

4 (a) Overview and Scrutiny Committee

1. Preamble

- 1.1 The Meeting Procedure Rules set out the rules and procedures that apply to all of the Council meetings.
- 1.2 If there is any conflict between the wording of the Meeting Procedure Rules and this Appendix will prevail.

2. Scope of Role

- 2.1 The Overview and Scrutiny Committee will be appointed to discharge the functions conferred by Section 21 of the Local Government Act 2000.
- 2.2 Members and Officers must have regard to the Council's Scrutiny Guidance for Members or any replacement of such guidance from time to time in force ("the Guidance").

3. Membership

- 3.1 12 members based on proportional representation with unnamed substitutes. However, no Member may be involved in scrutinising a decision in which they have been directly involved. Executive members may not sit on or substitute on Overview and Scrutiny Committee.
- 3.2 Unnamed substitutes are permitted (excluding Task and Finish/*Working* Groups). Substitutes will have all the powers and duties of any ordinary member of the meeting.

4. Appointment of the Chairman

- 4.1 The Chairman of the Overview and Scrutiny Committee will be appointed by the Committee *and may be from any political group*. The election of the Chairman will take place **at the first meeting of the municipal year which, unlike other Committees, will not be held at the conclusion of the Annual Council Meeting.** The Guidance sets out the process to assist members in the appointment of Chairman and Vice Chairman.

5. Terms of Reference

5.1 Functions

The Overview and Scrutiny Committee may:

- (a) review and monitor the performance of the Council's services;
- (b) review and/or scrutinise policies, proposals, decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (c) make reports and/or recommendations to the Council and/or the Executive in connection with the discharge of any functions;
- (d) consider any matter affecting the area or its inhabitants;
- (e) exercise the right to Call-in, for reconsideration, decisions made, but not yet implemented by the Executive.
- (f) consider matters arising from a Councillor Call for Action (CCfA) under Section 119 of the Local Government and Public Involvement in Health Act 2007 and Regulations thereunder; and
- (g) undertake the functions of the Council's crime and disorder committee for the purposes of Section 19 of the Police and Justice Act 2006, including CCfA relating to crime and disorder matters.

5.2 Specific Functions

- (a) **Scrutiny** - Within its scope and terms of reference Scrutiny may:
 - (i) review and scrutinise the decisions made by and performance of the Executive and/or Committees and the appropriate Officers both in relation to individual decisions and over time;
 - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service area;
 - (iii) question Members of the Executive and/or Committees and appropriate Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - (iv) make recommendations to the Executive and/or appropriate Committees and/or Council and/or any external bodies arising from the outcome of the scrutiny process;

- (v) review and scrutinise the performance of major partnerships and other public bodies in the area and invite written reports and/or request them to address the Committee and local people about their activities and performance;
 - (vi) require Members of the Executive, the Chief Executive, Corporate Directors, Directors and Assistant Directors to attend to answer questions and give evidence on receipt of at least 5 days' written notice.
 - (vii) question and gather evidence from any person *who is* not a Member or an Officer of the Council;
- (b) **Advisory and Review** – Within its scope and terms of reference the Overview and Scrutiny Committee may:
- (i) assist the Council and the Executive in the development of its Policy Framework through in-depth analysis of policy issues,
 - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options,
 - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options,
 - (iv) make recommendations to Executive and/or appropriate Committees and/or Council and/or any external bodies arising from the outcome of the scrutiny process.
 - (v) review and scrutinise the performance of major partnerships and other public bodies in the area and invite written reports and/or request them to address Councillors and local people about their activities and performance.
- (c) **Annual Scrutiny Report** – The Overview and Scrutiny Committee will report annually to Council on **its work through the preceding municipal year.**
- (d) **Work Programme** – The Overview and Scrutiny Committee will exercise overall responsibility for the Overview and Scrutiny Work Programme and for ensuring that this is **deliverable** with regard to the support and resources that are available to it and that is considered in

conjunction with other committees of the Council and their respective work programmes in order to minimise duplication of effort.

6. Proceedings

- 6.1** In these procedure rules the terms 'overview and scrutiny' and 'overview and scrutiny meeting' shall be used to refer to the Overview and Scrutiny Committee and **Scrutiny** Working Groups collectively.
- 6.2** **The** Overview and Scrutiny Committee shall, as a general principle, meet in public, unless considering information described as 'exempt' as **set out** in the meeting procedure rules of this Constitution. This does not preclude, but encourages, flexible and innovative working such as the delegation of tasks to a Member or a small informal working group of Members meeting out of the public arena, consultations or any other form of working. Such working will be reported back to the relevant overview and scrutiny meeting.
- 6.3** Overview and Scrutiny members, in the performance of Overview and Scrutiny duties, should not be subject to a party whip. Where an overview and scrutiny member is subject to a party whip, they must declare this at the beginning of the meeting and it will be recorded in the minutes.
- 6.4** The Overview and Scrutiny Committee will meet regularly on dates to be determined by Council on an annual basis.

They may agree to hold additional meetings as required.

Scrutiny **Working Groups**

- 6.5** The Overview and Scrutiny Committee may appoint **Scrutiny Working** Groups (each of a maximum 12 members) for a fixed period, on the expiry of which they shall cease to exist. The number of **Scrutiny Working** Groups active at any one time will be kept under review by the Overview and Scrutiny Committee.
- 6.6** **The Overview and Scrutiny Committee will decide whether a Scrutiny Working Group should be formal (subject to proportionality and Access to Information rules) or, informal – a Working Group (not subject to proportionality and Access to Information rules) and report back to the Overview and Scrutiny Committee and whether it should report directly to the Executive, Full Council or Overview and Scrutiny Committee.**

- 6.7 On the establishment of a new Scrutiny Working Group, the Overview and Scrutiny Committee shall appoint the members of the Scrutiny Working Group, which may be made up of any Members of the Council who are not Members of the Executive. At least one member of each Scrutiny Working Group should be a Member of the Overview and Scrutiny Committee.
- 6.8 The Chairmen of Scrutiny Working Groups will be appointed by the Scrutiny Working Groups, from amongst their number and may be from any political group.
- 6.9 The Chair of each group will act as the designated link member, who will:
- Liaise with the Chair~~man~~ and Vice-Chair~~man~~ of the Overview and Scrutiny Committee on progress
 - Keep the Overview and Scrutiny Committee updated on progress.
 - Help facilitate the smooth running of the overview and scrutiny function.

Scrutiny Working Groups should generally have regard to these Overview and Scrutiny Procedure rules. Substitutes will not be permitted.

Scrutiny Working Groups may be established to undertake specific project work, policy development, a specific task, consultation, review investigation or similar activity. Groups will normally only make one final report during their lifetime.

At the first meeting of each new Scrutiny Working Group, they will carry out a stakeholder analysis exercise to determine who should be involved with their work and who should give evidence and who should be consulted. It will also highlight potential co-optees.

Scrutiny Working Groups may appoint any number of people (excluding members of staff or other Councillors) as non-voting co-optees to assist in any item of business, as they deem appropriate.

Each Scrutiny Working Group will also be required to agree a detailed work plan to enable them to complete their task within the agreed timescale.

Each Group shall determine the frequency, times and venues of their own meetings, in accordance with the timetable for the completion of their task as set out in their terms of reference.

7. Evidence - Documents

- 7.1 Overview and scrutiny members will be entitled to copies of any document which is in the possession or control of the Executive (or its committees) or individual Portfolio Holders and which contains material relating to:

- any business transacted at a meeting of the Executive (or its Committees); or
- any decision taken by an individual member of the Executive
- any decision made by an officer of the authority under the Executive arrangements

7.2 Overview and scrutiny members will not be entitled to:

- any document that is in draft form;
- any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- the advice of a political adviser.

Nothing prevents more detailed liaison between the Executive and overview and scrutiny as appropriate depending on the particular matter under consideration.

8. Evidence - Verbal

8.1 Any person, including Members and Officers, may be invited to attend, present evidence or share their expertise with any overview and scrutiny meeting in accordance with these rules. Requests for Officers to attend should be made through the Head of Paid Service.

8.2 The Overview and Scrutiny Committee may require any member(s) of the Executive, Chairman of a Committee, Ward Member and/or *Corporate* Leadership Team to attend to explain, answer questions, or give evidence in relation to matters within their remit regarding:

- any particular decision or series of decisions;
- the extent to which the actions taken implement Council policy; and/or
- the performance of any Council service within their remit; and it is the duty

of those persons to attend if so required.

Where any member of the Executive, Chairman of a Committee, Ward Member and/or Corporate Leadership Team is required to attend an overview and scrutiny meeting under this provision, the Chairman of that meeting will inform the Head of Paid Service.

This power may be exercised by the Chairman of the Overview and Scrutiny Committee in advance of a meeting.

The Head of Paid Service shall inform the Executive Member, Ward Member and/or appropriate Officer in writing, giving reasonable 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.

Where papers are required to be produced then the Executive Member, Ward Member or appropriate Officer concerned, will be given sufficient notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the Executive Member, Chairman of a Committee, Ward Member and/or appropriate Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the Executive Member, Ward Member or appropriate officer, arrange an alternative date for attendance, or in the case of officers, request a suitable replacement to be agreed by the Head of Paid Service.

8.3 The Overview and Scrutiny Committee may invite any person to address it, to discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and representatives from other parts of the public sector and shall invite such people to attend..

- Power to issue an invitation may be exercised by the Chairman of the Overview and Scrutiny Committee in advance of a meeting.
- As a general principle, overview and scrutiny meetings, including Call-in meetings, should be open to any interested Councillor or group of Councillors such as a relevant Task and Finish / Working Group and their attendance encouraged and contributions welcomed at the discretion of the Chairman.

9. Scrutiny Work Programme

9.1 The Overview and Scrutiny Committee will be responsible for setting its own annual work programme within the terms of reference set out in this Constitution.

All Councillors, the Chief Executive, Corporate Directors, Directors, Assistant Directors and the public may put forward issues for inclusion in the overview and scrutiny work programme. Issues will be assessed by the Committee to determine the salience of the issue based on risk management, corporate priorities and other relevant factors.

- 9.2** Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Chief Executive that they wish an item relevant to the Committee terms of reference at the first available meeting. The meeting will determine whether the issue should be included in its work programme based on its relevance as compared to the priorities as set out in the overview and scrutiny work programme.

Any elected Member of the Council may give written notice to the Monitoring Officer that they wish a local matter relating to the work of the authority to be considered for inclusion in the overview and scrutiny work programme. If the Monitoring Officer receives such a notification, then they will refer the request to the first available meeting of the Overview and Scrutiny Committee who will determine if, when and how the item will be considered based on its relevance as compared to the priorities as set out in the overview and scrutiny work programme and inform the Democratic and Elections team accordingly so that it can be included in the overview and scrutiny work programme.

The Overview and Scrutiny Committee is not obliged to pursue a matter referred by a Member but it must let that Member know the reasons for its decision. When deciding how to proceed, the Overview and Scrutiny Committee may consider representations from the Member who referred the matter, and to take into account the extent to which that Member has exercised their function as a Ward Member to resolve it. Where the Overview and Scrutiny Committee does pursue a matter, it shall report its findings and any recommendations back to the Member who raised the matter.

The Overview and Scrutiny Committee shall respond, as soon as its work programme permits, to requests from the Council and Executive to undertake a piece of work in line with the procedure above. Where the Overview and Scrutiny Committee does so, it shall report its findings and any recommendations back to the Executive or Council. Council or Executive shall consider the report of the Overview and Scrutiny Committee at its first available meeting.

Scrutiny Reports and Recommendations

- 9.3** Once the Overview and Scrutiny Committee has completed its deliberations on any matter, it will forward a copy of its final report **and/or recommendations** to the Monitoring Officer who will allocate it either to the Executive, Council, relevant committee, relevant partner authority or external body according to the contents of the report, **with a copy notice the Chief Executive.**

The Overview and Scrutiny Committee must give the Executive, Council, relevant committee, relevant partner authority or external body notice of its report and/or recommendations in writing, which should specify the steps which must be taken to respond to the scrutiny report and/or recommendations.

The notice should require the Executive to:

- (a) consider the scrutiny report or recommendations,
- (b) respond to the scrutiny committee indicating what (if any) action the authority, or the Executive, proposes to take,
- (c) if the Overview and Scrutiny Committee has published the report or recommendations, publish the Executive response¹.

Executive Response

The Executive must respond within two months of receiving the report or recommendations or, if later, the notice.

The Executive response must include responding to the scrutiny report and recommendations and set out what actions (if any) the Executive will take in respect of these. Where the report of the Overview and Scrutiny Committee has been published, the Executive must also, publish the response.

The Executive, Council, relevant committee, relevant partner authority or external body must comply with the notice where it is legally obliged to do so.

10. Report to Council- Key Decision

10.1 If the Overview and Scrutiny Committee thinks that a key decision has been taken which is outside of the Council's budget and policy framework or was not included in the

- Executive Work Programme (including the 28 day notice); or
- the subject of the general exception procedure; or
- the subject of an agreement with the Overview and Scrutiny Committee Chairman, or the Chairman of the Council under the special urgency rules;

the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies.

The power to require a report rests with the committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the

¹ Local Government Act 2000 www.legislation.gov.uk/ukpga/2000/22/section/9FE

committee when so requested by the Chairman. Alternatively, the requirement may be raised by resolution passed at a meeting.

- 10.2 In relation to the development of the Council's approach to other matters not forming part of the Budget and Policy Framework, the 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, subject to **resources** being available. They may invite witnesses to attend to address them on any matter under consideration.

Once it has formed recommendations on proposals for policy development, the Overview and Scrutiny Committee will prepare a formal report for consideration by the Executive or Council.

Executive or Council shall consider the report of the Overview and Scrutiny Committee at their first available meeting.

The Overview and Scrutiny Committee will have access to the Executive Work Programme (including the 28 day notice) and timetable for decisions.

11. Decisions of the Executive

- 11.1 A summary notice of decisions made under the Executive arrangements shall generally be published on the next working day (or in any event as soon as possible) after the decision has been made and shall be circulated to all Members of the Council. This shall include a record of the decision and the date it was made, the reasons for the decision, any alternative options considered and rejected by members in making the decision, a record of any conflict declared by the decision maker or member of the decision making body and any dispensations granted.
- 11.2 Details of any decision made, decisions taken at meetings of the Executive, or a committee of the Executive, and any decisions taken by individual Portfolio Holders or any key decisions taken by officers will normally be published by 5pm on the next working day after they have been made. This decision notice will be made publicly available and all Members of the Council will receive notification (normally by e-mail) of the decisions taken.

The notice will specify that the decision will come into force and take effect at noon on the fourth working day following publication of the decision, unless it is called-in.

12. Non-Implementation of Decisions Pending Possible Call-in

Except where the Call-In procedure does not apply, Executive Decisions shall not be capable of implementation until either:

- the time for a Call-In request has expired without such a request being made; or
- the Call-In procedure in the following rules has been followed.

13. Call-in – Application and Process

- 13.1** The Chief Executive shall call in a decision for scrutiny if so requested in writing, by e-mail from a known or recognised source by any 5 non-executive members of the Council within the specified timescale.

However, if at any point during a municipal year the total number of opposition Councillors is 5 or less, the total number of non-executive members required to call in a decision shall be the total number of opposition Councillors less two. This reduced number will apply to any call-in request, regardless of the political affiliation of the members concerned.

In all cases the request for call-in must set out the reasons for the request.

A request to call-in a decision may only be nullified by agreement of all the call-in signatories.

On receipt of a call-in request, the Chief Executive shall call-in the decision and notify the decision taker and Chairman of the Overview and Scrutiny Committee of the call-in.

The call-in procedures set out below shall not apply where the decision being taken by the Executive, individual Portfolio Holder, Committee, SubCommittee or officer is urgent. A decision is urgent if any delay is likely seriously to prejudice the Council's or the public's interest.

The record of the decision and the 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. In all cases, the Chief Executive must agree both that the decision proposed is reasonable and to it being treated as a matter of urgency and, if agreed, shall circulate

the decision electronically to members of Executive and overview and scrutiny.

The Chief Executive shall then ask the Chairman of the Overview and Scrutiny Committee to agree to call-in being waived. In the absence of the Chairman, the Vice-Chairman's consent shall be required, and in the absence of the Vice-Chairman, the Chairman of Council.

14. Call-in - Review

- 14.1 The Overview and Scrutiny Committee must consider the decision within 10 days of the to call-in being made. If necessary, it may be dealt with as an item of urgent business at a scheduled meeting of the Overview and Scrutiny Committee within that period. If the Overview and Scrutiny Committee does not meet within 10 days and consider the matter, the decision shall take effect on the expiry of that period.

15. Call-in - Procedure

- 15.1 In considering a Call-in decision the Overview and Scrutiny Committee will follow this protocol:

Before Receipt of Call-In

Overview and scrutiny support officers will work with the call-in request signatories to complete the reasons for call-in. Completed reasons for call-in will be provided to the Chief Executive in conjunction with the Call In request, who will then consider whether to call-in the decision.

After Receipt of Call-In and before the meeting

The Chief Executive will assess the validity of the call-in request and (unless there is a good reason to reject the Call In request), confirm that the Executive decision has been called in. They will then advise all Councillors and the Corporate Leadership Team of the call-in.

The Chief Executive will determine which Portfolio Holder should attend the Overview and Scrutiny Committee meeting for the consideration of review of the decision subject to call-in, which officer should accompany them and which officer they appoint to advise the Overview and Scrutiny Committee on the call-in procedure.

The Members who requested the Executive decision to be called in will be invited to attend the meeting of the Overview and Scrutiny Committee for the consideration of the matter. One of these signatories should be identified to request to address the Committee as spokesman for the signatories to

present the reasons for the request to call in the decision and answer any questions from the Committee.

Overview and scrutiny support officers will meet with the call-in signatories, to clarify the procedure, consider how they will present the call-in.. Overview and scrutiny support officers will also brief the Chairman on the call-in.

Documents

The agenda will contain:

- This call-in Protocol
- The call-in request
- The Portfolio Holders' decision statement or minutes
- The original report(s) upon which the decision was made
- (In the case that either the minutes or report are exempt a public summary of information will be provided as far as is possible).

Any other document that the Chief Executive, Portfolio Holder or call-in signatories feel would assist the Committee in considering the call-in.

At the start of the meeting

The Chairman will outline the procedure for the meeting, setting the tone and approach that will be taken.

The meeting

The spokesperson(s) for the Councillors who have made the call-in request (who shall be seated together) should outline the reasons for the call-in. Each speaker will be time limited to 5 minutes.

The relevant Portfolio Holder **is then invited to** explain the rationale for the decision and may be supported by officers and the Leader of the Council as appropriate. They shall also be seated together. Each speaker will be time limited to 5 minutes.

Councillors who have made the call-in request shall have the opportunity to question the Portfolio Holder.

Other members of the Overview and Scrutiny Committee shall then have the opportunity to question the Portfolio Holder.

At the discretion of the Chairman, other Members present may have the opportunity to question the Portfolio Holder or make a brief statement.

At the discretion of the Chairman, anyone else present may have the opportunity to make a statement (limited to 5 minutes) on the issue.

The Portfolio Holder will have a right of reply to any brief statement made on the issue.

Before forming a decision, the Chairman may decide to adjourn the meeting in order to allow the **Members of the Overview and Scrutiny Committee** to reflect on the evidence received and to consider any proposals they wish the Committee to consider.

The Overview and Scrutiny Committee will then debate the issue.

If there is no proposal the Chairman or another Member may propose a motion which can be voted on in the normal way.

Options available to the Overview & Scrutiny Committee

There are three options available to the Overview and Scrutiny Committee when they are considering a call-in:

- Let the decision stand
- Refer the decision back to the decision taker, stating their **views on the matter**.
- Refer the decision to full Council if the decision is contrary to the policy framework or contrary to or not wholly consistent with the budget.

Additionally the Overview and Scrutiny Committee may make other recommendations as a result of the call-in to relevant bodies, which shall be considered after a decision has been reached on the call-in.

16. Outcomes from the Meeting

- 16.1** The Overview and Scrutiny Committee upon hearing a call-in may decide to let the decision stand, refer the decision back to the decision maker for reconsideration or, exceptionally, refer the decision to full Council if it is of the view that the decision is contrary to the Council or policy framework, or not wholly consistent with the budget.

If the Overview and Scrutiny Committee refers a decision back to the decision maker for reconsideration, they must set out in writing the reasons for their concerns and their preferred course of action.

If, for any reason, either the Overview and Scrutiny Committee or the decision maker fails to meet and carry out their obligations under this process or in the event of any situation not foreseen in this procedure, the issue will be referred to full Council for the process to be resolved. Implementation of the decision will be postponed until Council has determined how it shall be resolved.

If the Overview and Scrutiny Committee decides not to refer a decision back to the decision maker or to Council, the decision shall take effect immediately at the conclusion of the meeting at which the call-in **decision** has been considered.

The call-in procedure is not intended to be used to challenge decisions as a matter of course, and should not be abused in order, for example, simply to cause delay in implementing decisions.

17. Referral back to Executive/Decision Maker

- 17.1** Reconsideration by the decision maker shall take place at the next scheduled meeting of the Executive or a Committee of the Executive. In the case of decisions taken by individual Portfolio Holders, the date of reconsideration will be set by the relevant Portfolio Holder in consultation with the Chief Executive and the Leader of the Council. In the case of delegated decisions taken by officers, the decision shall be referred back to the Portfolio Holder in the first instance for reconsideration. Portfolio Holders have the option of forwarding any decision referred to them to the full Executive for reconsideration.

If, on reconsideration by the decision maker, the original decision is upheld or the recommendations of the Overview and Scrutiny Committee are accepted then the decision shall take effect immediately and shall not be subject to a further call-in period.

If the Overview and Scrutiny Committee is considering a called-in matter where the decision taker is recommending to Council, it may formulate alternative proposals for Council to consider.

In the case of a called-in decision being referred to Council, if Council decides that the called-in decision was contrary to the policy framework or not wholly consistent with the budget it shall decide on the issue in question.

If the Council decide that the called-in decision was not contrary to the policy framework or **inconsistent** with the budget then no further action is necessary and the decision will take effect on the date of the Council meeting.

- 17.2** Where the Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Section 151 Officer.

In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Section 151 Officer's report shall be to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and/or Section 151 Officer's report.

If the Monitoring Officer or the Section 151 Officer concludes that the decision was a departure, the Executive must prepare a report to Council.

If the Monitoring Officer or the Section 151 Officer concludes that the decision was not a departure, the Executive must prepare a report to the Overview and Scrutiny Committee.

If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or Section 151 Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council.

In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 days of the request by the Overview and Scrutiny Committee.