

5 - Overview and Scrutiny Procedure Rules

1. Terms of reference

- (a) The Council shall at its Annual Meeting agree the number of Overview and Scrutiny Committees, their membership and their remit. These Committees will perform all of the overview and scrutiny functions on behalf of the Council.
- (b) The terms of reference of the Overview and Scrutiny Committee in respect of those functions for which it is responsible will be:
 - (i) the performance of all overview and scrutiny functions on behalf of the Council;
 - (ii) the appointment, determination of membership and terms of reference of such Working Groups as it considers appropriate to fulfil those overview and scrutiny functions (the Chairman and Members of a Working Group shall not have the power in respect of call-in of decisions as set out in paragraph 16(c)(i) below);
 - (iii) to approve an annual overview and scrutiny work programme, including the programme of any Working Groups it appoints so as to ensure that the Committees and Working Groups' time is effectively and efficiently utilised;
 - (iv) where a matter falls within the remit of more than one Overview and Scrutiny Committee or a Working Group proposed to be established by the Committee, the Committee or Working Group which is first due to have an ordinary meeting in the Council's calendar of meetings that could reasonably receive the matter shall assume responsibility for the matter and be the (Host Committee).
 - (v) The Chairman of the Host Committee shall invite members of all relevant Committees to all meetings of the host Committee when the matter is discussed. The members of the Host Committee will take regard of the views of the invitees when making recommendations upon the matter
 - (vi) to put in place a system to ensure that referrals from overview and scrutiny to the Executive, either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;

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- (vii) In the event of reports to the Executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Executive business, the Executive will make decisions about the priority of referrals made.

2. **Membership**

All Councillors, except Members of the Executive, may be members of an Overview and Scrutiny Committee. **Further to this any Members who are appointed to assist individual Cabinet Members in the discharge of their role should not sit on the Overview and Scrutiny Committee that relates to the portfolio they are assisting.** However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

The membership of each Overview and Scrutiny Committee shall be determined by the Council, taking into account of the provisions to ensure political balance, together with, in the case of a Committee or Working Group, to deal with education matters, education representatives on the basis outlined below.

3. **Co-optees**

Each Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees; a Working Group shall be entitled to make recommendations in equivalent terms to the Committee by which it was established.

4. **Education representatives**

Each relevant Overview and Scrutiny Committee/Working Group dealing with education matters shall include in its membership the following representatives:-

- (a) at least one Church of England diocese representative (voting);
- (b) at least one Roman Catholic diocese representative (voting)
- (c) three parent governor representatives (voting);
- (d) representatives of other faiths or denominations as appropriate;
- (e) one representative from Primary School Teachers (non voting);
- (f) one representative from Secondary School Teachers (non voting).

A relevant Overview and Scrutiny Committee/Working Group in this paragraph is an Overview and Scrutiny Committee or Working Group of a local education authority, where the Committee or Working Group's functions relate wholly or in part to any education functions which are the responsibility of the authority's Executive. If the Overview and Scrutiny Committee/Working Group deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

5. **Meetings of the Overview and Scrutiny Committees (excluding meetings arising from the call-in procedure)**

Ordinary meetings of each Overview and Scrutiny Committee shall be held in accordance with the calendar of meetings approved by the Council at the Annual Council Meeting. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the relevant Overview and Scrutiny Committee if he/she considers it necessary or appropriate.

6. **Quorum**

The quorum for an Overview and Scrutiny Committee shall be one third of its voting membership, subject to a minimum of 2.

7. **Chairs and Vice-Chairs of Overview and Scrutiny Committee meetings**

Chairmen and Vice-Chairmen of Overview and Scrutiny Committees will be appointed by the Council from amongst the Councillors sitting on the panel.

8. **Work programme**

The Overview and Scrutiny Committees shall be responsible for setting their own work programmes and in doing so they shall take into account the wishes of Members on that Committee who are not Members of the largest political group on the Council; and shall endeavour to co-ordinate their work programmes with that of any other Overview and Scrutiny Committee through the Scrutiny Overview Committee. When the issue under consideration relates to the terms of reference of more than one Committee, then in accordance with 1(b)(v) above the host Committee shall be determined

9. **Agenda items**

Any Member (whether a Councillor or not) of a Overview and Scrutiny Committee or Working Group shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Committee or Working Group to be included on the agenda for the next available meeting of the Committee or Working Group. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda. Additionally, the Executive may ask an Overview and Scrutiny Committee to consider any matter.

10. Policy review and development

- (a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Committees or Working Groups may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask persons to attend to address them on any matter under consideration and may pay any advisers, assessors and other persons, a reasonable fee and expenses for doing so.

11. Reports from a Overview and Scrutiny Committee

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Chief Executive for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.
- (c) The Council or Executive shall consider the report of the Overview and Scrutiny Committee within one month of it being submitted to the Chief Executive.

12. Making sure that overview and scrutiny reports are considered by the Executive or Policy Committees

- (a) The agenda for Executive meetings shall include an item entitled 'Issues arising from overview and scrutiny'. The reports of Overview and Scrutiny Committees referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within one month of the Overview and Scrutiny Committee completing its report/recommendations;

- (b) Only one report from each ordinary meeting of an Overview and Scrutiny Committee be submitted by each Overview and Scrutiny Committee to the Executive

Overview and Scrutiny Committees will in any event have access to the Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

13. Rights of Overview and Scrutiny Committee members to documents

- (a) In addition to their rights as Councillors, members of Overview and Scrutiny Committees and Working Groups have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

14. Members and officers giving account

- (a) Any Overview and Scrutiny Committee or Working Group may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions within their remit. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Executive, the Chief Executive and/or an Executive Director or Assistant Director or Head of Service to attend before it to explain in relation to matters within their remit:
 - (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) their performance.

and it is the duty of those persons to attend if so required.

- (b) Where any Member or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Chief Executive. The Chief Executive shall inform the Member or officer in writing giving at least 7 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is 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 preparation of that documentation.

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- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance to take place within a maximum of 28 days from the date of the original request.

15. Attendance by others

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend.

16. Call-in – principles

The following principles shall apply:

- Overview and Scrutiny Committees should not normally scrutinise non key decisions made by officers under their delegated powers. Where necessary, such scrutiny should be confined to overall reviews of service performance.
- Overview and Scrutiny Committees should not normally scrutinise individual decisions made by other Committees of the Council (particularly in relation to development control, licensing, registration and other consents or permissions). Such scrutiny should normally form part of wider policy reviews.
- Individual Overview and Scrutiny Committee Members should not be involved in reviewing decisions made by other Committees of which they are Members, unless they can demonstrate that they were not in attendance at the meeting when that decision was made.

17.01 Call-in decisions that are not urgent

Call-in should only be used in exceptional circumstances. These are where members of the appropriate Overview and Scrutiny Committee have evidence which suggest that the decision was not made in accordance with the principles set out in Article 11 (Decision Making).

- (a) When a decision is made by the Executive, a Committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days working days of being made. Chairmen of all Overview and Scrutiny Committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision. Copies of all decisions will be placed on deposit in each Group Room of all political groups represented on the Council.

- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless a Overview and Scrutiny Committee objects to it and calls it in.
- (c) During that period:
 - (i) the Chief Executive shall call-in a decision for scrutiny by the Committee if so requested by the Chairman or any 5 Members of the Committee;
 - (ii) five Members of the Council (not all being Members of the relevant Overview and Scrutiny Committee) may, within the first 4 working days of the period, give notice to the Chief Executive, requesting that he/she invite the Chairman of the Overview and Scrutiny Committee to exercise the powers of call-in set out above for the reasons set out in the request in respect of the decision specified though not yet implemented. If a Chairman declines the request of the Chief Executive to call-in a decision, he/she shall give reasons for that decision to the Members who made the request. In the absence of the Chairman, the Chief Executive shall refer the request to the Vice-Chairman for determination in place of the Chairman;
 - (iii) the Chief Executive shall then notify the decision-taker of any call-in and shall call a meeting of the Panel on such date as he/she may determine, where possible after consultation with the Chair of the Committee, and in any case within 5 working days of the decision to call-in. Such a meeting to be held within 7 working days of it being called.
- (d) If, having considered the decision, the Overview and 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 the Council. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body (except in the case of a reference of a decision to the Council), the decision shall take effect on the date of the Overview and Scrutiny Committee meeting, or the expiry of the period within which the meeting ought to have been held, whichever is the earlier.
- (f) If the matter is referred to the Council it shall meet to consider the matter within 28 days. If the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective from that date. However, if the Council does object, it has no power to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget.

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Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a Committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

- (g) If the Council does not meet the decision will become effective at the end of the 28 day period in which the Council meeting should have been held.

17.02 Call-In - Decisions that are urgent

- (a) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Chief Executive or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

18. Councillor Call for Action

- (a) Any member of the Council may submit a Councillor Call for Action (CCfA) on a local government or crime and disorder matter.
- (b) CCfA should only be used in exceptional circumstances. These are where Councillors have been unable to resolve issues and problems on behalf of their residents. CCfA will be a means of 'last resort' in a broad sense, with issues being raised at Overview and Scrutiny Committees after other avenues have been exhausted.
- (c) A local government matter means a matter which:
 - (i) relates to the discharge of any function of the authority;

- (ii) affects all or part of the electoral area for which the member is elected or any person who lives or works in that area, and;
 - (iii) is not an excluded matter.
- (d) A local crime and disorder matter, in relation to a member of a local authority, means a matter concerning:
 - (i) 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
 - (ii) The misuse of drugs, alcohol and other substances.

which affects all or part of the electoral area for which the member is elected or any person who lives or works in that area.
- (e) Specifically excluded from becoming a CCfA are:
 - (i) any matter relating to a planning decision;
 - (ii) any matter relating to a licensing decision;
 - (iii) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
 - (iv) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or at a meeting of a sub-committee of that panel.
- (f) A matter does not fall within a description in paragraph (e) (i) – (iv), if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systematic basis, notwithstanding the fact that the allegation specifies or refers to a planning decision, a licensing decision or a matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to review or right of appeal conferred by or under any enactment.
- (g) All CCfA's need to be submitted, in writing, to the Chief Executive, on the supplied form, providing full details of the issue concerned, including an explanation of what the issue is, why it is being raised as a CCfA, the steps that have been taken to resolve the issue and the expected outcome to be achieved from the CCfA.
- (h) The Chief Executive will log the CCfA and then raise it with the nominated scrutiny officer as soon as reasonably practicable.

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19. **The Party Whip**

When considering any matter in respect of which a Member of an Overview and Scrutiny Committee is subject to a party whip the Member must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

20. **Procedure at Overview and Scrutiny Committee meetings**

- (a) Overview and Scrutiny Committees and Working Groups shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations);
 - (iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
 - (iv) responses of the Executive to reports of the Overview and Scrutiny Committees; and
 - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Panel meetings which are to be conducted in accordance with the following principles:
 - (i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee/Working Group shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

21. **Matters within the remit of more than one Scrutiny and Performance Panel**

Where an Overview and Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Overview and Scrutiny Committee, a Host Panel will be determined in accordance with 1b(v) above.

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