

Supporting members



Defending services

Branch guide to council decision making – the path to privatisation



It is important to understand how and when a council can make a decision. When privatisation is on the cards, knowing this enables you to seek to intervene at the most effective time. It can also help to shape your campaign plan if you know the timeline for key decisions.

This guide covers:

- 1.** Making decisions
- 2.** Executive systems
- 3.** Overview and scrutiny
- 4.** Committee system
- 5.** Council petition schemes
- 6.** Branch action

This guide also includes a summary chart – privatisation decision making and branch intervention. See pages 12 and 13

1 Introduction

Local authority governance is the framework within which decisions are made and implemented. It is an important but often overlooked aspect in the fight against privatisation and cuts. Understanding where, and how, decisions can be effected is useful knowledge to assist in fighting privatisation and cuts.

There are broadly three types of council structure:

1. Leader and cabinet/executive
2. Executive Mayor and cabinet/executive
3. Committee system¹

The most common model in England and Wales is that of 'leader and cabinet'. There are a small number of councils in England operating the model of 'mayor and cabinet' and none in Wales, despite best efforts by successive governments to push this model on local authorities.

The 'committee system' model means different things to different people. The Local Government Act 2000 saw the abolition of the committee system in England and Wales everywhere except shire authorities with a population under 85,000. The committee system continued in Scotland but some Scottish councils have moved to a cabinet system. And as part of the Localism Act 2011, the committee system has now been re-introduced as an option for all local authorities in England.

This guidance, in the pages that follow, will first focus on local authorities using models 1- Executive Leader and Cabinet, and 2, Executive Mayor and Cabinet. The majority

of local authorities currently fall into one of these two categories. Section 4 deals with the committee system.

On pages 12 and 13 of this guide we have set out a chart showing an example of a typical council decision-making process in relation to a privatisation proposal. It illustrates where the key intervention points might be for branches.

1. This was re-introduced, for local authorities in England by s1, Sch 2, Localism Act 2011, which replaces Part 1 of the Local Government Act 2000 as Part 1A.

2 Executive systems

Types of decision

Decisions in local authorities are made at different levels depending on the nature of the decision. The local authority will keep a record of what part of the council, or which individuals, have responsibility for particular types of decisions, or decisions relating to particular areas or functions. This is usually found in the council's constitution or scheme of administration. For council officers, there will be a scheme of delegation which sets out their areas of decision making. These lists and schemes will vary from one authority to another. Therefore it is important you look at your own local authority's constitution to see how it applies for your branch.

There are several types of decisions:

- Decisions reserved to full council
- Executive decisions
- Key decisions
- Non-executive decisions.

Decisions reserved to full council

These are decisions that can only be made by the full council, such as amendments to the constitution and budget setting.

Executive decisions

These are decisions within the scope of the executive – whether retained as decisions for the executive to take, or delegated to officers.

Key decisions

These are important for you to focus on. What is and is not a 'key decision' will be defined in your council's constitution. Broadly speaking they are decisions involving significant spending or cuts, of great strategic importance, or that will have a big

impact on the community. Any significant privatisation proposal is likely to fall into this category. Key decisions are the ones we are most interested in, and the ones most open to challenge.

Non-executive decisions

A large number of decisions taken within a local authority are non-executive decisions.

Decision makers

In executive systems decisions may be made by the following:

- Full council
- Executive leader
- The executive collectively (the cabinet)
- Individual cabinet members
- Committees and sub-committees
- Officers

Full council

'Full council' is the meeting of all councillors held every few months, or in a small number of cases these meetings are monthly. This is the ultimate decision making body of the council. Full council elects, and can remove the leader of the council; takes decisions over the constitution and bye laws; decides the budget; appoints the chief officers; debates motions and decides council policy (the policy framework.) No individual or committee within the council can override full council, providing it is acting within its powers – despite the view taken by some chief executives that full council is only advisory and therefore cannot instruct! There is a statutory role for a 'section 151' Monitoring Officer (usually the authority's treasurer) who has certain powers to ensure a balanced budget is passed and to advise the council if it attempts to act unlawfully or in breach of statutory requirements.

Full council is political. Where one party have a large majority, meetings of full council are fairly uncontroversial events. However where the votes between parties are much closer, the meeting can often be crucial to any fight against privatisation and cuts. For example, in Cornwall in 2012 we saw controversial privatisation plans halted, and the leader of the council removed, following a vote in full council.²

Where there is an elected mayor the role of full council is somewhat constrained, as detailed later in this guidance under the section 'Executive Mayor'.

Executive leader

The executive leader – or simply 'leader' as the office is most commonly titled – is a position elected at the full council meeting. The leader can personally carry out any of the executive functions of the council (except in Scotland). However in practice these will be delegated to other executive members (cabinet members), committees of the executive, or officers of the council. But even once delegated this does not stop the leader from personally exercising any executive function. Where councils have things such as area forums, area committees, district assemblies, and other similar bodies, decisions may be delegated down to that level as well.

Executive Mayor

The term 'executive mayor' refers to directly elected mayors. The Local Government Act 2000 provides for elected mayors if there is popular vote in favour through a referendum. England currently has 16 council mayors while Wales has none. There is no provision

for directly elected mayors in Scotland. Elected mayors are different from the 'civic mayor', 'lord mayor' or 'provost' roles that are largely ceremonial. The powers of the executive mayor are similar to those of the executive leader. However a mayor, arguably, has more power than a council leader. The mayor is responsible for the implementation of council policy and delivering services.

Some powers are for co-decision with the council such as setting the annual budget and policy framework. However to amend the mayor's plan the full council must resolve to do so by a two-thirds majority.³ It's also important to note that the full council cannot amend the detail of the mayor's budget to give a direction as to how funds should be used.⁴ This represents a shift in the balance of power away from the full council toward the mayor.

Cabinet/Executive members

Individual councillors can be appointed to the position of cabinet member by the leader or mayor, or in some cases by full council. The leader or mayor, together with the cabinet members, forms the cabinet, otherwise known as the 'executive'. The cabinet does not have to be politically representative – it can be made up entirely of councillors from the ruling party or parties.

Cabinet members have individual areas of responsibility (portfolios). Certain executive decisions can be made by the individual cabinet member where they relate to their area of responsibility (except in Scotland).

2. www.bbc.co.uk/news/uk-england-cornwall-19960390

3 s7, Part 1, Sch2, The Local Authorities (Standing Orders) (England) Regulations 2001

4 R (Carol Buck) v. Doncaster Metropolitan Borough Council [2012] EWHC 2293 (Admin).

Decisions may be delegated to officers. The scheme of delegation will set out which decisions are delegated, and to whom.

Certain decisions require collective decision making by the cabinet. In most local authorities cabinet meetings are usually held frequently.

Committees and sub-committees

Under an executive system it is within the remit of a local authority as to what, if any, committees and sub-committees they create to carry out executive functions. These are different from regulatory/statutory committees such as licensing and planning. A large number of councils do not have any sub-committees below their cabinet. However some do, and reference needs to be made to the council's constitution to check what decision making power any committee may have.

Planning and licensing committees perform a quasi-judicial role and are not covered by this guidance due to their limited relevance to the fight against privatisation and cuts.

Officers

There is a saying that 'officers advise, councillors decide' which most often tends to be quoted by councillors! As a starting point, all executive decisions are to be taken by the executive. However councils decide to delegate certain executive decisions to officers. The scheme of delegation will set out which decisions are delegated, and to which officer they are delegated to. The officers are managed by the Head of Paid Service – a statutory position. This position is usually filled by the chief executive.

Principles in decision making

All council constitutions should set out principles for decision making. These should include:

- proportionality (the action must be proportionate to the intended outcome)
- due consultation and the taking of professional advice from officers
- respect for human rights
- a presumption in favour of openness; and
- clarity of aims and desired outcomes.

In addition to the principles listed above, many local authorities have also added the principle of 'giving reasons for decisions'. Councils can add other principles to that list if they so wish. Even if a council has added principles to its constitution voluntarily they can still be challenged in the courts if they fail to abide by those principles.⁵

General Power of Competence (England)

In England there is a general power of competence (GPC) which shifts the presumption away from councils assuming everything is illegal unless they find a reason why not, to everything being legal unless otherwise prohibited. The power allows a local authority to do anything "that individuals generally may do"⁶. This power is likely to lead to councils being bold in what they are willing to do. The power also makes it harder to challenge the actions of a council as being illegal or ultra vires.⁷

However, the GPC is not as wide in scope as some local authorities, and lawyers, are

5 R (GC and J Robinson and Roplas Limited) v Kingston upon Hull City Council.

6 s1 Localism Act 2011.

7 Meaning 'beyond their powers'.

starting to assume. Anything that was previously illegal for a local authority to do is still illegal. And it is not only statutory prohibition that will prevent a council from exercising the GPC but also case law. Whilst not expressly stated anywhere, it is likely that the principles of reasonableness set out in *Wednesbury*⁸ still apply; along with other key public administrative law cases. Therefore if a council seeks to push ahead with proposals that you have concerns about under the banner of the GPC – you may be able to challenge them on whether there are in fact any restrictions that prevent this.

Sources of information

There are several sources of information you should locate and familiarise yourself with in order to stay on top of council decision making:

- **Council constitution or scheme of administration.** This is a key document setting out the procedures, and delegation of powers.
- **The forward plan.** This document contains a list of all upcoming key decisions⁹, and will be vital in enabling you to see what lies ahead. Most councils publish this document monthly.
- **Notification of key decisions.** This tells you what the key decisions are. There is a window of opportunity to challenge them so it is important you check this information frequently if you do not already receive it directly from your council. Details of who is taking the decisions and what

documents have informed them should also be made available.

- **Meeting agendas, papers and minutes.** You can monitor what committees and sub-committees are up to as well as cabinet and full council. Remember you and your members can also attend meetings – as most should be held in public unless there's a good reason not to – and in some cases ask questions.

8 Associated Provincial Picture Houses v *Wednesbury Corporation*- which sets out the standard of 'unreasonableness' that enables a judicial review against a local authority.

9 Financially significant or likely to have a big effect on communities

3 Overview and scrutiny

The notion of ‘overview and scrutiny’ was developed as a counter-balance to the concentration of decision-making powers under executive systems.

The role of overview and scrutiny committees (OSCs) is to hold the executive to account. These committees have to be made up of non-executive councillors. These are the councillors who are not cabinet members or authorised in any other way to make executive decisions.

Membership of overview and scrutiny committees is not just limited to councillors. Councils can co-opt non-councillors on to the committees if they so wish. Unlike the executive, seats on OSCs do reflect the political balance of the council.

In some authorities overview and scrutiny committees are powerful, with non-executive councillors relishing the role and doing it well. In other areas committees may be dominated by backbench councillors who feel relatively powerless and unable to influence decisions. Therefore the effectiveness of OSCs varies. UNISON branches need to try and use the overview and scrutiny process to best effect – that means knowing how it works, which councillors are effective and being able to offer support and briefing to councillors who are willing to work with us.

Organisation

Guidance on how to organise the overview and scrutiny functions leaves a lot to the discretion of individual local authorities. There is no ‘one size fits all’ model. Some authorities will have permanent co-ordinating committees eg a ‘Scrutiny Management Board’ which would oversee all scrutiny.

This could be complimented by time-limited committees. Some councils will have a single standing ‘Scrutiny Committee’ undertaking both overview and scrutiny work. This is similar to the Select Committee model used in the House of Commons. Meanwhile other authorities may have committees looking at specific policy areas perhaps mirroring the remits of cabinet members.

Roles

Overview and scrutiny are two separate areas of work.

Overview can involve policy development and review. This includes contributing to the development of a policy; examining policy implementation and impact; and looking at wide reviews of broader policy areas. Increasingly councils are using ‘task and finish’ work groups. These are groups of councillors who look at a particular policy area or specific issues. The group will produce a report delivering a viewpoint and recommendations for consideration by the committee, and sometimes by the cabinet.

Scrutiny is about holding decision makers to account. It involves scrutinising decisions before they are taken. Normally this should be done through consultation with the council’s executive. Scrutiny also involves scrutinising decisions after they have been implemented. The purpose of this is to see how the reality matches the decision, and to see how well the implementation went. Generally the leader and cabinet/executive members are periodically asked to attend the committee to update on progress and answer questions.

Powers

The powers of an overview and scrutiny committee are wide in scope. Here are some examples of the things overview and scrutiny committees can do:

- Write reports, led or written by councillors, for discussion within the council or the public
- Interview councillors and officers at the committee, including cross-examination of these individuals
- Conduct visits to different sites, or interview officers at their workplaces
- Instruct the council to carry out further research on proposals- including commissioning external research
- Review documentation, or commission others to do so
- Bring service users, witnesses and the public generally to the committee to discuss proposals
- Go on study or learning visits to other authorities
- Hold public meetings
- Act as mystery shoppers to test out council services

Importantly though the committees can also 'call in' decisions.

'Call in'

An overview and scrutiny committee can 'call in' a decision. This usually just applies to key decisions as described earlier. The call-in power allows them to decide to approve the decision; ask the decision maker to reconsider; refer it to full council for further debate; or require further information or further work to be done. The call-in process is a powerful and useful tool when used properly – and one which UNISON branches

need to be able to influence when privatisation proposals come to the fore.

Box 1 highlights an example of a call-in procedure as described on a council's website. The process will vary slightly from council to council, but the example gives a useful illustration of the key steps.

Once there has been an application to call in a decision, the decision making process is put on hold. The decision cannot be actioned until the overview and scrutiny committee has considered it.

It will differ from council to council as to who can trigger the call-in process and will be specified in the constitution. Usually a specified number of non-executive councillors can trigger the call-in process. However it is not necessarily limited to elected members. Some authorities allow others such as local business or groups of residents, to use the call-in process. Some authorities require a full meeting of the overview and scrutiny committee to decide whether to call in.

The window for calling in a decision is usually narrow. There could be just 5 days between notification of a key decision and the decision being taken. Therefore anyone seeking to call in a decision has to move quickly. This illustrates why it is so important for branches to be involved at the earliest stages of a privatisation proposal being developed so you can be ready and prepared if it gets to the key decision stage.

A decision cannot be called in simply because someone does not like it. There need to be grounds for calling in the decision. This is where you should refer back

to the council's 'principles of decision', as described earlier. A breach of the council's decision-making principles should be a legitimate ground for calling in a decision.

Other grounds may include:

- Concern over the lawfulness or riskiness of the decision
- Decision appears to be contrary to the budget or policy framework
- Decision appears to be inconsistent with council policy
- Cabinet has taken a decision outside of its functions as set out in the constitution

The council's constitution is important in determining whether there is a valid ground for calling in a decision. Some constitutions list a set number of criteria to cite when applying to call in a decision, which reflect the principles of decision making. These may also require the submission of evidence.

If there has been an application to call in a decision it will usually be brought up at the next available meeting of the relevant overview and scrutiny committee, unless there is a meeting convened specifically to deal solely with the call-in. It is then for the committee to decide how to proceed.

Information on council websites varies. But most do have some explanation of the overview and scrutiny process, including who, and how, decisions are called in. The primary source of any information is the council's constitution.

Box 1
Example of call-in
procedure: Thurrock
Council

1. To call in a decision, those eligible must state the reasons for the objection to the decision and present an alternative solution. If an alternative solution is not presented - the decision will not be called in.
2. A request for a call-in shall be made to the Chair of the Overview and Scrutiny Committee, c/o Democratic Services, Thurrock Council, Civic Offices, New Road, Grays in one of the following ways, and a copy will be forwarded to the Chair of the Cabinet for information:
 - in writing (please print out this Call-In Request Form (PDF 32.9kB) - see how to access PDF files); or
 - by e-mail* through our Call-In Notification Page; or
 - by telephone* on 01375 652082; or
 - by fax on 01375 652779

*Requests made by e-mail or by telephone within the call-in period will only be progressed if the request is then confirmed in writing, together with the names, addresses and signatures of the other objectors.

3. No action may be taken to implement any decisions of the Cabinet until the expiry of the call-in period (with the exception of the areas not subject to call-in described earlier in the procedure).
4. Following a call-in, the alternative proposal will be referred to the next available Overview and Scrutiny Committee. The Chair of the Overview and Scrutiny Committee, or in his or her absence, the Vice-Chair, may however reject call-ins, which in his or her opinion, are frivolous or defamatory.

5. All decisions called in and any requests for call-ins which have been rejected, as being frivolous or defamatory, by the Chair of the Overview and Scrutiny Committee, together with the reasons for objection, will be reported to the next available meetings of the Cabinet and Overview and Scrutiny Committee for information.
6. If a decision is called in, the objector(s) will be given the opportunity to make verbal representations (maximum 10 minutes per call-in) in support of their alternative proposal at the meeting of the Overview and Scrutiny Committee, or one of its Scrutiny Panels.
7. If the Overview and Scrutiny Committee support the Cabinet's original decision, then the decision can be implemented without delay and the Cabinet's decision stands.
8. If the Overview and Scrutiny Committee support the objection it can:
 - a) refer the matter back to Cabinet with a recommendation for an alternative solution; or
 - b) request the Council to give a hearing to the matter at the next available Full Council meeting when the matter will be debated.
 - c) Refer the matter to a panel for further work to be done

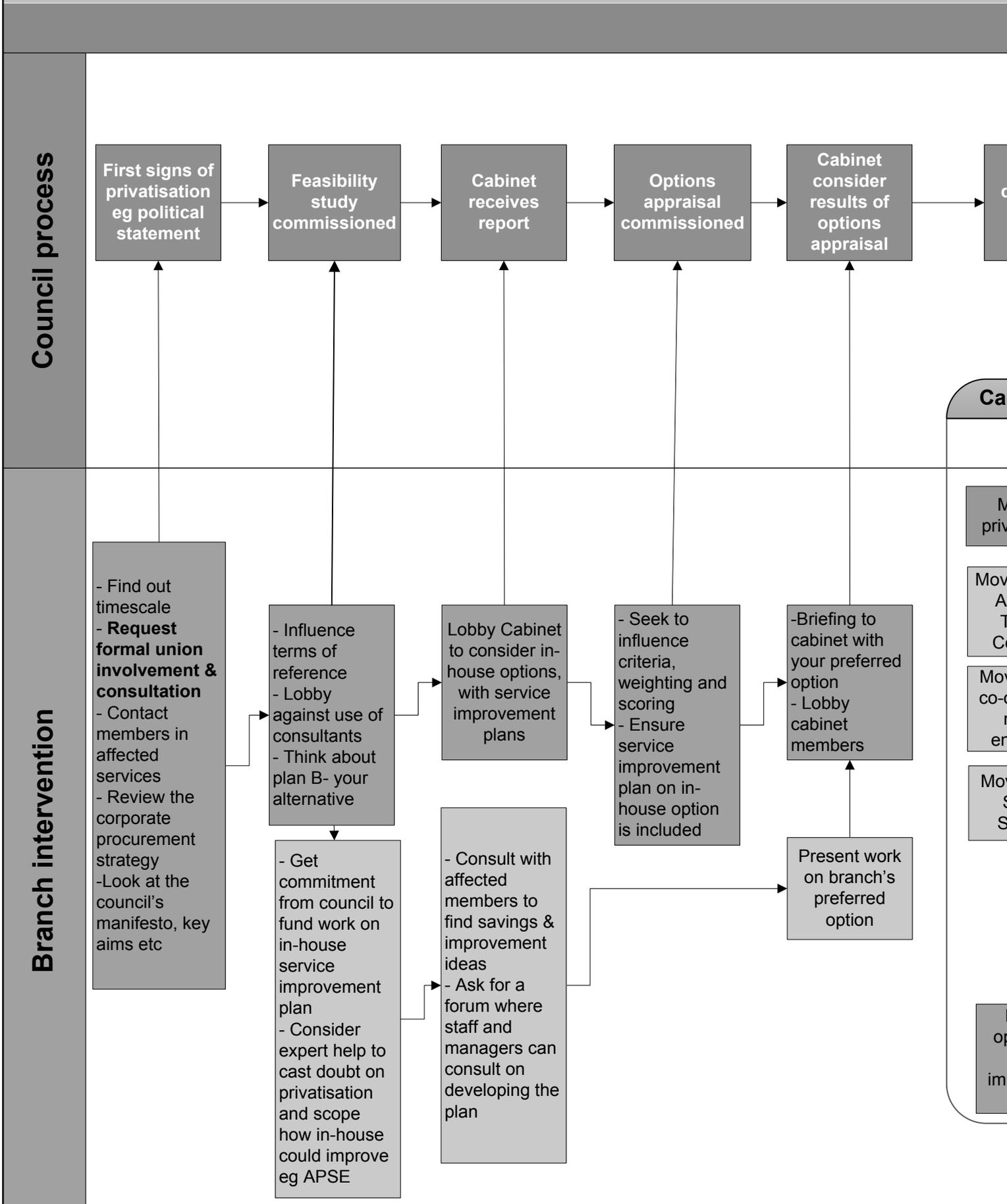
If the matter is referred back to the Cabinet, the Cabinet must reconsider the decision and may or may not amend it before adopting a final decision. If the matter is referred to the full Council, the Council will remain the final arbiter of any disputes.

Once a decision has been determined following a call-in it can be implemented and cannot be subject to any further call-ins.

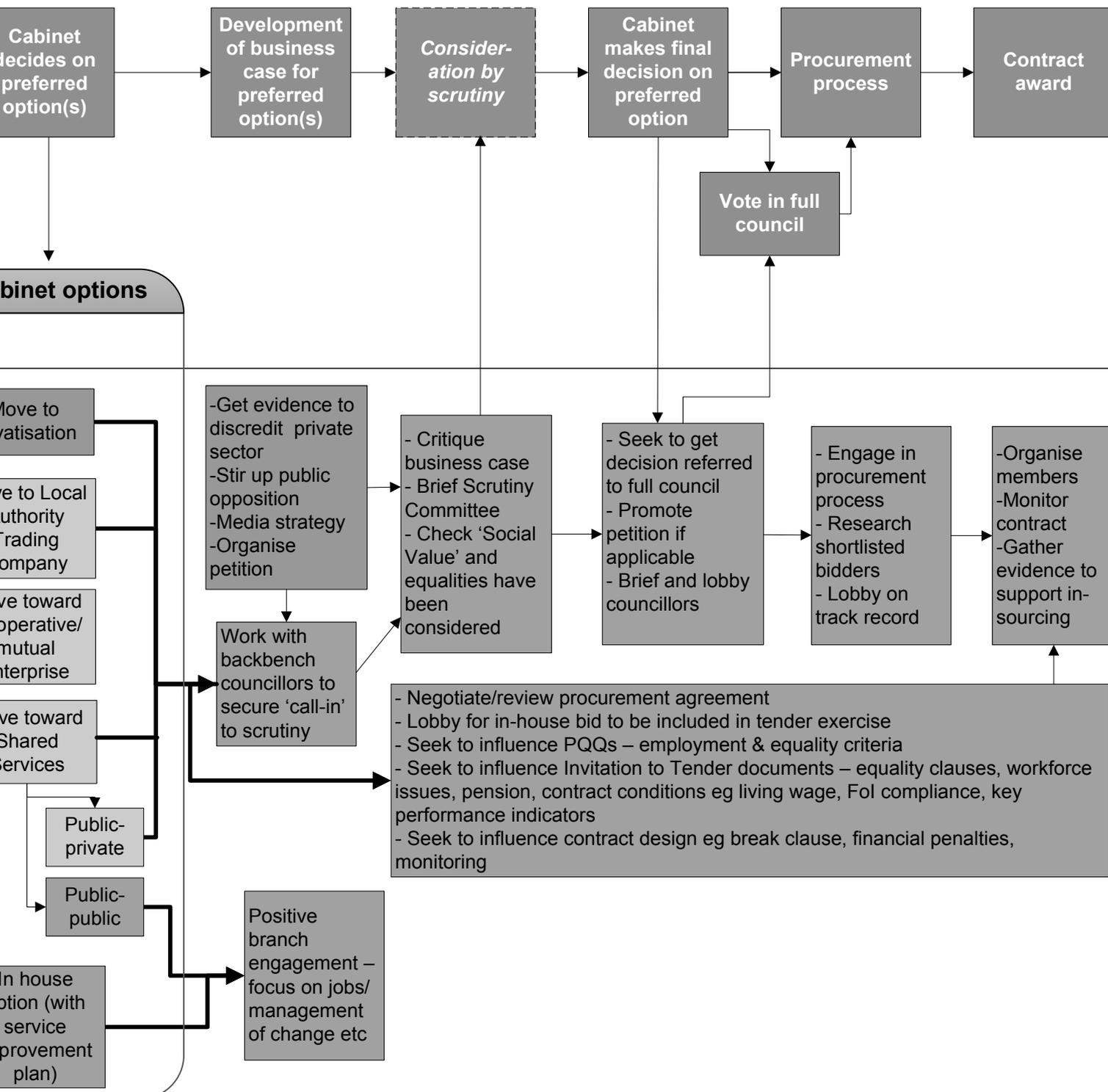
<http://www.thurrock.gov.uk/democracy/cabinet/content.php?page=callin>

Fighting privatisation

This chart shows an example of a typical council decision-making process in a Cabinet system



em, and illustrates key intervention and action points for branches.



4 Committee system

The committee system has been somewhat of a political football through successive governments. It was abolished in England and Wales by the Local Government Act 2000 (except in authorities with a population below 85,000, who could choose to retain it). The system was re-introduced as an option for councils in England by the Localism Act 2011. In Scotland councils have wide powers to vary their decision-making set-ups – some councils have a committee system while others have set up an executive model.

Where a committee system applies the whole notion of an ‘executive’ disappears. So there is no requirement for ‘overview and scrutiny’, although councils with committee systems can if they wish have committees performing this role.

Decisions are made by a series of committees covering the council’s different functions and made up of councillors from all political parties reflecting the political balance of the council. Full council still exists. The role of full council is to set the budget and wider council policy. Outside of full council meetings the committees make decisions.

Councils operating the committee system still have a leader. Some refer to this position as a ‘constitutional leader’, as opposed to the ‘executive leader’. The constitutional leader will not have any direct decision making power outside of their role on committees. The committee system still delegates implementation of policy to council officers.

Councils operating the committee system still have a constitution, and it is that document that sets out how the council is to

be governed.

Where you have a committee system in place agendas and minutes should be published and the public have a right to attend the meetings. This gives an opportunity for engagement in the decision making process.

Nottinghamshire County Council was one of the first in England to re-introduce the committee system following the passing of the Localism Act 2011:

“Notts County Council to be one of the first councils in the UK to return to the committee system

Nottinghamshire County Council will be one of the first local authorities in the UK to return to the committee system this month after twelve years of the leader and cabinet system...

All decisions will be made by committees rather than individuals within the new system with the exception of day-to-day operational matters.

Councillors from all parties will make up the committees which will reflect the political balance of the authority.

Councillor Kay Cutts, Leader of Nottinghamshire County Council, said: “I am looking forward to returning to the committee system as it is the most open and democratic way of making decisions at a local authority level.

The committee system allows all 67 councillors elected by the public to play their part in decision-making at the Council.

All decisions will be made in public under the new system, making it the most transparent form of governance.”

Nottinghamshire County Council created 28 committees. The advantage of a committee system is that decisions are made in public and have representatives from each political party. The committee replaces what would previously have been the decision of an individual cabinet member or the cabinet collectively.

Nottinghamshire has no separate system of overview and scrutiny because in theory it is not needed, as there is no executive to hold to account.

Councils operating the committee system are not obliged to publish a 'forward plan' as was the case under the executive models. This is because all decisions are taken by way of committee meetings open to the public. However some councils state that they are continuing to publish forward plans in the 'spirit of transparency'.

5 Council petition schemes

The ability of local people to organise petitions to influence councils is another important tool for UNISON branches seeking to campaign with their communities against privatisation proposals. Previously councils in England and Wales had to comply with a statutory scheme which required them to operate a scheme in line with certain criteria.

In the 2011 Localism Act these requirements were repealed. However many councils in England, Wales and Scotland continue to operate schemes.

If it has one, details of your council's petition scheme should be publicised via the council's website. Your council may host its own e-petition scheme and/or accept petitions organised by other organisations.

The following are *typical* features of petition schemes, though the details will vary from council to council:

- Scheme is approved by full council and published
- Electronic as well as paper petitions are accepted
- Range of possible response the council might make to receiving a petition, for example
 - taking the action requested in the petition
 - considering the petition at a Council meeting
 - holding an enquiry into the matter
 - undertaking research into the matter
 - holding a public meeting
 - holding a consultation
 - holding a meeting with petitioners
 - referring the petition for consideration of the council's scrutiny committee or other relevant committee
 - writing to the petition organiser setting out the council's views about the request in the petition

- Reserve the right to rule out petitions on grounds such as they are vexatious, refer to court proceedings, are already the subject of a petition or relate to planning and licensing decisions where there are formal appeals processes

Some councils have specific thresholds for a number of signatures which will automatically trigger a debate in full council and/or the attendance of a senior council official at a public meeting. These thresholds were required under the old statutory scheme and some councils have chosen to retain them or to operate them voluntarily.

UNISON branches should give early thought to how you can mobilise public concern about a privatisation proposal and make use of petition schemes early on in the process.

The box on page 17 gives examples of council petition schemes. The Cornwall Council scheme was used to great effect in the campaign against a controversial large-scale privatisation proposal. The proposal was causing widespread concern for UNISON, service users and councillors across the political spectrum. The full council had previously voted in favour of reconsidering the privatisation scheme but the Cabinet decided to ignore the vote and proceed anyway. The council's petition scheme allowed another vote in full council if 5,000 signatures could be secured. The threshold was met and full council voted not to proceed with the proposed strategic partnership. This forced the Cabinet to reconsider and in the end the council proceeded with a much smaller contract. ¹⁰

¹⁰ http://www.unison.org.uk/activists/pages_view.asp?did=15401

Example of petition scheme – Edinburgh City Council¹¹

A petition by an individual can be considered if it is supported by at least 500 people who live in the City of Edinburgh Council area and are on the electoral register. The Convener has discretion to declare a petition with greater than 250 signatures valid. A petition by a business requires the support of 20 businesses on the valuation roll...

Once the petition has been verified as having been correctly completed and submitted, it will be considered at the next available meeting of the Petitions Committee. The Convener of the committee may invite petitioners to appear before the committee to speak in support of their petition if it is considered this would be useful in assisting the committee reach a decision.

Petitioners should indicate on the form whether or not they wish to have the opportunity to make a statement before the committee. Due to pressure of business, no guarantee can be given that petitioners will automatically be invited to address the committee.

The Petitions Committee will take a decision on action including:

- agreeing that the issues raised merit further action and formally agreeing to refer the to the relevant decision making body;
- agreeing that the issues raised do not merit further action; and
- agreeing to take any other action as appropriate.

The petitioner will be advised in writing of the committee's decision within 10 working days.

Example of petition scheme – Cornwall County Council¹²

The Council welcomes petitions, whether paper, electronic or e-petitions created and submitted through our website and recognises that they are one way in

which people can let us know their concerns.

A petition is a formal written request signed by at least 25 people who live, work or study in Cornwall (including children and young people). All petitions presented to Cornwall Council will be considered under the Council's Petition Scheme.

Under the Council's Petition Scheme, petitions that meet certain threshold levels (i.e. signed by a specific number of people) will trigger debates at either full Council, an appropriate Overview and Scrutiny Committee or a meeting at a local community network area...

Your petition will be acknowledged within 10 working days of receipt and will set out what we plan to do with your petition and when you can expect to hear from us. All correspondence will be sent to the nominated petition organiser.

If we can do what your petition asks for our acknowledgement may confirm that we have taken the action requested and the petition will be closed...

In summary:

If you wish your petition to be debated at:

Full Council - your petition will need to be signed by 5,000 people or more.

Overview and Scrutiny "Calling an officer to give evidence" - your petition will need to be signed by 1,000 people or more and must state which officer or alternatively which service you wish to be called to give evidence.

A Community Network Area - your petition will need to be signed by 1% of the network population or more

Ordinary petitions - all other petitions will be dealt with as an ordinary petition (25 signatures or more but less than those detailed above) and we will reasonably determine how to deal with your petition and advise you as to what that process will be.

¹¹ <http://www.edinburgh.gov.uk/info/20232/petitions/1829/petitions>

¹² <http://www.cornwall.gov.uk/default.aspx?page=24422>

6 Branch action

This guide has shown that there are over-riding principles and a certain number of rules specific to all councils, but systems of governance vary greatly from one authority to the next. It is therefore vital in preparing to challenge privatisation proposals that as a branch you familiarise yourselves with the detail of how your council works.

In summary, branches should:

1. Look through your council's constitution. This is a long document but it does not need to be read word-for-word from start to finish. However you should refer back to it as needed and look out for the following information:
 - a. Who has what powers
 - b. What are the principles in decision making
 - c. What are the decision making processes, and where are the delegated decisions made
 - d. How is overview and scrutiny structured (where applicable); and what is the call-in procedure
 - e. Where an executive model is in operation: what is the definition of a key decision
2. Where you have an executive model (leader or mayor) look out for:
 - a. The Forward Plan. Read what decisions are coming up and plan what you need to do around these
 - b. Key decision notifications. You may only have 5 days to try and mobilise councillors to call in a decision so you need to be prepared. If you don't receive the key decisions as a matter of course request these from the council or seek to negotiate receipt of these as part of your recognition agreement.
3. Where you have a committee system:
 - a. Find out from the constitution what the remit of each committee is
 - b. Look at the committees chaired by the leader or other key councillors. These are likely to be the committees where the most important decisions are made
4. Get hold of the council's corporate strategy document –this will tell you about key processes which should inform procurement decisions like workforce clauses, social value considerations and how the council will consider and implement the equality duty.
5. Find out if your council runs a petition scheme, how it works and what potential responses from the council can be triggered. Factor these into your campaign plans. Make sure that all the different stakeholders and allies come together to agree to promote one petition – even if that means you have to haggle over wording. Know the signature thresholds you need to meet and have a plan for how you get there.
6. In England find out at what level community right to challenge decisions are being made (See Branch guide) and whether you can get advance notice of when applications will be considered.
7. Watch out for councils seeking to use alternative procurement methods especially:
 - a. 'Framework agreements' – where another public sector body has already

conducted a procurement exercise and the council simply opts to buy into it without going through its own procurement process. This significantly short-cuts the decision-making process, but should still be a key decision and should be challenged on the grounds of value for money and transparency

- b. 'Competitive dialogue' – this should only be used for very complex contracts where the council needs the 'expertise of the market' to help it develop a specification for what it needs. This process involves the council having dialogue with potential contractors about how the service can best be provided. At the end of it the council decides what it wants and invites final bids. This process puts any public sector comparator at a disadvantage, and also involves a high degree of commercial confidentiality

Maximising your influence

When privatisation is on the cards you want to wield as much influence as possible as early as possible to prevent proposals reaching the stage where the council decides to trigger an active procurement process.

Where you have an executive model of governance it is important to look at who the backbench councillors are, particularly those that chair scrutiny committees. This is particularly important where you have one party, unsympathetic to UNISON's concerns, dominating the decision-making. There may be disgruntled backbench councillors on scrutiny committees who, when given the right information, are able to effectively

question cabinet members and delay or stop decisions being made. Consider producing briefings for, and lobbying, councillors on scrutiny committees.

With a committee system, the influence of individual councillors will be greater and therefore it may be useful to brief councillors individually where there are important decisions that will impact UNISON members. Lobbying in the committee may prove more successful than lobbying full council where one party dominates political control, though in practice, the ruling party will still have a majority on each committee.

The timing of committee meetings will vary from one authority to another. It is important you check the timetable for committee meetings so you know when to expect certain decisions to appear for discussion.

Lastly, no matter what the model of governance, it is important to figure out the 'informal' power structures and where there might be divisions and tensions which you can exploit. Many political groups and councils are dominated by their leader. There may be a large number of backbench councillors who feel undervalued and are looking for an issue to work on. This problem is common where power is centralised in the Executive Leader and Mayor models. Figure out who the key players are in each political group, who has influence, and who is effective. There may also be independents on the council who you can work with.

Before each full council meeting each party will decide how its councillors are to vote. Therefore you need to influence them before that stage. Building up a good working relationship with a number of councillors will

help with this. Make sure you have regular informal meetings and catch-ups. Where there are developments in particular areas, bring members/stewards along so that councillors can hear direct from the workers affected.

Where Labour councillors are of a significant number the UNISON LabourLink may be useful.

Try to map affected members to wards and use the information to approach councillors and encourage members to visit surgeries.

This guide has set out the formal power structures and governance within local authorities, and how you can go about finding out the exact arrangements in your council. And the need to balance this against the informal power structures and political influence. Used together this should assist you in trying to influence, change or block certain decisions.

Further information

LGIU, Making scrutiny count:

<http://www.lgiu.org.uk/2012/12/20/making-scrutiny-count-3/>

Centre for Public Scrutiny: www.cfps.org.uk

Published and printed by UNISON, The UNISON Centre, 130 Euston Road London NW1 2AY.
CU/MAY 2013/21366/3254/UNP 12990.