

## 2.3 Overview and Scrutiny Procedure Rules

### Form and Composition of Overview and Scrutiny

The Council will have an Overview and Scrutiny Committee of 12 Members with unnamed substitutes. No member of the Executive can be a member of the Committee or a substitute.

The Overview and Scrutiny Committee may appoint Task and Finish Groups (each of a maximum 12 members) for a fixed period, on the expiry of which they shall cease to exist. The number of Task and Finish Groups active at any one time will be kept under review by the Overview and Scrutiny Committee.

Overview and scrutiny meetings shall as a general principle meet in public, unless considering information classed as described as 'exempt' as described 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.

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 Task and Finish Groups collectively.

### Task and Finish Groups

The Overview and Scrutiny Committee will decide whether a Task and Finish Group should be formal and report directly to Executive or Council (subject to proportionality and Access to Information rules) or, informal and report back to the Overview and Scrutiny Committee (not subject to proportionality and Access to Information rules).

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

Formally constituted Task and Finish Groups will be subject to these Overview and Scrutiny Procedure rules and Access to Information rules. Substitutes will not be permitted.

At the first meeting of each new Task and Finish 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.

Task and Finish 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 Task and Finish Group will also be required to agree a detailed work plan to enable them to complete their task within the agreed timescale.

### **Who May Sit on Overview and Scrutiny?**

All Councillors with the exception of members of the Executive may be appointed to one or more of the above overview and scrutiny meetings. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

At the first meeting of the Overview and Scrutiny Committee following Annual Council and on the establishment of a new Task and Finish Group, the Overview and Scrutiny Committee shall, in respect of each Task and Finish Group, appoint one of its number to sit on each Task and Finish Group as the designated link member. The designated link member will:

- Provide expertise, assistance and guidance.
- Keep the Overview and Scrutiny Committee updated on progress.
- Help facilitate the smooth running of the overview and scrutiny function.
- Be a full member of the Task and Finish Group and eligible to be the Chairman or Vice-Chairman.

The political groups will allocate members to formal Task and Finish Groups according to proportionality, which shall be appointed under delegated authority by the Head of Law and Governance in consultation with the Chairman, or in their absence the Vice-Chairman, of the Overview and Scrutiny Committee.

Unnamed substitutes are permitted (excluding Task and Finish Groups). Substitutes will have all the powers and duties of any ordinary member of the meeting. Substitutes for the Overview and Scrutiny Committee will not be able to exercise any special powers or duties exercisable by the person they are substituting.

### **Attendance at Overview and Scrutiny**

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.

### **Meetings of Overview and Scrutiny Committee**

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.

### **Meetings of Task and Finish Groups**

Each Task and Finish 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.

### **Who Chairs Meetings?**

- The Chairman of the Overview and Scrutiny Committee will be appointed by the committee and may be from any political group.
- The Chairmen of Task and Finish Groups will be appointed by the Task and Finish Groups, from amongst their number and may be from any political group.

### **Work Programme**

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, Directors, Heads of Service and the public may put forward issues for inclusion in the overview and scrutiny work programme. Issues will be assessed by the Committee using a template to determine the salience of the issue based on risk management, corporate priorities and other relevant factors.

### **Agenda Items**

- 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 Chief Executive 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 Chief Executive receives such a notification, then he/she 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 Law and Governance 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 on their behalf 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.

### **Policy Review and Development**

The role of overview and scrutiny in relation to the development of the Council's existing Budget and Policy Framework is set out in detail in the terms of reference in Part 1 of this Constitution.

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 finance 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. Even where an item is not the subject of detailed proposals from overview and scrutiny following a consideration of possible policy/service developments, the Overview and Scrutiny Committee will be able to respond in the course of the Executive's consultation process in relation to any key decision.

### **Process for Overview and Scrutiny Reports to be considered by the Executive, Council, Partner Authority or External Body**

- Once the Overview and Scrutiny Committee has completed its deliberations on any matter, it will forward a copy of its final report to the Chief Executive who will allocate it either to the Executive, Council, relevant committee, relevant partner authority or external body according to the contents of the report.
- The Overview and Scrutiny Committee must give the Executive, Council, relevant committee, relevant partner authority or external body notice in writing specifying the steps which must be taken within two months of receiving the report or recommendations or, if later, the notice. These steps include responding to the report or recommendations and, if these documents have been published by the overview and scrutiny committee, publishing 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.

### **Rights of Overview and Scrutiny Members to Documents**

- 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 Lead Members 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
- 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.

### **When the Overview and Scrutiny Committee can require a report**

If the Overview and Scrutiny Committee thinks that a key decision has been taken which 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 committee when so requested by the Chairman. Alternatively the requirement may be raised by resolution passed at a meeting.

### **Members and Officers Giving Account**

The Overview and Scrutiny Committee may scrutinise and review decisions made, or actions taken in connection with the discharge of any Council functions within its terms of reference. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member(s) of the Executive, Chairman of a Committee, Ward Member and/or Joint Management 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 Joint Management 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.

### **Attendance by Others**

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. Attendance under this paragraph is entirely optional.

- 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 the consideration of Call-in decisions, should be open to any interested Councillor or group of Councillors such as a relevant Task and Finish Group and their attendance encouraged and contributions welcomed at the discretion of the Chairman.

### **The Party Whip**

For the purposes of this part of this Constitution, “the party whip” means any instruction given by or on behalf of a Political Group to any Councillor who is a member of that Group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the

Group in respect of that Councillor should he/she speak or vote in any particular manner.

Overview and scrutiny members should not normally 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 should be recorded in the minutes.

### **Referral of Decisions Outside the Budget or Policy Framework**

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.

### **Call-in of Executive and Other Decisions**

Details of any decision made, decisions taken at meetings of the Executive, or a committee of the Executive, and any decisions taken by individual Lead Members 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 third working day following publication of the decision, unless it is called-in.

The Chief Executive shall call in a decision for scrutiny if so requested in writing, by e-mail or by text from a known or recognised source by any 6 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 6 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, 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.

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 Overview and Scrutiny Committee must consider the decision within 10 days of the decision to call-in, and 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.

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.

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 Lead Members, the date of reconsideration will be set by the relevant Lead Member 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 Lead Member in the first instance for reconsideration. Lead Members 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, 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 has been considered.

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.

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

In the case of a called-in decision being referred to Council, if Councils decide 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 consistent with the budget then no further action is necessary and the decision will take effect on the date of the Council meeting.

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.

## **Call-in and Urgency**

The call-in procedures set out above shall not apply where the decision being taken by the Executive, individual Lead Member, Committee, Sub-Committee 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 in all the circumstances 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.

## **Call-in Protocol at Overview and Scrutiny Committee**

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 signatories to complete the reasons for call-in. Completed reasons for call-in will be received by the Chief Executive, who will then consider whether to call-in the decision.

**After Receipt of Call-in and before the meeting**

The Chief Executive will confirm the validity of the call-in and advise all Councillors and Joint Management Team members of the call-in request.

The Chief Executive will determine which Lead Member should attend the call-in, which officer should accompany them and which officer they appoint to advise the Overview and Scrutiny Committee on the call-in.

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

**Documents**

The agenda will contain:

- This call-in Protocol
- The call-in request
- The Lead Members' 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, Lead Member 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 Lead Member explains 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 have the opportunity to question the Lead Member.

Other members of the Overview and Scrutiny Committee have the opportunity to question the Lead Member.

At the discretion of the Chairman, other Members present may have the opportunity to question the Lead Member 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 Lead Member or 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 call-in signatories to reflect on the evidence received and to consider any proposals they wish the Committee to consider.

The Overview and Scrutiny Committee will debate the issue. Only members of the Committee and the Officer appointed by the Chief Executive to advise the Overview and Scrutiny Committee on the call-in may speak.

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 and Scrutiny Committee**

There are only 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 concerns and the decision that the Committee wish the decision taker to make.
- 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.