

Proposed constitutional amendments to overview and scrutiny

Note – All additions of new text are shown as underlined and all deletions are shown with a ~~strikethrough~~.

PART 2 – ARTICLES

Article 5 – Overview and scrutiny committee and sub-committees

5.1 The council will appoint an overview and scrutiny committee to discharge the functions conferred by section 21 of the Local Government Act 2000. The overview and scrutiny committee will appoint sub-committees and determine their ~~themes and~~ terms of reference.

5.3 **Specific functions**

Scrutiny

Overview and scrutiny committee and its sub-committees may:

- c) consider referrals ~~on local government matters~~ from members on any of the functions of the committee/sub-committee
- d) question members of the executive and chief officers and relevant partner authorities about their decisions and performance, whether generally in comparison with local area agreements, service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects
- f) give notice of its recommendations to the executive and/or council assembly and publish recommendations
- g) give notice of its recommendations to the relevant partner authority

OVERVIEW AND SCRUTINY PROCEDURE RULES

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

The overview and scrutiny committee will consist of:

- c) the chairs of the five scrutiny sub-committees, provided that the proportionality rules are not compromised and provided that each political

group is permitted to nominate non-executive members should this be necessary to maintain proportionality

Overview and scrutiny committee will appoint the chairs and vice-chairs of the scrutiny sub-committees and remaining members and agree the size and composition of the ~~scrutiny~~ sub-committees, in accordance with the statutory rules relating to proportionality.

4. Education representatives

- 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.

Insert new paragraph 4.5:

- 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. Terms of reference of the overview and scrutiny committee

6. General terms of reference of all scrutiny committees/sub-committees

Change the order of current **paragraph 6** (General terms of reference of all scrutiny committees/sub-committee) so it comes before current **paragraph 5** (Terms of reference of the overview and scrutiny committee).

The paragraph numbers to be changed accordingly. The reason for this change is that current rule 6 applies to all scrutiny committees and it provides general overview of role of scrutiny.

In addition there are two changes to the current paragraph 6 as follows:

6.1

- a) to appoint five sub-committees, including a sub-committee with responsibility for crime and disorder, agreeing the size, composition and terms of reference and to appoint chairs and vice-chairs
- e) to receive and comment on scrutiny reports from the sub-committees that propose policy change or that have resource implications

7. Matters within the remit of more than one scrutiny sub-committee

- 7.1 b) invite the other sub-committee to comment on findings prior to submitting its report to overview and scrutiny committee and to the executive/council assembly

12. Procedure at overview and scrutiny committee/sub-committee meetings

Insert new d) and re-number accordingly:

- 12.1 The overview and scrutiny committee and its sub-committees shall consider the following business (with the exception of c) which only applies to overview and scrutiny committee):

d) consideration of any councillor call for action

15. Agenda items

15.3 Any member of the council may give written notice to the proper officer that they wish to refer a councillor call for action to overview and scrutiny ~~be included in the agenda of a committee/sub-committee~~. If the proper officer receives such a notification then he/she will include the item on the agenda of the first appropriate committee or sub-committee for consideration as to whether it is valid in accordance with the councillor call for action protocol.

19. Reports from the overview and scrutiny committee and its sub-committees

19.4 Management of the flow of reports to the executive will be the responsibility of the overview and scrutiny committee. Reports that ~~propose policy change or that have resource implications (as opposed to comments on performance)~~ are formally routed via the overview and scrutiny committee so that it can add its own comments.

21. Procedure to call-in a decision

21.3 During that period, the proper officer shall call-in a decision for scrutiny if so requested by the chair or vice-chair of the overview and scrutiny committee, plus three members of the committee, including education representatives ~~co-optees~~ for the purpose of education decisions only.

24. Call-in meeting and action required of decision makers

Insert new 24.1 and re-number accordingly:

24.1 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.

COUNCILLOR CALL FOR ACTION PROTOCOL

1. The councillor call for action (CCfA) process provides ward members with a means of escalating matters of ward concern to an overview and scrutiny committee (OSC) or sub-committee, for possible onwards recommendations to the council's executive and/or other agencies. It is very important to note that a CCfA is intended to be a measure of "last resort" and may not be used until all other avenues have been exhausted. The CCfA may not be used in relation to individual planning and licensing decisions or where other avenues of appeal exist.
2. A ward member requesting a call for action will be asked to demonstrate that they have sought to address the issue through all existing means and the call will not be considered unless the overview and scrutiny committee or relevant sub-committee ~~of overview and scrutiny~~ is satisfied that:

- the councillor has made all reasonable efforts to resolve the matter via dialogue with council officers and or relevant partners; and,
 - the issue of concern is matter in respect of which the council has a statutory power or duty to deal with which is not precluded by legislation; and,
 - the issue of concern has a demonstrable impact on a part of or the whole of a councillor's ward.
3. Before a CCfA can be progressed to scrutiny, the member must provide documentation to show that they have taken the following steps:
- made the relevant service request/members' enquiry/letter to relevant other agency
 - raised issue with executive member or senior representative of partner agency
 - raised the issue of concern at Safer Neighbourhood Panel (for relevant crime and disorder matters) or
 - raised the issue of concern at area level.

Procedure for CCfA to be considered at scrutiny

4. The councillor must submit a written signed referral pro forma to the head of overview and scrutiny. It will set out:
- which ward councillor is sponsoring (if more than one councillor supporting)
 - agency responsible for the service(s)
 - background – including details of attempts to resolve matter via other means
 - issues for consideration
 - desired outcomes.
5. All such written requests will first be submitted by the head of overview and scrutiny to the first appropriate overview and scrutiny committee or sub-committee for their consideration in a reasonable timescale. The decision on which is the first appropriate committee or sub-committee is at the discretion of the head of overview and scrutiny.
6. The committee or sub-committee will consider the referral pro forma and supporting documentation. The sponsoring councillor will attend the committee or sub-committee to present the call for action and answer any questions from members.
7. The overview and scrutiny committee or sub-committee may reject any call for action if it:

- is not a matter for which the local authority or its partners has a responsibility, or which affects the borough
 - is defamatory, frivolous or offensive
 - is substantially the same as a CCfA which has been put to any meeting of the council in the past 6 months
 - is a matter relating to a planning decision
 - is a matter relating to a licensing decision
 - is a matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or appeal conferred by or under any enactment.
8. The head of overview and scrutiny will within three working days of overview and scrutiny committee or sub-committee notify the sponsoring councillor that whether or not the CCfA is considered valid. ~~Alternatively~~ If the CCfA is rejected, the overview and scrutiny committee or sub-committee may give advice and or signposts on other appropriate ways forward to help resolve the issue. The lead councillors and relevant executive member will be advised accordingly.
 9. If the CCfA is considered valid it will be referred by the head of overview and scrutiny, in consultation with the chair of the overview and scrutiny committee, to the overview and scrutiny committee or a sub-committee. The detailed arrangements for consideration of the item ~~considered valid~~ will be determined in liaison with the chair and vice-chair of the overview and scrutiny committee or sub-committee, and if appropriate, ~~the scrutiny committee concerned, who will put the CCfA on the agenda of the committee or appropriate sub-committee for consideration.~~
 10. A valid CCfA will be considered at the committee or appropriate sub-committee's next available meeting in public session unless the consideration of the issues involve the disclosure of exempt or confidential information as defined by the access to information procedure rules.
 11. The ward councillor's role in the consideration of the CCfA, as with any formal council business, is subject to compliance with the members' code of conduct.