

# CHAPTER 4 – POLICY DEVELOPMENT AND SCRUTINY

## 18. Introduction to the Policy Development Process and Committees

### 18.1 Introduction

The full Council will appoint the Policy Development and Scrutiny Committees to discharge the functions conferred by section 21 of the Local Government Act 2000. The Executive, Resources and Contracts Policy Development and Scrutiny Committee will scrutinise the overall work of the Executive and will have a coordinating role for scrutiny.. The other Committees will reflect the Executive portfolios and may be referred to as the Portfolio PDS Committees.

### 18.2 General role

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

- i) make reports and recommendations to the full Council, the Executive or any policy, joint or area committee in connection with the discharge of any functions;
- ii) make reports or recommendations on any matter affecting the area or its inhabitants; and
- iii) review or scrutinise decisions made or actions taken in connection with the discharge of any of the Executive's or Council's functions;
- iv) call in of urgent decisions after the event and non-urgent, before implementation.
- v) undertake scrutiny of partner organisations.

### 18.3 Specific functions

- (a) **Policy development and scrutiny.** The Committees will within their terms of reference:
  - (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
  - (ii) examine whether agreed plans are being achieved and if so how effectively;
  - (iii) conduct research and consultation in the analysis of policy issues and possible options;
  - (iv) consider and implement processes to encourage and enhance community participation in the development of policy options;

- (v) question members of the Executive, Committees and Chief and Senior Officers about council functions and issues and proposals affecting the area;
  - (vi) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the quality of life and other interests of local people are enhanced by collaborative working;
  - (vii) to seek information from partner organisations and to question representatives of partner organisations and to make recommendations for consideration by partner organisations; and
  - (viii) to lead on Councillor calls for action.
- (b) **Scrutiny.** The Committees may within their terms of reference:
- (i) review and scrutinise both decisions made and decisions to be made (as published in the Forward Plan) or submitted for pre-decision scrutiny by the Executive, including Executive Committees and Portfolio Holders, Committees of the Council and Council officers both in relation to individual decisions and over time;
  - (ii) review and scrutinise the performance of the Executive and individual Portfolio Holders in relation to policy objectives, performance targets and/or particular service areas;
  - (iii) question Members of the Executive, Committees and Chief and Senior Officers about their decisions, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  - (iv) make recommendations to the Executive, appropriate Committee or Council and partner organisations arising from the outcome of the scrutiny process;
  - (v) review and scrutinise the exercise of statutory powers in relation to local NHS bodies and other partner organisations;
  - (vi) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the relevant Policy Development and Scrutiny Committee.
- (c) **Finance.** The Committees may exercise overall responsibility for the finances made available to them.
- (d) **Annual report.** A report will be submitted annually to full Council on the Policy Development and Scrutiny functions and PDS budget, and amended working methods if appropriate. This report will be produced by the PDS Committee with input from the relevant portfolio PDS committees.
- (e) **Annual work programme.** The Policy Development and Scrutiny function will be responsible for undertaking and fulfilling annual programmed work which will encompass broad policy development and scrutiny issues.

#### 18.4 **Proceedings of Policy Development and Scrutiny Committees**

The Committees will conduct their proceedings in accordance with the Policy Development and Scrutiny Procedure Rules set out in this **Chapter** of the Constitution.

## **19. Policy Development and Scrutiny Procedure Rules**

### **19.1. What will be the number and arrangements for Policy Development and Scrutiny Committees?**

- (a) The Council will have the Policy Development and Scrutiny Committees set out in the Terms of Reference in this **Chapter** and will appoint to them as it considers appropriate from time to time. In addition, further ad hoc Committees may be appointed from time to time to consider and report on specific issues.
- (b) One Policy Development and Scrutiny (PDS) Committee will be responsible for coordinating scrutiny, with its membership based on political proportionality. Chairpersons of all the portfolio Committees will sit on this Committee subject to the rules of proportionality.

### **19.2 Who may sit on Policy Development and Scrutiny Committees?**

All Councillors (except Members of the Executive. Executive Assistants may not serve on the PDS which mirrors the Portfolio they support on the Executive) may be Members of one or more Policy Development and Scrutiny Committee. However, a Member must declare an interest in a decision in which he/she has been involved and may not be involved in scrutinising that decision.

### **19.3 Co-optees**

The Policy Development and Scrutiny Committees are empowered to appoint non-voting co-optees on such terms and conditions as they consider appropriate.

### **19.4 Education representatives**

Each relevant Policy Development and Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:

- (a) Church of England diocese representative (at least one);
- (b) Roman Catholic diocese representative (at least one);
- (c) Parent Governor representatives (between 2 and 5); and
- (d) representatives of other faiths or denominations as may be directed by the Secretary of State.

A relevant Policy Development and Scrutiny Committee in this paragraph is a Policy Development and Scrutiny Committee or Committee of a local education authority, where the Committee's functions relate wholly or in part to any education functions which are the responsibility of the Authority's Executive. If the Policy Development and Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

### **19.5. Meetings of the Policy Development and Scrutiny Committees**

The cycle of meetings for Policy Development and Scrutiny Committees will be variable, the frequency of which to be decided on an annual basis. Special meetings may be called from time to time as and when appropriate. A Policy Development and Scrutiny Committee meeting may be called by the Chairperson of the relevant Policy Development and Scrutiny Committee, by any 5 members of the Committee or by the Director of Corporate Services and Governance as Proper Officer if he/she considers it necessary or appropriate.

## 19.6 Quorum

The quorum for a Policy Development and Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in **Chapter 2** of this Constitution.

## 19.7 Work programme

- (a) The Policy Development and Scrutiny Committees will be responsible for setting their own work programme having regard to the Council's annual performance planning process and the budget and policy framework and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group or controlling group(s) on the Council.
- (b) In setting their work programme for each year, each Policy Development and Scrutiny Committee should allocate meetings at which it will require the relevant Executive Members to attend to give their account for the performance of their Portfolio, the delivery of the budget for which they are responsible and to answer questions from Members and members of the public in accordance with Council rules.

## 19.8 Agenda items

- (a) Any member of the Council shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next ordinary meeting of the Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.
- (b) The Chief Executive, Director of Corporate Services and Governance and Director of Finance and any other Chief Officer in respect of any matter coming within his or her sphere of responsibility will be entitled to have items included on the agenda of Policy Development and Scrutiny Committees.

## 19.9 Review of policy and development

- (a) The role of the Policy Development and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules in **Chapter 3**.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Policy Development and Scrutiny Committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) Subject to budgetary implications, Policy Development and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## 19.10 Reports from Policy Development and Scrutiny Committees

- (a) Once recommendations on proposals for development have been formed, the Policy Development and Scrutiny Committees will prepare formal reports which will be

submitted to the Proper Officer for consideration by the Executive or to the Council as appropriate.

- (b) If a Policy Development and Scrutiny Committee cannot agree on one single final report to the Council or Executive as appropriate, then minority reports prepared by Councillors may be submitted for consideration by the Council or Executive with the majority report.
- (c) The Council or Executive shall consider reports of the Policy Development and Scrutiny Committees normally at the first available meeting of the Executive (subject to the Executive having discretion for good cause to defer to a later meeting) after the meeting of the Policy Development and Scrutiny Committee or in any event within two months, or at the next ordinary Council meeting where appropriate.

**19.11 Making sure that Policy Development and Scrutiny reports are considered by the Executive or Policy Committees**

- (a) The agenda for Executive meetings shall include an item entitled 'Issues arising from Policy Development and Scrutiny Committees'.
- (b) All references from the Policy Development and Scrutiny Committees will be considered by the full Executive notwithstanding that the original decision may have been taken by an individual member of the Executive.

**19.12 Rights of Policy Development and Scrutiny Committee Members to documents**

- (a) In addition to their rights as Councillors, members of Policy Development and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in **Chapter 8** of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Policy Development and Scrutiny Committees as appropriate depending on the particular matter under consideration.

**19.13 Members and officers giving account**

- (a) Any Policy Development and Scrutiny Committee may, within its terms of reference, 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 (other) member of the Executive, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:

- (i) any particular decision or series of decisions;
- (ii) the extent to which the actions taken implement Council policy; and/or
- (iii) 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 Policy Development and Scrutiny Committee under this provision, the Chairperson of that Committee will inform the Proper Officer. The proper officer shall inform the Member or officer in writing giving at least 5 working days' notice of the meeting at which he/she is required to attend,

except in cases of urgency. 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) The right of Policy Development & Scrutiny Committees to require officers to attend before them is unlimited in terms of the status and functions of officers. By Council convention, the following officers may be subject to a requirement to attend to answer questions from time to time:

- the Chief Executive
- all other Chief Officers
- any other officer (but the relevant Chief Officer shall be entitled to attend with that officer and to participate.)

#### 19.14 **Attendance by others**

(a) The following persons will be entitled to attend meetings of the committees by virtue of their office, rather than in exercise of public rights:

- The Leader and all Members of the Executive
- All other Members of the Council
- All Chief Officers

(b) A Policy Development and Scrutiny 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, business representatives and members and officers in other parts of the public sector and shall invite such people to attend.

#### 19.15 **Call-in**

(a) When a key decision is made by

- (1) the Executive
- (2) an individual member of the Executive or
- (3) a Committee of the Executive, or
- (4) an officer with delegated authority from the Executive

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 days of being made. All Members will be sent copies of the records of all such decisions within the same timescale, by the Proper Officer.

(b) Call-in will not be allowed where a decision has already been scrutinised and the decision is substantially the same as that supported by the relevant Policy Development and Scrutiny Committee.

(c) If the decision is subject to call-in, then during that period, the Proper Officer shall make arrangements to call-in a decision for scrutiny by the relevant Policy

Development and Scrutiny Committee if so requested with reasons by any five Members of the Council and shall then notify the decision-taker of the call-in.

(d) The notice of decision will bear the date on which it is published and will specify that the decision will come into force and may be implemented on the expiry of five working days, this being the first call-in period after the publication of the decision.

(e) If a call-in is made, a Policy Development and Scrutiny Committee will meet within a time period agreeable to all parties to the call-in. This should be within ten working days (including the day of the call-in and the day of the meeting) unless the parties agree to extend the date or take the issue to the next ordinary meeting of the PDS Committee, if this is later. In cases where there is not unanimity on the date of the Committee to consider the call-in, the Chairperson of the coordinating Policy Development and Scrutiny Committee to decide.

(f) Having considered the decision, the Policy Development and Scrutiny Committee may refer it back to the full Executive, with its reasons. The Executive shall then reconsider. A decision which has been referred back to the Executive following a call-in must be considered within 20 working days of the call-in meeting, or it will fall.

(g) The Policy Development and Scrutiny Committee will not exercise its right to refer decisions to the full Council except in exceptional circumstances such as, for example, an alleged intention by the Executive to act contrary to law or the policy and budget framework.

(h) If following a "called-in" decision, a PDS Committee does not meet or does meet but does not refer the matter back to the full Executive, the decision shall take effect on the date of the PDS Committee meeting, or the expiry of that further 5 working day period, whichever is the earlier.

(h) Where Executive decisions have been submitted for pre-decision scrutiny at full Council there will not be a right of call-in, provided that the Executive decision accords with the views of Council.

(i) A Member who is a party to the call-in shall not chair the PDS meeting considering the call-in.

#### **19.16 Call-in and Urgency**

(a) The call-in procedure set out above shall not apply where the Executive decision being taken 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, along with reasons why, and therefore not subject to call-in.

(b) 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.

#### **19.17 Procedure at Policy Development and Scrutiny Committee meetings**

(a) Policy and Development and Scrutiny Committees shall consider the following business:

(i) minutes of the last meeting;



- (ii) declarations of interest;
  - (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
  - (iv) responses of the Executive to reports of the Policy Development and Scrutiny Committee; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Policy Development and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
- (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - (c) Following any investigation or review, the Committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall save in exceptional circumstances make its report and findings public.
  - (d) All Chief Officers and their nominees shall be entitled to attend Policy Development and Scrutiny Committees and are entitled to speak on any matter within their sphere of activity.

#### 19.18 **Right to Speak**

The following will be entitled to speak at meetings of the committee:

- (a) any Councillor on a matter which affects his or her Ward or in respect of which he or she has a special interest, subject to the overriding discretion of the Chairperson of the Committee;
- (b) the Chief Executive, the Director of Corporate Services and Governance and the Director of Finance in respect of any matter coming within their statutory responsibilities; they and all other Chief Officers in respect of matters coming within their sphere of responsibility (whether or not covered by a specific statutory provision);
- (c) any other person, subject to the agreement of the Committee.

#### 19.19 **Officer Support**

Officer support for Policy Development and Scrutiny Committees will be provided by the Chief Executive and Chief Officers. Chief Officers and their departments will be “double hatted” (ie: will provide support not only to Policy Development & Scrutiny Committees but also to the Council and its Committees and the Leader and Executive). The Chief Executive will keep under review the support provided to Policy Development & Scrutiny Committees.

## 19.20 **Minority Reports**

Generally, any reports by Policy Development & Scrutiny Committees shall be prepared on the basis of majority decision. However, it shall be open to any Member or Members to produce a minority report.

## 19.21 **Portfolio Holder Attendance at PDS Committees and Pre-decision Scrutiny**

A key function of policy development and scrutiny is to hold the Executive and Portfolio Holders to account and to undertake pre-decision scrutiny of prospective executive decisions. Prospective executive decisions shall only be scrutinised at one Policy Development and Scrutiny Committee meeting unless there is a substantial change in the proposals. Policy Development and Scrutiny Committees, in their work programmes, shall allocate a slot for Portfolio Holders to attend to answer questions from the public and Members and to give a general account for their Portfolios.

Where an executive decision cannot be considered by a service PDS Committee, the Executive, Resources and Contracts PDS Committee can fulfil the pre-decision scrutiny function.

It is important to remember that PDS Committees cannot make decisions and are fulfilling the important role of challenge to the Portfolio Holder.

## 19.22 **Matters within the remit of more than one Policy Development and Scrutiny Committee**

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

## **20. Policy Development and Scrutiny Committee Terms of Reference**

### **Executive, Resources and Contracts Policy Development and Scrutiny Committee Terms of Reference**

To fulfil the role of Policy Development and Scrutiny as it relates to the Executive and the Resources, Commissioning and Contract Management Portfolio and the strategic direction and resources of the Council including:

1. The development of the Council's plans within the policy framework, including the revenue budget and capital programme, and exploring whether such plans are being achieved effectively.
2. Collaborative working with partner organisations and groups.
3. Receiving reports and making recommendations on performance monitoring of services falling within the remit of this portfolio which would include:
  - (a) cross-cutting services that are not included in the terms of reference of any other Policy Development and Scrutiny Committee;
  - (b) financial strategy;
  - (c) the Council's overall policy priorities;
  - (d) Land and property;
  - (e) information and communication technology;
  - (f) human resources.
4. Management of call-in.
5. Overall coordination of the Policy Development and Scrutiny function, including the production of an Annual PDS report.

## **Adult Care and Health Policy Development and Scrutiny Committee Terms of Reference**

To fulfil the role of Policy Development and Scrutiny as it relates to care and health services for adults including:

1. The development of the Council's plans within the policy framework that makes up this portfolio and exploring whether such plans are being achieved effectively.
2. Reviewing working with partner organisations and groups such as health trusts. This would include monitoring the effectiveness of partnership working as well as inviting partners/groups to attend meetings as appropriate.
3. Receiving reports and making recommendations on performance monitoring of services falling within the remit of this portfolio which would include:
  - (a) all care services for adults and older people, adults with physical disabilities, adults with mental health problems, learning difficulties, HIV/AIDS, or with drugs or alcohol related health problems and carers;
  - (b) benefits and welfare rights services;
  - (c) public health;
  - (d) scrutinising local health agencies under powers contained in the Health and Social Care Act 2012 ;

## Children, Education and Families Policy Development and Scrutiny Committee Terms of Reference

To fulfil the role of Policy Development and Scrutiny as it relates to children, education and families including:

1. The development of the Council's plans within the policy framework that make up this portfolio and exploring whether such plans are being achieved effectively.
2. Reviewing working with partner organisations and groups including the Early Years Development and Childcare Partnership. This would include monitoring the effectiveness of partnership working as well as inviting partners/groups to attend meetings as appropriate.
3. Receiving reports and making recommendations on performance monitoring of functions falling within the remit of this portfolio which would include:
  - a) all of the functions of the Council as an education authority under the Education Acts, School Standards and Framework Act 1998 and all other relevant legislation in force from time to time;
  - b) all functions of the Council in so far as they relate to the provision of opportunities for education, training and learning outside the school environment including pre-school learning;
  - c) Youth offending services;
  - d) 16-19 education;
  - e) social work for children and young people, children with special needs, fostering and adoption and family support services;
  - f) Adult education.

## **Environment and Community Services Policy Development and Scrutiny Committee Terms of Reference**

To fulfil the role of Policy Development and Scrutiny as it relates to environment and community services including:

1. The development of the Council's plans within the policy framework that make up this portfolio and exploring whether such plans are being achieved effectively.
2. Reviewing collaborative working with partner organisations and groups. This would include monitoring the effectiveness of partnership working as well as inviting partners/groups to attend meetings as appropriate.
3. Receiving reports and making recommendations on performance monitoring of services falling within the remit of this portfolio which would include:
  - a) Engineering and highways;
  - b) street services, waste management and refuse collection;
  - c) energy efficiency;
  - d) transport services, parking and road safety;
  - e) parks and open spaces, allotments and other like facilities.

## **Renewal, Recreation and Housing Policy Development and Scrutiny Committee Terms of Reference**

To fulfil the role of Policy Development and Scrutiny as it relates to renewal, recreation and housing including:

1. The development of the Council's plans within the policy framework that make up this portfolio, and exploring whether such plans are being achieved effectively. Also, to perform a scrutiny role regarding Local Plan, which will be developed by the Development Control Committee.
2. Reviewing working with partner organisations and groups including local businesses, business support agencies, sub-regional and regional organisations including the Learning and Skills Council, Small Business Service and London Development Agency. This would include monitoring the effectiveness of partnership working as well as inviting partners/groups to attend meetings as appropriate.
3. Receiving reports and making recommendations on performance monitoring of services falling within the remit of this portfolio which would include:
  - a) town centre management;
  - b) regeneration;
  - c) business information services;
  - d) employment opportunities;
  - e) education and lifelong learning;
  - f) museums, archives and local history activities;
  - g) libraries, leisure and culture, including art galleries and theatres;
  - h) planning and building control.
  - i) housing, including the improvement of private sector housing, grants and loans to owner-occupiers, tenants, landlords, and/or developers, homelessness, rehousing and special needs/supported housing;

## **Public Protection and Enforcement Policy Development and Scrutiny Committee Terms of Reference**

To fulfil the role of Policy Development and Scrutiny as it relates to public protection and enforcement including:

1. The development of the Council's plans within the policy framework that make up this portfolio, and Exploring whether such plans are being achieved effectively.
2. Reviewing working with partner organisations and groups namely the Safer Bromley Partnership (including the Police, Probation and Fire Services). This would include monitoring the effectiveness of partnership working as well as inviting partners/groups to attend meetings as appropriate, and carrying out the Council's crime and disorder scrutiny responsibilities under the Police and Justice Act 2006.
3. Receiving reports and making recommendations performance monitoring of services falling within the remit of this portfolio, which would include:
  - a) drugs action team;
  - b) environmental health and trading standards;
  - c) anti-social behaviour.