

## Part 6 - Overview and Scrutiny Procedure Rules

### 1. MEMBERSHIP & STRUCTURE

- 1.1 As set out in Article 6.1 in Part 2 of this Constitution, Overview and Scrutiny refers to all the overview and scrutiny functions within the Council and is used as a collective term for all individual Overview and Scrutiny Committees, sub-committees and scrutiny panels established by the Council.
- 1.2 The Council will appoint at least one Overview and Scrutiny Committee to carry out the functions of Overview and Scrutiny, as set out in Article 6.
- 1.3 The Council will appoint the Chairs and Vice Chairs of each Overview and Scrutiny Committee and the other Council members of each committee, except as set out in 1.4 and 1.5 below.
- 1.4 No Members of the Executive or Junior Cabinet Members may sit on any Overview and Scrutiny Committee.
- 1.5 The Chair of Audit and Governance Committee may not sit on any Overview and Scrutiny Committee
- 1.6 No Councillor may be involved in scrutinising a decision in which s/he has been directly involved.

#### CO-OPTED MEMBERS

- 1.7 All individual Committees whose functions wholly or partly include education must appoint the following representatives **who may vote on education matters only**:
  - 1.7.1 1 Church of England diocese representative;
  - 1.7.2 1 Roman Catholic diocese representative;
  - 1.7.3 parent governor representatives;
- 1.8 Co-opted members may be appointed to any Overview and Scrutiny Committee upon nomination and approval by members of that Committee,

to be reported to the next available meeting of the Council for information; and confirmed, or terminated, at each Annual Meeting of the Council. (Note: the Council may change the membership of its committees at any time)

- 1.9 Members appointed as co-opted Members will have voting rights as set out in the Council's Voting Rights of Co-opted Members' Scheme, if and when such a Scheme is agreed.
- 1.10 The Councillors' Code of Conduct applies to voting co-opted Members. Non-voting co-opted members are expected to abide by the Councillor/Officer Protocol as if they were councillors.

### **STATUTORY OFFICER**

- 1.11 As specified in Article 6.3 of the Constitution, there shall be an officer as defined in Part 3 of the Constitution, Responsibility for Functions, whose role is:

- 1.11.1 to promote the role of the authority's overview and scrutiny committee or committees,

- 1.11.2 to provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees,

- 1.11.3 to provide support and guidance to—

- (i) members of the authority,
    - (ii) members of the Executive of the authority, and
    - (iii) officers of the authority,

- in relation to the functions of the authority's overview and scrutiny committee or committees.

## **2. MEETINGS**

- 2.1 There shall be at least 5 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.
- 2.2 A meeting may be called by:
- 2.2.1 The Chair of the relevant Overview and Scrutiny Committee; or
  - 2.2.2 Any 3 members of the relevant Committee; or
  - 2.2.3 The Proper Officer (Chief Executive) if s/he considers it necessary or appropriate.
- 2.3 The Committee Procedure Rules set out in Part 4b of this Constitution apply to Overview and Scrutiny meetings. In the event of any conflict, these Procedure Rules shall be followed.

## **3. CHAIR**

- 3.1 The Chair of each Overview and Scrutiny Committee must be one of its Councillor members and may be from an opposition party.
- .

## **4. WORK PROGRAMME AND AGENDA**

- 4.1 The annual work programmes for each Overview and Scrutiny Committee will be proposed by the relevant committee following consultation with the relevant director(s) and portfolio holder(s), and agreed by the full Council.
- 4.2 The Chair of Audit and Governance Committee will call formal twice-yearly meetings of all Scrutiny Chairs, who will prepare and publish a report on the work of the committees since their establishment / previous report. The Chair of Audit and Governance Committee may also require Overview and Scrutiny Chairs to be held to account for their Committee at public Council meetings.

- 4.3 Any member of the relevant Overview and Scrutiny Committee is entitled to give notice to the Proper Officer (Director of Law and Governance) that s/he wishes an item relevant to the functions of that Overview and Scrutiny Committee to be included on the agenda for the next available meeting. (See Councillor Call for Action procedures agreed by Audit and Governance Committee on 25 June 2009)

## **5. POLICY REVIEW AND DEVELOPMENT**

- 5.1 Subject to 5.2 below, an Overview and Scrutiny Committee may:
- 5.1.1 Consider and make recommendations to Cabinet on any other matters that are consistent with their Terms of Reference (Part 7 of this Constitution);
  - 5.1.2 Hold enquiries, conduct themed reviews, and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process;
  - 5.1.3 Do anything which is reasonable to assist or inform its deliberations, including site visits, conduct public surveys, hold public meetings, and commission research;
  - 5.1.4 Ask witnesses to attend to address them on any matter under consideration and pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.
- 5.2 Overview and Scrutiny Committees shall have regard to available budgets and resources when exercising these powers.

## **6. OVERVIEW AND SCRUTINY REPORTS**

- 6.1 The Overview and Scrutiny Committees will prepare formal reports including its recommendations, reasons for these recommendations, and the relevant financial, legal and other implications arising therefrom.

- 6.2 Reports will be submitted to the Chief Executive for consideration by the Cabinet or the Council, as appropriate.
- 6.3 If any Overview and Scrutiny Committee cannot agree on a final report, to allow the matter to proceed, a minority report may be prepared and submitted for consideration alongside the majority report.
- 6.4 The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee within 2 meetings of its submission to the Chief Executive.

## **7. OVERVIEW AND SCRUTINY COMMITTEE MEMBERS' RIGHTS OF ACCESS TO INFORMATION**

- 7.1 Overview and Scrutiny members have additional rights to documents and to notice of meetings. These rights are set out in the Access to Information Procedure Rules in Part 8 of this Constitution.
- 7.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny as appropriate depending on the particular matter under consideration.

## **8. ACCOUNTABILITY OF MEMBERS AND OFFICERS**

- 8.1 In respect of any matter it is entitled to scrutinise, any Overview and Scrutiny Committee (including sub-committees and panels) may require any Cabinet Member, Officer, or if appropriate, Junior Cabinet Member to attend before it to explain any decision or series of decisions;
- 8.2 It is the duty of those persons to attend if so required.
- 8.3 With respect to Officers, where possible the following should be called to provide evidence: Strategic or Corporate Directors, Divisional or Assistant Directors or Heads of Service, Unit and Group Managers, Team Leaders or other Officers with management responsibilities.
- 8.4 Where any Councillor or Officer referred to above is required to attend an Overview and Scrutiny Committee or a panel meeting, the Chair will inform the Chief Executive.

- 8.5 The Chief Executive shall inform the Councillor or Officer in writing giving at least 5 working days' notice of the meeting at which s/he is required to attend. The notice will state the nature of the item on which s/he is required to attend to give account and whether any papers are required to be produced for the committee.
- 8.6 Where the account to be given will require the production of a report, then the Councillor or Officer concerned will be given sufficient notice to allow for preparation of reasonable documentation.
- 8.7 Where, due to exceptional circumstances, the Councillor or Officer is unable to attend on the required date, then the relevant Scrutiny Committee shall consult with the Councillor or Officer in arranging an alternative date for attendance to take place within 10 days of the date of the meeting originally scheduled to hear the evidence.

## **9. ATTENDANCE BY OTHERS**

- 9.1 Overview and Scrutiny Committees may invite people other than those people referred to in paragraph 8 above to address it, discuss issues of interest to the Committee or of local concern and/or answer questions. Such attendance is entirely optional for the invitee, except when required under legislation.

## **10. CALL-IN**

### **Principles of call-in**

- 10.1 Call-in is the exercise of Overview and Scrutiny's statutory power to review an Executive decision which has been made but not implemented. Decisions that are called in cannot be implemented until the call-in procedure is complete.
- 10.2 In this section, an Executive decision includes decisions made by the full Cabinet, a committee of the Cabinet, a Portfolio Holder or a key decision ordinarily made by any of the former, which is delegated to an Officer.

- 10.3 Call-In is an important power, which must be respected by both Councillors and Officers. The following principles apply to the exercise of call-in.
- 10.3.1 All Cabinet decisions are subject to call-in, except where provided for by these Rules.
  - 10.3.2 Only an Executive decision may be called in. Where a Cabinet decision simply refers a report to Full Council for decision, such decision may not be called in.
  - 10.3.3 A decision may only be called in once.
  - 10.3.4 The Urgency provisions which prohibit call-in will only be used in cases of genuine urgency (see Rule 10.13 below):
  - 10.3.5 Call-in will only be used for the purposes of effective scrutiny.
  - 10.3.6 The call-in and Urgency provisions shall be monitored annually, and a report submitted to full Council with proposals for review if necessary.

### **Right to call in**

- 10.4 Once made, Cabinet and other key decisions shall be published on the Council's website within 2 working days. The person responsible for publishing the decision will send all Councillors links to the records of all such decisions within the same timescale.
- 10.5 The published decision will bear its publication date and will specify that the decision on the expiry of 5 working days after the publication of the decision and may then be implemented after 5.00 p.m. on that day, unless called in under these provisions.

### **Valid call-in requests**

- 10.6 The Director of Governance and Law shall call in a decision for scrutiny if s/he receives a valid call-in request. Before exercising any powers under these Rules, the Director of Governance and Law will consult with and

take into account the views of the Chair of the relevant Overview and Scrutiny Committee.

- 10.7 A valid call-in request is one which:
- 10.7.1 is submitted in writing by any four members of the Council during the period between publication and the expiry of 5 working days, that is to say before 5.00 p.m. on the date specified on the decision notice ; and
  - 10.7.2 gives reasons in writing for call-in and outlines the alternative course of action, or recommendations proposed; and
  - 10.7.3 the Director of Governance and Law deems it a valid use of the call-in process, (see the factors in 10.9 below).
- 10.8 Does not relate to a decision which is deemed urgent (in accordance with paragraph 10.13 of these Rules).
- 10.9 For the purposes of 10.7.3 above, in determining whether a request is an appropriate use of the Call-In process, the Director of Governance and Law may consider the following factors:
- 10.9.1 Whether any Overview and Scrutiny Committee, or panel has considered the matter as part of pre-decision scrutiny.
  - 10.9.2 Whether there has been any substantive change in the nature of the decisions being made since the pre-decision scrutiny of the proposals.
  - 10.9.3 Whether the recommendations or alternative course of action or recommendations in the call-In request have been previously considered and rejected in whole or part as part of pre-decision scrutiny.
  - 10.9.4 Where the Executive changes or indicates that it will change its decision, thereby making a call-in unnecessary or premature,

provided that this is to the satisfaction of those Members making the request.

10.9.5 Any other relevant factor.

10.10 The Director of Governance and Law may seek clarification of the call-in request from the Councillors concerned.

10.11 Where the Director of Governance and Law determines that a request for call-in is not valid, s/he may alternatively report the matter to the Audit and Governance Committee if s/he considers the request raises matters of legal or financial compliance which fall within its terms of reference.

10.12 The Director of Governance and Law may, when considering a request for call-in, refer the matter directly to the full Council if s/he is satisfied that the request falls within the terms of 10.18.1 or 10.18.2.

### Urgent decisions

10.13 The call-in procedures set out in these Rules do not apply where the decision taken is urgent. An urgent decision is one which, in the opinion of the Director of Governance and Law, following consultation with the Chair of the relevant Overview and Scrutiny Committee and the relevant decision-maker or body:

10.13.1 is made under the urgency procedures in the Council's Constitution (see Rules 15 and 16, Access to Information Procedure Rules, Part 8 of the Constitution); or

10.13.2 Where any delay likely to be caused by the call-in process would be likely to expose the Council, its Members or the public to a significant level of risk, loss, damage or significant disadvantage.

### Call-in procedure

10.14 On receipt of a valid call-in request, the Director of Governance and Law will:

- 10.14.1 notify the decision-taker and the Chief Executive; and
  - 10.14.2 if the request for call-in states that the reason for call-in is that the decision is outside the budget and policy framework, refer it to the Monitoring Officer/Chief Financial Officer for a report to be prepared to the next meeting of the relevant Overview and Scrutiny Committee.
- 10.15 Once notified of a call-in, the Chief Executive will:
- 10.15.1 refer the matter to the next meeting of the most relevant Overview and Scrutiny Committee if that is within 7 working days of the receipt of the request for call-in; or
  - 10.15.2 Convene an extraordinary meeting of the most relevant Overview and Scrutiny Committee to take place as soon as reasonably practicable (subject to the Access to Information provisions); or
  - 10.15.3 If the Committee does not meet as set out in 10.15.1 to 10.15.2, refer the matter to the next available meeting of the most relevant Overview and Scrutiny Committee but only with the consent of the decision-taker (or the Leader in the case of a Cabinet decision), the Chair of that Overview and Scrutiny Committee and in consultation with the councillors requesting the call-in;
- 10.16 Call-in may apply to one or more decisions made in respect of a particular matter (e.g. an agenda item contains a number of decisions). Where more than one decision is made on a matter, the call-in of one decision need not delay the implementation of any other decisions not called in.

### **Consideration by scrutiny**

- 10.17 Having considered the decision, an Overview and Scrutiny Committee may:
- 10.17.1 refer it back to the original decision-maker or body for reconsideration, setting out in writing the nature of its concerns (see Rule 10.20); or

10.17.2 refer the matter to full Council (see Rule 10.18 and 10.21 - 10.25); or

10.17.3 confirm the original decision.

10.18 An Overview and Scrutiny Committee may refer a matter to Council if, in their opinion:

10.18.1 it is contrary to Policy Framework; or

10.18.2 it is contrary/not wholly consistent with Budget Framework; or

10.18.3 the Overview and Scrutiny Committee disagrees with Monitoring Officer/Chief Finance Officer's view that the decision is legally and/or financially compliant.

10.19 If the relevant Overview and Scrutiny Committee does not meet in accordance with 10.15 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 latest date when it should have taken place in accordance with 10.15.

### **Decisions referred back to the decision-maker**

10.20 If a decision is referred to the original decision-making body or individual, the decision maker shall reconsider the matter, taking into account any recommendations of the Overview and Scrutiny Committee, and make a final decision on the matter within 7 working days of the referral by the Scrutiny Committee or at its next scheduled meeting.

### **Decisions referred to Council**

10.21 If the called-in decision is referred to Council, the Cabinet will have 5 working days in which to respond and the Council shall not consider it within that period. When the Council does meet to consider the matter, it will also consider the response of the Cabinet on the matter. If it is not possible for the Cabinet to meet in the required timeframe, the Leader, in

consultation with the relevant Portfolio Holder may respond on behalf of the Cabinet.

10.22 Where a matter has been called in and referred to Council, the Council must meet within 10 working days to consider the matter, or the matter must be included on the summons to the next Ordinary Council Meeting whichever is the earlier (subject to the Access to Information provisions).

10.23 After consideration, the Council may:

10.23.1 endorse the decision as falling within the existing budget and policy framework. In this case, no further action is required, save that the decision of the Council will be minuted and circulated to all councillors in the normal way;

10.23.2 amend the Budget and Policy Framework to encompass the decision and agree to the decision with immediate effect. In this case, no further action is required, save that the Council decision will be minuted and circulated to all councillors in the normal way;  
or

10.23.3 where the Council finds that the decision is contrary to the Policy framework or contrary to or not wholly consistent with the Budget, and does not amend the Budget or Policy Framework to accommodate it, require the decision-maker to reconsider the matter together with the advice of either the Monitoring Officer or the Chief Finance Officer, and any recommendations made by the Council.

10.24 Where the Council refers the matter to the original decision-making body or individual, the decision maker shall reconsider the matter, taking into account any recommendations of the Council and any appropriate advice from the Monitoring Officer or Chief Finance Officer, and make a final decision on the matter within 5 days working of the referral by the Council. Where the Cabinet as a whole or a committee of it took the decision, a

meeting will be convened to reconsider within 14 working days of the referral by the Council or referred to the next Cabinet meeting if held within this time limit.

- 10.25 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 according to these rules, whichever is the earlier.

## **11. PROCEDURE AT OVERVIEW AND SCRUTINY MEETINGS**

- 11.1 At any meeting, Overview and Scrutiny Committees shall consider the business specified in Committee Procedure Rules, and:

11.1.1 consideration of any matter referred for a decision in relation to call-in of a decision;

11.1.2 responses of the Cabinet to reports of the Overview and Scrutiny Committee;

11.1.3 progress on annual work programme and submission of reports to the meeting of Scrutiny Chairs called by the Chair of Audit and Governance Committee; and

- 11.2 Where any Overview and Scrutiny Committee receives evidence from Members, Officers or other invitees, such meetings shall be conducted in accordance with the following principles:

11.2.1 that the investigation be conducted fairly and all members of the committee/panel be given the opportunity to ask questions of attendees, and to contribute and speak;

11.2.2 those assisting the committee/panel by giving evidence be treated with respect and courtesy; and

11.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

- 11.3 The Councillor-Officer Protocol (see Constitution, Part 9) shall also apply to the attendance of Officers to give evidence.
- 11.4 Following any investigation or review, the relevant Overview and Scrutiny Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

## **12. SCRUTINY AND THE PARTY WHIP**

- 12.1 This Council believes that the aims and principles of independent and effective scrutiny of Executive functions mean that the use of the Party Whip is inappropriate to any agenda item and vote of any Overview and Scrutiny Committee. In the event that a member of any Overview and Scrutiny Committee is subject to a Party Whip on any agenda item, the following rules will apply.
- 12.2 The councillor must declare the existence, and nature, of the whip before the commencement of discussion on that matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of that meeting.
- 12.3 For the purposes of this section, a “party whip” is defined as any instruction given by or on behalf of any 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 Overview and Scrutiny Committee or panel of the Committee), or the application of or threat to apply any sanction by the group in respect of that Councillor should s/he speak or vote in any particular manner.

## **13. ATTENDANCE OF OVERVIEW & SCRUTINY COMMITTEE CHAIRS AT CABINET MEETINGS**

- 13.1 Reports and references will be received from the relevant Overview and Scrutiny Committee. Chairs will be invited to attend Cabinet and participate in the discussion about particular items of concern.

- 13.2 The decisions and discussions of the Cabinet will be reflected in the Cabinet minutes and summarised in a letter in the Leader's name to the relevant Overview and Scrutiny Committee Chair with a copy to the members of that Overview & Scrutiny Committee.