



# Part 4E

## Overview and Scrutiny Procedure Rules

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## **PART 4E - OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. Overview and Scrutiny arrangements**

- 1.1 The Council will establish and appoint to such Overview and Scrutiny Committees as it considers appropriate to deliver the statutory scrutiny functions of the Council which are shown at Article 6 in Part 2 to this Constitution. Terms of reference for such Committees established, which may be varied from time to time by the Council to ensure the proper conduct of the overview and scrutiny function, are shown at Section 5 of Part 3 to this Constitution.

### **2. Membership of Overview and Scrutiny Committees**

- 2.1 The Council will appoint such non-executive Members of the Council to serve as members of the Overview and Scrutiny Committees as it considers appropriate. The Leader of the Council and other members of the Cabinet are not eligible to serve on an Overview and Scrutiny Committee. Notwithstanding, no Member may be involved in scrutinising a decision in which he/she has been directly involved.
- 2.2 In line with statutory requirements, co-opted Church and parent/governor representatives will be accorded membership of any Overview and Scrutiny Committee, with voting rights, for consideration of educational matters only.
- 2.3 The designated crime and disorder scrutiny committee may, in line with statutory requirements, appoint co-opted members with voting rights.

### **3. Appointment of Chairs and Vice-Chairs of Overview and Scrutiny Committees**

- 3.1 The Council will appoint the Chairs of the Overview and Scrutiny Committees. Should the Council not appoint to the position of Vice Chair of an Overview and Scrutiny Committee, such appointment will be made by the Overview and Scrutiny Committee concerned.

### **4. Work Programming and Annual Report**

- 4.1 Each Overview and Scrutiny Committee shall be responsible for the preparation and maintenance of a Committee Work Programme. As a means of ensuring consistency of approach to the development of Work Programmes, the Chairs and Vice Chairs of the Overview and Scrutiny Committees may determine to agree a 'Scrutiny Prioritisation Framework' to establish a common approach to work programming and business prioritisation.

4.2 The Chairs of the Overview and Scrutiny Committees shall collectively arrange for an Overview and Scrutiny Annual Report to be submitted to the Council for consideration.

## **5. Task and Finish Groups**

5.1 The Overview and Scrutiny Committees may establish and appoint such informal Task and Finish groups as they consider necessary in order to undertake in depth consideration of particular matters. Membership of such groups, which may be drawn from outside the membership of the Committee, will comply with the membership arrangements as shown in Procedure Rule 2 above. Any Task and Finish group so established may invite other people as considered necessary to assist in the completion of their work. Such Task and Finish Groups will report their findings and recommendations, in the first instance, to the establishing Committee.

5.2 Where considered necessary and appropriate in order to deliver the respective Committee Work Programmes, one-off informal workshops and briefings may also be convened, providing that report is made subsequently to the Committee concerned.

## **6. Overview and Scrutiny Committee Meetings**

6.1 The Overview and Scrutiny Committees shall meet on such dates as will be determined by the Council.

6.2 Overview and Scrutiny Committees shall meet in public except where a meeting is to consider confidential or exempt information and where the Committee has resolved to exclude the public in accordance with Access to Information Procedure Rules at Part 4B of this Constitution.

6.3 At a meeting of an Overview and Scrutiny Committee the following business shall be conducted:-

- a) declarations of interest, if any;
- b) notice of urgent business;
- c) consideration of the minutes of the last meeting;
- d) public question time;
- e) consideration of any call-in;
- f) responses of the Council or of the Cabinet to any report of the Overview and Scrutiny Committee;
- g) the business set out in the agenda for the meeting which shall reflect the terms of reference of the Committee and the agreed Work Programme;
- h) the Committee Work programme;
- i) matters set out in the agenda for the meeting for consideration as private business.

- 6.4 Any special meeting of an Overview and Scrutiny Committee shall consider the following business
- a) declarations of interest, if any;
  - b) notice of urgent business;
  - c) the business set out in the agenda for the meeting which shall reflect the terms of reference of the Committee and the agreed Work Programme;
  - d) matters set out in the agenda for the meeting for consideration as private business.
- 6.5 Notwithstanding Procedure Rule 6.3 above, any non-executive Member or any five Members of the Council shall be entitled to give sufficient notice to the Chair of an Overview and Scrutiny Committee that he/she/they wish an item relevant to the functions of that Committee to be included on the agenda for the next programmed meeting of the Committee. The Chair will ensure that the item is included on the agenda for the next programmed meeting, after assessment of the item against the Scrutiny Prioritisation Framework.
- 6.6 Notwithstanding Rule 6.3 above, within their respective terms of reference the Overview and Scrutiny Committees must consider any request for scrutiny made by a Councillor who has been unable to resolve an issue of concern, and in considering the request, the relevant Committee should not consider
- a) any matter relating to a planning decision;
  - b) any matter relating to a licensing decision;
  - c) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
  - d) 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,
- having regard to the Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012 (and any successor legislation) for definition of the above matters and the Scrutiny Prioritisation Framework. Should an Overview and Scrutiny Committee decide not to undertake scrutiny of a matter so raised, the Committee shall ensure that the reason is minuted and that the referring Councillor is informed.

## **7. Holding enquiries and calling witnesses**

- 7.1 An Overview and Scrutiny Committee or a Task and Finish Group so authorised by the establishing Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may ask witnesses, such as those suggested by Procedure Rule 13, to attend to address them on any matter under consideration. 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.

- 7.2 Where an Overview and Scrutiny body has asked people to attend to give evidence at a meeting, the meeting will be conducted in accordance with the following principles:
- the investigation be conducted fairly and all members of the body be given the opportunity to ask questions of attendees, and to contribute and speak;
  - those assisting the work of the body by giving evidence be treated with respect and courtesy;
  - the investigation will be conducted so as to maximise the efficiency of the investigation or analysis; and
  - any the rules of confidentiality be maintained as and where necessary.

## **8. Reports from Overview and Scrutiny Committees**

- 8.1 Once an Overview and Scrutiny Committee has formed recommendations on proposals for development, it will prepare a formal report and submit it to the Chief Executive for consideration by the Cabinet and/or such other body the Committee considers appropriate.
- 8.2 If the Overview and Scrutiny Committee cannot agree on one single final report, a minority report may, on application by three elected Members of the Committee, also be prepared and submitted for consideration by the Cabinet and/or other body with the majority report. However, the minority report must be submitted together with the majority recommendation or report to prevent delay and to ensure the receiving body/bodies can make an informed decision.
- 8.3 Should an Overview and Scrutiny Committee report propose a variation to the Council's approved Budget and Policy Framework it shall be submitted to the Council with an accompanying recommendation of the Cabinet as to whether or not the Council should adopt the Committee's proposal.
- 8.4 The Cabinet and/or other body shall consider the report of the Overview and Scrutiny Committee within six weeks of it being submitted to the Chief Executive, where practical.

## **9. Ensuring overview and scrutiny reports are considered by the Cabinet**

- 9.1 The agenda for Cabinet meetings shall include an item inviting consideration of reports from Overview and Scrutiny Committees (if any) as required by Executive Procedure Rule 7.5(e) at Part 4D of the Council Constitution, unless the matter referred has been considered in the context of a substantive item on the Cabinet agenda.
- 9.2 In the event that any recommendation of an Overview and Scrutiny Committee made to the Cabinet is not approved or is amended, the relevant Cabinet Member will be required to attend the next available meeting of the relevant

Committee to explain the reasons for the Cabinet's decision and answer any questions.

## **10. Key Decision Document**

- 10.1 Overview and Scrutiny Committees will have access to the Key Decision Document prepared in accordance with Access to Information Procedure Rules and which includes the Executive's timetable for decisions and intentions for consultation. Where an item on the Key Decision Document has implications for policy/service development but has not been considered through the overview and scrutiny function the relevant Overview and Scrutiny Committee will have full opportunity to be able to submit any comments to the relevant Cabinet Member and/or Chief Officer during the course of the consultation process.

## **11. Rights of Overview and Scrutiny Members to documents**

- 11.1 In addition to their rights as Councillors, elected Members involved in overview and scrutiny functions have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules. Further, more detailed liaison between the Cabinet and Overview and Scrutiny bodies may take place as appropriate depending on the particular matter under consideration.

## **12. Attendance by Members and officers to give account**

- 12.1 All Overview and Scrutiny Committees, and any Task and Finish group or other body so delegated by an Overview and Scrutiny Committee, may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, the Committee or other body may require any member of the Cabinet, the Head of Paid Service and/or any Chief Officer or their nominated Officer(s) to attend before it to explain in relation to matters within their remit:
- a) any particular decision or series of decisions; and/or
  - b) the extent to which the actions taken implement Council policy; and/or
  - c) their performance,
- and it is the duty of those persons to attend if so required. However, in the case of a Chief Officer, he/she may decide to send his/her substitute and will determine who that Officer will be.
- 12.2 Should any Member or Officer be required to attend a meeting of any overview and scrutiny body, the Chair of that body will inform the Chief Executive. The Chief Executive or their nominated Officer shall inform the Member or Officer in writing, giving at least five 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.

- 12.3 If the account to be given to the overview and scrutiny body requires the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 12.4 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview and Scrutiny body shall, in consultation with the Member or Officer, arrange an alternative date for attendance to take place within a maximum of a further 10 working days from the date of the original request, where practical.
- 12.5 All Members and Officers must have regard to the Protocol for Member/Officer Working Arrangements contained at Part 5 of this Constitution.

### **13. Attendance by others**

- 13.1 An Overview and Scrutiny body may invite people other than those Members and Officers referred to in Procedure Rule 12 above to address it, discuss issues of local concern and/or answer questions. Such people may be, for example, representatives from partner organisations, other stakeholders or members of the public. Attendance by those persons is entirely optional, except where attendance is required by law.

### **14. Call-in requests**

- 14.1 Any matter decided by the Cabinet or by a Cabinet Board or Committee, or any key decision made by an individual Cabinet Member or an Officer under delegated authority, may be called in immediately after the decision has been made or by not later than five working days after the publication of the Minutes of the relevant meeting which decided the matter or the date the delegated decision was published.
- 14.2 Any two Members of the Council may apply, in writing, to the Chief Executive on the appropriate form for the matter to be called-in. Any matter called-in must be considered at the next meeting of the appropriate Overview and Scrutiny Committee. On consideration of the called-in decision, the Committee may either
- dismiss the call-in thereby allowing the decision to proceed and be implemented; or
  - concur, wholly or in part, with the call-in and refer the decision back to the decision taker for further consideration; or
  - in the event that the Committee considers the decision falls outside the Council's Budget and Policy Framework, the Committee shall refer the matter to the Chief Executive who shall determine whether the issue should be considered by full Council.



- 14.3 Once the above procedure has been used and, in the event of a decision being taken in respect of a matter referred back to the decision maker, that decision cannot be reconsidered further through the call-in procedure.
- 14.4 Once a call-in application is made, it cannot be withdrawn after the expiry of the call-in period, namely after five clear working days following the publication of the delegated decision of the relevant officer, the publication of the Minutes or record of the Cabinet or other executive decision taker which decided the matter. A signature to a call-in application can, however, be withdrawn before the five days but will only take effect if it is withdrawn in writing to the Chief Executive. If a signature is withdrawn, the proposer will be advised of this and he/she will need to obtain an alternative signature and notify the Chief Executive within the five day period. If no signature is submitted within the five day period, then the call-in application will not be a valid application and, as such, will be withdrawn.

## **15. Exemption from call-in**

- 15.1 Notwithstanding the provisions of Access to Information Procedure Rule 14 (Cases of Special Urgency), the Chair of the relevant Overview and Scrutiny Committee shall be advised of any decision pertinent to the terms of reference of that Committee that is taken by the Cabinet or a Cabinet Committee, Sub-Committee or Board, or by any body or person taking a key decision, to exempt that decision from call-in on the grounds of urgency and of the reasons for that urgency. This will allow the Chair to consider whether the relevant Committee should subsequently consider either the decision, or the circumstances as to the urgency, or both.

## **16. Declarations of Interests and 'The Party Whip'**

- 16.1 Members of Overview and Scrutiny bodies must have regard to the Members' Code of Conduct and the regulations relating to the declarations of interests. The Code and further details can be found in Part 5 of this Constitution.
- 16.2 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 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.
- 16.3 The Party Whip shall not apply from any of the political groups on their respective members on the Overview and Scrutiny Committees while taking part in overview and scrutiny business.

**17. Matters within the remit of more than one Overview and Scrutiny Committee**

- 17.1 If a matter appears to fall within the remit of more than one Overview and Scrutiny Committee, or there is disagreement as to the appropriate Committee to consider a matter, the Statutory Scrutiny Officer, in consultation with the respective Overview and Scrutiny Committee Chairs, will determine the appropriate body to consider the matter.

**18. Member Development and Overview and Scrutiny**

- 18.1 The Statutory Scrutiny Officer shall provide a brief outline of the Council's overview and scrutiny arrangements for all newly elected Members as part of their induction process. Training, support and information appropriate to the needs of Members, having regard to their responsibility to deliver effective overview and scrutiny, will be provided throughout the year.