

## SURREY HEATH BOROUGH COUNCIL

Surrey Heath House  
Knoll Road  
Camberley  
Surrey  
GU15 3HD

Tuesday, 19 July 2022

To: The Members of the Surrey Heath Borough Council

Dear Councillor,

You are hereby summoned to attend a meeting of Surrey Heath Borough Council to be held in the Council Chamber, Surrey Heath House on Wednesday, 27 July 2022 at 7.00 pm. The business which it is proposed to transact at the meeting is set out below.

**Please note that this meeting will be recorded.**

Yours sincerely

Damian Roberts

Chief Executive

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**1. Apologies for Absence**

To report apologies for absence.

**2. Minutes**

To approve as a correct record, the open minutes of the meeting of the Council held on 11 May 2022.

**3. Mayor's Announcements**

**4. Leader's Announcements**

**5. Declarations of Interest**

Members are invited to declare any Disclosable Pecuniary Interests and non-pecuniary interests they may have with respect to matters which are to be considered at this meeting.

## 6. Executive, Committees and Other Bodies

To receive the open minutes of the following bodies (minutes reproduced in the Minute Book), to answer questions (if any) in accordance with Council Procedure Rule 11.5 and to consider the recommendations as set out below:

- (a) Executive – 31 May, 21 June and 19 July 2022

### **2/E Local Community Project Fund Bids**

**RECOMMENDED to Full Council that £3,611 (net) and £15,200 (net), for five new wooden benches in Heatherside ward and to Heatherside Ward Residents' Association for the replacement of play equipment and surface area respectively, be added to the Council's Capital Programme.**

- (b) Planning Applications Committee – 7 April, 5 May and 9 June 2022
- (c) Audit and Standards Committee – 25 April 2022
- (d) Employment Committee – 6 April, 10 May and 14 July 2022

### **5/EC Pay Policy Statement 2022/23**

**RECOMMENDED to Full Council that the Pay Policy Statement 2022/23 be adopted, as set out at Annex A to the Employment Committee agenda report, as amended.**

- (e) External Partnerships Select Committee – 7 June 2022
- (f) Licensing Committee – 15 June 2022
- (g) Performance and Finance Scrutiny Committee – 13 July 2022
- (h) Joint Staff Consultative Group – 16 June 2022

## 7. Governance Working Group (Pages 3 - 32)

To consider the report of the Head of Legal & Democratic Services (attached).

## 8. Questions

- (a) To answer questions, if any, received under Council Procedure Rule 10 (Paragraph 3 of the Public Speaking Procedure Rules).
- (b) To deal with questions, if any, received from Members under Council Procedure Rule 11.
- (c) The Leader to answer questions from Members in relation to the

Executive functions under Council Procedure Rule 11A.

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**Surrey Heath Borough Council**  
**Council**  
**27 July 2022**

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**Governance Working Group**

**Head of Service** Gavin Ramtohal – Head of Legal & Democratic Services  
**Report Author:** Rachel Whillis – Democratic Services Manager  
**Key Decision:** No  
**Wards Affected:** n/a

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**Summary and purpose**

To consider the Governance Working Group's recommendations in respect of

- (i) changes to the Scrutiny Committee Procedure Rules at Part 4 of the Constitution; and
- (ii) the Role of Councillors at Part 3 of the Constitution.

**Recommendation**

The Council is advised to RESOLVE that

- (i) the Scrutiny Committee Procedure Rules at Part 4, Section C of the Constitution be amended, as set out at Annex A to this report;
- (ii) paragraph 2 (xii) of Council Procedure Rules at Part 4, Section A of the Constitution be removed;
- (iii) paragraph 6 of the Committees, Sub Committees and Other Bodies Procedure Rules at Part 4, Section D of the Constitution be updated as follows:

6.3 At any meeting of a committee, a councillor may propose that “the meeting has no confidence in the chairman.” The question will, after debate, be put and if carried by a majority of at least two thirds of the councillors present, the chairman will stand down and the remainder of the meeting will be chaired by the vice-chairman or, in his or her absence (or if he or she was the chairman subject to the vote) by a councillor elected for that purpose by the meeting.

6.4 Following a successful vote of no confidence in the chairman, he or she will not officiate at any subsequent meeting of the committee prior to the next meeting of the Council. ~~At that meeting, the Council will consider~~

~~whether to confirm the vote of no confidence. If by a simple majority the Council decides to confirm the vote, the office of chairman of the committee will be declared vacant and a new chairman will be elected by the Council. The first item on the agenda for the next meeting will be the election of a new chairman for the remainder of the municipal year.~~

6.5 No member of the Executive will chair any meeting of the Planning Applications Committee, the Licensing Committee or the Joint Staff Consultative Group or be the vice-chairman of that Group. Where a single party is acting as the administration, a member of the opposition shall normally chair the Audit & Standards Committee.

(iv) the Role of Different Councillors at Part 3, Section D of Constitution be amended as set out at Annex B to this report.

## **1. Background and Supporting Information**

1.1 The review of the Scrutiny Committee Procedure Rules forms part of the holistic review of the Constitution being undertaken by the Monitoring Officer.

1.2 The Roles of Different Councillors has not been reviewed for several years and have been updated in preparation for the election of a new Council in May 2023.

## **2. Scrutiny Procedure Rules**

2.1 The Scrutiny Committee Procedure Rules have been reviewed and a number changes involve updating and correcting the current wording. More specific changes have been detailed below.

### **Attendance at Meetings**

2.2 Clarification has been added that about Executive members should only attend scrutiny meetings at the invitation of the chairman.

### **Chairing Scrutiny Committees**

2.3 Paragraphs 5.2 and 5.3 of the Procedure Rules set out the procedures for a committee to remove its chairman following a vote of no confidence being carried. The Council will at its next meeting vote on whether to confirm the vote of no confidence. These provisions have not been practised since their introduction in 2010. This reflects the current practice for Chairmen and Vice Chairmen to be appointed at the Annual meeting of the Council, rather than being appointed by their respective committees at their first meeting of the municipal year. However, the procedures at paragraph 5.3 effectively allow the Council to veto the Committee's decision, potentially leaving the Committee with a chairman in which it has no confidence.

2.4 The Working Group is recommending that the Procedure Rules are changed to provide that, in the event that a Committee votes to remove its Chairman, it

will have responsibility for appointing a new Chairman for the remainder of that municipal year, to be undertaken at its next meeting. A further amendment has been proposed to paragraph 5.2 to require two thirds of the Committee's membership to vote in favour of this change, rather than two thirds of those present which could, in theory, see a quorate meeting comprising 5 councillors agreeing to remove its Chairman on the decisions of a small number of Committee members.

- 2.5 The Working Group is also proposing that the corresponding paragraphs in the Committees, Sub Committees and Other Bodies Procedure Rules are updated to match this change and paragraph 2 (xii) of Council Procedure Rules is removed.
- 2.6 The Working Group discussed the chairmanship of the scrutiny committees and is recommending that, where a single party is acting as the Council's administration, the chairman of the Performance & Finance Scrutiny Committee should be a member of an opposition group. It is also suggested that the same rule is applied to the Audit & Standards Committee and the Committees, Sub Committees and Other Bodies Procedure Rules at Part 4 of the Constitution are updated accordingly.

### **Call In Protocol**

- 2.7 Wording has been added to paragraph 19 of the Call-In protocol stating that the report author and their senior manager will ordinarily be expected to attend a call-in meeting to provide any technical information requested by the committee. This does not preclude either of these individuals also being identified as a contributor.
- 2.8 Additional wording has been added to the Urgency Procedures to state that, where the Chief Executive and Monitoring Officer are minded to decide that a decision is urgent and will therefore take effect immediately on the publication of the summary of the Executive's decisions, this should be made clear in the agenda report.
- 2.9 It is agreed to amend the number of witnesses providing evidence at call-in meetings to 4 and alter the term from 'witnesses' to 'contributors'.
- 2.10 The Working Group also recommends that procedures for call-in meetings are incorporated into the Call-In protocol, as set out at paragraphs 20 to 21 in Annex A. The time limits on speaking have been reviewed and incorporated in these procedures.

### **3. Roles of Different Councillors**

- 3.1 The Working Group reviewed proposed additions to the Roles of Different Councillors at Part 3 of the Constitution, which had been expanded to provide more details on each of the roles. The Working Group is recommending the changes set out at Annex B to this report.

#### **4. Proposal and Alternative Options**

- 4.1 It is proposed that the Council reviews the Governance Working Group's proposed amendments to the Scrutiny Committee Procedure Rules and suggests any changes it considers appropriate.
- 4.2 It is also proposed that the Council agrees the amendments to the Roles of Different Councillors, with or without any further amendments it considers appropriate.

#### **5. Contribution to the Council's Five Year Strategy**

- 1.1 No matters arising at this time.

#### **6. Resource Implications**

- 6.1 There are no specific resource implications arising from the review.

#### **7. Legal and Governance Issues**

- 7.1 None, other than as set out above.

#### **8. Monitoring Officer Comments:**

- 8.1 Article 12 of the Council's Constitution recognises the Monitoring Officer's duty to monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

#### **9. Other Considerations and Impacts**

##### **Environment and Climate Change**

- 9.1 No matters arising at this time.

##### **Equalities and Human Rights**

- 9.2 No matters arising at this time.

##### **Risk Management**

- 9.3 No matters arising at this time.

##### **Community Engagement**

- 9.4 No matters arising at this time.

#### **Annexes**

Annex A - Proposed amendments to Scrutiny Committee Procedure Rules



## Annex B – Roles of Different Councillors

### **Background Papers**

None

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## PART 4 - PROCEDURAL RULES

### SECTION C

#### SCRUTINY COMMITTEE PROCEDURE RULES

##### 1. Number and Size of Committees

- 1.1 The Council will appoint overview and scrutiny committees (known scrutiny committees) as set out in Article 6 and will appoint Members to each. The committees may appoint such sub-committees and commissions/working groups as they consider appropriate.

##### 2. Who May Sit on Scrutiny Committees

- 2.1 Only members, who are not members of the Executive, may be appointed to one or more scrutiny committee by the Council in accordance with the political proportionality requirements of the Local Government and Housing Act 1989. However, no member may scrutinise a decision which she/he has ~~been~~ directly involved in voted on.

##### 3. Meetings

- 3.1 There shall be up to 6 ordinary meetings of each scrutiny committee in each municipal year. In addition, extraordinary meetings may be called from time to time, when appropriate. A scrutiny committee meeting may be called by the Chairman of the relevant committee, by any five councillors or by the Chief Executive, as Proper Officer, if he/she considers it necessary or appropriate.
- 3.2 With the exception of members of the Executive, who will only attend scrutiny meetings at the invitation of the Chairman, Any councillor may attend meetings of any scrutiny committee of which he/she is not a member.
- 3.3 A councillor shall not be entitled to attend meetings of working groups unless appointed as a member or substitute or with the agreement of the Chairman.

##### 4. Quorum

- 4.1 The quorum for scrutiny committee meetings is one third of the membership, rounded up.

##### 5. Chairing Scrutiny Committees

- 5.1 The Council will appoint chairmen and vice-chairmen to committees at its annual meeting. In the event that neither the Chairman nor Vice-Chairman can attend a scrutiny committee meeting or are excluded due to a declaration of interest, the committee will elect a chairman for that meeting or item as appropriate.

5.2 Where a single party is acting as the administration, a member of the opposition shall normally chair the Performance & Finance Scrutiny Committee.

5.32 At any meeting of a scrutiny committee, a councillor may propose that “the meeting has no confidence in the chairman”. The question will, after debate, be put and, if carried by a majority of at least two thirds of the ~~councillors present~~committee’s substantive membership<sup>1</sup>, the chairman will stand down and the remainder of the meeting will be chaired by the vice-chairman or, in his or her absence (or if he or she was the chairman subject to the vote) by a councillor elected for that purpose by the meeting.

~~5.34 Following a successful vote of no confidence in the chairman, he or she will not officiate at any subsequent meeting of the committee prior to the next meeting of the Council. At that meeting, the Council will consider whether to confirm the vote of no confidence. If by a simple majority the Council decides to confirm the vote, the office of chairman of the committee will be declared vacant and a new chairman will be elected by the Council. The first item on the agenda for the next meeting will be the election of a new chairman for the remainder of the municipal year.~~

## 6. Work Programme

6.1 The scrutiny committees will be responsible setting their own work programmes, subject to any directions by the Council and/or inclusion of matters referred by the Leader/Executive/Portfolio Holders. This will normally be drawn up for consideration at the last meeting of the previous municipal year.

6.2 Any work programme agreed may be amended from time to time, as necessary.

## 7. Agenda Items

7.1 Any member of a scrutiny committee or sub-committee shall be entitled to give notice to the Chairman and Chief Executive (Proper Officer) that he/she wishes an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. The Committee will consider at the next appropriate meeting and take a decision as to whether further resources should be allocated to it.

7.2 As soon as their work programme permits, the committees will respond to requests from the Council and the Leader, Portfolio Holder or the Executive to review particular areas of Council activity and will consider motions referred to them by Council.

## 8. Order of Business

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<sup>1</sup> Note 1: this does not include substitute members of the committee except when acting as a substitute in accordance with the Substitute Procedure Rules at Part 4 of this Constitution.

- 8.1 The normal order of business at scrutiny committee meetings will be as follows:
- (a) Apologies for absence;
  - (b) Minutes of the previous meeting;
  - (c) Declarations of interest;
  - (d) Receive, debate and respond to any petitions presented in accordance with the Petition Scheme at Part 4 of this Constitution;
  - (e) Consideration of any matter referred to the committee for consideration in relation to the call-in of a decision;
  - (f) Responses of the Leader, Portfolio Holder or the Executive to any reports and recommendations from the committee;
  - (g) The business otherwise set out on the agenda for the meeting; and
  - (h) Possible issues for future meetings.

## **9. Policy Review and Development**

- 9.1 Scrutiny Committees have the right to be involved in and where appropriate consulted on policy development, policy review, budget setting, service scrutiny, best value reviews and reactive reviews.
- 9.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, scrutiny committees may make proposals to the Leader, Portfolio Holder or the Executive for developments insofar as they relate to matters within their terms of reference.
- 9.3 Scrutiny committees may hold inquiries and investigate the available options for developing policies and may appoint advisers and assessors to assist them in this process. They may commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may also ask witnesses to attend to address them on any matters under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so, within provided budget limitations and existing resources. The Scrutiny Committee Lead Officers will advise on resource/budgetary implications.

## **10. Conduct of Reviews**

- 10.1 Before starting a review or enquiry, a scrutiny committee will:
- (a) Define the issue/area it wishes to look at and the committee's purpose in undertaking the review;

- (b) Indicate the type of background information and any performance or other data the committee requires;
  - (c) Indicate the individuals the committee would like to interview as part of their review (e.g. the Leader, members of the Executive, officers, representatives from other organisations, local residents and outside experts, etc)
  - (d) Set a realistic timescale, including meeting dates if there are to be additional meetings to those in the calendar of meetings; and
  - (e) Decide whether the review is to be undertaken by the committee itself or a working group reporting to that committee.
- 10.2 When a scrutiny committee plans a review or investigation, it will ensure that the matter is not currently being investigated by the Leader, Portfolio Holder, the Executive or officer working groups and will ensure that adequate resources are available to achieve the work required within the timescales set.
- 10.3 The terms of reference for any review to be undertaken by a scrutiny committee will be agreed by the Chairman of the committee with the committee support officers and sent to all members of the committee for consideration. The chairman and committee will then manage the review with the assistance of the committee support officers.
- 10.4 Where a scrutiny committee conducts a review or scrutinises a matter which also falls (whether in whole or part) within the remit of another scrutiny committee, the Committee Chairman will agree which Committee will consider the matter.

## **11. Reports from Scrutiny Committees**

- 11.1 Once it has formed recommendations on proposals for development, a scrutiny committee will prepare a formal report and submit it to the Leader, Portfolio Holder or the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council (if the recommendation would require a departure from or a change to the agreed budget and policy framework) as appropriate, having regard to the Council's available resources.
- 11.2 When the Council meets to consider any referral from a scrutiny committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Leader, Portfolio Holder or the Executive to the proposals.

## **12. Scrutiny of Crime and Disorder Matters**

- 12.1 The External Partnerships Select Committee has been designated the Council's crime and disorder committee. When convened to consider such matters the provisions of paragraphs 12.2 to 12.6 below apply.
- 12.2 The Committee shall meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of

their crime and disorder functions as the committee considers appropriate but no less than once in every twelve month period.

- 12.3 Where the Committee makes a request in writing for information from the responsible authorities or the co-operating persons or bodies the information must be provided no later than the date indicated in the request. If some or all of the information cannot reasonably be provided on such date then that information must be provided as soon as is reasonably possible.
- 12.4 The information provided should be depersonalised unless the identification of an individual is necessary or appropriate in order to enable the Committee to exercise its powers properly. This information should not include anything which is likely to prejudice legal proceedings or current or future operations of the responsible authorities, whether acting together or individually, or of the co-operating persons or bodies.
- 12.5 The Committee may require the attendance before it of an officer or employee of a responsible authority or of a co-operating person or body in order to participate in the meeting and to answer questions. Reasonable notice must be given of the intended date of attendance.
- 12.6 A report or recommendations from the Committee to a responsible authority or to a co-operating person or body requires a written response from that body within a period of 28 days from the date of the report or recommendations, or, if this is not reasonably possible, as soon as practicable thereafter.

### **13. Rights of Scrutiny Committee Members to Documents**

- 13.1 To enable scrutiny committees to undertake their duties, each Committee will have timely access to;
  - (a) all reports, supporting papers and background material, including exempt information, considered by the Leader, Portfolio Holder or the Executive as soon as practicable after a decision has been made, including any information about options rejected;
  - (b) such information and reports as the scrutiny committee may request the Chief Executive or ~~Executive Head of Service~~Strategic Director or Head of Service to provide or prepare subject to the right of the Monitoring Officer to refer the need for such work to the Council for agreement; and
  - (c) Members of the Scrutiny Committees shall respect the confidentiality of confidential and exempt information and will only disclose it to those with access rights to that information.

### **14. Members and Officers - Attendance at Scrutiny Committee Meetings Giving Account**

- 14.1 A scrutiny committee may scrutinise and review decisions made or actions taken, within its remit, in connection with the discharge of any executive functions~~Council functions~~. As well as reviewing documentation, in fulfilling the scrutiny role, it may invite the Leader, members of the Executive or other Committee Chairman and require the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit:
- (a) any particular decision or series of decisions;
  - (b) the extent to which the actions taken implement Council policy; and/or
  - (c) their performance.
- 14.2 Where any councillor is invited or officer is required to attend a scrutiny committee under this provision, the chairman of that scrutiny committee will inform the Chief Executive (Proper Officer). The Chief Executive shall inform the member(s) or officers in writing, giving at least 5 working days notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are 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 the preparation of the documentation.
- 14.3 Where, in exceptional circumstances, the councillor or officer is unable to attend on the required date, then the scrutiny committee shall arrange an alternative date for attendance, in consultation with the councillor or officer, within a reasonable period.

## **15. Call-In Protocol and Procedure**

- 15.1 A Call-in protocol is attached at Annex A which details the legal position, what can be called in and by whom and the procedures to be followed both prior, at and subsequent to the scrutiny committee meeting.

## **16. Councillor Call for Action Protocol**

- 16.1 Scrutiny Committees will consider any matter referred to them in accordance with the Councillor Call for Action provisions of Section 119 of the Local Government and Public Involvement in Health Act 2007, Sections 19 and 20 of the Police and Justice Act 2006 and the Protocol attached as Annex GB.

## **17. Conflicts of Interest**

- 17.1 Where the Chairman has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of the Council's Constitution.



17.2 If every member of the Committee has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of the Council's Constitution.

## Call - In Protocol

### What Can Be Called In?

1. The Council is responsible for the adoption of its budget and policy framework. Once a budget or a policy framework is in place, it will be the responsibility of the Leader to implement it.
2. All decisions of the Leader, individual Portfolio Holders, the Executive or ~~the a committee of the~~ Executive and all key decisions taken by officers under delegated authority can be called-in. All such decisions will be published in accordance with the Executive Procedure Rules in Part 4. Decisions of the Council or regulatory committees cannot be called in.
3. A key decision is explained in the Constitution at Article 13 - Decision Making, but in simple terms, it will be a decisions which will carry a cost or saving to the Council in excess of £100,000, or will impact on residents of 2 or more wards, or is made in the course of developing proposals to the Council to amend the policy framework.

### Submitting a Call-In

4. A Schedule of Key Decisions, including a timetable for the decisions to be considered by the Leader, Portfolio Holder, the Executive or Council, will be published.
5. A summary of decisions made by the Leader, individual Portfolio Holder or the Executive will be issued by the Monitoring Officer, normally by 5.00 p.m. the following working day. This summary will indicate the decisions taken and whether or not the decisions were deemed to be urgent (see paragraph 15).
6. A request for scrutiny of a decision made by the Leader, individual Portfolio Holder or the Executive by a scrutiny committee must be made in writing, by fax or by e-mail.
7. The request must identify the decision and state the reason(s) for requesting the review and must be submitted by ~~noon~~ 5pm on the fifth working day following issue of the Summary.
8. A call-in will be triggered if two or more councillors ask for the same decision to be scrutinised formally.
9. Where only one Councillor asks for a decision to be scrutinised, whilst this does not constitute a valid call-in under this Constitution, the matter will be placed on the agenda for the next programmed meeting of the appropriate Committee for discussion only. The implementation of the decision will not be affected.

### Acceptance of a Call-In

10. On receipt of a call-in request, the Monitoring Officer will decide, after consultation with the appropriate scrutiny committee Chairman, whether or not the call-in is valid. Such a request may be refused if it is:
- a decision which has been the subject of a call-in submitted within the previous six months
  - unsubstantiated - not being accompanied by a substantial reason for consideration;
  - vexatious, frivolous or defamatory;
  - more appropriately dealt with by the Council's complaints procedures; or
  - seeking only to delay the decision, rather than to examine its merits.
11. In the event that a call-in is rejected, the Monitoring Officer will submit a report to the appropriate scrutiny committee providing the reasons for the rejection.

### Urgency

12. Where a decision made by the Leader, individual Portfolio Holder, the Executive or a committee of the Executive, or a key decision taken by an officer, is considered by the Monitoring Officer and the Chief Executive to be urgent, it can take effect immediately the summary of the decision is published. If the decision is subsequently called – in, the Scrutiny Committee may still review the decision although the outcome will be not affected.
13. The Executive agenda report will have contained an indication of whether the Monitoring Officer and the Chief Executive consider that the decision will need to be made immediately.

### Valid Call-Ins

- ~~13.14.~~ Following the submission of a valid call-in, the Monitoring Officer will advise all Members of the called-in decision(s), the reasons submitted and the appropriate scrutiny committee. Unless otherwise agreed with the calling-in Members, call-ins will normally be considered by the appropriate scrutiny committee within four weeks of submission, either at the next scheduled meeting or, if necessary, at a special meeting.

### Committee Decision

- ~~14.15.~~ The appropriate scrutiny committee will consider the call-in. After consideration, the scrutiny committee can:
- a) agree with the decision which has been called in, in which case it will be implemented with immediate effect;

- b) agree with the decision but add informatives to submit to the decision maker;
- c) refer it to the decision maker for reconsideration, setting out in writing the nature of any concerns. The decision maker will consider the decision as soon as reasonably practicable (in the case of decisions made by the Executive as a whole this would normally be expected to be at its next meeting);

After re-consideration, the decision maker will either implement the original decision or amend it as appropriate.

- d) if it considers that the decision is contrary to the Budget or Policy Framework, refer the matter to the Council;
- e) refer it to the Council if it is considered that the consequences will be significant. Where a decision is within the purview of the Leader, individual Portfolio Holder or the Executive, the Council must refer the decision back to the decision maker, where appropriate, with any recommendations; or
- f) under certain circumstances, scrutiny committees can require the Leader, individual Portfolio Holder or the Executive to submit a report to Council where it thinks a key decision has been taken which was not included in the Forward Plan. The detailed procedure is set out in the Access to Information Procedure Rules at Part 4.

### WitnessesContributors

~~15-16.~~ Calling-in Members are asked to indicate on submission of the call-in or as soon as possible thereafter, which witnesses-contributors they would wish to be invited to attend consideration of the call-in.

~~16-17.~~ The Chairman will consider, in consultation with the Vice-Chairman and calling-in Members which witnesses-contributors will be invited. Up to ~~6-4~~ witnesses-contributors may be called, including the Leader, appropriate Portfolio Holder, or lead officer. ~~The Leader, Portfolio Holder, and lead call-in Member will speak for up to 8 minutes; all other witnesses will speak for up to 4 minutes.~~ The advice of the Monitoring Officer and Committee Lead Officer may also be sought.

~~17-18.~~ In considering whether proposed witnesses-contributors are appropriate, the Chairman should ensure that there will be a good balance between differing views. The evidence which the invitee can give should be relevant and likely to assist the Committee in its deliberations.

19. The Leader or Portfolio Holder within whose remit the decision lies will be required to attend, if invited, as would relevant senior officers. Should the Portfolio Holder be unable to attend, another Portfolio Holder (usually the Leader) will be invited to attend on his or her behalf. The report author and

their senior manager will attend the meeting to provide any advice as requested by the Committee.

### **Committee Procedure**

20. The Committee will follow the procedure below and hear representations from the relevant parties in the following order:
1. The lead councillor representing the decision maker, usually the Leader or relevant Portfolio Holder, who will explain the decision made, why it was made and the evidence taken into account. They will speak for up to 8 minutes.
  2. The report author and/ or their senior manager, who will make comments and provide further technical information relating to the decision. They will speak for up to 5 minutes.
  3. The calling-in councillors, who will present their reasons for calling-in the decision and the action which they are seeking. They will speak for up to 8 minutes each. In the event that there are more than two councillors calling-in the decision, the first two councillors will speak for up to 8 minutes each; any other calling-in councillors will speak for up to 3 minutes each, but only to raise new points which have not already been covered.
  4. Any contributors, as identified in the Protocol set out above. They will speak for up to 5 minutes each.
  5. Committee members, followed by non-committee members, will be invited to ask questions of any contributing parties in the order set out in 1 - 4 above.
  6. The calling-in councillors will make any concluding comments.
  7. The lead councillor representing the decision will make any final comments and will indicate if they are minded to agree with the action sought by the calling-in councillors.
  8. Committee members, followed by non-committee members, will then be invited to debate the called-in decision and decide on a course of action in accordance with paragraph 15.
21. Points of clarification may be asked of any supporting officers at any relevant point.

## Councillor Call for Action Protocol

### 1. Introduction

- 1.1 The "Councillor Call for Action"(CCfA) was introduced by Section 119 of the Local Government and Public Involvement in Health Act 2007 and Sections 19 and 20 of the Police and Justice Act 2006.
- 1.2 A CCfA enables any member of the Council to refer to an appropriate scrutiny committee any local government matter<sup>2</sup> or any crime and disorder matter<sup>3</sup> which affects their ward.
- 1.3 The power to refer a matter as a CCfA is available only where the matter is of direct concern to the ward which the councillor represents. A councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for councillors in multi-member wards to agree to refer a matter.

### 2. Limitations

- 2.1 CCfA should be used only as a 'last resort' after all other methods of resolution have been exhausted. The ward councillor bringing the CCfA must be clear at the outset as to what he or she expects to get out of the process.
- 2.2 CCfA may not be able to solve a given problem although it can provide a method for discussing problems and through discussion, trying to overcome them.

### 3. Issues excluded from referral as a CCfA

- 3.1 The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:
- (a) any matter which is vexatious, discriminatory or not reasonable<sup>4</sup> to be included on the agenda for, or to be discussed at, a meeting of the scrutiny committee.
  - (b) any issues where there is a complaints process, including individual complaints concerning personal grievances or commercial issues.
  - (c) any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example; planning and licensing applications and appeals, council tax/housing benefits complaints and queries, and issues currently under dispute in a court of law.

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<sup>2</sup> See Appendix 1 for definition of local government matter

<sup>3</sup> See Appendix 1 for definition of crime and disorder matter

<sup>4</sup> See Appendix 1 for definitions of vexatious, discriminatory or not reasonable

- 3.2 In addition to the above, a matter which is the same or substantially similar to one which has been the subject of a CCfA within the period of twelve months shall be regarded as an excluded matter
- 3.3 A CCfA submission should not be used instead of the Council's existing Call-In procedures.
- 3.4 The Monitoring Officer will advise and determine whether a CCfA is excluded under this paragraph. If the Monitoring Officer rejects the CCfA, he/she will inform the ward councillor(s) giving reasons for the decision.

#### **4. Steps to be taken prior to making a Councillor Call for Action referral**

- 4.1 A ward councillor referring a matter as a CCfA must have tried to resolve the issue/problem themselves. Ward councillors should:
- (a) Ensure that all relevant and potential routes to solution within the Council have been followed, for example informal/formal discussions with officers and/or cabinet members, questions at committees and petitions.
  - (b) Ensure that it is not an issue that is currently being or should be pursued via the Council's complaints procedure or any other appropriate complaints procedure.
  - (c) Ascertain whether or not any other form of local scrutiny is investigating the issue,
  - (d) If a local crime and disorder matter whether the matter has been raised through the Surrey Heath Partnership (incorporating the Crime and Disorder Reduction Partnership).
  - (e) Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions or communication with local MPs.

#### **5. Submitting a Councillor Call for Action**

- 5.1 If after carrying out the steps in paragraph 4 above, the issue/problem is not resolved, the ward councillor can refer the matter as a CCfA. To do this the ward councillor should complete and submit to the Monitoring Officer a 'CCfA Request Form' (~~attached as Annex 2~~ [available from Democratic Services](#)).
- 5.2 Following confirmation by the Monitoring Officer that the request is not excluded under paragraph 3 above, the Chairman of the appropriate scrutiny committee will be informed that the request has been received and that it will be placed on the agenda for consideration by the Committee at its next meeting. If a meeting of the Committee is not scheduled within 28 days of receipt, a special meeting may be arranged following consultation with the Chairman.

5.3 The ward councillor(s) will also be informed that their referral has been successful.

## **6. Decision of the Scrutiny Committee whether to take the matter further**

6.1 The Committee's discussion needs to be focused on these expected outcomes and the expected outcomes should be clarified at the outset.

6.2 The Committee will consider the CCfA and the representations made by the ward councillor(s). Ward councillors are expected to submit a brief covering statement and setting out their views to present their CCfA to the Committee.

6.3 In considering the CCfA, the Chairman of the Scrutiny Committee, at the request of the ward councillor(s), may invite the relevant portfolio holder (or other member) Chief Executive or external organisation or any other witnesses to discuss the issue with the Committee and answer any questions. Reasonable notice will be given and all those invited should make every effort to attend (or send an appropriate representative).

6.4 The Scrutiny Committee will decide whether or not to take the matter further having regard to whether

- (a) all reasonable attempts have been made to resolve the issue;
- (b) evidence has been supplied by the ward councillor to demonstrate that the matter is not being progressed;
- (c) a similar or related issue is in the current scrutiny work programme and if so whether it would be more appropriate to link the issue to an existing review;
- (d) all relevant service areas or partner organisations have been informed and have been given enough time to resolve the issue;
- (e) the issue is being or should be pursued via the Council's corporate complaints procedure or any other complaints process;
- (f) the issue is currently being looked at by another form of local scrutiny.

## **7. Considering the CCfA**

7.1 In considered the CCfA the Committee may decide to

- (a) not take up the CCfA;
- (b) deal with matter at the first meeting; or
- (c) agree to investigate the matter further.

7.2 If the Committee decides to accept the CCfA referral, it should agree how and when it intends to take the matter forward.

7.3 If it agrees to investigate the matter further, it should be included on the work programme. The Committee may set up a working group if necessary. The Committee should also decide which members, witnesses, partners and officers should be invited to contribute to the investigation.



7.3 The ward councillor(s) will be informed in writing of the decision of the Committee and any course of action proposed. If the Committee decides not to take up the CCfA referral reasons for that decision must be provided.

## **8. Potential outcomes**

8.1 Following consideration after CCfA investigations and the results of any review, the Scrutiny Committee may:

- (a) make recommendations on the CCfA to the Leader, Portfolio Holder or the Executive and/or other appropriate body or relevant partners organisations; or
- (b) decide that no further action is necessary.

8.2 The ward councillor will be informed of the Committee's decision.

## APPENDIX 1

### EXPLANATORY NOTES

#### Definition of a Local Government Matter

For the purpose of the Act a local government matter, in relation to a member of a local authority is one which:

- (a) Relates to the discharge of any function of the Council,
- (b) Affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area (i.e. it must be specific to a particular locality); and
- (c) Is not an excluded matter.

The guidance produced by the Centre for Public Scrutiny and Improvement and Development Agency advises that, to give full effect to CCfA, the interpretation of "local government matter" needs to be broader. This includes issues relating to the Council's partners, in line with the area focus of Comprehensive Area Assessment (CAA), and the fact that an authority's duties increasingly impact on other organisations, and involve partners within and outside the Local Strategic Partnership.

#### Definition of a Local Crime and Disorder Matter

A local crime and disorder matter, in relation to a member of a local authority, has been defined to mean a matter concerning:

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- (b) the misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area.

#### Definitions of "vexatious", "persistent", "discriminatory" and "not reasonable"

Statutory regulations deal with matters that can be excluded from CCfA, stating that "any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the scrutiny committee is to be excluded".

#### (a) Vexatious/Persistent

Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause. Issues around persistency are implied by this definition. However, a persistent request may

will be entirely valid - it may relate to a systematic problem that has not been effectively resolved.

CCfAs need to be looked at on their merits, rather than on the basis of who is bringing them, or whether somebody thinks there is an ulterior motive for them being brought. Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the councillor's requirements.

### **(b) Discriminatory**

~~A modern interpretation of the word "discrimination" is provided at Section 45 of the Equality Act 2006, in relation to religion and belief, as follows:-~~

~~A person (A) discriminates against another (B) if on the grounds of the religion or belief of B or of any other person except A, A treats B less favourably than he treats others.~~

~~This definition can easily be amended to deal with other forms of discrimination, such as discrimination for reasons of sex and/or race. So a discriminatory CCfA might be one which implies or states that a group of people or an area receives better, or worse, services on account of that group's predominant religion, race, sex or other characteristic, as covered by discrimination legislation.~~

~~A comprehensive definition of discrimination is provided at Sections 13 to 19 of the Equality Act 2010.~~

### **(c) Not reasonable**

It is suggested that, in the interests of transparency, authorities do not interpret "not reasonable" as being the same as the legal word "unreasonable". It is best to consider it as a qualifier to the word "vexatious", as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

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# PART 3 - RESPONSIBILITIES FOR FUNCTIONS

## SECTION D

### ROLES OF DIFFERENT COUNCILLORS

#### 1. INTRODUCTION

- 1.1 Councillors are elected by local residents to represent them in making decisions about how the Borough is governed.
- 1.2 The Council appoints councillors annually to the positions of Mayor, Deputy Mayor, and chairmen and vice-chairmen of committees. The Leader is appointed by the Council for a four year term of office. The political groups of the Council will elect their own leaders.
- 1.3 The Leader appoints the Deputy Leader and at least 1, but not more than 8, councillors to form the Executive. The Leader may assign portfolios areas to the members of the Executive. These councillors will normally all be members of the ~~Majority group administration.~~
- 1.4 Each year, the Council will also establish committees to oversee its work and councillors will be appointed to serve on those committees as Chairmen, Vice-Chairmen or members. The political balance of the committees reflects the political balance of the Council as a whole and Membership of committees is on the recommendation of the political group leaders.
- 1.5 This section indicates the different roles a councillor may undertake as a member of the Council. The role of all councillors as representatives of their communities is set out in Article 2. The roles of the Mayor and Deputy Mayor are set out in Article 5. The other roles referred to in the Constitution are set out below.

#### 2. LEADER

*The role profiles for the Leader and Deputy Leader of the Council should be read in conjunction with the role profile for a Portfolio Holder.*

- 2.1 The role of the Leader is to
  - a) provide strong political and community leadership;
  - b) identify and promote the Council's core values and strategic objectives, develop and implement the Council's ~~Sustainable Community Strategy and other plans and strategies that underpin this strategy~~ core plans and strategies;

- c) lead the development of local, regional, national and European policy and strategic partnerships to drive forward the Council's strategic objectives and policies;
- d) maintain effective working relationships of councillors with the Chief Executive, chief officers and all employees of the Council;
- e) chair the Executive and oversee the preparation of business for its consideration;
- f) appoint the Deputy Leader and other members of the Executive.

### 3. DEPUTY LEADER

- 3.1 The role of the Deputy Leader is to support the Leader in discharging his/her role and to deputise for the Leader in his/her absence or at the specific request of the Leader.

### 4. PORTFOLIO HOLDER

- 4.1 The role of the Portfolio Holder is

- (a) (a) to have strategic responsibility for their named portfolio of services, by providing political leadership in this area.
- (b) to have responsibility for, and provide a lead on, the initiation of policy in respect of the relevant portfolio.
- (c) to be accountable for those services within their portfolio areas, taking the lead publicly in relation to the Executive's activities in those areas both inside and outside the Council;
- (d) to create, build and nurture a focus on outcomes for residents for the activities within the relevant portfolio.
- (e) to represent the Council on outside bodies of a strategic nature which relate to their portfolio and feedback to the Council any issues of relevance or importance.
- ~~(a) (f)~~ (f) to take the lead on discussions at Executive meetings on their portfolio areas;
- (g)
- ~~(c)~~ (c) to report to, and account, for their actions, present any Executive recommendations on matters within their portfolio areas to Council;
- (h)
- ~~(d)~~ (d) to attend Overview and Scrutiny Committee meetings in respect of their portfolio and to respond to issues and questions raised by the scrutiny committees on their portfolio areas.

## 5. ~~CHAIRMAN OF A COMMITTEE~~ CHAIRMAN & VICE CHAIRMAN

5.1 ~~It is generally accepted that should the Chairman of a Committee be absent for any reason then the Vice-Chairman will assume the role.~~

5.1 The main role of a chairman of a committee is to:

- ~~(a)~~ (a) to ensure the effective conduct of meetings and open and transparent decision making.
- ~~(b)~~ to chair meetings in a clear, disciplined and fair manner, making sure that decisions are made using the correct protocols and in a way which demonstrates high standards of behaviour and ethics and in accordance with the constitution.
- ~~(c)~~ to ensure that the Committee fulfils its lead the Council's activities in relation to those functions covered by the Committee in accordance with its the Terms of Reference.
- ~~(a)~~(d) to provide confident and effective management of meetings facilitating inclusivity, participation and effective decision making.;
- ~~(b)~~ ~~chair meetings of the committee;~~
- ~~(ee)~~ ensure that the Committee deals with its functions in a fair and proper manner having regard to the Council's policies and statutory provisions relating thereto;
- ~~(d)~~ ~~ensure that mechanisms are put in place to measure regularly the efficiency and quality of the arrangements for dealing with the functions of the committee;~~
- ~~(e)~~ ~~ensure that the rules relating to declaration of interests are complied with;~~
- (f) to liaise with appropriate senior officers to ensure that appropriate member training programmes and seminars are arranged;
- (g) act as spokesman for the committee; and
- (h) oversee the preparation of the business for consideration by the Committee.

## 6. CHAIRMAN OF A REGULATORY OR NON-EXECUTIVE COMMITTEE (i.e. Planning Applications, Licensing, Audit & Standards and Employment Committees)

The role of the Chairman of regulatory and non-executive committees should be read in conjunction with the Committee Chairman Role description above.

- (a) to ensure that applicants and other interested parties are satisfied as to the transparency of the regulatory processes.
- (b) to ensure that the Committee understands the legal, Constitutional and policy requirements relating to their decision making.
- (c) to ensure that contributions by the public, and other interested parties, to meetings are facilitated in accordance with agreed procedures and that they understand the process.

## **7. CHAIRMAN OF AN OVERVIEW AND SCRUTINY COMMITTEE**

The role of the Chairman of an overview and scrutiny committee should be read in conjunction with the role of Committee Chairman.

7.1 The main role of a chairman of an overview and scrutiny committee is:

- (a) to facilitate the Committee in considering and making recommendations to the decision maker as an effective 'critical friend'.
- (b) To facilitate the call-in process, in accordance with the Overview and Scrutiny Procedure rules.
- (c) to model, and encourage, effective use of questioning and listening skills.
- (d) to model, and ensure, an objective and evidence based approach to the work of overview and scrutiny, including the receipt of evidence in an impartial manner.
- (e) to build constructive working relationships with Executive members, senior officers and partners working within the Committee's remit.
- (f) to promote cross party working.
- (g) to ensure that recommendations to decision makers are constructive and evidence based.

## **8. LEADER OF AN OPPOSITION GROUP**

8.1 In addition to their roles and duties as an elected representative, opposition group leaders shall also:

- (a) (a) — make sure there is effective and constructive opposition to the Council's majority party administration.
- (a)(b) be the focal point for the opposition group's views on the design, preparation and implementation of the Council's policies, strategies, budgets and service delivery;



- (b) establish and maintain good working relationships between members of the opposition group and all employees of the Council; and
- (c) be responsible for nominating members of the group to serve on committees, panels, sub-committees and outside bodies for consideration by Council.

## **97. WARD COUNCILLOR**

**97.1** The role and duties of all Councillors are detailed at Article 2. As representatives of their ward, Councillors are also expected ~~to~~:

- ~~(a)~~ (a) to represent and provide visible leadership to local constituents, and the community of Surrey Heath as a whole, and to balance those roles as necessary and appropriate.
- ~~(b)~~ to engage local residents, key stakeholders and partners in the Council's work, seeking feedback on the services provided and developing an understanding of the needs of residents to enable the delivery of better services and better decision making
- ~~(a)-(c)~~ to proactively identify opportunities for the Council to improve the services it offers our residents and the people and prosperity of Surrey Heath, balancing and respecting the needs of both urban and rural, as well as opportunities to deliver our work more effectively and resourcefully. ~~contribute to good governance and actively encourage community participation and citizen involvement in decision-making;~~
- ~~(d)~~ to signpost constituents, and to facilitate them in achieving appropriate support within the Council and with partners, supporting constituents with day to day service issues
- ~~(b)~~ dealing with constituents' enquiries and representations fairly and without prejudice;
- (c) ~~meet key local "stakeholders";~~
- ~~(de)~~ to champion the causes which further the interests, quality of life and sustainable development of the community;
- ~~(ef)~~ to develop a working knowledge of the organisations, services, key local stakeholders, activities and other factors important to the community's well-being and identity; and
- ~~(fg)~~ to ensure that local people are informed about services in their area, decisions which affect them, reasons why decisions have been taken, the rights of constituents.

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