

PRE-DECISION SCRUTINY – GUIDANCE NOTES

1 WHAT IS PRE-DECISION SCRUTINY?

1.1 **Pre-decision scrutiny applies only to scheduled Cabinet business and provides the opportunity for consultation with non-Executive Members on fully developed proposals, where a clear recommendation exists, before decisions are taken by the Executive.** This would provide scrutiny Councillors with the ability to make comments on a proposed decision which the Cabinet would take into account before making its decision, and thereby giving scrutiny a valuable opportunity to influence decision-making through debate and challenge.

1.2 The range of possible outcomes may include support for a decision, a different view on the way forward, the flagging up of concerns (e.g. in relation to the consultation process), or a view that the decision should be deferred pending further work etc.

1.3 It does not mean that decisions will necessarily be changed or withdrawn, however it gives an opportunity for those decisions to be more informed. Pre-decision scrutiny can be viewed as non-Executive Members performing a 'critical friend' role in relation to the Executive.

2. WHAT PRE-DECISION SCRUTINY IS NOT

2.1 Pre-decision scrutiny does not replace decision-making. It is not intended to blur the lines of accountability, which will always rest with the Executive.

2.2 Pre-decision scrutiny is not the same as general service or policy development / formulation. Separate to pre-decision scrutiny there are occasions where scrutiny is already involved at an earlier point in the development of policy or service proposals.

2.3 Pre-decision scrutiny is not a call to carry out an in-depth inquiry into a matter. It refers to a one-off consultation on a specific report.

3. WHO UNDERTAKES PRE-DECISION SCRUTINY?

3.1 Pre-decision scrutiny is about accountability for decision-making. The scrutiny of decisions and holding the Council's Executive to account is a role that is carried out by the Council's Scrutiny Programme Committee.

3.2 The selection of matters for pre-decision scrutiny should have regard to where the matter has already featured in scrutiny work plans.

4. IMPACT ON WORK PLANS

- 4.1 Pre-decision scrutiny is only one of a variety of roles and possible activities that scrutiny may be involved in, and any desire to undertake pre-decision scrutiny will need to be balanced with other activities.
- 4.2 However, pre-decision scrutiny does not automatically require scrutiny to carry out any in-depth work. The presumption would be that a single meeting would be sufficient to formulate views, unless circumstances allow for more time.
- 4.3 Should the committee feel that more work is necessary then it will need to make that case to Cabinet (as the decision-maker) and it does not mean that the committee would be responsible for such work. However if the committee does wish to carry out any aspect of work in relation to the proposed decision, then again it would need to state this in its response to the Cabinet.
- 4.4 Whilst an item for pre-decision scrutiny need not automatically pose a significant impact on the existing work programme, the committee will have to manage its work to take into account referrals or requests for pre-decision scrutiny.

5. IMPACT ON THE EXECUTIVE

- 5.1 The committee will depend on the cooperation of the Executive in facilitating the involvement of scrutiny. Pre-decision scrutiny will have an impact on existing decision-making procedures, and the time of both Members and officers involved in the production of Cabinet reports. Pre-decision scrutiny would be facilitated by forward planning and a degree of flexibility on decision-making timetables.

6. THE PROCESS

The process for pre-decision scrutiny is summarised in the attached flow-chart (**Appendix A**). The process is based on a selective approach through identification of items from a Cabinet 'forward plan' which would be then be considered by the Scrutiny Programme Committee. The process is explained in more detail in the following paragraphs.

6.1 Identification / Selection

- 6.1.1 a) The Authority already produces what is known as a Forward Work Programme, and this is published on the Council's website - <http://www.swansea.gov.uk/index.cfm?articleid=1942>. The Forward Work programme includes a schedule of Cabinet business which is updated on a quarterly basis.

b) In addition, all councillors are in weekly receipt of an internal Forward Look log which lists all known cabinet reports that are scheduled for future meetings. This is emailed out by the Democratic Services team and presents a more up-to-date picture of future cabinet business.

6.1.2 Scrutiny councillors should use this information as the source from which selections for pre-decision scrutiny are made. Requests for pre-decision scrutiny shall be directed to the Chair and Vice-Chair of the Scrutiny Programme Committee. The Presiding Member will also be made aware of any requests.

6.1.3 In some circumstances pre decision scrutiny will not be appropriate. The Presiding Member will be entitled to decline a request for pre-decision scrutiny provided one of the following criteria is met:

- The matter is not the subject of a Cabinet decision-making report
- The matter has already been subject to extensive consideration by scrutiny
- The matter is not relevant to the terms of reference of the scrutiny committee
- Where pre-decision scrutiny would require that an urgent matter is delayed and that this delay would be detrimental to the interests of the Council
- Whether there is any constitutional or legal reason why pre-decision scrutiny should not take place

6.2 Notification

6.2.1 The relevant Cabinet portfolio holder and relevant Officer(s) will be notified of those matters identified for pre-decision scrutiny at the earliest opportunity and advice sought on timing / implications.

6.2.2 The relevant Cabinet Member will advise on the decision-making timetable and window in which a committee meeting would need to be convened to avoid undue delay in decision-making, so that a date can be identified.

6.3 Inclusion in Work Plan

6.3.1 Where possible the Chair and Vice-Chair will report to the committee and propose agreement of those matters that have been considered appropriate for pre-decision scrutiny for inclusion in the work plan.

6.3.2 At the same time the committee will have to consider the implication on its own time to undertake meaningful pre-decision scrutiny, and will need to manage and modify its work programme

accordingly. Whilst flexibility is incorporated into the work plan it is also important that previous assumptions for workload are not put at risk. The committee is scheduled to meet every four weeks however can meet as often as required. Additional meetings may need to be considered where scheduled committee meetings will not fit into the proposed decision-making timetable and therefore cause undue delay.

6.4 Consideration

6.4.1 Pre-decision scrutiny will normally be based on the report which is to be submitted to Cabinet. The relevant Cabinet Member would be expected to attend the committee to answer questions / provide clarification on the report.

6.4.2 The role of officers is to support and provide impartial advice to all Councillors whatever their position (whether as Executive Members, Scrutiny Members, Members of quasi-judicial Committees etc.). The committee can request relevant officers to attend to provide advice and assist the committee in their consideration.

6.4.3 Best practice evidence strongly emphasises the need for a constructive and non party political approach. There would be an expectation of responsible, evidence based scrutiny. In general, the committee would be expected to focus on:-

- The reasons for the proposed decision and robustness of the process
- Whether the report outlines all of the known or potential implications (including policy/budget issues) and risks?
- Whether the report adequately examines all of the available options?
- Whether there has been adequate consultation on the proposals?

6.4.4 Meetings will be open to the public (unless exemption applies) and the committee may wish to invite stakeholder input, to help the committee formulate a view.

6.5 Decision

6.5.1 Where possible, the Cabinet Member's report should include a section on the outcome from the committee meeting and demonstrate how the views expressed by the committee have been addressed. Otherwise, the chair of the committee will be invited to address the Cabinet during consideration of the report to outline the views of the committee prior to decision.

6.6 Feedback

- 6.6.1 The Cabinet Member will provide feedback to the committee, which will include an explanation of any rejection of its views.

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A MODEL FOR PRE-DECISION SCRUTINY

