

## SECTION 7

### SCRUTINY BOARD

- 7.1 Role, functions and powers**
- 7.2 Membership**
- 7.3 Meetings**
- 7.4 Task and Finish Groups**
- 7.5 Call-in procedures**

#### **7.1 Role, functions and powers**

##### **7.1.1 General role and powers**

The Scrutiny Board ('the Board') has three main roles:

- holding the Cabinet to account by scrutinising decisions and monitoring performance
- contributing to the review and development of the Council's policies
- considering other matters of concern to local people

To enable the Board to carry out these roles, it will have the following general powers, as required by section 21 of the Local Government Act 2000:

- a) to review and scrutinise any decisions made or actions taken in relation to any of the Council's functions
- b) to make reports and recommendations to the full Council, the Cabinet or any other Council body
- c) to consider any matter affecting the Mendip district or local people
- d) to call in for reconsideration, in accordance with 7.5 below, any executive decision which has been made by the Cabinet, a Portfolio-holder or any other Council body, but not yet carried out

##### **7.1.2 Specific functions**

**a) Scrutiny:** within its general remit, the Board may:

- undertake detailed investigation of specific areas of the Council's activities, linked to the current priorities of the Council
- review decisions made and action taken in relation to the Council's activities, and the effective implementation of those decisions
- monitor the performance of the Council in relation to its policy objectives, performance targets and provision of services

- review the work of other Council bodies and of organisations providing services to or on behalf of the Council
- review the performance of partner organisations or other public bodies operating in the Mendip district
- make recommendations to any Council body, officers or other public body based on the outcome of its work

**b) Policy development and review:** within its general remit, the Board may:

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- consider and comment at all appropriate stages in the development of the Council's Budget and Policy Framework
- respond to consultation on and contribute generally to the review and development of other policies, plans, documents and strategies of the Council
- consider and implement ways to encourage public participation in the development of policy
- submit policy proposals to the Cabinet or full Council for consideration, and make recommendations relating to any aspect of the Council's policies

### 7.1.3 Specific powers

To enable it to carry out its functions, the Board may:

- set its own work programme, taking into account the wishes of all members of the Board
- require any member of the Cabinet and any senior officer (Group Manager or above) to attend meetings, answer questions and produce reports or documents, giving reasonable notice
- invite other people and organisations to address the Board, discuss issues of local concern, provide information or answer questions
- hold inquiries, investigations or public meetings, undertake site visits, conduct research, community and other consultation, appoint advisors and do anything else necessary to assist its consideration of any issue
- require the provision of any information to which members of the Council are entitled under the provisions of Section 3.5.1 or to which members of the Board are additionally entitled under the access to information rules in Section 16

- appoint working groups (“task and finish” groups) to undertake specified tasks or investigations on behalf of the Board, as set out in 7.4 below
- exercise overall responsibility for the finances made available to the Board

#### **7.1.4 Annual report to Council**

The Chair of the Board will present a report to the annual meeting of full Council on the work of the Board during the previous year, together with a draft programme of work for the coming year.

### **7.2 Membership**

**7.2.1** The Board will be made up of nine members appointed by full Council and will be politically balanced. Members of the Cabinet may not be members of the Board.

**7.2.2** No member may take part in the Board’s consideration of any decision or action taken by a Council body if they were a member of that body at the time the decision was made or action taken, and present when the decision was made or action taken. They must declare a personal and prejudicial interest in accordance with the Members’ Code of Conduct in Appendix A, but may make representations, answer questions or give evidence to the relevant meeting provided that the public are allowed to attend the meeting for the same purpose. They must then withdraw from the room in accordance with paragraph 12(1) of the Members’ Code of Conduct.

### **7.3 Meetings**

**7.3.1** The Board will normally meet on a monthly basis, but meetings may be cancelled if there is no significant business, or for other good reason, at the discretion of the Chair.

**7.3.2** Extraordinary meetings may be called from time to time if the Chair considers that the Board should consider any issue before its next scheduled meeting. Meetings of the Board may also be called by any five members of the Board, or by the Chief Executive if he is notified that an executive decision is to be called in under 7.5 below.

**7.3.3** The Chair and Vice-Chair of the Board will be elected by the members of the Board only at the Annual Meeting of full Council. The Chair will be a member who is not a member of the controlling group or groups on the Council, unless there is no such member sitting on the Board. The Vice-Chair, in addition to presiding at meetings in the absence of the Chair, shall also act as a substitute for the Chair in relation to the exercise of any functions or powers granted to the Chair by this

Constitution or otherwise, if the Chair is unable to do so for any reason and the Constitution does not make alternative provision.

**7.3.4** Meetings of the Board will be conducted in accordance with the rules for conducting meetings contained in Section 15 unless this Section contains different provisions on any point.

**7.3.5** Any member of the Board or any eight members of the Council may require an item relevant to the Board's functions to be included on the agenda for the next available meeting of the Board. On receipt of written notice of such a request, the proper officer will ensure that the item is included in the next available agenda.

## **7.4 Working Groups**

**7.4.1** Working Groups (also known as "task and finish" groups) may be appointed by the Board to investigate and scrutinise specific matters and areas, as decided by the Board from time to time, and to suggest improvements which will benefit the Council or local people.

**7.4.2** The members of each working group will be appointed by the Board, and any member of the Council who is not a member of the Cabinet may be nominated to serve on a Group. Groups may also co-opt officers and other people who are not members of the Council, but who possess relevant experience or expertise.

**7.4.3** Groups will liaise with the Portfolio-holder responsible for the subject under scrutiny (if any), who may be invited to attend meetings of the group.

**7.4.4** To assist them in their specific task, groups may:

- invite members of the Council, senior officers ([Group](#) Manager or above), expert witnesses and external organisations to address them or provide information
- hold public meetings, undertake consultation and go on site visits

**7.4.5** Each Group will report its findings and recommendations to the Board within the time-scale agreed by the Board at the time of the Group's appointment.

## **7.5 Call-in procedures**

**7.5.1** The Council's call-in procedure is designed to allow executive decisions which members of the Board consider to be questionable under the criteria set out in 7.5.2 below to be re-considered by the decision-maker or by full Council.

**7.5.2** An executive decision should only be called in if the person(s) taking the decision to call it in under 7.5.6 below reasonably considers that it falls within one or more of the following criteria:

- a. it contravenes any of the following principles of good decision-making:
  - i. proportionality (i.e. the action must be proportionate to the desired outcome)
  - ii. proper consultation and the taking of professional advice from officers
  - iii. respect for human rights
  - iv. a presumption in favour of openness
  - v. clarity of aims and desired outcomes
- b. it is unlawful
- c. it constitutes maladministration
- d. it is not in accordance with the Council's Budget and Policy Framework

**7.5.3** The call-in procedure will not apply to:

- a) day-to-day management and operational decisions taken by officers
- b) individual regulatory decisions which are not the function of the Cabinet, such as decisions on planning and licensing applications. (However, the Board may review general policies and practice relating to any non-executive function of the Council, and make reports and recommendations on these.)
- c) decisions which are urgent according to the criteria set out in Section 17. In this case, the procedures set out in that Section will apply. Decisions taken as a matter of urgency must be reported to the next meeting of full Council, with the reasons for urgency.

**7.5.4** A record of all executive decisions made by the Cabinet, Portfolio-holders and any other Council body exercising an executive function will be produced and made available to the public as soon as practicable, in accordance with the Access to Information Rules in Section 16. All records of Portfolio-holder decisions will also be sent by e-mail to all members of the Council, and published on the Council's web-site, as soon as they are available.

**7.5.5** Executive decisions which are subject to call-in will not come into force until 5 clear working days have expired after the date on which they are published. The record of the decision will state both the date of publication and the date on which the decision will come into force. The decision may be called-in before it comes into force on any of the grounds set out in 7.5.2. If the decision is called-in, it will not come into force and may not be implemented until the call-in procedures set out in this section have been completed.

**7.5.6** Decisions may be called in by the Chair or any two members of the Board, by notifying the Chief Executive in writing before the date on which the decision comes into force. The Board will meet to consider the called-in decision within 10 working days after the date on which that notification is received by the Chief Executive, and if necessary an extraordinary meeting will be called. If the Board does not meet within this period, the decision will come into force on the day after the period expires.

**7.5.7** The Chief Executive will notify the Leader, any Portfolio-holder who made the called-in decision, the Chair of the Scrutiny Board (if not responsible for the call-in), the Monitoring Officer and the S151 Officer of any call-in. The Chief Executive will arrange for a report to be prepared for the relevant meeting of the Board, containing:

- a summary of the views of the members who initiated the call-in
- a summary of the views of the person or body who made the decision
- advice from the Monitoring Officer and/or the S151 Officer as to whether the called-in decision falls within any of the criteria set out in 7.5.2 above
- a recommendation as to whether the decision should be referred back to the person or body who made it for re-consideration, to the Cabinet or to full Council

**7.5.8** Having considered the report, the Board will decide whether to refer the called-in decision back to the decision-maker for reconsideration, or to Cabinet or to full Council, in each case setting out in writing the nature of its concerns. Decisions will normally only be referred to full Council if they are not in accordance with the Budget or Policy Framework. If the Board decides not to refer the decision for re-consideration, the decision will come into force on the day of the relevant meeting of the Board.

**7.5.9** If a decision is referred back to a Portfolio-holder, he/she will reconsider it within 7 working days. If a decision is referred back to the Cabinet or another Council body, it will re-consider the decision at its next scheduled meeting, or at any extraordinary meeting called before that date. In either case, the decision may be amended to take into account the concerns of the Board, or the decision-maker may decide to confirm the original decision. If the decision is not amended, the reasons for this shall be set out in the record of the decision. Re-considered decisions will come into force as soon as they are made.

**7.5.10** If a decision is referred to full Council, an extraordinary meeting of the

Council may need to be arranged. If full Council does not object to the decision, or does not meet within 10 working days of the decision by the Board to refer the matter to Council, it will come into force on the day of the Council meeting, or on the expiry of the period during which the meeting should have been held, whichever is earlier.

**7.5.11** If full Council objects to a decision, it has no power to change it unless it is not in accordance with the Policy Framework or Budget. If it cannot change the decision, it will refer it back to the Cabinet or to the Portfolio-holder concerned for re-consideration, with a statement of its views. If this occurs, the provisions of 7.5.9 above will apply.

## **7.6 Scrutiny of Somerset Waste Board**

**7.6.1** The decisions, actions and activities of the joint committee set up in 2007 between the Council and other Somerset local authorities, and known as the Somerset Waste Board, shall be subject to the scrutiny arrangements set out above.

**7.6.2** Subject to 7.6.1 above, composite arrangements for the collective scrutiny of those decisions, actions and activities will operate in accordance with the collective scrutiny arrangements set out in Appendix 7 of the Constitution of the Somerset Waste Board (for which see Appendix N of this Constitution).