

## **SECTION 4 SCRUTINY PROCEDURE RULES**

### **1. INTRODUCTION**

#### **1.1 Purpose of Scrutiny**

The purpose of scrutiny is to enable continuous improvement in Council services, practices and procedures and to ensure that the Committees which make the decisions are accountable for them.

### **2. OVERVIEW AND SCRUTINY COMMITTEE**

The Council will set up one Overview and Scrutiny Committee as described in Article 6 of this Constitution.

### **3. TERMS OF REFERENCE**

The Overview and Scrutiny Committee shall have the responsibilities and functions set out in Part 3 of this Constitution.

### **4. MEMBERSHIP**

#### **4.1 Number**

The Overview and Scrutiny Committee will consist of 15 Councillors.

#### **4.2 Eligibility**

Members of the Executive Committee will not be Members of the Overview and Scrutiny Committee and will not act as substitutes for Overview and Scrutiny Committee Members

Members of the Overview and Scrutiny Committee will not be Members of the Executive Committee.

No Member shall scrutinise a decision in which he/she has been directly involved.

#### **4.3 Co-optees**

The Overview and Scrutiny Committee shall be entitled to co-opt up to a maximum of five named people for the appointment as non-voting co-optees. Any appointments shall be for a specific task and be for a limited duration.

### **5. MEETINGS**

#### **5.1 Number of meetings**

Ordinary Meetings of the Overview and Scrutiny Committee shall take place in line with the Council's approved Schedule of Meetings.

## **5.2 Special meetings**

Special Meetings may be called from time to time as and when appropriate. A Special Committee meeting may be called by the Chair of the Overview and Scrutiny Committee, by any three Members of the Committee or by the Executive Director: Resources and S151 if he/she considers it necessary or appropriate.

## **6. QUORUM**

The quorum for the Overview and Scrutiny Committee is five Members.

## **7. CHAIR AND VICE-CHAIR**

The Chair and Vice-Chair of the Overview and Scrutiny Committee will be appointed in accordance with Council Procedure Rule 30 and the Committee may appoint such persons, as it considers appropriate as Chair and Vice-Chair.

## **8. AGENDA ITEMS**

### **8.1 Members of the Council**

Any Member of the Council shall be entitled to give written notice to the Executive Director: Resources and S151 that he/she wishes an item relevant to the functions of the Committee to be included on the Agenda for the next available meeting of the Committee if it is received not later than 10 working days prior to that meeting. The written notice shall identify the subject matter and the reasons for the request. On receipt of such a request the Executive Director: Resources and S151 will ensure that it is included on the next available Agenda.

### **8.2 Implementation of decision not to be affected**

The right given by Scrutiny Procedure Rule 8.1 is not the same as the calling-in of a decision under Scrutiny Procedure Rule 14 and the implementation of any decision referred to in the item placed on the Agenda is not suspended.

### **8.3 Requests for reviews from the Council and Executive Committee**

The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council, and from the Executive Committee, to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Executive Committee and/or the Council. The Council and/or the Executive Committee shall normally consider the report of the Overview and Scrutiny Committee within two months of receiving it.

## **9. PROCEDURES**

- (a) An Overview and Scrutiny Committee 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 the calling in of a decision;
  - (iv) responses of the Council, and/or the Executive Committee to reports of the Overview and Scrutiny Committee;
  - (v) the business otherwise set out on the Agenda for the meeting; and
  - (vi) reports from representatives on Outside Bodies appointed by the Committee.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also 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; and
  - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy.
- (c) Following any investigation or review, the Overview and Scrutiny Committee shall prepare a report, for submission to the Executive Committee and/or Council as appropriate and shall make its report and findings public.

## **10. WORK PROGRAMME**

The Overview and Scrutiny Committee must report annually to the Council on its work and provide details of future work programmes.

## **11. POLICY DEVELOPMENT AND REVIEW**

- 11.1** The role of the Overview and Scrutiny Committee on the development and review of policy includes: in depth analysis of policy issues; research within the community to consider possible options; enhancement of community participation; and liaison with Councillors, Officers and external organisations operating in the area.
- 11.2** Overview and Scrutiny Committee may make proposals to the Executive Committee for policy development as far as they relate to matters within their Terms of Reference.

**11.3** The Overview and Scrutiny Committee may hold inquiries 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 go on site visits, conduct public inquiries, 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 advisors, assessors and witnesses, a reasonable fee and expenses for doing so.

## **12. MEMBERS AND OFFICERS GIVING ACCOUNT**

### **12.1 Requirement to attend**

The Overview and Scrutiny Committee may scrutinise and review decisions (other than quasi-judicial decisions) made or actions taken in connection with the discharge of any of the Council's functions subject to Council approval if required. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Executive Committee, Lead Members, the Chair or Vice-Chair of any Committee, Chief Executive, Executive Directors, Directors or Associate Directors to attend before the Committee to explain in relation to matters within their remit:

- (a) particular decisions or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance.

**(NOTE: Save in exceptional circumstances, and in agreement with the Chief Executive, no Officer below Executive Director, Director or Associate Director or other Senior Officer reporting directly to a Chief Officer shall be required to appear before the Overview and Scrutiny Committee).**

### **12.2 Notice to attend**

Where any Councillor or Officer is required to appear before the Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Chief Executive. The Chief Executive shall inform the Councillor 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 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 Councillor or Officer concerned will be given sufficient notice to allow for preparation of that documentation and for compliance with the Access to Information Procedure Rules.

### **12.3 Alternative date**

Where, in exceptional circumstances, the Councillor or Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the Councillor or Officer, arrange an alternative date for attendance to take place within a maximum of 20 working days from the date of the original request.

### **12.4 Obligation to comply**

- (a) It is the duty of those persons mentioned in Scrutiny Procedure Rule 12.1 to attend if so required.
- (b) Any Councillor or Officer who is required to attend will not however be obliged to answer any question which he or she would be entitled to refuse to answer in a court of law.
- (c) Without prejudice to paragraph (b) above, questions to an Officer appearing to give evidence to the Overview and Scrutiny Committee shall, as far as possible, be confined to questions of fact and explanation relating to policies and decisions rather than seeking views on alternative policies especially where this is politically contentious. Any comment by Officers on the Council's policies and decision-makers' actions should always be consistent with the requirement for Officers to be politically impartial.
- (d) Subject to paragraph (c) above, Officers may explain what the relevant policies are; the justification and objectives of those policies as decision makers see them; the extent to which those objectives may have been met; and how administrative factors may have affected both the choice of policy measures and the manner of their implementation as well as explaining and justifying the advice given to Members prior to decisions being taken.

## **13. ATTENDANCE BY OTHERS**

The Overview and Scrutiny Committee may invite people other than those people referred to in Scrutiny Procedure Rule 12.1 above to address it, to 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.

The Council has adopted a protocol in respect of attendance at Overview and Scrutiny Committee meetings by Officers from other local authorities. A copy of the protocol is contained in Part 5 of this Constitution.

## **14. CALL-IN**

### **14.1 Circumstances in which call-in is to apply**

Call-in should only be used in exceptional circumstances. These are when either there is evidence which suggests that the Executive Committee did not take decisions in accordance with the principles set out in Article 12 (Decision Making) or the Executive Committee took a decision outside of its Terms of Reference.

## **14.2 Exclusion of certain decisions**

Call-in will not apply to:

- (a) quasi-judicial decisions e.g. development control and licensing; or
- (b) decisions that have been implemented;
- (c) decisions to which Scrutiny Procedure Rule 15 applies;
- (d) recommendations to Council; or
- (e) decisions that have been made by the Council.

## **14.3 Limitation on exercise**

In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are that:

- (a) where decisions involve expenditure or reductions in service, only those over a value of £15,000; and
- (b) either:
  - (i) three Members of the Overview and Scrutiny Committee; or
  - (ii) seven Members of the Council who were not involved in the decision on the matter “called in”

are needed for a decision to be called in.

## **14.4 Procedure**

The call-in procedure is as follows:

- (a) When a decision is made by the Executive Committee, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within three working days of the decision being made. Members of the Council will be sent copies of the records of all such decisions within the same timescale, by the Executive Director: Resources and S151.
- (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 the call-in procedure is invoked.
- (c) If, during the period mentioned in Paragraph (b) above, the Executive Director: Resources and S151 receives a request in writing in accordance with appendices 1-3 to this Procedure Rule 14.3(b) to call-in a decision he/she shall:
  - (i) call-in the decision for scrutiny by the Overview and Scrutiny Committee;

- (ii) notify Members of the Executive Committee of the call-in; and
  - (iii) arrange for the decision to be considered by the Overview and Scrutiny Committee as soon as is practicable.
- (d) If, having considered the decision, the Overview and Scrutiny Committee is concerned about it, then it may refer it back to the next meeting of the decision-making Committee for reconsideration, setting out in writing the nature of its concerns or refer the matter to the next meeting of the Council.
- (e) If, following an objection to the decision, the Overview and Scrutiny Committee does not meet on the date specified in 14.4(c)(iii) above, or does meet but does not refer the matter back to the decision-making Committee or to the Council, the decision shall take effect on the date of the meeting.
- (f) If the matter is referred to the Council, and the Council does not object to a decision that has been made, then no further action is necessary, and the decision will be effective in accordance with the provisions below. However, if the Council does object, the Council may substitute its own decision for that of the Executive Committee.
- (g) If the Overview and Scrutiny Committee refers the decision to the Executive Committee, the Executive Committee shall reconsider the decision in the light of the concerns mentioned by the Overview and Scrutiny Committee. The Executive Committee may then:
- (i) revise the decision so that it addresses the Overview and Scrutiny Committee's concerns; or
  - (ii) affirm the decision.
- (h) If the decision is affirmed by the Executive Committee the decision will be referred to the next meeting of the Council and Scrutiny Procedure Rule 14.4(f) will apply to any such referral as if the referral had been made by the Overview and Scrutiny and Committee directly.

## **15. CALL-IN AND URGENCY**

### **15.1 Call-in not to apply to urgent decisions**

- (a) The call-in procedure set out above shall not apply where the decision being taken by the Executive Committee 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's interest. The record of the decision, and notice by which it is made public, shall state whether, in the opinion of the Executive Director: Resources and S151 or his/her nominee, the decision is an urgent one, and therefore not subject to call-in.
- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually by the Executive Director: Resources and S151, or his/her nominee, and a report submitted to Council with proposals for review if necessary.

**16. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE WHEN DEALING WITH A CALL-IN**

**16.1** See Appendix 3 to these Procedure Rules.

**17. REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEE**

**17.1 Formal Report**

Once the Overview and Scrutiny Committee has completed its deliberations on any matter (excluding call-in), it will prepare a formal report and submit it to the Executive Director: Resources and S151 who will allocate it for consideration by the relevant Committee (if the proposals are consistent with the existing Budgetary and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from, or a change to, the agreed Budget and Policy Framework).

**18. CONSIDERATION OF REPORTS OF OVERVIEW AND SCRUTINY COMMITTEE**

**18.1 Consideration by the Council**

- (a) If the matter is referred to the Council, the Executive Director: Resources and S151 will provide copies of the report(s) of the Overview and Scrutiny Committee to the Chair of the Executive Committee with notice that the matter is to be referred to Council. The Executive Committee will have four weeks in which to respond to the Overview and Scrutiny Committee's report(s) and the Council shall not consider it within that period.
- (b) The Executive Director: Resources and S151 shall ensure that the report(s) of the Overview and Scrutiny Committee is/are considered by the Council as soon as is reasonably practicable.

**18.2 Consideration by the Executive Committee**

- (a) If the matter is referred to the Executive Committee, rather than the Council, the Executive Director: Resources and S151 will also provide copies of the report(s) of the Overview and Scrutiny Committee to the Chair of the Executive Committee with notice that the matter is to be referred to the Executive Committee. The Executive Director: Resources and S151 shall ensure that the report is considered by the Executive Committee as soon as is practicable.
- (b) In the event that the Executive Committee decides not to change its practice or policy in the light of the Overview and Scrutiny Committee's report(s) the Executive Committee must provide reasons for doing so when advising the Overview and Scrutiny Committee of its intended action.
- (c) If, having considered the reasons given by the Executive Committee, the Overview and Scrutiny Committee stands by its original report, the Overview and Scrutiny Committee may refer the matter to Council for the Council to determine. The decision of the Council will be final.



## **19. THE PARTY WHIP**

The use of the party whip is incompatible with the role of the Overview and Scrutiny Committee and shall not be used.

*“Party Whip” is a phrase referring to 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 is to speak or vote on a matter before the Council or any Committee or Sub-Committee or the application of any threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner.*

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