

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. Arrangements for overview and scrutiny**

- 1.1 The council will appoint an overview and scrutiny committee. The overview and scrutiny committee will appoint scrutiny sub-committees and determine their terms of reference.
- 1.2 The overview and scrutiny committee and its sub-committees may appoint informal member working groups to undertake specific tasks. While such bodies cannot substitute for the scrutiny committees, or exercise the powers associated with scrutiny (which are the preserve of the scrutiny committees) they can contribute to or inform the scrutiny process.
- 1.3 Meetings of overview and scrutiny committee and its sub-committees must comply with council's committee procedure rules.

### **2 Membership of overview and scrutiny committees and its sub-committees**

- 2.1 All councillors except members of the cabinet may be members of the overview and scrutiny committee and sub-committees. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.
- 2.2 The overview and scrutiny committee will include:
  - a) a chair, appointed by council assembly
  - b) a vice-chair, appointed by council assembly
  - c) the chairs of the scrutiny sub-committees, provided that the proportionality rules are not compromised
  - d) education representatives as set out at paragraph 4.
- 2.3 Overview and scrutiny committee will appoint the chairs and vice-chairs of the scrutiny sub-committees and agree the size and composition of the sub-committees, in accordance with the statutory rules relating to proportionality.
- 2.4 Each political group is entitled to nominate reserve members to overview and scrutiny committee and its sub-committees. The number of reserve member seats that each political group is entitled to nominate is equal to the number of places each group holds on overview and scrutiny committee or its sub-committees.

### **3. Co-optees**

- 3.1 Overview and scrutiny committee and its sub-committees may appoint a number of people as non-voting co-optees, with the approval of the chair and

vice chair of the overview and scrutiny committee, who may be appointed to serve for the full year or the duration of a specific task or review.

- 3.2 In the event that a co-opted member does not attend a meeting of the committee on which they serve for a period of six consecutive months, without the approval of the council, they shall cease to be a member of the committee.

#### **4. Education representatives**

- 4.1 Overview and scrutiny committee and any sub-committee dealing with education functions shall include in its membership the following voting representatives:

- a) one Church of England diocese representative
- b) one Roman Catholic diocese representative
- c) two duly elected parent governor representatives

- 4.2 Overview and scrutiny committee and any sub-committee dealing with education functions may also contain the following co-opted, non-voting members:

- a) up to three representatives of other faiths or denominations, of which at least two should be from non-Christian faiths
- b) up to two co-opted non-voting representatives of community groups.

- 4.3 If the committee/sub-committee deals with any matters outside education functions, the representatives outlined in 4.1 above shall not vote on these matters, though they may stay in the meeting and, with the discretion of the chair, speak.

- 4.4 Voting education representatives on overview and scrutiny committee may only sign a call-in request when the matter called-in relates to an education function.

- 4.5 In the event that an education representative does not attend a meeting of the committee on which they serve for a period of six consecutive months, without the approval of the council, they shall cease to be a representative on the committee.

#### **5. General terms of reference of all scrutiny committees/sub-committees**

- 5.1 Within their terms of reference, all scrutiny committees/sub-committees will:

- a) produce a one year rolling work programme, which will be approved by the overview and scrutiny committee
- b) review and scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions

- c) review and scrutinise the decisions made by and performance of the cabinet and council officers both in relation to individual decisions and over time in areas covered by its terms of reference
- d) review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas
- e) question members of the cabinet and 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 and about their views on issues and proposals affecting the area
- f) assist council assembly and the cabinet in the development of its budget and policy framework by in-depth analysis of policy issues
- g) make reports and recommendations to the cabinet and or council assembly arising from the outcome of the scrutiny process
- h) consider any matter affecting the area or its inhabitants
- i) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working
- j) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the scrutiny committee and local people about their activities and performance
- k) conduct research and consultation on the analysis of policy issues and possible options
- l) question and gather evidence from any other person (with their consent)
- m) consider and implement mechanisms to encourage and enhance community participation in the scrutiny process and in the development of policy options
- n) conclude inquiries promptly and normally within six months.

5.2 The overview and scrutiny committee, or one of its sub-committees shall be responsible for scrutinising the crime and disorder function.

## **6. Terms of reference of the overview and scrutiny committee**

6.1 The terms of reference of the overview and scrutiny committee will be:

- a) to appoint sub-committees, agreeing the size, composition and terms of reference and to appoint chairs and vice chairs
- b) to agree the committee's annual work programme and to approve the programmes of the sub-committees
- c) to consider requests from the cabinet and/or council assembly and community councils for scrutiny reviews

- d) to exercise the right to call-in for reconsideration of executive decisions made but not yet implemented
- e) to receive and comment on scrutiny reports from the sub-committees
- f) to arrange for relevant functions in respect of health scrutiny to be exercised by an overview and scrutiny committee of another local authority where the council considers that another local authority would be better placed to undertake those relevant functions, and that local authority agrees to exercise those functions
- g) if appropriate, to appoint a joint overview and scrutiny committee with two or more local authorities and arrange for the relevant functions of those authorities to be exercised by the joint committee
- h) to periodically review overview and scrutiny procedures to ensure that the function is operating effectively
- i) to report annually to all councillors on the previous year's scrutiny activity
- j) to determine major funding requests from sub-committees in respect of particular reviews
- k) to scrutinise matters in respect of:
  - the council's policy and budget framework
  - regeneration
  - human resources and the council's role as an employer and corporate practice generally
  - customer access issues, including digital strategy, information technology and communications
  - the council's equalities and diversity programmes.

## **7. Terms of reference of a joint overview and scrutiny committee appointed to consider proposals relating to the health service**

- 7.1 Where the council is required to form a joint overview and scrutiny committee with another authority or authorities to consider a consultation on a proposal for substantial development of or variation to the health service affecting each council's area, it will be for each appointing authority to adopt terms of reference and procedure rules as they consider appropriate.
- 7.2 The joint overview and scrutiny committee may:
- only consider the relevant matter
  - make comments on the proposal
  - require relevant information or require an employee or member of a NHS body or health service provider to attend and answer questions.
- 7.3 When establishing a joint overview and scrutiny committee, the appointing local authorities will determine whether the power of referral to the Secretary of State in relation to a relevant proposal should be made by the Joint Committee or by the local authorities themselves. If the power is retained by

the local authorities it may then be delegated to the overview and scrutiny committee or one of its sub-committees.

- 7.4 The joint overview and scrutiny committee will meet for such a period as is necessary to consider the consultation and make reports and recommendations.

## **8. Matters within the remit of more than one scrutiny sub-committee**

- 8.1 Where a matter for consideration by a scrutiny sub-committee also falls (whether in whole or in part) within the remit of one or more other scrutiny sub-committees, then the sub-committee conducting the review shall either:

- a) invite the chair of the other sub-committee (or his/her nominee) to attend meetings when the matter is being reviewed
- b) invite the other sub-committee to comment on findings prior to submitting its report to overview and scrutiny committee and the cabinet/council assembly.

- 8.2 If necessary, overview and scrutiny committee will determine which sub-committee will assume responsibility for any particular issue and resolve any issues of dispute between sub-committees.

## **9. Policy review and development**

- 9.1 The cabinet is required to make arrangements for consultation in respect of any proposals to the council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework. The role of the overview and scrutiny committee and its sub-committees in relation to consultation is set out in detail in the budget and policy framework procedure rules.

- 9.2 In relation to council policy, the overview and scrutiny committee/sub-committees may make proposals to the cabinet for developments insofar as they relate to matters within their terms of reference.

## **10. Meetings of the overview and scrutiny committee and its sub-committees**

- 10.1 At least one ordinary meeting of the overview and scrutiny committee (or sub-committee) will act as the crime and disorder committee for the year.

- 10.2 Extraordinary meetings may be called by the chair of the committee, by two-thirds of the committee's voting membership or by the proper officer if he or she considers it necessary or appropriate.

- 10.3 The sub-committees shall determine their own arrangements for when meetings are held.

## **11. Prohibition of party whip over voting on overview and scrutiny committee/sub-committees**

- 11.1 The party whip does not apply to meetings of overview and scrutiny committees or sub-committees.

- 11.2 The expression “party whip” is taken to mean "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."

## **12. Work programmes**

- 12.1 The overview and scrutiny committee and each of its sub-committees will develop an annual work programme.
- 12.2 The overview and scrutiny committee will approve and review the individual work programmes of the sub-committees.
- 12.3 Five members of the council may request the overview and scrutiny committee to consider an individual addition or subtraction to the work programme of a sub-committee.

## **13. Agenda items**

### **Reference by committee members**

- 13.1 Any member of the overview and scrutiny committee or a sub-committee shall be entitled to give notice to the scrutiny officer that he/she wishes an item relevant to the functions of the committee/sub-committee of which they are a member to be included on the agenda for the next available meeting. On receipt of such a request the scrutiny officer will ensure that it is included on the next available agenda.

### **Reference by councillors**

- 13.2 Any member of the council may give written notice to the scrutiny officer that he/she wishes an item relevant to the functions of the overview and scrutiny committee or a sub-committee and which is not an “excluded matter”<sup>1</sup> to be included on the agenda of the next available meetings. On receipt of such a request the scrutiny officer will ensure that it is included on the next available agenda of the committee/sub-committee for consideration<sup>2</sup>.

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<sup>1</sup> An “excluded matter” is defined in accordance with section 9FC (5) of the Local Government Act 2000, and set out in the Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012. An excluded matter is:

- a) Any matter relating to a planning or licensing decision
- b) Any matter relating to a person who has a right of recourse to a review of right of appeal conferred by or under any enactment
- c) 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 sub-committee.

A matter does not fall within a description in a) or b) above 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.

<sup>2</sup> If an item for which a councillor has given notice is a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters) and it does not fall within the definition of an excluded matter set out in footnote 1 above, it

## **14. Members and officers giving account**

14.1 Overview and scrutiny committee or a sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. In fulfilling the scrutiny role, a committee may require any member of the cabinet, the head of paid service and/or any senior officer to attend before it to explain, in relation to matters within their remit:

- a) any particular decision or series of decisions
- b) the extent to which the actions taken implement council policy
- c) their performance

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

14.2 In fulfilling the scrutiny role, a committee may require any deputy cabinet member to attend before it to explain, in relation to matters within their remit, their performance and it is the duty of those persons to attend if so required.

14.3 In response to the receipt of a petition (with 500 or more signatures) requesting that an officer be held to account at a meeting of an overview and scrutiny committee or sub-committee, a meeting may require a named officer to report and be questioned on their actions (as set out in the council's petition scheme). It is the duty of those persons to attend if so required.

14.4 Where any member or officer is required to attend a scrutiny committee/sub-committee under this provision, the chair of the committee/sub-committee will inform the scrutiny officer. The scrutiny officer shall inform the member or officer in writing giving at least five clear 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, the specific area of inquiry and whether any papers are required to be produced for the committee/sub-committee.

14.5 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the scrutiny officer in consultation with the committee/sub-committee and the member or officer shall arrange an alternative date for attendance.

## **15. Attendance by others and public attendance**

15.1 A 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. Attendance by these people is optional.

15.2 Where people attend to give evidence as part of an investigation, meetings are to be conducted in accordance with the following principles:

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shall be included on the next available agenda of the committee/sub-committee with responsibility for scrutinising the crime and disorder function.

- a) that the investigation be conducted fairly and all members of the committee/sub-committee be given the opportunity to ask questions of attendees, and to contribute and speak
  - b) that those assisting the meeting by giving evidence be treated with respect and courtesy
  - c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 15.3 Members of the public may attend meetings of scrutiny committees that are open to the public and may request to speak. The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential or exempt information would be disclosed<sup>3</sup>.

## **16. Reports from the overview and scrutiny committee and its sub-committees**

- 16.1 Once it has formed recommendations on proposals for development, the overview and scrutiny committee or a sub-committee will prepare a formal report and submit it to the proper constitutional officer for consideration by the cabinet. The committee/sub-committee will also report to council assembly as appropriate (in respect of the budget setting process, relevant scrutiny reports should be forwarded with cabinet recommendations to council assembly).
- 16.2 If the overview and scrutiny committee or a sub-committee cannot agree on one single final report, then any member of the committee/sub-committee may prepare a minority report to be submitted for consideration by the cabinet or council assembly with the majority report.
- 16.3 The cabinet shall consider and provide a written response to a scrutiny committee's/sub-committee's report within two months.
- 16.4 Management of the flow of reports to the cabinet will be the responsibility of the overview and scrutiny committee. Reports are formally routed via the overview and scrutiny committee so that it can add its own comments.

## **17. Decisions subject to call-in**

- 17.1 The overview and scrutiny committee can "call-in" any executive decision<sup>4</sup> which has been made but not yet implemented by the following:
- a) the cabinet
  - b) an individual member of the cabinet
  - c) a committee of the cabinet
  - d) an executive decision taken by a community council

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<sup>3</sup> See Access to Information Procedure Rules 3 and 10.

<sup>4</sup> An executive decision is considered to be any single recommendation in a report or the whole of the report. The members calling in the decision will specify their intentions in the call-in request.



- e) a key decision made by an officer with delegated authority.

This enables the overview and scrutiny committee to consider whether the decision is appropriate. The committee may recommend that the decision maker reconsider the decision.

### **Decisions not subject to call-in**

17.2 The following categories of executive decision are not subject to call-in:

- a) recommendations on the budget and policy framework
- b) decisions for urgent implementation (Rule 20, Access to Information procedure rules)
- c) urgent decisions outside the budget or policy framework (Rule 4, Budget and Policy Framework procedure rules)
- d) non-key decisions relating to contract standing orders
- e) non-key decisions taken by officers.

## **18. Procedure to call-in a decision**

### **Publishing the decision and call-in period**

18.1 When a decision as defined in overview and scrutiny procedure rule 21.1 is made, the decision shall be published, normally within two clear working days of being made. All members will be sent copies of the records of all such decisions within the same time scale, by the person responsible for publishing the decision.

18.2 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 five clear working days after the publication of the decision, unless the overview and scrutiny committee objects to it and calls it in.

18.3 For reports which contain a number of individual schemes for decision an individual stand-alone proposal may be called-in rather than the whole report. For the avoidance of doubt the proposals not called-in may be implemented.

### **Call-in threshold**

18.4 During that period, the scrutiny officer shall call-in a decision for scrutiny if so requested by three members of the committee, including education representatives for the purpose of education decisions only.

18.5 A member serving on a community council (who is also a member of the overview and scrutiny committee) who participates in taking an executive decision shall not sign a call-in request on the same decision (thus avoiding any conflict of interests).

### **Scope and form of a call-in request**

- 18.6 Requests for call-in should normally only be made if there is evidence that the decision maker did not take the decision in accordance with the principles of decision making as set out in Article 1.3 of the constitution.
- 18.7 A valid request for call-in must contain the requisite number of signatures and give reasons for the call-in. In particular, the request must state whether or not the members believe that the decision is outside the policy or budget framework.

### **19. Procedure following call-in**

#### **Invalid call-in request – next steps**

- 19.1 If the scrutiny officer is of the opinion that a request for a call-in may not be valid, because of a breach of procedure or other reason under this constitution, they shall inform the relevant members (this must always include the chair and vice chair) within one clear working day of receipt of the request. In the event of dispute, the decision of the monitoring officer shall be final.

#### **Valid call-in request – Notice and next steps**

- 19.2 Following call-in of a decision, the scrutiny officer shall notify the decision maker and the relevant chief officer, who shall suspend implementation of the decision. If the request for call-in states that the reason for call-in is that the decision is outside the budget or policy framework, the scrutiny officer shall also notify the monitoring officer and chief finance officer in order for a report to be prepared for the overview and scrutiny committee.

#### **Actions following notice of a valid call-in request**

- 19.3 Within five clear working days of the call-in request, and where possible in consultation with the chair of the overview and scrutiny committee, the scrutiny officer shall:
- a) refer the called-in decision to the next meeting of the overview and scrutiny committee, if that meeting is within ten clear working days of the receipt of the call-in request, or
  - b) call an extraordinary meeting of the overview and scrutiny committee to consider the called-in decision, to take place as soon as possible and in any case within ten clear working days of the call-in request, or
  - c) if appropriate arrange, where a called-in decision cannot reasonably be considered within the timescale in clauses a) or b) above, an extraordinary meeting of the overview and scrutiny committee to consider the matter outside the normal timetable, unless in the view of the monitoring officer and/or the chief finance officer, in consultation with the relevant chief officer, the matter cannot wait and in which case it shall be considered in accordance with the timescale set out above.

#### **Time limit for consideration of the call-in request**

- 19.4 If the overview and scrutiny committee does not meet within the constitutional timescale set out for call-ins, the decision shall take effect on the expiry of 15 clear working days after the decision was published, unless the provisions of 19.3(c) are applied.

## **20. Call-in meeting and action required of decision-makers**

### **Attendance of decision maker or an appropriate substitute**

- 20.1 The decision maker or an appropriate substitute will be invited to attend and speak at the call-in meeting of the overview and scrutiny committee. Inability to attend will not delay consideration of the called-in decision.

### **Call-in meeting**

- 20.2 Following the introductory business (i.e. apologies, confirmation of voting members, minutes, declarations) a call-in of a decision shall be the first substantive item of business to be considered at the meeting. On meeting, the overview and scrutiny committee will consider the call-in request and in particular whether or not the decision might be contrary to the policy framework or not wholly in accordance with the budget. Advice should be sought from appropriate chief officers, the monitoring officer or the chief finance officer. The monitoring officer's report and/or the chief finance officer's report shall be copied to every member of the council.

### **Potential outcomes available to the call-in meeting**

- 20.3 If, having considered the decision and all relevant advice, the overview and scrutiny committee may either:
- a) refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or
  - b) refer the matter to council assembly if the decision is deemed to be outside the policy and budget framework, or
  - c) not refer the matter back to the decision making person or body but decide to undertake a subsequent scrutiny review of a policy or service issue, which shall not affect the implementation of the decision, or
  - d) not refer the matter back to the decision making person or body.

In 20.3 c) and d) above, the decision shall take effect on the date of the scrutiny meeting, upon receipt of notice from the proper constitutional officer. Notice of the decision will be issued to all councillors and published on the council's website.

### **Referral back to the decision making person or body**

- 20.4 If referred to the decision maker, unless the decision maker is a body such as cabinet or a community council, the proper constitutional officer shall give five clear working days notice to all councillors of a forthcoming decision for reconsideration. The decision maker shall then reconsider their decision within

a further 10 clear working days. If referred back to a body, reconsideration will wait until the next scheduled meeting of the body, unless the monitoring officer determines, following consultation with the relevant chief officer and chair of the body (or in his or her absence the vice-chair), that the matter can not wait in which case it will be considered within 15 clear working days. If it is the view of the monitoring officer or the chief finance officer that the decision falls within the policy and budget framework, the decision maker may amend the decision or not, before adopting a final decision. The final decision shall take immediate effect, upon receipt of notice from the proper constitutional officer. Notice of the decision will be issued to all councillors and published on the council's website.

### **Referral to council assembly**

- 20.5 If referred to council assembly, the decision is further suspended pending a meeting of council assembly, which must take place within 20 clear working days of the decision to refer to council, unless the monitoring officer determines, following consultation with the relevant chief officer and the Mayor as chair of council assembly, that the matter can wait until the next scheduled meeting of council assembly or another appropriate time or date.

Within this time, the decision maker must decide what action to take in respect of the monitoring officer's and/or the chief finance officer's advice and to prepare a report to council assembly.

- 20.6 If the council assembly 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, the decision shall take effect on the date of the council assembly meeting, or the expiry of 20 clear working days after the decision was published, whichever is the earlier.
- 20.7 The council assembly will receive details of the decision, the advice of the monitoring officer and/or the chief finance officer, the comments of the overview and scrutiny committee and the report from the decision maker.
- 20.8 Where the council assembly accepts that the decision is within the budgetary and policy framework it may either:
- a) endorse a decision or proposal of the decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the council assembly be minuted and circulated to all councillors in the normal way. The final decision shall take immediate effect, upon receipt of notice from the proper constitutional officer. Notice of the decision will be issued to all councillors and published on the council's website, or
  - b) if it objects to the decision on grounds other than it falling outside the budget or policy framework, refer the decision back to the decision making person or body, together with the council assembly's views on the decision. The decision maker will reconsider the decision within 15 clear working days and choose whether to amend the decision or not before reaching a final decision. The final decision shall take immediate effect, upon receipt of notice from the proper constitutional officer. Notice of the decision will be issued to all councillors and published on the council's website.

20.9 Where the council assembly accepts that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget, it may either:

- a) amend the council's budget or policy framework to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the council assembly be minuted and circulated to all councillors in the normal way. The final decision shall take immediate effect, upon receipt of notice from the proper constitutional officer. Notice of the decision will be issued to all councillors and published on the council's website; or
- b) require the individual decision maker or body to reconsider the matter in accordance with the advice of either the monitoring officer or chief finance officer. If referred to an individual decision maker, the proper constitutional officer shall give five clear working days notice to all councillors of a forthcoming decision for reconsideration. The decision maker shall then choose whether to amend the decision or not before reaching a final decision, within a further 10 clear working days. If referred back to a body, reconsideration will wait until the next scheduled meeting of the body, unless the monitoring officer determines, following consultation with the relevant chief officer and chair of the body (or in his or her absence the vice-chair), that the matter can not wait in which case it will be considered within 15 clear working days. The final decision shall take immediate effect, upon receipt of notice from the proper constitutional officer. Notice of the decision will be issued to all councillors and published on the council's website.