

ARTICLE 7 – SCRUTINY FUNCTION

The Council will appoint a number of Boards to discharge the functions conferred by sections 21 and 21A and 22 and 22A of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters set out in the Select Committees Procedure Rules with the terms of reference set out below.

7.01 Scrutiny Boards - Terms of Reference

The number of Boards will vary from time to time as agreed by the Council. The boards will between them cover all of the executive functions. The portfolio of responsibility of each board is summarised in the Schedule.

The terms of reference of the boards appointed by the Council are set out as follows:

(a) General role

Within their agreed portfolio, boards will:-

- (i) Review and/or scrutinise decisions made or actions taken in connection with the discharge of any executive functions wherever they may be exercised;
- (ii) Make reports and/or recommendations to the Council and/or the Leader/Cabinet/Cabinet Member and/or any joint or local committee in connection with the discharge of any functions; make reports and/or recommendations to partners.
- (iii) Exercise the right to call in, for reconsideration, decisions made but not yet implemented by the Leader/ Cabinet/ Cabinet Member and/or any joint or local committees;
- (iv) Consider any matter affecting the County, part of the County or its inhabitants.

(b) Specific role

The Boards have three specific roles – scrutiny; overview, policy review and development; and performance management:

Within their agreed portfolios, the Boards will fulfil these roles by:-

(i) **Scrutiny**

- Reviewing and scrutinising the decisions made by the Leader/Cabinet/Cabinet Members, any joint or local committee and/or officers both in relation to individual decisions and over time;
- Questioning the Leader, Deputy Leader and members of the Cabinet and officers about their decisions and performance whether generally in relation to corporate plan policies and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- Reviewing the performance of statutory partners with regard to the achievement of improvement targets to which they are signed up. The board can require partner organisations to provide information in relation to the particular target.
- Scrutinising the Shareholder Board in respect of the performance of the Companies for which the Council is the majority shareholder.
- Making reports and/or recommendations to the Leader/Cabinet/Cabinet Member and/or Council arising from the outcome of the scrutiny process.
- Making reports and/or recommendations to partner authorities.

(ii) **Overview, policy development and review**

- Reviewing current policies and strategies and making recommendations to the Leader/Cabinet and/or the Council;
- Undertaking in-depth analysis of policy issues and options to assist the Council and the Leader/Cabinet in developing and setting of budget and the policy framework;
- Considering matters referred to them by the Leader/Cabinet and reporting to the Leader/Cabinet with proposals;
- Monitoring the Leader's Cabinet forward plan and advising the Leader/Cabinet on matters within the remit of the Board;
- Reviewing and investigating matters which are not the direct responsibility of the County Council but which affect the economic, environmental and social well-being of the county.

(iii) **Performance and Finance**

- Reviewing and commenting on draft service delivery plans and budgets including priorities, targets and performance indicators.
- Undertaking in-depth performance reviews with the relevant Cabinet Member, Strategic Director and Heads of Service.
- Monitoring service risk management measures and identifying to the Leader, Deputy Leader or Cabinet Members significant risks and concerns;
- Anticipating and advising the Leader/Cabinet/ Cabinet Member or Council on areas of performance which give rise to concern.

7.02 Council Overview Board

The Board will take lead responsibility for the Council's overview and scrutiny function, ensuring that scrutiny focuses on key strategic issues, adds value, holds decision-makers to account, and contributes effectively to policy development.

Specific Role

- Approve Board work programmes and task group scoping documents prior to the commencement of work, ensuring that proposed reviews take account of any impact on other Council services outside their remit, do not duplicate work being carried out elsewhere, and can be properly resourced;
- Review performance, finance and risk information for all County Council services, referring issues to the appropriate scrutiny board for detailed scrutiny as necessary;.
- Review the performance of and hold to account any trading companies established by the County Council;
- Scrutiny of Business Services and the Chief Executive's Office, focusing the delivery and impact Council's corporate services across the County Council and commissioning reviews by the appropriate Boards as necessary.
- Act as a resource to the Cabinet in the development of strategic policies;

- Hold the Leader and Deputy Leader to account, scrutinising the delivery and impact of corporate policies and decisions.

7.03 **Wellbeing Board (Health Scrutiny)** **Terms of Reference**

The Board may review and scrutinise health services commissioned or delivered in the authority's area within the framework set out below:

- arrangements made by NHS bodies to secure hospital and community health services to the inhabitants of the authority's area;
- the provision of both private and NHS services to those inhabitants;
- the provision of family health services, personal medical services, personal dental services, pharmacy and NHS ophthalmic services;
- the public health arrangements in the area;
- the planning of health services by NHS bodies, including plans made in co-operation with local authorities, setting out a strategy for improving both the health of the local population, and the provision of health care to that population;
- the plans, strategies and decisions of the Health and Wellbeing Board;
- the arrangements made by NHS bodies for consulting and involving patients and the public under the duty placed on them by Sections 242 and 244 of the NHS Act 2006;
- any matter referred to the Scrutiny Board by Healthwatch under the Health and Social Act 2012;
- social care services and other related services delivered by the authority.

The Scrutiny Boards may require partner authorities to provide information in respect of matters relating to the health service in the authority's area.

In addition, the Scrutiny Board will be required to act as consultee to NHS bodies within their areas for:

- substantial development of the health service in the authority's area; and

- (b) any proposals to make any substantial variations to the provision of such services.

These terms of reference include health services provided from a body outside the local authority's area to inhabitants within it.

The Wellbeing and Health Scrutiny Board may refer to the Secretary of State for Health any contested proposals for substantial change or variation in service. The Chairman of that Board will ensure all Members are notified when this power is utilised.

The Wellbeing and Health Scrutiny Board shall appoint a joint committee where an NHS body intends to consult on a substantial development or variation to health services that extends beyond the area covered by the Scrutiny Board and agree:

- (i) the size of any joint committee appointed for this purpose in consultation with other appropriate authorities which have an interest as consultees;
- (ii) the share of the Council's seats on each such joint committee; and
- (iii) the County Council's membership of any such joint committee in accordance with the wishes of political groups.

7.04 **Scrutiny Board Procedure Rules**

(a) **Arrangements for Scrutiny Boards**

The number of Boards will vary from time to time as agreed by the Council. The committees will between them cover all of the executive functions, combining responsibilities for policy development and service improvement, and questioning decisions in respect of executive functions.

(b) **Membership of committees**

Any Member of the Council (except the Leader, Deputy Leader and members of the Cabinet) may serve on a scrutiny board. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

(c) **Co-optees**

Committees may co-opt non-councillors, as and when required, to provide a degree of independent advice and expertise. Co-opted members cannot have voting rights unless allowed by law.

(d) **Education representatives**

The board dealing with education matters shall include in its membership the following voting representatives:

- (i) 1 Church of England diocesan representative;
- (ii) 1 Roman Catholic diocesan representative; and
- (iii) A minimum of 2 parent governor representatives.

This shall apply where the board's functions relate wholly or in part to any education functions which are the responsibility of the Leader/Cabinet/Cabinet Member. If the board deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

(e) **Meetings of boards**

The Boards shall meet regularly following an agreed calendar of meetings. In addition, extraordinary meetings may be called from time to time as and when appropriate. A board meeting may be called by the board chairman, by any 3 members of the board, or by the proper officer if he/she considers it necessary or appropriate.

(f) **Quorum**

The quorum for boards shall be one quarter of the total number of voting Members. A quorum may not be fewer than three voting Members.

(g) **Election of board chairmen**

The chairmen and vice-chairmen of the boards will be elected by the Council. The appointments of the Chairmen and Vice-Chairmen of the Social Care Services Board and the Education and Skills Board will be subject to a valid enhanced criminal records check.

(h) **Work programmes**

Boards will be responsible for setting their own work programmes and may include within them any business which they wish to review on the Leader's/Cabinet's/Cabinet Member's or Council's behalf. Any member of a board shall be entitled to give notice to the proper officer that he/she wishes to include an item relevant to the functions of the board on the agenda for the next available meeting. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.

(i) **Referral of matters to boards ('councillor call for action')**

- (i) Any Member of the Council may refer to a board any local government matter which is relevant to the functions of the committee.
- (ii) The Member referring the matter may make representations as to why it would be appropriate to scrutinise the matter.
- (iii) If the board decides not to scrutinise the matter, it must notify the Member of its decision and the reasons for it.
- (iv) The board must provide the Member with a copy of any report or recommendations which it makes to the Leader/Cabinet/Cabinet Member or Council in relation to the matter.

(j) **Reports from boards**

- (i) The boards will report their views and recommendations to the Leader/Cabinet/Cabinet Member, Council or partner organisations as appropriate. Boards may report direct to the Council where they wish to draw its attention to issues of interest or concern, or where they wish to enlist the Council's support or invite it to express a view.
- (ii) If a board cannot agree on one single final report to the Leader/Cabinet/Cabinet Member or Council as appropriate, then a minority report may be prepared and submitted for consideration by the Leader/Cabinet/Cabinet Member or Council with the majority report.
- (iii) Boards will have access to the Leader's Cabinet forward plan and timetable for decisions and intentions for consultation and may respond in the course of the Leader's/Cabinet's/Cabinet Member's consultation process in relation to any key decision.

(k) **Rights to copies**

Subject to paragraph (l) below, a member of a board will be entitled to copies of any document which is in the possession or control of the Cabinet, its committees, or individual Cabinet Members and which contains material relating to any business transacted at a public or private meeting of the Cabinet, its committees, or individual Cabinet Members or any decision which has been made by an officer of the authority in accordance with executive arrangements.

A copy of the document must be provided as soon as reasonably practicable and in any case no later than 10 clear days after the request has been received. Where it is determined that, , a member of a board is not entitled to a copy of a document or part of any such document for a reason set out under paragraphs (k) and (l) a written statement must be provided to the relevant scrutiny board setting out the reasons for the decision.

(l) Limit on rights

A member of a board will not be entitled to:

- (i) any document that is in draft form;
- (ii) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision it is reviewing or scrutinising or intends to scrutinise; or
- (iii) the advice of a political adviser.

(m) Attendance by witnesses

(i) Boards may examine and review decisions made or actions taken in connection with the discharge of any Council or executive functions as appropriate. As well as reviewing documentation, in fulfilling the scrutiny role board may require the Leader, Deputy Leader or any Member of the Council, and/or any senior officer to attend before it to explain in relation to matters within the board's 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.

(ii) Where any Member or officer is required to attend a board under this provision, the board chairman will inform the proper officer. The proper officer 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 board. Where the account to be given to the board 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.

- (iii) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the board shall, in consultation with the Member or officer, arrange an alternative date for attendance.
- (iv) When officers appear to answer questions, their evidence will be confined, as far as possible, to questions of fact and explanation relating to policies and decisions. Officers may explain what the policies are and how administrative factors may have affected the choice of policy measures and the manner of their implementation. Officers may be asked to explain and justify advice that they have given in relation to the exercise of executive functions prior to decisions being taken, and to justify decisions they themselves have taken under the Scheme of Delegation where they fall within the terms of the matter under scrutiny. As far as possible, officers should avoid being drawn into discussion of the merits of alternative policies where this is politically contentious, and should certainly not venture an opinion as to whether one policy option is preferable to another.

(n) **Attendance by others**

A board may invite people other than those people referred to in paragraph (m) above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, partner authorities, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

(o) **Call in**

The intention is that call in powers will be used exceptionally by scrutiny boards.

- (i) When a decision is made by the Leader, Cabinet, individual Cabinet Members, a committee of the Cabinet or local Members in relation to their local area, or a key decision is made under joint arrangements or by officers, the formal record of the decision shall be published not later than three working days after the decision is taken. An information bulletin will be published on the S-Net on the day after the meeting summarising the decision taken pending publication of the record.

- (ii) 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 the appropriate board objects to it and calls it in.
- (iii) During that period, a decision may be called in for scrutiny by the board chairman or vice-chairman or any three or more other board members from more than one political group. The chairman shall call a meeting of the board within 10 working days of the expiry of the period referred to in paragraph (ii) above, and where possible after consultation with the decision maker(s).
- (iv) If, having considered the decision, the board 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 Council. If referred to the decision maker it shall then reconsider within a further 7 working days, amending the decision or not, before adopting a final decision.
- (v) If following an objection to the decision, the board does not meet in the period set out in paragraph (iii) 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 board meeting, or the expiry of that further 10 working day period in paragraph (iii), whichever is the earlier.
- (vi) If the matter was referred to 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, it has no remit to make decisions in respect of an executive 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 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 10 working days of the Council's request. Where the decision was made by an individual, the individual will reconsider within 5 working days of the Council's request.

- (vii) 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.
- (viii) 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.

EXCEPTION

- (ix) The call-in procedure set out above shall not apply where the decision being taken is urgent in accordance with Rule 6.05(f) (special urgency). 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 scrutiny board 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 board, the Chairman of the Council's consent shall be required. In the absence of both, the Chief Executive'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.

(p) The party whip

When considering any matter in respect of which a member of the board is subject to an official party whip, the Member must declare the existence of the whip, and the nature of it before the commencement of the board's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

BOARDS AND SCRUTINY COMMITTEES

Name	Relevant Services
Council Overview Board	<ul style="list-style-type: none"> ➤ Performance, finance and risk monitoring for all Council services <i>All corporate areas, including:</i> ➤ Budget Strategy/Financial Management ➤ Improvement Programme, Productivity and Efficiency ➤ Equalities and Diversity ➤ Corporate Performance Management ➤ Corporate and Community Planning ➤ Property estate and facilities management ➤ Emergency and Contingency Planning ➤ HR and Organisational Development ➤ IMT ➤ Procurement ➤ Legal and Democratic Services ➤ Other Support Functions ➤ Risk Management ➤ Europe ➤ Communications ➤ Transformation ➤ New models of delivery ➤ Digital strategy ➤ Cross cutting/whole council themes

Name	Relevant Services
Social Care Services Board	<ul style="list-style-type: none"> ➤ Performance, finance and risk monitoring for social care services ➤ Services for people with: <ul style="list-style-type: none"> ○ Special Educational Needs ○ Mental health needs, including those with problems with memory, language or other mental functions ○ Learning disabilities ○ Physical impairments ○ Long-term health conditions, such as HIV or AIDS ○ Sensory impairments ○ Multiple impairments and complex needs ➤ Services for Carers ➤ Social care services for prisoners ➤ Safeguarding ➤ Care Act 2014 implementation ➤ Children's Services, including <ul style="list-style-type: none"> Looked after children Corporate parenting Fostering Adoption Child Protection Children with disabilities ➤ Transition ➤ Youth Crime reduction and restorative approaches ➤ Supporting Families Programme

	<ul style="list-style-type: none"> ➤ Working together with partners ➤ Child Sexual Exploitation
Education & Skills Board	<ul style="list-style-type: none"> ➤ Performance, finance and risk monitoring for education services ➤ Schools and Learning ➤ Services for Young People (including Surrey Youth Support Service) ➤ Special Education Needs and Disability ➤ Further Education ➤ Early Years Education ➤ Services to improve achievements for those children in Surrey's care ➤ Virtual school ➤ School places ➤ School transport ➤ Participation of young people not currently in employment , education or training ➤ Apprentices and skills for employment ➤ Adult and Community Learning

Name	Relevant Services
Resident Experience Board	<ul style="list-style-type: none"> ➤ Performance, finance and risk monitoring for the following Council services: ➤ Community Safety, including: <ul style="list-style-type: none"> ○ Crime and Disorder Reduction ○ Relations with the Police ➤ Fire and Rescue Service ➤ Cultural Services, including: <ul style="list-style-type: none"> ○ Library Services ○ Major cultural and community events ○ Heritage ○ Arts ○ Citizenship ○ Registration ➤ Sport ➤ Volunteering and Voluntary Sector Relations ➤ Customer Services ➤ Localism ➤ Trading Standards and Environmental Health ➤ Legacy and Tourism ➤ Community engagement

Name	Relevant Services
Economic Prosperity, Environment & Highways Board	<ul style="list-style-type: none"> ➤ Performance, finance and risk monitoring for the Environment & Infrastructure directorate ➤ Strategic Planning ➤ Economic Prosperity ➤ Countryside ➤ Waste and recycling ➤ Transport Service Infrastructure ➤ Aviation ➤ Highway Maintenance ➤ Community Transport ➤ Economic Development and the Rural Economy ➤ Housing ➤ Local Transport Plan ➤ Road Safety ➤ Concessionary Travel ➤ Minerals ➤ Parking regulation and enforcement ➤ Climate change and carbon energy ➤ Rights of way ➤ Cycle routes ➤ Gypsy and Traveller sites ➤ Biodiversity and wildlife ➤ Planning services ➤ Street lighting ➤ Flood prevention and infrastructure

Wellbeing and Health Scrutiny Board (Health Scrutiny)	<ul style="list-style-type: none">➤ Review and scrutiny of all health services commissioned or delivered within Surrey➤ Public health➤ Statutory Health Scrutiny➤ Review delivery of the Health and Wellbeing Strategy➤ Health and Wellbeing Board
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