations on proposals for development, the Scrutiny Committee will prepare a formal report and submit it to the Assistant Director of Governance and Monitoring Officer for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (e.g. if the recommendation(s) would require a departure from or a change to the agreed Budget and Policy Framework).
- (b) The Council or Cabinet shall consider the report of a Scrutiny Committee at their first available meeting after it being submitted to the Assistant Director of Governance and Monitoring Officer.

10 Rights of Scrutiny Committee Members to Documents

- (a) In addition to their rights as Councillors, Members of Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Rules in this Constitution. Members will also be informed of the Council's Key Decisions.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny Committees as appropriate depending on the particular matter under consideration.

11 Members and Officers Giving Account

- (a) In carrying out their work, Scrutiny Committees may require the attendance at particular meetings of any Member with executive responsibilities and/or any Senior Officer to explain in relation to matters within their remit:
 - (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) service performance.

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

- (b) Where any Member or senior officer is required to attend a Scrutiny Committee under this provision, the Chair of that Committee will inform the Senior Scrutiny Officer, stating 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

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a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.
- (d) Junior officers may be invited to attend to give evidence at a Scrutiny Committee but should not be required to attend.

12 Attendance by Others

A Scrutiny Committee may invite people other than those people referred to in paragraph 11 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend.

13 Call-In of Key Decisions

- (a) 'Call-in' should not be confused with the scrutiny of anticipated decisions before they are made (i.e. matters on which Scrutiny Committees can formulate proposals and recommendations.) 'Call-in' refers to the calling in of a decision after it is made but before it is implemented.
- (b) Call-in should only be used in exceptional circumstances and only applies to Key Decisions. These are where Members have evidence which suggests that issues have not been handled in accordance with the decision-making principles set out in this Constitution; where a key decision has been taken which was neither published in accordance with the requirements for the list of Key Decisions, nor subject to the 'general exception' or 'special urgency procedures' set out in this Constitution or where a decision is outside the Budget and Policy Framework.
- (c) When a Key Decision is made by the Cabinet the decision shall be published electronically on the Council's website and shall be available at the main offices of the Council within 2 working days of being made. Copies of the notice of decision will be provided to all Members within the same timescale.
- (d) All Key Decisions will come into effect 5 working days after the publication of the decision, unless a Chairman or Vice-Chairman of a Scrutiny Committee together with 3 other Members of Scrutiny objects to it and calls it in using the appropriate form and submitting it prior to the close of the Call-In period.
- (e) The Call-in request must be on a completed Call-In Request Form (attached to the Scrutiny Rules) and include the names and

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signatures of the four signatories, the decision to be called in, and the decision making principles it is believed have been breached and the reasons for this.

- (f) On receiving a call-in request, and on the Assistant Director of Governance and Monitoring Officer being satisfied that the reasons for the call-in satisfy the requirements of this Constitution as set out at paragraph 13(b) above, the Assistant Director of Governance and Monitoring Officer shall notify the decision-taker of the call-in.
- (g) The Assistant Director of Governance and Monitoring Officer may reject it if:
- It relates to a non-executive decision
 - It is a decision where a statutory appeal is available;
 - Insufficient information has been provided;
 - It is vexatious, malicious or politically motivated;
 - It contains insufficient evidence as to how the decision-making principles have been breached;
 - The decision has previously been called in; or
 - The reasons have been addressed in a previous call-in.

Reasons for refusal shall be given in writing.

- (h) The Assistant Director of Governance and Monitoring Officer shall call a meeting of the relevant Scrutiny Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Committee and in any case within 10 days of the decision to call-in. If the Assistant Director of Governance and Monitoring Officer is felt to have a conflict of interest when assessing the reasons for call in, then the Deputy Monitoring Officer may act in his/her place.
- (i) Those Members who have called in a decision will be invited to attend the meeting of Scrutiny to which the call-in will be presented. They may answer questions from the Committee, but will not be entitled to vote unless they are a Member of the Committee considering the matter. The relevant Cabinet Member/ decision making officer will also be entitled to attend the meeting to address the Committee and answer questions.
- (j) If, having considered the decision, the Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or (if the decision appears to be outside the Policy Framework) refer the matter to the Council Meeting. If referred to the decision maker that person or body shall then consider amending the decision or not, before adopting a final decision.

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- (k) If following an objection to the decision, the Scrutiny Committee does not meet within 10 days of the decision to call-in or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Scrutiny Committee meeting, or the expiry of that 10 day period whichever is the earlier.
- (l) If the matter was referred to the Council Meeting and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective. However, if the Council Meeting does object, it has no right to make decisions in respect of a Cabinet decision unless it is contrary to the Policy framework, or contrary to or not wholly consistent with the Budget. Unless that is the case, the Council Meeting will refer any decision to which it objects back to the decision-making person or body, together with the Council Meeting's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- (m) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- (n) 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 subject to call-in. The Chairman of the relevant Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman of the relevant Scrutiny Committee the Chairman or Vice-Chairman of the Council's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (o) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

14 Matters within the Remit of more than one Scrutiny Committee

Where a Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Scrutiny Committee, then the Committee conducting the review shall

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invite the Chairman of the other Committee (or his/her nominee) to attend its meetings when the matter is being reviewed.

Two or more scrutiny committees may, from time to time, establish working groups comprising members from their committees to look into issues of mutual concern.

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Appendix A to Scrutiny Rules

North East Derbyshire District Council Cabinet/Scrutiny Protocol

This protocol sets out an agreed way of working in respect of:-

- Cabinet Portfolio Holder attendance at Scrutiny meetings;
- The submission of Scrutiny reports to the Cabinet (and full Council);
- Responding to Scrutiny recommendations;
- Scrutiny attendance at Cabinet meetings;
- Referral of items by Cabinet to Scrutiny.

Cabinet Portfolio Holder attendance at Scrutiny meetings

- (1) Members of the Council and Cabinet may attend meetings of a Scrutiny Committee to observe proceedings.
- (2) Cabinet Members may speak at Scrutiny Committee meetings at the invitation of the Chairman.
- (3) Cabinet Members are only required to attend Scrutiny Committee meetings when invited to give evidence, provide views and answer questions.
- (4) Cabinet Members will be informed at an early stage about Scrutiny reviews and agenda items that are wholly or partly within the remit of their Portfolio.
- (5) When attendance is required at least 10 days (where possible) written notice (includes email) will be given and the purpose of the attendance explained.

The submission of Scrutiny reports and recommendations to the Cabinet (and full Council).

- (1) The relevant Cabinet Portfolio Holder and lead officer will be informed of the scope and timing of the Scrutiny review at an early stage.
- (2) Prior to finalising their reports, Scrutiny Committees will discuss their emerging recommendations with the Portfolio Holder and lead officer.
- (3) The relevant Portfolio Holder and lead officer will be invited to attend the Scrutiny meeting that considers the review report.
- (4) Scrutiny review reports, where appropriate in the opinion of the Assistant Director of Governance and Monitoring Officer, will be considered by the relevant SMT Officer and/or relevant Statutory Officer and their views,

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comments and advice will be considered by the Scrutiny Committee before the report is submitted to Cabinet, in order to provide a view on the feasibility of recommendations, including information on the costs, legality, risks and benefits.

- (5) The relevant Cabinet Portfolio Holder will be briefed by the lead officer and/or the Senior Scrutiny Officer prior to the submission of the report to Cabinet.
- (6) The Chairman of the relevant Scrutiny Committee will be invited to the Cabinet (full Council) meeting to present Scrutiny review reports.

Responding to Overview and Scrutiny recommendations

- (1) Cabinet will respond to recommendations from Scrutiny as soon as possible and within a maximum of two months. Any extension to the timescales will be agreed with the Chairman of the relevant Scrutiny Committee.
- (2) If Cabinet fails to consider the recommendations or agree extensions to timescales, the report will be submitted to the next meeting of Council for consideration.
- (3) Cabinet's response will indicate whether each Scrutiny proposal/recommendation is accepted, rejected or deferred, giving reasons for that decision.
- (4) Cabinet's decision on the recommendations will be reported to the next scheduled meeting of the relevant Scrutiny Committee for consideration.
- (5) The lead officer will prepare an action plan for implementation of any agreed recommendations, for approval by Cabinet.
- (6) The Scrutiny Committee will consider Cabinet's response and action plan and agree a timetable for monitoring progress and impact in implementing agreed recommendations.
- (7) The relevant Portfolio Holder and lead officer will prepare a progress report in line with the agreed timescale and will attend the Scrutiny Committee meeting to present it.

Overview and Scrutiny attendance at Cabinet meetings

- (1) Members of a Scrutiny Committee may attend meetings of the Cabinet to observe proceedings.
- (2) Members of a Scrutiny Committee may speak at Cabinet meetings at the invitation of the Leader.

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- (3) The Chairman or Vice Chairman of the relevant Scrutiny Committee will be invited to attend the Cabinet meeting to present scrutiny reports and recommendations.

Referral of items by Cabinet (or Council) to Scrutiny

- (1) In making a referral to Scrutiny, the Portfolio Holders, Cabinet or Council should:-
 - Direct the referral to the Chairman of the relevant Scrutiny Committee;
 - Specify the reasons for the referral;
 - Indicate what type of response is being sought (e.g. spotlight review);
 - Provide information on any relevant timescales.
- (2) The relevant Scrutiny Committee Chairman will determine which meeting of the Committee will receive and consider the referral and report back its decision to the Portfolio Holder, Cabinet or Council within agreed timescales.
- (3) Extensions to timescales will be by mutual agreement with the Portfolio Holder.



**North East
Derbyshire**
District Council

Notice of Call-In Request

In accordance with Rule 13 of the Scrutiny Rules, that are contained within the Council's Constitution, we the undersigned hereby give notice that we wish to call-in the following Key Decision:

Decision (please include minute / delegated decision no.)	
Title of item / decision	
Date of Decision Publication	

We believe that the following principles of decision-making have been breached by the making of this decision:

Principle	Tick	Reason why breached
Proportionality		
Due consultation and the taking of professional advice from officers		
Respect for human rights		
A presumption in favour of openness		
Clarity of aims and desired outcomes		
Regard for equal opportunities		
Options are considered and reasons given for the decision		
Consideration of all relevant factors		
Decision is in the best interests of the District as a whole		

Lead signatory:

Name: Date:.....

Signed:

Name: Date.....

Signed:

Name: Date.....

Signed:

Name: Date.....