

## **Part 3 – procedure rules**

### **g. overview & scrutiny procedure rules**

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1. Number and arrangements for overview & scrutiny bodies
  - 1.1 The overview & scrutiny function will consist of a Scrutiny Commission and Finance & Performance Scrutiny. These two bodies may appoint panels for specific functions on a task and finish basis, on completion of which they shall cease to exist.
  - 1.2 The terms of reference, including membership, are set out in the relevant part of this constitution.
  - 1.3 Reference to overview & scrutiny bodies includes the Scrutiny Commission and Finance & Performance Scrutiny.

## 2. Membership of overview & scrutiny bodies

- 2.1 All councillors, except members of the Executive, the Mayor and the Deputy Mayor, may be members of overview & scrutiny bodies. No member may scrutinise a decision in which they have been directly involved.

## 3. Co-optees

- 3.1 The Scrutiny Commission may appoint non-councillors as non-voting co-optees if appropriate. It may also appoint non-voting co-optees to Finance & Performance Scrutiny, on the recommendation of that body.

## 4. Meetings of overview & scrutiny bodies

- 4.1 The overview & scrutiny bodies will each meet approximately every eight weeks. Additional or extraordinary meetings may be called if necessary. Extraordinary meetings may be called by the chairman of either body, by any five members of the body, or by the proper officer if they consider it necessary or appropriate.

## 5. Quorum

The quorum for overview & scrutiny bodies are as set out in the council procedure rules.

## 6. Chairing the meetings

- 6.1 Chairmanship of the Scrutiny Commission shall be agreed by Council. Two vice-chairmen shall also be appointed and one of these will act as chairman of Finance & Performance Scrutiny. The chairman of the Scrutiny Commission and Finance & Performance Scrutiny will not be from the majority group.

## 7. Work programme

- 7.1 The overview & scrutiny function will be responsible for setting a work programme.

- 7.2 The work programme will have regard to:

- Executive key decisions to be taken
- The corporate plan
- Corporate budgets and the medium term financial strategy
- Current local issues and initiatives
- Performance management
- Local Strategic Partnership themes.

## 8. Agenda items

- 8.1 Any member of an overview & scrutiny body, including panels, shall be entitled to give notice to the proper officer that they wish an item relevant to the functions of the body to be included on the agenda for the next available meeting. On receipt of such a request, the proper officer will ensure that it is included on the next available agenda.
- 8.2 The Leader of any group with two or more members may require the proper officer to include an item on the agenda of the relevant overview & scrutiny body for consideration. The proper officer shall inform the chairman of the relevant body 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 body.
- 8.3 Any member of Council who is not a member of the overview & scrutiny body may request permission from the chairman to include an item on the agenda.
- 8.4 Overview & scrutiny bodies will respond, as soon as their work programme permits, to requests from Council and, if it considers it appropriate, the Executive, to review particular areas of council activity. Where they do so, the body shall report their findings and any recommendations back to the Executive and/or Council. Council and/or Executive shall consider the report of the overview & scrutiny body at their next available meeting.

## 9. Policy review and development

- 9.1 The role of the overview & scrutiny function 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.
- 9.2 In relation to the development of the council's approach to other matters not forming part of its policy and budget framework, overview & scrutiny bodies may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- 9.3 Overview & scrutiny bodies 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 other methods 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, within the resources made available by Council.

## 10. Reports from overview & scrutiny

- 10.1 Once it has formed recommendations on proposals for policy development, the overview & scrutiny body will prepare a formal report and submit it to the proper officer for consideration by the Executive if the proposals are consistent with the existing budgetary and policy framework, or to Council if the recommendation would require a departure from or change to the agreed budget and policy framework.
- 10.2 If the body cannot agree on one single final report to the Executive or Council, then up to one minority report may be prepared and submitted for consideration.
- 10.3 The Executive or Council shall consider the report of the body at the next available meeting.
- 10.4 Once the overview & scrutiny body has completed its deliberations on any matter, it will forward a copy of its final report to the proper officer who will allocate it to either the Executive or Council, or both, as appropriate. If the report is to go to both, the proper officer will serve a copy on the Leader of Council with notice that the matter is to be referred to Council. The Executive will have eight weeks in which to respond to the report, and Council shall not consider it within that period. When Council does meet to consider any referral from an overview & scrutiny body on a matter which would impact on the budget & policy framework, it shall also consider the response of the Executive to the body's proposals.
- 10.5 The agenda for meetings of the Executive shall include an item 'matters arising from overview & scrutiny'. Reports of overview & scrutiny bodies referred to the Executive shall be included at this point on the agenda unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda within eight weeks of the body completing its report.
- 10.6 Overview & scrutiny bodies will have access to the Executive's timetable for decisions. Even where an item is not the subject of details proposals from an overview & scrutiny body following consideration of possible policy / service developments, the body will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

## 11. Rights of overview & scrutiny members to documents

- 11.1 In addition to their rights as councillors, members of overview & scrutiny bodies have the additional rights to documents and to notice of meetings as set out in the access to information procedure rules.
- 11.2 Nothing in this procedure rule prevents more detailed liaison between the Executive and overview & scrutiny bodies as appropriate depending on the particular matter under consideration.

## 12. Members and officers giving account

- 12.1 Any overview & scrutiny body or panel 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 Chief Executive or a Director or contractor to attend to explain in relation to matters within their remit any particular decision or series of decisions, the extent to which the actions taken implement council policy and/or their performance. It is the duty of those persons to attend if required.
- 12.2 Where any member, officer or contractor is required to attend a meeting of an overview & scrutiny body under this provision, the chairman of that body will inform the proper officer. The proper officer shall inform the person in writing giving at least seven working days' notice of the meeting. The notice will state the nature of the item for which they are required to attend to give account and whether any papers are required to be produced for the body. Where the account to be given to the body will require the production of a report, the member or officer concerned will be given sufficient notice to allow for preparation of that document.
- 12.3 Where, in exceptional circumstances, the person is unable to attend on the required date, the overview & scrutiny body shall arrange an alternative date for attendance within a maximum of eight weeks from the date of the original request.

## 13. Attendance by others

- 13.1 An overview & scrutiny body may invite people other than those people referred to in the paragraph above to discuss issues of local concern and/or answer questions. This may, for example, include residents, stakeholders and members and officers from other public sector organisations.

## 14. Call-in

- 14.1 Call in should only be used in exceptional circumstances, where members of an overview & scrutiny body have evidence which suggests that the Executive did not take a decision in accordance with the principles of decision making (as set out in the summary and explanation section of this constitution). Reasons may include:
- Professional advice was not taken from officers or not duly considered
  - The decision conflicts with respect for human rights or is not in accordance with the council's equality policies
  - The decision was taken in the absence of adequate evidence
  - There was inadequate consultation with stakeholders
  - The decision does not reflect the core values of the council
  - The decision does not comply with a strategy, policy or the budget.

- 14.2 In order to ensure that call-in is not abused nor causes unreasonable delay, certain limitations are to be placed on its use. There are:
- An overview & scrutiny body may only call in ten decisions per year
  - Only decisions involving expenditure or reductions in service over a value of £50,000 may be called in
  - Three members of an overview & scrutiny body covering more than one political party are needed for a decision to be called in.
15. The call-in process
- 15.1 When a decision is made by the Executive, an individual member of the Executive or an officer with delegated authority from the Executive, the decision shall be published electronically within two working days of being made. All members will have access to records of the decisions made.
- 15.2 Published decisions will include the date of publication and will specify the date that the decision will come into force and may then be implemented, on the expiry of seven working days after the publication of the decision, unless an overview & scrutiny body objects to it and calls it in. The notice will specify whether or not a decision is subject to call-in and if not, the reason.
- 15.3 During that period, the proper officer shall call-in a decision for scrutiny by an overview & scrutiny body if so requested by any three members of that body, covering more than one political party, and shall then notify the decision-taker of the call-in. The proper officer shall call a meeting of the body on such a date as they may determine, where possible after consultation with the chairman of the overview & scrutiny body. The issue shall be considered at the next scheduled meeting of the overview & scrutiny body, unless the chairman or relevant Executive member believes a special meeting is required sooner.
- 15.4 If, having considered the decision, the overview & scrutiny body 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 it may refer the matter to Council. The option to refer to Council shall not be chosen routinely and may be used in exceptional circumstances only. The overview & scrutiny body must state the reason for its decision. If referred to the decision maker they shall then reconsider at their next meeting (unless urgent, when an earlier meeting will be convened) or within ten days if the decision was taken by an individual, amending the decision or not, before adopting a final decision.
- 15.5 If, following an objection to the decision, the overview & scrutiny body does not meet within eight weeks, 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 that overview & scrutiny body's meeting. In cases of urgency, an earlier meeting must be convened or the Leader of Council can agree consideration at a later meeting.

- 15.6 If the matter was referred to Council and 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 Council does object, 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. Unless that is the case, Council will refer any decision to which it objects back to the decision making person or body, together with 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 Executive as a whole, a meeting will be convened to reconsider within 15 working days of Council's request. Where the decision was made by an individual, the individual will reconsider it within 15 working days of Council's request.
- 15.7 If 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.
16. Call-in and urgency
- 16.1 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'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 chairman of the Scrutiny Commission (and in their absence, the vice-chairman) must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency must be included in the six-monthly reports to Council as stated under the Executive Procedure Rules.
- 16.2 The operation of the provisions relating to call-in and urgency shall be monitored annually by the Scrutiny Commission, and a report submitted to Council with proposals for review if necessary.
17. The party whip
- 17.1 The party whip is defined as
- “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 sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should they speak or vote in any particular manner.”*
- 17.2 Council has resolved that the party whip will not be used for Scrutiny Commission, Finance & Performance Scrutiny, Licensing and Planning Committees.

18. Procedure at overview & scrutiny meetings

18.1 Overview & scrutiny bodies shall consider the following business:

- minutes of the last meeting
- declarations of interest
- consideration of any matter referred to the body for a decision in relation to call-in of a decision
- responses of the Executive to reports of the overview & scrutiny body
- the business otherwise set out on the agenda for the meeting.

18.2 Where the overview & scrutiny body conducts investigations (eg with a view to policy development), the body may also ask people to attend to give evidence at meetings of that body which are to be conducted in accordance with the following principles:

- that 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
- that those assisting the body by giving evidence be treated with respect and courtesy
- that the investigation be conducted so as to maximise the efficiency of the investigation or analysis
- where a witness is called, that person shall be given advance notice of the questions or detailed lines of questioning to be put. Where a new line or questioning is pursued, the witness may provide written answers at a later date.

18.3 Following any investigation or review, the Overview & Scrutiny body shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.