

Committee	Scrutiny Committee Chairmen
Date	29 June 2001
Title	<u>The Scrutiny Role under the Constitution</u>
By	Director of Legal and Community Services
Purpose	To update the Chairmen on the Scrutiny Role under the Constitution

1. Introduction

1.1 East Sussex County Council has agreed a new Constitution which sets out how the Council operates and how decisions are made. The new constitution cannot be introduced until the Government has passed some regulations, but this is imminent and it is expected that the constitution could operate as from the next County Council meeting.

1.2 This report highlights several provisions relating to scrutiny in the new constitution, which differ from our pilot arrangements. These include policy development issues, the Forward Plan and call-in.

2. Policy Review and Development

2.1 Scrutiny Committees may assist the Council and the Cabinet in the development of the budget and policy framework and may make proposals to the Cabinet and/or County Council for developments in so far as they relate to matters within their terms of reference.

2.2 The full Council is responsible for the adoption of its budget and policy framework. Once the framework is in place it is the responsibility of the Cabinet to implement it.

2.3 As part of its responsibilities, the Cabinet will draw up proposals for developing the budget and policy framework. The Cabinet will need to consult about those proposals and if a Scrutiny Committee wishes to respond to the Cabinet in that consultation process, then it may do so. As part of its own work programme (and subject to resources being available), it is open to the Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of any consultation period. The Cabinet will then take into account any response from the Scrutiny Committee in drawing up firm proposals for submission to the Council.

2.4 It is worth quoting the following extract from statutory guidance about new constitutions:- "The Cabinet should adopt an inclusive approach to

preparing the draft budget, plans and strategies and to policy development more generally. Scrutiny Committees should play an integral part in policy development and the Cabinet should consult such committees regularly in the process of preparing the draft budget and draft plans and strategies".

3. The Forward Plan

3.1 The Forward Plan has to be prepared by the Leader of the Council to cover a period of four months. The Plan is prepared on a monthly basis and contains matters which the Leader has reason to believe will be the subject of a key decision to be taken by the Cabinet or individual members of the Cabinet. The definition of a "key" decision is far from straightforward and the Government is still considering whether to make further regulations on the matter. As things stand, the County Council's constitution states, in broad terms, that a key decision is a Cabinet decision which is likely to have financial implications of more than £500,000 per annum, or the decision will have a significant impact on communities living or working in an area comprising two or more electoral divisions within the County.

3.2 The Forward Plan will provide a mechanism by which the Scrutiny Committee can look ahead at the key decisions to be made by Cabinet and consider whether it wishes to make any representations or scrutinise any of the issues involved.

4. Call-in Arrangements

4.1 A Cabinet decision must be published within three working days and must specify that the decision will come into force on the expiry of four further working days. During this four day period, the proper officer can call-in a decision for scrutiny if so requested by three members of the Committee provided that the reasons for the call in are clearly set out and justify calling in the decision.

4.2 The Scrutiny Committee will then consider the call-in at a meeting which must take place within ten working days of the decision to call the matter in. If, having considered the decision, the scrutiny committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration (setting out in writing the nature of its concerns) or refer the matter to full Council.

4.3 If we are to avoid the decision-making system grinding to a halt, the call-in procedure should only be used in exceptional circumstances. The new constitution sets out detailed guidance. Scrutiny can only ask for a decision to be reconsidered; the final decision remains with the Cabinet or Lead Member, and not the County Council.

5. Other Scrutiny Issues

5.1 The new constitution provides that a key decision may still be taken even if it has not been included in the Forward Plan. There are detailed provisions which require the Director of Legal and Community Services to inform the Chairman of the relevant Scrutiny Committee in such circumstances. There are also special urgency provisions which require the agreement of the Chairman of the relevant Scrutiny Committee if it is thought that the taking of a decision cannot be reasonably deferred. Provisions within the new constitution enable the Scrutiny Committee to refer a matter to full County Council if it believes that the Cabinet has taken a decision which is outside the budget or policy framework. Again, however, there may be circumstances where the Cabinet needs to take an urgent decision outside the framework, in which case the Chairman of the relevant Scrutiny Committee must agree that the decision really is a matter of urgency.

6. Conclusion

6.1 Aside from the more detailed issues set out above, the overall responsibilities of the Scrutiny Committees within the new constitution have not changed from those which have operated during our pilot over the last two years or so. However, the change in remit agreed at the last County Council meeting, whereby Scrutiny Committees have been tasked to concentrate on the efficient delivery of the core services based upon the individual departments of the County Council, will clearly involve a change in emphasis. Similarly, we will need to work through the impact of moving the overall responsibility for best value reviews to the Audit and Best Value Scrutiny Committee.

7. Recommendation

7.1 Chairmen are requested to note the report and the provisions within the constitution concerning the role of scrutiny.