

Overview and Scrutiny Procedure Rules
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1. **WHAT WILL BE THE NUMBER AND ARRANGEMENTS FOR OVERVIEW AND SCRUTINY COMMITTEES?**

- (a) 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. Overview and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.
- (a) The Council will have more than one Overview and Scrutiny Committee. Overview and Scrutiny Committees will perform all overview and scrutiny functions on behalf of the Council. Their number and membership will be appointed on a politically proportional basis at the Annual Council Meeting. The Chair and Vice-Chair of each Committee will be appointed by the Annual Council.
- (c) The terms of reference of each Overview and Scrutiny Committee on matters within its scope will be:
 - (i) the performance of all overview and scrutiny functions on behalf of the Council;
 - (ii) to approve an annual overview and scrutiny work programme, so as to ensure that the committee's time is effectively and efficiently utilised;
 - (iii) in the event of reports to the Cabinet exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of business or jeopardises the efficient running of Council business, at the request of the Cabinet to make decisions about the priority of referrals made;
 - (iv) to appoint informal member working groups or panels to assist the work of the Committee;
 - (v) **to consider any petition on a matter within the scope of an Overview and Scrutiny Committee which may have been referred to it by full Council or directly by officers and to take the appropriate action;**
 - (vi) **to respond to any request received from a petition organiser for a review to be conducted into the steps that the Council has taken in response to receipt of that petition and to determine whether or not, in the view of an Overview and Scrutiny Committee, the petition was dealt with adequately.**

2. **WHO MAY SIT ON OVERVIEW AND SCRUTINY COMMITTEES?**

All councillors except the Mayor and members of the Cabinet may be members of an Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision which he/she has been directly involved.

3. **CO-OPTEEES**

Each Overview and Scrutiny Committee shall be entitled to appoint a number of people as non-voting co-optees, for such periods not exceeding one year as they may from time to time determine.

4. **MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEES**

The Overview and Scrutiny (Internal Performance) Committee shall hold 6 scheduled meetings per year. The Overview and Scrutiny (Public Services) Committee shall hold 10 scheduled meetings per year. Overview and Scrutiny Committee meetings may be called by the Chair of the relevant Overview and Scrutiny Committee, by any three Members of the Committee, one Member with the agreement of the Chair or by the Chief Executive, as proper officer if he/she considers it necessary or appropriate.

5. **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.

6. **WHO CHAIRS OVERVIEW AND SCRUTINY COMMITTEE MEETINGS?**

The Chair and Vice-Chair of each Committee will be appointed at the Annual Council meeting.

7. **WORK PROGRAMME**

Each Overview and Scrutiny Committee will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.

8. **AGENDA ITEMS**

- (a) There shall be included in all agendas for Overview and Scrutiny Committees a standard item, "Questions to Portfolio Holders". Members of an Overview and Scrutiny Committee will be required to give at least 10 working days notice before the meeting to the Chief Executive, as proper officer of the question which he/she wishes to ask of the relevant Portfolio Holder. The proper officer will include details of the question in the agenda and shall give the Portfolio Holder at least 7 working days notice in writing of the meeting they are invited to attend. In the event of their being unable to attend the meeting, the Portfolio Holder will be invited to provide a written reply to be conveyed at the Overview and Scrutiny Committee meeting. The Chairs or representatives of Overview and Scrutiny Committees will be invited to attend Cabinet meetings where an explanation of decisions taken by their Committees is sought.
- (b) With the agreement of the Chair any member of an Overview and Scrutiny Committee shall be entitled to give notice to the Chief Executive, as proper officer 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. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.
- (c) The leader of any political party with 5 or more members may, without the consent of the Chair, on up to 3 occasions per Overview and Scrutiny Committee per year require the Chief Executive, as proper officer to include an item on the agenda of a relevant Overview and Scrutiny Committee for consideration. The proper officer shall inform the Chair of the relevant Overview and Scrutiny Committee of the request at the earliest opportunity, and make arrangements for the matter to be included on the agenda at the next available meeting of that Overview and Scrutiny Committee.
- (d) Any 5 members of the Council may give written notice to the Chief Executive, as proper officer that they wish an item to be included on the agenda of a relevant Overview and Scrutiny Committee. If the proper officer receives such a notification, then he/she will include the item

on the first available agenda of the relevant Overview and Scrutiny Committee for consideration by the committee.

- (e) 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 Cabinet, 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 Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee within two months of receiving it.

9. **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 may make proposals to the Cabinet 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.

10. **REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEES**

- (a) Once it has formed recommendations on proposals for development, an Overview and Scrutiny Committee will prepare a formal report and submit it to the Chief Executive, as proper officer for consideration by the Cabinet (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).
- (b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (b) The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee within two months of it being submitted to the Chief Executive, as proper officer.

11. **MAKING SURE THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY THE CABINET**

- (a) There shall be no limitation on the receipt by the Cabinet of Overview and Scrutiny Committee reports within any given period.
- (a) Once an Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Chief Executive, as proper officer who will, if requested to do so by the Overview and Scrutiny Committee allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the proper officer refers the matter to Council, he/she will also serve a copy on the leader with notice that the matter is to

be referred to Council. The Cabinet will have one month or its next meeting in which to respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from an Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the Overview and Scrutiny Committee proposals.

- (c) The agenda for Cabinet meetings shall include an item entitled 'Issues arising from overview and scrutiny'. The reports of Overview and Scrutiny Committees referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) within two months of the Overview and Scrutiny Committee completing its report/recommendations.
- (d) Where an Overview and Scrutiny Committee prepares a report for consideration by the Cabinet in relation to a matter where the Council has delegated decision making power to an individual portfolio holder, then the Overview and Scrutiny Committee will submit a copy of their report to him/her for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Chief Executive, as proper officer. The member with delegated decision making power must consider the report and respond in writing to the Overview and Scrutiny Committee within 1 month of receiving it. A copy of his/her written response to it shall be sent to the proper officer and the leader.
- (e) Where an Overview and Scrutiny Committee prepares a report for consideration by the Cabinet in relation to a matter where the Cabinet or Council has delegated decision making power to another individual member of the Cabinet, 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 serve a copy on the Chief Executive, as proper officer and the leader. The member will also attend a future meeting of the Overview and Scrutiny Committee if requested to present their response. If the member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Cabinet member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within 1 month of receiving it. A copy of his/her written response to it shall be sent to the proper officer and he/she will attend a future meeting to respond.
- (f) Overview and Scrutiny Committees will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

12. **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 Cabinet and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

13. **MEMBERS AND OFFICERS GIVING ACCOUNT**

(a) Any 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, in fulfilling the scrutiny role, it may require any (other) member of the Cabinet, the Chief Executive and/or Head of Service 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 Chief Executive, as proper officer. The proper officer shall inform the member or officer in writing giving at least 5 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 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 to take place within a maximum of 10 working days from the date of the original request.

14. **ATTENDANCE BY OTHERS**

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 13 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.

15. **CALL-IN**

Call-in should only be used in exceptional circumstances. These are where members of the appropriate Overview and Scrutiny Committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making).

(a) When a decision is made by the Cabinet, an individual member of the Cabinet or a Committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or an area committee or under joint arrangements, 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 working days of being made. Chairs of all Overview and Scrutiny Committees will be sent copies of the records of all such decisions within the same timescale, by the Monitoring Officer, as proper officer 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 5 working days after the

publication of the decision, unless an Overview and Scrutiny Committee objects to it and calls it in.

- (c) During that period, the Chief Executive, as proper officer shall call-in a decision for scrutiny by the Committee if so requested by the Chair or any 5 members of the Council. The proper officer will only do this if he/she is satisfied that the reasons for calling in a decision of the Cabinet, as stated in the call-in form, are valid in the context of Article 13 of the Constitution. Once he/she is so satisfied, he/she shall call-in the decision for scrutiny by the Committee and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the Committee on such a date as he/she may determine, where possible after consultation with the Chair of the Committee. The date shall be determined and published within 6 working days of the decision to call-in.
- (d) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, 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 reconsider within one month, or at its next scheduled meeting 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 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 Overview and Scrutiny Committee meeting, or the expiry of that further 6 working day period, whichever is the earlier.
- (f) 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, it has no locus to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, 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. Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider within 1 month or at its next scheduled meeting of the Council request. Where the decision was made by an individual, the individual will reconsider within 1 month of the Council request.
- (g) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- (h) Each of the dates in the paragraphs above may be varied by informal agreement between political group leaders and the Chief Executive.
- (i) A protocol for adoption when calling in a matter is set out at Appendix 1 to these Procedure rules.

16. **LIMITATIONS**

In order to ensure that call-in is not abused, nor causes unreasonable delay, the Chair of an Overview and Scrutiny Committee may only call-in up to two decisions per normal cycle.

17. **CALL-IN AND URGENCY**

The call-in procedure set out above shall not apply where the decision being taken by any of the following bodies or individuals is urgent:

Cabinet, an individual member of the Cabinet or a Committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or an area committee or under joint arrangements.

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 interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor and Chief Executive or his/her nominee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. The Chairman of the relevant Overview and Scrutiny Committee, or in their absence the Vice-Chairman, must be consulted. In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Chief Executive or his/her 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.

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.

18. **THE PARTY WHIP**

When considering any matter in respect of which a member of an Overview and Scrutiny Committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

19. **PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

(a) Overview and Scrutiny Committees shall consider the following business:

- (i) minutes of the last meeting;
- (ii) declarations of interest (including whipping declarations);
- (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
- (iv) responses of the Cabinet to reports of the Overview and Scrutiny Committee;
- (v) **a petition referred to the Committee either directly by officers or by full Council;**
- (vi) **any request received from a petition organiser for a review to be conducted into the steps that the Council has taken in response to receipt of that petition;**
- (vii) **any matter requiring the attendance of a senior officer to give evidence at a meeting of an Overview and Scrutiny Committee which has been requested in a petition containing at least 500 signatures.**
- (viii) 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 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;
 - (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 shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.
- (d) Where a Portfolio Holder appears before an Overview and Scrutiny Committee they have the right to be accompanied by an officer or other person of their choosing to assist them at the meeting.

20. **MATTERS WITHIN THE REMIT OF MORE THAN ONE OVERVIEW AND SCRUTINY COMMITTEE**

- (a) Where an Overview and Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Overview and Scrutiny Committee, then the Committee conducting the review shall:
 - (i) invite the Chair of the other Committee (or his/her nominee) to attend its meetings when the matter is being reviewedor
 - (ii) before submitting its findings to the Cabinet and/or Council for consideration, the report of the reviewing Overview and Scrutiny Committee shall be considered by the other Overview and Scrutiny Committee for comment. These comments shall be incorporated into the report which is then sent to that body for consideration.
- (b) Where a matter for consideration by an Overview and Scrutiny Committee also falls within the remit of another Overview and Scrutiny Committee, and both committees have an interest in the matter, the decision as to which Committee will consider it will be resolved by the Chairs of the two Committees.
- (c) In the event of a dispute between the two Chairs which cannot otherwise be resolved, the decision will be made by the Monitoring Officer in consultation with the Mayor.

APPENDIX 1

CALL-IN PROTOCOL FOR OVERVIEW AND SCRUTINY COMMITTEES

- (i) That the instigator of the call-in consult with officers about the criteria and consult and inform the relevant Group Spokespersons on the Committee prior to proceeding with the call-in.

Rationale:

To attain clarity of intention in the working and for inclusion purposes.

- (ii) That the Chair shall give consideration to relinquishing the Chair for an item of call-in where to do otherwise might lead to an impression of partiality.

Rationale:

To demonstrate the impartiality of the Chair, particularly where an individual Chair had strong interests in relation to the debate.

- (iii) Ideally, reports should not be circulated on the night (unless in extremely urgent circumstances) but in advance of the meeting at the same time as the agenda.

Rationale:

In order to allow Members sufficient time to assimilate information and for its integrity to be checked by the officers if necessary.

- (iv) Any Member preparing a report should have consulted the relevant Lead Scrutiny Officer and ensure that the report is factually accurate.

Rationale:

To promote accuracy in reports.

- (v) Call-in pro-forma to be altered to allow experts and interested parties to be differentiated from each other and that Committee Members be entitled to cross-examine them.

Rationale:

To differentiate between the status of qualified experts and interested parties from, for example local residents.

- (vi) Rights of the Public

- (a) Any speakers must register to speak after the publication of the Agenda up until 3.00pm on the day of the meeting, by telephone.
- (b) That, where possible, it be established whether the speakers were in favour of or against the subject of the call-in.
- (c) Up to two speakers in favour and two speakers against any specific item be entitled to speak.
- (d) That speakers be entitled to address the Committee for a period of up to four minutes.

Rationale:

To facilitate the smooth running of the meeting and to obtain a balanced discussion.

- (vii) Order of Debate

- (a) Chairman of the relevant Overview and Scrutiny Committee or a spokesperson for the 5 Members who have signed the call-in form to have the opportunity to introduce the subject and explain their reasons for call-in, within a time limit of 10 minutes.
- (b) Witnesses to be called to give evidence in support of call-in.
- (c) Portfolio Holder (if present) to present decision of Cabinet and to call any witnesses in support of that decision.
- (d) Any witnesses and interested parties to be cross-examined by Committee.
- (e) Members of the public (to be cross-examined by the Committee).

- (f) General debate by Members of the Committee.
- (g) Committee makes decision regarding the call-in.

Rationale:

To promote the smooth running of the debate and for clarification purposes.

(viii) **Rights of Portfolio Holders**

Any Portfolio Holder who is called as a witness shall have the right to be accompanied by an officer or other person of their choosing to assist them at the meeting.

(viii) **Schedule of Meetings**

Following the announcement of the date of the meeting within six working days of the call-in, where possible at least three to five working days expire between the call-in meeting and the reconsideration of the decision at Cabinet.

Rationale:

To allow proper reconsideration of the decision.

CALL-IN FORM

TO: Chief Executive

FROM:

1. What decision is being called-in?

2. Why is the decision being called-in?

The Constitution states that call-in should only be used in exceptional circumstances when the principles set out under Article 13, page 22 of the constitution have not been adhered to. These principles are also set out at the bottom of this form.

I / We call-in this decision because

3. Who is calling-in the decision?

Chair of Overview and Scrutiny Committee

.....

Or

Councillor (Main contact)

Councillor

Councillor

Councillor

Councillor

4. What information do you want to be available at the call-in meeting?

(Please underline any of the following options that you would like to see being provided at this meeting)

Portfolio Holder to be present at the meeting

Portfolio Holder to make a presentation at the meeting

Relevant Officer to make a presentation

Expert witness or interested party to be present

Site visit

Comparative research

Additional written information

Other - please specify

.....
.....

DATE OF CALL-IN REQUEST

.....

Date received (Office use only)

Received by

NOTES

The constitution suggests that call-in should only be used in exceptional circumstances. Call-in may occur if Members believe that a decision has not been made in accordance with the following principles:

- Proportionality – ie the decision must be proportionate to the desired outcome
- Due consultation with the relevant parties and Officers
- Human rights have been respected
- There has been a presumption in favour of openness
- Clear aims and desirable outcomes have been identified
- An explanation has not been given for what options were considered in arriving at a decision and the reason for that decision.

If Members are uncertain whether any of the above criteria would apply to a decision that they are concerned about, they may wish to contact the Monitoring Officer for advice on 01727 819502.