

# Overview and Scrutiny Procedure Rules

## 1. What will be the number and arrangements for Overview and Scrutiny Committees?

The Council will have the Overview and Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such Committees may appoint sub-committees and/or task groups. Overview and scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

The broad approach to overview and scrutiny is:

- ◆ To have thematically based Overview and Scrutiny Committees.
- ◆ Chairs and Vice-Chairs of those Committees may meet informally, but have no formal role or functions, other than when acting as the Scrutiny Board.
- ◆ Cross cutting issues to be looked at by task groups, established jointly by two or more Overview and Scrutiny Committees.
- ◆ One task group would be established for each cross cutting issue which is to be looked at. The task group would be time limited; its function would be to examine the issue, and then report back to the Overview and Scrutiny Committees which established it. The task groups would not themselves be Overview and Scrutiny Committees.
- ◆ To fulfil statutory requirements in relation to specific overview and scrutiny functions.

## 2. Who may sit on Overview and Scrutiny Committees?

All Councillors except Members of the Executive may be Members of an Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision which they have been directly involved. Should a Member be present at a meeting of an Overview and Scrutiny Committee which is considering a decision made or action taken by another committee or sub-committee of which they are also a Member and at which they were present when the decision in question was taken, that Member must regard themselves as having an interest in the matter, must disclose that interest, and (subject to any dispensation granted by the Standards and Governance Committee or Monitoring Officer and/or right to speak under the Members' Code of Conduct) must withdraw from the meeting. The Assistant Chief Executive Legal and Democratic Services shall record any such disclosure in a book to be kept for the purpose.

## 3. Co-optees

Each Overview and Scrutiny Committee or sub-committee or task group shall be entitled to recommend to its parent body the appointment of non-voting co-optees.

#### **4. Education and Crime and Disorder representatives**

4.1 The Children and Families Overview and Scrutiny Committee (and any sub-committee dealing with education matters) shall include in its membership the following voting representatives:

- (a) one Church of England diocese representative;
- (b) one Roman Catholic diocese representative;
- (c) two parent governor representatives; and
- (d) one representative of non-conformist churches.

Voting rights of the above representatives are limited to education matters.

4.2 Where a task group is examining an issue which includes education matters, the task group will seek the views of the Children and Families Overview and Scrutiny Committee in relation to such education matters.

4.3 The Corporate and Partnerships Overview and Scrutiny Committee (and any sub-committee dealing with Crime and Disorder matters) may include in its membership co-opted representatives, who may be voting representatives if the Committee so determines, but shall not be Members of the Executive.

#### **5. Meetings of Overview and Scrutiny Committees**

There shall be at least four ordinary meetings of each Overview and Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chair of the relevant Overview and Scrutiny Committee, by any three Members of the Committee or by the Proper Officer if they consider it necessary or appropriate.

#### **6. Quorum**

The quorum for an Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

#### **7. Who chairs Overview and Scrutiny Committee Meetings?**

Chairs of Overview and Scrutiny Committees/sub-committees will be drawn from among the Councillors sitting on the Committee/sub-committee. A Councillor who is not a Member of the main political group will chair one Overview and Scrutiny Committee, and each may nominate a spokesperson for the Committees they do not chair. Chairs and Vice-Chairs of Overview and Scrutiny Committees (including the Scrutiny of Health Committee) will be appointed by the Council.

#### **8. Work programme**

The Overview and Scrutiny Committees/sub-committees will be responsible for setting their own work programme.

## **9. Agenda items**

9.1 Any Member of the Council shall be entitled to give notice to the Head of Democratic Services and Scrutiny that they wish an item relevant to the functions of any Overview and Scrutiny Committee or sub-committee to be included on the agenda for the next available meeting of that Committee or sub-committee for consideration for inclusion into the Committee's work programme. On receipt of such a request the Head of Democratic Services and Scrutiny will ensure that it is included on the next available agenda.

### **9.1.1 Councillor Call for Action**

9.1.1.1 Any Member of an Overview and Scrutiny Committee or sub-committee may refer to the Committee/sub-committee for inclusion in an agenda and discussion at a meeting, any matter which is relevant to that Committee/sub-committee's functions.

9.1.1.2 Any Member of the Council may refer to an Overview and Scrutiny Committee of which they are not a member, for inclusion in an agenda and discussion at a meeting, any local government matter which is relevant to the functions of the Committee.

9.1.1.3 A "local government matter" is one which relates to the discharge of any function of the authority, affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area, and is not an "excluded matter".

9.1.1.4 Excluded matters are:

- (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 has a right of recourse to a review or right of appeal conferred by or under any enactment (other than the right to complain to the Local Government Ombudsman);

NB: a matter does not fall within (a)-(c) above (and is therefore not excluded) if it consists of an allegation that a function has not been discharged or the discharge has failed or is failing on a systemic basis.

- (d) any matter which is considered to be vexatious, discriminatory or not reasonable to be included in the agenda for, or discussions at, the meeting of the Overview and Scrutiny Committee/sub-committee;
- (e) a local crime and disorder matter for the purposes of Section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters).

9.1.1.5 Councillor Call for Action gives all Members the opportunity to refer an issue to an Overview and Scrutiny Committee where local problems have arisen and where other methods of resolution have been exhausted.

9.1.1.6 In considering whether to make such a referral, Members must have regard to any Guidance issued by the Secretary of State and any Council Protocol concerning the Councillor Call for Action process.

9.1.1.7 In considering whether or not to exercise any of its powers (see Article 6 of this Constitution) in relation to the matter, the Overview and Scrutiny Committee may have regard to:

- (a) any powers which the Member may exercise in relation to the matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors), and
- (b) any representations made by the Member as to why it would be appropriate for the Committee to exercise any of its powers in relation to the matter.

9.1.1.8 If the Committee decides not to exercise any of those powers in relation to the matter, it must notify the Member of its decision and the reasons for it.

9.1.1.9 The Committee must provide the Member with a copy of any report or recommendations which it makes to the Council or the Executive in relation to the matter.

9.2 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Executive and Council. The Council and/or the Executive shall consider the report of the Overview and Scrutiny Committee within one month of receiving it.

9.3 Where the Chief Finance Officer has produced a report under Article 12.04(a), or the Monitoring Officer has produced a report under Article 12.03(b), and such report relates to action taken or omitted to be taken by the Executive, the relevant Overview and Scrutiny Committee(s) should consider whether it would be appropriate to hold a short inquiry into the matter which is the subject of that report prior to the Executive's consideration of it.

## **10. Policy review and development**

- (a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, Overview and Scrutiny Committees or sub-committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) 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. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **11. Reports from Overview and Scrutiny Committee**

- 11.1 In relation to any matter within its terms of reference, an Overview and Scrutiny Committee may prepare a formal report and submit it to the Assistant Chief Executive Legal and Democratic Services for consideration by the Executive (if the proposals are consistent with the existing budgetary and Policy Framework), or to the Executive and the Council (if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- 11.2 Where any such formal report is prepared by an Overview and Scrutiny Committee, any three or more Members of that Committee who disagree with the formal report or any part of it may prepare a minority report and submit it to the Assistant Chief Executive Legal and Democratic Services. Such minority reports shall be considered by the Executive/the Council at the same time as the Committee's formal report, unless they are not received by the Assistant Chief Executive Legal and Democratic Services in time to permit this.
- 11.3 Where any formal or minority report falls to be considered by the Executive and by the Council, it shall be considered first by the Executive. The report(s), and the Executive's comments on them, shall then be referred to the next available Council.

## **12. Making sure that Overview and Scrutiny reports are considered by the Executive**

- (a) The reports of Overview and Scrutiny Committees referred to the Executive shall be included immediately after feedback from Area Committees on the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within one month of the Overview and Scrutiny Committee completing its report/recommendations. The reports (and the Executive's comments on them) shall then be referred to the next available Council by the relevant Overview and Scrutiny Committee(s).
- (b) Where an Overview and Scrutiny Committee or sub-committee prepares a report for consideration by the Executive in relation to a matter in respect of which an Executive Member has delegated decision making power then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Overview and Scrutiny Committee shall give a copy to the Assistant Chief Executive Legal and Democratic Services and the Leader. If the Member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then they must refer the matter to the next available meeting of the Executive for debate before exercising their decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Executive Member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within one month of receiving the report. A copy of their written response to it shall be sent to the Assistant Chief Executive Legal and Democratic Services and they will attend a future meeting of the Overview and Scrutiny Committee to respond.

### **13. Rights of Overview and Scrutiny Committee Members to Documents**

- (a) In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

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

- (a) Any Overview and Scrutiny Committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Executive, the Head of Paid Service and/or any senior Officer to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance;and it is the duty of those persons to attend if so required.
- (b) Where any Member or Officer is required to attend an Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Assistant Chief Executive Legal and Democratic Services. The Assistant Chief Executive Legal and Democratic Services shall inform the Member or Officer in writing giving at least five working days' 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 for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.
- (d) Any power of an Overview and Scrutiny Committee to require or request the attendance of any person, or the production of any document, may be exercised by the Chair of that Committee.

### **15. Attendance by others**

An Overview and 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 may invite such people to attend.

Attendance is of course entirely optional.

## 16. Call-in

Note: Powers of call-in apply only to functions which are the responsibility of the Executive.

- (a) When a decision is made by the Executive, an individual Member of the Executive or a committee of the Executive, or an executive decision is made by an Area Committee or under joint arrangements or a key decision is made by an Officer, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. Chairs and Vice-Chairs of all Overview and Scrutiny Committees will be sent copies of the records of all such decisions as relate to the terms of reference of their Committee within the same timescale, by the person responsible for publishing the decision.
- (b) 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 working days after the publication of the decision, unless any six Members of the Council object to it and call it in by notice in writing to the Assistant Chief Executive Legal and Democratic Services, setting out their reasons for calling in the Executive decision for consideration. (*Note: this means five clear days, i.e. five working days not including the day the notice of the decision is given.*)
- (c) Upon receipt of such a notice, the Assistant Chief Executive Legal and Democratic Services shall notify the decision-taker and the Head of Democratic Services and Scrutiny and all Members of the Council, by email, of the call-in. The Assistant Chief Executive Legal and Democratic Services shall call a meeting of the Committee on such date as they may determine, where possible after consultation with the Chair of the Committee, and in any case within 10 working days of the decision to call-in, or such later date as the Leader may agree to, subject to it being practicable for any reference back under paragraph (d) to be included, for reconsideration, on the agenda for the second meeting of the Executive, in the Council Diary of meetings, following receipt of the call-in request.
- (d) If, having considered the decision, the Overview and Scrutiny Committee wishes to do so, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or refer the matter to full Council. If referred to the decision maker they shall then consider the matter, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the Overview and Scrutiny Committee does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting.
- (f) Where the matter has been referred to full Council, but the Executive decides that the matter must be determined prior to the next Council meeting, they

may proceed to determine the matter, and shall report the matter to the next Council meeting.

- (g) Subject to (f) above, if the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, (note: it has no locus to make decisions in respect of an executive decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget) the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- (h) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public interest. The Chair of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair's consent shall be required. In the absence of both, the Head of Paid Service or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (i) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **17. Key Decisions**

- (a) Where an executive decision has been made and:
  - ♦ it was not treated as being a key decision (as defined in Article 13) and
  - ♦ a relevant Overview and Scrutiny Committee are of the opinion that the decision should have been treated as a key decision

that Overview and Scrutiny Committee may require the Executive to submit a report to the Council within such reasonable period as the Committee may specify.

- (b) Any such report shall include details of:
  - ♦ the decision and the reasons for it;
  - ♦ who made the decision; and
  - ♦ if the Executive believe it was not a key decision, their reasons.

## **18. The party whip**

In meetings of Overview and Scrutiny Committees, there will be no whipping on voting. (Note: The meaning of "whipping" is defined in Article 8).



## **19. Procedure at Overview and Scrutiny Committee Meetings**

- (a) Overview and Scrutiny Committees and sub-committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
  - (iv) responses of the Executive to reports of the Overview and Scrutiny Committee; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all Members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee/sub-committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

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

Where a matter for consideration under overview and scrutiny falls within the remit of two or more Overview and Scrutiny Committees:

- (a) the Committees may decide to appoint a joint sub-committee in accordance with Article 6.06(c); but, if they do not
- (b) the decision as to which Overview and Scrutiny Committee will consider the matter will be resolved by the Scrutiny Board (or in the case of call-in, because of time constraints, by agreement between the Chairs of the Committees concerned. In the absence of such agreement, the matter shall be determined by the Chair of the Council. The Committee Chairs may agree, or the Chair of the Council may recommend, that the Overview and Scrutiny Committee which is to consider the matter should invite the Chair and spokespersons of any other relevant Overview and Scrutiny Committees to attend its meetings when the matter is under consideration.)

## 21. Scrutiny of Crime and Disorder Matters

- (a) The Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee) may make a report or recommendations to the Council with respect to any local crime and disorder matter in relation to a Member of the Council. A local crime and disorder matter in relation to a Member means any matter concerning:
- ♦ crime and disorder (including, in particular, forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment);
  - ♦ the misuse of drugs, alcohol or other substances which affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area).
- (b) Any Member of the Council may give notice to the Head of Democratic Services and Scrutiny that they wish an item which they consider to be a crime and disorder matter to be included on the agenda for discussion at the next meeting of the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee).
- (c) On receipt of the request, the Head of Democratic Services and Scrutiny will ensure that the item is included on the next available agenda for consideration by the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee), and the following shall apply:
- (i) The subject matter considered will be the subject of a report from the relevant Corporate Director, with such supporting information and evidence as is reasonably available. If the matter also or exclusively entails consideration of information held by another public body or partner, an appropriate representative shall be invited to the Committee meeting to provide that information, make representations and answer questions;
  - (ii) The matter will be considered by the Committee in public session unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Access to Information Procedure Rules;
  - (iii) The Member who referred the matter under sub-paragraph (b) above may address the Committee in respect of the matter for up to 10 minutes;
  - (iv) The Committee may also consider representatives from any residents of the electoral division affected by the matter, subject to the discretion of the Chair of the Committee;
  - (v) If the matter concerns issues that fall within the remit of the Executive, the relevant Executive Member shall also attend the Committee to answer questions and make any representations.

- (d) If the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee) decides not to make a report or recommendation to the Council in relation to the crime and disorder matter, it must notify the Member who referred the matter of its decision and the reasons for it.
- (e) Where the Committee makes a report or recommendations to the Council it must:
- (i) provide a copy of the report or recommendations to the Member who referred the matter to the Committee; and
  - (ii) provide a copy of the report or recommendations to such of:
    - ♦ the responsible authorities (within the meaning of Section 5 Crime and Disorder Act 1998); and
    - ♦ the co-operating persons and bodies (i.e. those persons and bodies with which the responsible authorities have a duty to co-operate under Section 5(2) Crime and Disorder Act 1998);as it thinks appropriate.
- (f) Where the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee) makes a report or recommendations to the Council or provides a copy of a report or recommendations under sub-paragraph (e)(ii) above, the Committee must notify the Council, body or person to whom it makes or provides a copy of the report or recommendations that the Council, body or person must:
- (i) consider the report or recommendations;
  - (ii) respond to the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee) indicating what (if any) action it proposes to take;
  - (iii) have regard to the report or recommendations in exercising its functions.
- (g) For the purpose of carrying out its functions under the Crime and Disorder (Overview and Scrutiny) Regulations 2009, the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee) will meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of the crime and disorder functions, no less than once in every 12 month period.
- (h) Where the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee) makes a report or recommendations to a responsible authority or to a co-operating person or

body in accordance with section 19(8)(b) of the Police and Justice Act 2006, the Committee shall review the responses received and monitor the action (if any) taken by the relevant authority, person or body in accordance with its powers under section 19(1) of the 2006 Act.