

Select Committee on Health and Adult Social Care – 12th July 2006

Report of the Lead Officer

TERMS OF REFERENCE, RULES OF PROCEDURE OF THE COMMITTEE AND SCRUTINY PROTOCOLS FOR SELECT COMMITTEES

Purpose of Report

1. To receive the terms of reference, procedure rules applicable to this Committee, the scrutiny protocols for Select Committees and the Health Scrutiny Protocol.

Background

2. Article 6 of the Council's Constitution provides for the appointment of five Select Committees, including the Select Committee on Health and Adult Social Care.
3. The Terms of Reference of the five Select Committees are provided in the Article and those for the Select Committee on Health and Adult Social Care provide for the Committee to perform the overview and scrutiny role as they relate to:-
 - the improvement of local health and adult social/health care services, as a contribution to the Council's community leadership role.
 - to create an annual Scrutiny Plan.
 - to make reports and recommendations to local National Health Service (NHS) bodies and to the Council on any matter reviewed or scrutinised which explain the matter reviewed, summarise the evidence considered, provides a list of participants in the scrutiny exercise, and makes any recommendations on the matter reviewed as appropriate.
 - to proactively receive information within given timescales, with some exceptions as per current Government Guidance, requested from local NHS bodies.
 - to be consulted by and respond to (as appropriate) NHS bodies in connection with the rationale behind any proposal and options for change to local health services made by the NHS.
 - to ensure the involvement of local stakeholders, e.g. by co-opting individuals, as appropriate, to help the work of the Committee.
 - to take referrals from local Patients' Forums.
 - to act in accordance with Government Guidance relating to Health and Scrutiny.
4. The Article, which also prescribes the general role of Select Committees and their specific functions, including those relating to scrutiny, is set out in full in Appendix 1 to this report.

5. The rules of procedure for Select Committees are set out in Part 4 of the Constitution and these are reproduced in Appendix 2 to this report.
6. The scrutiny protocol for Select Committees are set out in Part 6 of the Constitution and these are reproduced in Appendix 3 to this report.
7. The Health Scrutiny Protocol is also attached as Appendix 4 to this report.

Finance

8. There are no direct financial consequences arising from this report.

Law

9. The relevant statutory provisions regarding the Constitution are contained in Part II of the Local Government Act, 2000, together with Regulations, Orders and Statutory Guidance issued by the Secretary of State.

Equality Impact

9. This report complies fully with the Council's policies on equal opportunities and diversity.
10. This report will have no specific effect on children and young people. There is no requirement for consultation with children and young people or the involvement of children and young people in noting the report.

Recommendation

11. The Committee is asked to receive and note Article 6 of the Constitution, the Select Committee Procedure Rules, including the section of reference of this Select Committee and the Scrutiny Protocol for Select Committees as set out in Appendices 1, 2 and 3 to this report.



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List of Background Papers

The Council's Constitution

TERMS OF REFERENCE FOR SELECT COMMITTEES

6.01 1. SELECT COMMITTEE ON CHILDREN'S SERVICES

Membership

11 Councillors, 5 voting Church and Parent Governor representatives, and 5 non-voting representatives, in accordance with paragraph 3 of the Select Committee Procedure Rules.

Terms of Reference

To fulfil all of the overview and scrutiny functions of a Select Committee as they relate to Children's Services and, in particular, the functions and responsibilities of the Council under the Children Act 2004 and associated Regulations and guidance, including:-

- (a) the roles and responsibilities of relevant partners;
- (b) listening to and involving children

with the objective of improving the well-being of all children in the Council's area by developing the "Every Child Matters" outcomes.

2. SELECT COMMITTEE ON HEALTH AND ADULT SOCIAL CARE

Membership

11 Councillors

Terms of Reference

- (a) To fulfil all of the overview and scrutiny functions of a Select Committee as they relate to the improvement of local health and adult social/health care services, as a contribution to the Council's community leadership role.
- (b) To create an annual Scrutiny Plan.
- (c) To make reports and recommendations to local National Health Service (NHS) bodies and to the Council on any matter reviewed or scrutinised which explain the matter reviewed, summarise the evidence considered, provides a list of participants in the scrutiny exercise, and makes any recommendations on the matter reviewed as appropriate.
- (d) To proactively receive information within given timescales, with some exceptions as per current Government Guidance, requested from local NHS bodies.

- (e) To be consulted by and respond to (as appropriate) NHS bodies in connection with the rationale behind any proposal and options for change to local health services made by the NHS.
- (f) To ensure the involvement of local stakeholders, e.g. by co-opting individuals, as appropriate, to help the work of the Committee.
- (g) To take referrals from local Patients' Forums.
- (h) To act in accordance with Government Guidance relating to Health and Scrutiny.

3. SELECT COMMITTEE ON REGENERATION, CULTURE AND ADULT EDUCATION

Membership

11 Councillors.

Terms of Reference

To fulfil all of the overview and scrutiny functions of a Select Committee as they relate to:-

- (a) the regeneration of communities in the area;
- (b) the physical regeneration of the area, including economic development;
- (c) assisting in the development of the Council's planning policies (including the Development Plan and other plans for the use and development of land);
- (d) the functions of the Council in relation to leisure, arts, sport and recreational activities to enhance the quality of life for local people;
- (e) the provision and management of museums, art galleries, theatres, local history service, libraries, leisure centres, swimming pools, parks and open spaces, cemeteries and crematoria, allotments and other like facilities;
- (f) the functions of the Council relating to adult education and training and community learning;
- (g) corporate issues relating to equality and diversity.

4. SELECT COMMITTEE ON THE ENVIRONMENT

Membership

11 Councillors.

Terms of Reference

To fulfil all of the overview and scrutiny functions of a Select Committee as they relate to:-

- (a) the functions of the Council as local housing authority;
- (b) the functions of the Council as local highway authority;
- (c) promoting the environmental well-being of the area;
- (d) waste management.

5. SELECT COMMITTEE ON COMMUNITY SAFETY AND COMMUNITY SERVICES

Membership

11 Councillors.

Terms of Reference

To fulfil all of the overview and scrutiny functions of a Select Committee as they relate to:-

- (a) the crime and disorder functions of the Council under the Crime and Disorder Act 1998, or any other relevant legislation;
- (b) all other community safety issues affecting the Borough or any part of it,
- (c) the functions of the Council relating to social inclusion, community development, neighbourhood management and Dudley Council Plus.

6.02 General Role

Within their terms of reference, Select Committees will:-

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the full Council via the Cabinet if appropriate or to the Cabinet or to any Area Committee in connection with the discharge of any functions (NB: Annual reports of Select Committees will be submitted direct to Council).
- (iii) consider any matter affecting the area or its inhabitants;
- (iv) exercise the right to call-in for reconsideration decisions made but not yet implemented by the Cabinet or Area Committees.

6.03 Specific functions

- (a) Policy development and review

Select Committees may:

- (i) assist the Council and the Cabinet in the development of its budget

and policy framework by in-depth analysis of policy issues;

- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question Cabinet Members, committees and Directors about their views on issues and proposals affecting the area; and
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) Scrutiny

Select Committees may:

- (i) review and scrutinise the decisions made by and performance of the Cabinet, committees and council officers both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question Cabinet Members, committees and Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

provided in each case the relevant Cabinet Member, Committee or Director is given at least one week's prior written notice of the principal question(s) to be put to them.

- (iv) make recommendations to the Cabinet, and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Select Committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

(c) Finance

Select Committees may exercise overall responsibility for the finances made available to them.

(d) Annual report

Select Committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

(e) Officers

Select Committees may exercise overall responsibility for the work programme of the officers employed to support their work.

6.04 Proceedings of Select Committees

Select Committees will conduct their proceedings in accordance with the Select Committee Procedure Rules set out in Part 4 of this Constitution.

6.05 Conflict of Interest

If a Select Committee is scrutinising specific decisions or proposals in relation to the business of the Area Committee of which the councillor concerned is a member, then the councillor may not speak or vote at the Select Committee meeting unless a dispensation to do so is given by the Standards Committee.

General policy reviews

Where the Select Committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

6.06 Access to Information

Select Committees will comply with the Access to Information Procedure Rules in Part 4 of this Constitution.

6.07 Meetings of Select Committee Chairmen

Arrangements will be made for the Chairmen of Select Committees to meet to discuss the operation and functions of Select Committees and, where an issue does not fall clearly within the terms of reference of one Select Committee, to determine which Select Committee should deal with that item.

SELECT COMMITTEE PROCEDURE RULES

CONTENTS

Rule

1. What will be the number and arrangements for Select Committees?
2. Who may sit on Select Committees?
3. Education Representatives
4. Meetings of the Select Committees
5. Quorum
6. Who Chairs Select Committee Meetings?
7. Work Programme
8. Agenda Items
9. Policy Review and Development
10. Reports from Select Committees
11. Making sure that Select Committee reports are considered by the Cabinet
12. Rights of Select Committee Members to documents
13. Members and Officers giving account
14. Attendance by Others
15. Call-in
16. The Party Whip
17. Procedure at Select Committee Meetings
18. Matters within the remit of more than one Select Committee

SELECT COMMITTEE PROCEDURE RULES

1. **What will be the number and arrangements for Select Committees?**

The Council will have the Select Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time.

2. **Who may sit on Select Committees?**

All councillors (except Cabinet Members) may be members of a Select Committee. However, apart from decisions taken by the full Council no member may be involved in scrutinising a decision in which he/she has been directly involved.

3. **Education representatives**

The Select Committee on Lifelong Learning shall include in its membership the following voting representatives:

- (a) 1 Church of England diocese representative
- (b) 1 Roman Catholic diocese representative
- (c) 3 parent governor representatives.

The Select Committee on Lifelong Learning shall also include in its membership the following non-voting representatives:-

- (a) 1 representative of the Free Churches
- (b) 2 teacher representatives (one each from the primary and secondary sectors)
- (c) 2 persons with experience of and interest in education in the Borough

If the Select Committee on Lifelong Learning deals with matters not related to any education functions of the Council these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

4. **Meetings of the Select Committees**

There shall be at least 5 ordinary meetings of each Select Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Select Committee meeting may be called by the Chairman of the relevant Select Committee, by any 5 members of the Committee or by the Director of Law and Property if he/she considers it necessary or appropriate.

5. **Quorum**

The quorum for a Select Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

6. **Who Chairs Select Committee meetings?**

Chairmen and Vice-Chairmen of Select Committees will be appointed by the full Council.

7. **Work programme**

The Select Committee will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.

8. **Agenda items**

Any member of a Select Committee shall be entitled to give notice to the Director of Law and Property 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 Director of Law and Property will ensure that it is included on the next available agenda.

The Select Committee shall also respond, as soon as their work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where they do so, the Select Committee shall report their findings and any recommendations back to the Cabinet and Council. The Council and/or the Cabinet shall consider the report of the Select Committee within two months of receiving it.

9. **Policy review and development**

- (a) The role of the Select Committees in relation to the development of the Council's 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 policy framework, Select Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Select Committees may hold enquiries and investigate the available options for future direction in policy development. They may go on site visits and hold public meetings, 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.

10. **Reports from Select Committees**

- (a) Once it has formed recommendations on proposals for development, the Select Committee will prepare a formal report and submit it to the Director of Law and Property for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Cabinet and the Council.
- (b) If Select Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet shall consider the report of the Select Committee within two months of it being submitted to the Director of Law and Property.

11. **Making sure that Select Committee reports are considered by the Cabinet**

- (a) The agenda for Cabinet meetings shall include an item entitled 'Issues arising from Select Committees'. The reports of Select Committees referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) within two months of the Select Committee completing its report/recommendations.
- (b) Once a Select Committee has completed its deliberations on any matter it will forward a copy of its final report to the Director of Law and Property who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Director of Law and Property refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Cabinet will have four weeks in which to respond to the Select Committee report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from a Select Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the Select Committee's proposals.
- (c) Not more than one report every three months may be submitted by each Select Committee to the Cabinet.

- (d) Select Committees will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from Select Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

12. **Rights of Select Committee members to documents**

- (a) In addition to their rights as councillors, members of Select Committees have the additional right to documents, and to notice of meetings, as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Select Committees as appropriate depending on the particular matter under consideration.

13. **Members and officers giving account**

- (a) Any Select Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Cabinet Member, the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit;
 - i) any particular decision or series of decisions;
 - ii) the extent to which the actions taken implement Council policy; and/or
 - iii) their performance.

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

- (b) Where any member or officer is required to attend a Select Committee under this provision, the Chairman of that Committee will inform the Chief Executive. The Chief Executive shall inform the member or 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 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 Select Committee shall in consultation with the member or officer arrange an alternative date for attendance.

14. Attendance by others

- (a) A Select Committee may invite people other than those people referred to in paragraph 13 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.
- (b) In addition a Select Committee may choose to include a standard item entitled 'Public Forum' on its agenda to facilitate members of the public asking questions on any matter falling within the terms of reference of the Select Committee.

15. Call-in

- (a) When a decision is made by the Cabinet, an individual Cabinet Member or a Committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or an Area Committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. Chairmen of all Select Committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless a Select Committee objects to it and calls it in.
- (c) During that period, the Director of Law and Property shall call-in a decision for scrutiny by the Committee if so requested by the Chairman or any five voting members of the Committee, and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Committee, and in any case within 5 working days of the decision to call-in.

- (d) If, having considered the decision, the Select 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 refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 5 working days, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the Select Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Select Committee meeting, or the expiry of that further 5 working day period, whichever is the earlier.
- (f) If the matter was referred to full Council 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 in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a Committee of it a meeting will be convened to reconsider within 5 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 working days of the Council request.
- (g) 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.

EXCEPTIONS

- (h) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
 - i) each Select Committee may only call-in 3 decisions per three month period, each period commencing on the 1st April, 1st July, 1st October and 1st January;
 - ii) five members of Select Committee from at least two political groups are needed for a decision to be called in, provided that if a Select Committee comprises fewer than 10 members in number, four members from at least two political groups are needed for a decision to be called in;

- iii) once a member (other than the Chairman) has signed a request for call-in under paragraph 15 (call-in) above, he/she may not do so again until a period of 1 month has expired.

CALL-IN AND URGENCY

- (i) 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 interest. 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 under this Rule. The Mayor 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 Mayor the Deputy Mayor's consent shall be required. In the absence of both, the Chief Executive or his/her nominee'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.
- (j) 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.

16. **The party whip**

When considering any matter in respect of which a member of 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 deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

17. **Procedure at Select Committee meetings**

- (a) Select Committees shall consider the following business:
 - i) minutes of the last meeting;
 - ii) declarations of interest (including whipping declarations);
 - iii) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
 - iv) responses of the Cabinet to reports of the Select Committee; and
 - v) the business otherwise set out on the agenda for the meeting.

- (b) Where the Select Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
 - i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee shall prepare a report for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

18. **Matters within the remit of more than one Select Committee**

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

SCRUTINY PROTOCOL FOR SELECT COMMITTEES

INTRODUCTION

1. This protocol must be read in conjunction with the Select Committee Procedure Rules (the Rules). The protocol has been approved by the Council for inclusion in the Constitution following consultation with the Chairmen of Select Committees and the Cabinet.
2. Under the Rules, Select Committees have the power to: -
 - scrutinise decisions of the Cabinet (either collectively or individually) or any other decisions made or actions taken in connection with the discharge of any of the Council's functions
 - call-in decisions i.e. delay their implementation until they have been scrutinised
 - scrutinise existing Council policies and strategies
 - develop new Council policies and strategies to be recommended to the Cabinet (either collectively or individually).
3. This protocol is primarily concerned with the **scrutiny of decisions** and the power of **call-in**, though the principles set out in paragraphs 7 - 10 apply equally to other scrutiny functions.
4. The power to challenge a decision maker to explain and justify a decision is an essential part of the Constitution. Decision makers must be accountable and be prepared to substantiate their actions.
5. This protocol is designed to assist Select Committees in the exercise of their scrutiny powers and to help to make the process of scrutiny as effective as possible.
6. The Government issued specific guidance in respect of Health Scrutiny in 2003. These give more specific guidance which is related in style and content to the broader principles contained in this document.

PRINCIPLES

7. Members of Select Committees should take care that the scrutiny process is seen to be a genuine attempt to understand the circumstances in which a decision has been reached and the reasons for that decision. The process should never be used to intimidate or put unnecessary personal pressure on those members, officers or other persons who are invited to appear before the Select Committee. Respect and courtesy should be shown at all times.
8. The Select Committee is not a court of law and those invited to attend before the Committee should not be treated as though they are parties to, or witnesses in, legal proceedings. The Select Committee should conduct its proceedings in an open and transparent manner designed to gain the cooperation of all concerned, rather than create a polarisation of views or entrenched positions.

9. Select Committees should seek to use scrutiny to support and develop the priorities set out in the Council Plan. Scrutiny should never be used for party political purposes and should always be in the public or the Council's interest.
10. Likewise, in relation to Health Scrutiny, scrutiny should look beyond health care services to wider determinants of health. It should also be positive and constructive in style with a focus on improvement.

DECIDING WHICH ISSUES TO SCRUTINISE

11. Scrutiny of decisions is different from the call-in process in one material respect, in that it takes place after a decision has been made and put into effect so that it does not delay its implementation.
12. Before deciding to scrutinise, the Chairman of the relevant Select Committee and the lead officer should discuss the matter with the decision maker, i.e. the Leader of the Council, appropriate Cabinet Member, Chairman of the relevant Committee or Director. Such an approach will help the Chairman to understand the background to the decision and the reasons for taking it. The Chairman will then be able to discuss the decision in an informed way with other members of the Select Committee and the lead officer for the Committee before a decision to scrutinise is made by the Committee.
13. If a scrutiny is agreed, the lead officer should ensure that there is a written record of the reason(s) why the decision is being scrutinised. The reason(s) should then be communicated in writing to the decision maker and any other person asked to attend the Select Committee. The latter may include external invitees such as representatives of the police or a health trust, or an expert on the issue being scrutinised.
14. The lead officer for the Select Committee will have prime responsibility, under the direction of the Chairman, for collating any relevant documentation (including reports, minutes, decision sheets and background papers) to be included in the agenda for the meeting of the Select Committee.
15. At least seven working days before the meeting of the Select Committee the lead officer should supply those members, senior officers or other invitees asked to attend the meeting with a written list of questions that will be put to them at the meeting. Where possible the written responses to those questions should be provided to the lead officer at least two working days before the meeting but in any event the written responses will be circulated at the meeting.
16. Under the Rules "senior officers" may be asked to attend the meeting. For the purposes of this protocol it is agreed that "senior officer" means Chief Executive, Director or Assistant Director. Where other more junior officers have been involved in the decision to be scrutinised, the Chief Executive, Director or Assistant Director may at their discretion invite such officers to the meeting to assist them in responding to any questions of detail.
17. If invited, a member or senior officer must attend the meeting but, if in exceptional circumstances they are unable to do so, the Select Committee will consult with them on arranging an alternative date for attendance.

18. In view of the likely time required to undertake scrutiny, a special meeting of the Select Committee will normally be necessary. The decision being scrutinised will usually be the first or sole main item of business on the agenda.

HEALTH SCRUTINY

19. A Scrutiny Plan should be produced annually and should be discussed and shared with National Health Service (NHS) bodies. This may identify priorities for a given period and health inequalities should be given equal weight in determining those priorities. Guidance suggests the following criteria for deciding on scrutiny topics:
- That it will make a distinct and positive impact through scrutiny
 - That topics are timely and relevant and not under review elsewhere.
20. This last criteria is important because health scrutiny is not meant to be another form of performance management of the NHS and committee review may not always be the best way to respond to specific local issues. Health scrutiny approaches, therefore, may be reactive; proactive; “trust-facing”, i.e. scrutinising the work of a particular health trust; or thematic.
21. Health scrutiny may also be achieved through a variety of routes such as small working groups, commissioning research, or calling for evidence as detailed elsewhere in this report in a formal “select committee” style.
22. Deciding which issues to address will also be made in the context of law and guidance, allowing for the scrutiny of health on a joint basis with other local authorities where health issues affect more than one area. Delegation to another Authority can also occur. Protocols are being created to support this.
23. NHS bodies must provide such information about the planning, select provision and operation of health services in the area with some exemptions and the Committee on Good Health has the power in certain circumstances where the NHS refuse to do so to refer this to the body responsible for performance managing the NHS body. In particular, NHS bodies must consult the Select Committee on Good Health on any proposals where “substantial variation”, e.g. changes in accessibility to services, impact on wider community, etc. of local health services is concerned. The terms of reference of the Select Committee on Good Health reflects the above Guidance and a protocol has been developed and implemented locally with the Council’s health partners.

THE MEETING OF THE SELECT COMMITTEE

24. Before meeting those members and/or senior officers invited to attend will have been informed by the lead officer of the reason(s) for the scrutiny and of the questions that will be put to them.
25. Invitees should be present at the start of the meeting and should not be required to wait outside.
26. When the initial formalities (approval of minutes etc) have been completed, the Chairman should carefully explain the procedure to be followed.

27. The Cabinet Member or senior officer will be asked by the Chairman to make an introductory statement to provide an overview of the decision under scrutiny. In turn each invitee should normally be asked to read out their written responses to the questions and deal with any supplementary questions posed by any member of the Committee.
28. There may be exceptional circumstances where the Select Committee considers that an invitee should not be questioned in the presence of other invitees who will then be asked by the Chairman to leave the room.
29. If the meeting is open to the public, it is possible that an invitee may not be able to answer a question without disclosing information which is either exempt or confidential under the rules of access to information. In such a situation the invitee should draw this to the attention of the Chairman and the Committee will decide whether to go into private session to enable that question to be answered.
30. When the invitees have answered all questions the Chairman should ask them whether they wish to make a final statement to the Committee. Such statement should not exceed five minutes. At this stage the invitees should be thanked by the Chairman for their contribution and be asked to leave whilst the Committee deliberates.

THE DECISION

31. The Committee should carefully review all of the facts, opinions and comments submitted to members. Any matter that has not been raised or dealt with at the meeting should not be allowed to influence the decision of the Committee.
32. The Chairman should ask all members of the Committee to express a view and must allow for a “minority report” under the Rules if some members do not agree with the conclusions reached by the majority.
33. If the view of the Committee is that a report should be submitted to the Cabinet or Council, such report must explain the issue addressed; summarise the evidence considered; list participants; and clearly set out the findings of the Committee and the reasons therefor. A draft of the report should be sent to each invitee by the lead officer to enable them to indicate within five working days any factual inaccuracy in the report but not to dispute any finding. Any written response by an invitee shall be circulated by the lead officer to every member of the Committee before the report is finalised and signed by the Chairman.
34. Reports should refer to individuals by title and not by name.
35. Invitees should be given advance notice of the publication of the report.

CALL-IN

36. The power of call-in is a particular form of scrutiny. When call-in is used it has the effect of delaying the implementation of the decision. Under the Rules, only decisions of the Cabinet (either collectively or individually) or key decisions taken by officers or Area Committees can be called-in.

37. The process of call-in is subject to certain limitations and time constraints which are set out in the Rules.
38. The power of call-in may be exercised by the Chairman of the relevant Select Committee or at least 5 members of the Committee from 2 or more political groups (with the exception of the Select Committee for Lifelong Learning where any 5 members or voting co-opted members may exercise the power). In the case of these Select Committees who only have a membership of 9, the Council has decided that the power of call-in may be exercised by 4 members from at least 2 political groups.
39. The Director of Law and Property will send written notification to the decision maker of the decision of the Select Committee within two working days of the meeting. If there is a reference back to the decision maker either by the Select Committee or the Council, the decision maker will send written notification of the final decision to the Director of Law and Property who will forward it to each member of the Select Committee. The notification will include the reasons for the reference back and the decision maker's response. If the decision maker alters the original decision, this will be recorded in a fresh Decision Sheet that will refer to the outcome of the call-in and the reasons for altering the original decision. If the decision maker confirms the original decision without amendment, the decision will become effective immediately.
40. The principles and procedures contained in this protocol apply equally to call-in with the exceptions of paragraphs 15 (seven working days notice of questions) and 33 (consulting invitees on factual accuracy of the draft report). In view of the time constraints on the exercise of call-in it will not normally be possible to give seven days written notice of questions but the Chairman and lead officer should endeavour to give as much notice as possible. Similarly, time constraints may not make it possible for invitees to have a draft copy of the report and, therefore, the Committee has the discretion to drop this requirement as it considers appropriate.