

Appendix 3

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. WHAT WILL BE THE NUMBER AND ARRANGEMENTS FOR THE OVERVIEW AND SCRUTINY COMMITTEE?

The Council will have one Overview and Scrutiny Committee as set out in Article 6.

2. WHO MAY SIT ON OVERVIEW AND SCRUTINY COMMITTEE?

All Councillors except members of the Executive may be members of the Overview and Scrutiny Committee and the three standing Scrutiny Panels. However, no member may be involved in scrutinising a decision in which they have been directly involved.

3. MEETINGS OF OVERVIEW AND SCRUTINY COMMITTEE

The Overview and Scrutiny Committee shall meet on a meetings cycle for each year. In addition, other meetings may be called from time to time as and when appropriate. Such a meeting may be called by the Chair of the Committee, by any two members of the Committee or by the Proper Officer if they consider it necessary or appropriate.

4. QUORUM

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

5. WHO CHAIRS OVERVIEW AND SCRUTINY COMMITTEE MEETINGS?

The appointment of the Chair of the Overview and Scrutiny Committee will comply with the general provisions as to Chairs set out in the Council Procedure Rules.

6. PROTOCOLS

The Overview and Scrutiny Committee will abide by and apply those Protocols relevant to Committee's work and contained in Part 5 of this Constitution.

7. WORK PROGRAMME

The Overview and Scrutiny Committee will be responsible for setting its own work programmes and in doing so it shall take into account wishes of members on the Committee who are not members of the largest political group on the Council, and the wishes of Cabinet. Requests from Elected Members and/or the public will also be taken into account, if appropriate.

8. AGENDA ITEMS, “COUNCILLOR CALL FOR ACTION” AND REFERENCES FROM CABINET

8.1 Any member of the Overview and Scrutiny Committee shall be entitled to give formal notice giving the reasons therefore to the Proper Officer that they wish 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.

8.2 Councillor Call for Action

8.2.1 Any Member of the Council may give written notice to the Proper Officer that s/he wishes an item relevant to the functions of the Overview and Scrutiny Committee to be included on the agenda for the next available meeting of the Overview and Scrutiny Committee in relation to:

8.2.1.1 any local government matter (as defined in paragraph 8.2.8); or

8.2.1.2 any local crime and disorder matter (as defined in paragraph 8.2.9)

(a “Councillor Call for Action”).

8.2.2 Subject to paragraphs 8.2.4 and 8.2.10 below, on receipt of a Councillor Call for Action the Proper Officer will inform the Chair of the Overview and Scrutiny Committee that the item has been included on the agenda for discussion at the next practicable meeting.

8.2.3 In considering whether to exercise the right in paragraph 8.2.1.1 or 8.2.1.2 above the Member must have regard to any Order made by the Secretary of State and the Councillor Call for Action Protocol which is at Appendix [].

8.2.4 The Proper Officer upon taking advice from the Monitoring Officer will not include any matters on the relevant agenda where by any relevant Order made by the Secretary of State they have been excluded from consideration by any Overview and Scrutiny Committee who has received a Councillor Call for Action

8.2.5 The Overview and Scrutiny Committee may when considering whether or not to exercise its powers in relation to a Councillor Call For Action, have regard to any representations made by the Member as to why it would be appropriate to exercise any of its powers

8.2.6 Where the Overview and Scrutiny Committee decides not to exercise any of its powers in relation to a Councillor Call for Action, it will notify the Member of its decision and the reasons for it.

- 8.2.7** Where the Overview and Scrutiny Committee makes a report or recommendations to the Council or Cabinet it shall provide a copy of the report or recommendations to the Member who referred the matter in question and any other responsible authorities and co-operating persons and bodies as it thinks appropriate.
- 8.2.8** For the purposes of paragraph 8.2.1.1 above a “local government” matter in relation to a Member means a matter 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 but excludes any matter which is a local crime and disorder matter as defined in paragraph 8.2.9 below or any matter of any description specified as excluded in an order made by the Secretary of State.
- 8.2.9** For the purposes of paragraph 8.2.1.2 above a “local crime and disorder matter” in relation to a Member means a matter concerning crime and disorder (including in particular forms of crime and disorder that involve antisocial behaviour or other behaviour adversely affecting the local environment) or the misuse of drugs, alcohol and 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.
- 8.2.10** The determination of whether a matter is a “local government matter” or a “local crime and disorder matter” under paragraphs 8.2.9 and 8.2.10 above shall be made by the Chair of the Overview and Scrutiny Committee in consultation with the Monitoring Officer.
- 8.3** The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council or the Cabinet. The Overview and Scrutiny Committee shall report its findings and any recommendations back to Cabinet and/or the Council as the case may be. The Council and/or the Cabinet shall consider any report of the Overview and Scrutiny Committee as soon as possible thereafter.

9. POLICY REVIEW AND DEVELOPMENT

- 9.1** The role of the Overview and Scrutiny Committee 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 other matters not forming part of the Council's Policy and Budget framework, the Overview and Scrutiny Committee may make proposals to the Cabinet if it sees fit.
- 9.3** Subject to the relevant budgetary constraints the Overview and Scrutiny Committee may hold enquiries and investigate the available budgetary options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may, subject to such budgetary constraints, go on site visits, conduct public surveys, hold public meetings, commission research and do

all other things that it reasonably considers 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, RECOMMENDATIONS AND REVIEWS FROM THE OVERVIEW AND SCRUTINY COMMITTEE

10.1 Once they have formed recommendations on proposals for review or development, the Overview and Scrutiny Panels will prepare a formal report with any recommendations. The report will be approved by the Overview and Scrutiny Committee and it will then be submitted through the Chair for consideration by the Cabinet (if the proposals are consistent with the existing Budget 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). The Overview and Scrutiny Committee may nominate one or two members to address the Cabinet or Council as appropriate thereon.

10.2 If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or, the Cabinet as appropriate, then one minority report may be prepared and submitted for consideration by the Council or Cabinet (as the case may be) with the majority report.

10.3 The Council or the Cabinet, as the case may be, shall consider reviews and any recommendations or reports of the Overview and Scrutiny Committee as soon as practicable thereafter and determine whether to accept some or all of them. Having considered them they should determine the effect of their decision(s); where recommendations are rejected reasons should be provided, and where accepted named officers (where appropriate) should be instructed to implement them. The Cabinet should provide a written response from the Leader or relevant Portfolio Holder (who may instruct an appropriate officer to make the response on their behalf) to the Overview and Scrutiny Committee explaining the outcome of the recommendations and any effect on their decisions.

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

11.1 The agenda for the Cabinet meetings shall include an item entitled "Issues arising from Scrutiny". Any reports of the Overview and Scrutiny Committee 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.

11.2 Once the Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its report for consideration by the Cabinet or the Council depending upon whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the report is referred to Council, a copy will also be served on the Leader with notice that the matter is to be referred to Council. The Cabinet will have four weeks in which to

respond to such Scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from the Overview and Scrutiny Committee on such a matter which would impact on the Budget and Policy Framework, it shall also consider the response of the Cabinet to the proposals.

12. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

- 12.1** In addition to their rights as Councillors, members of the Overview and Scrutiny Committee have the additional rights to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- 12.2** Nothing in these Rules prevents more detailed liaison between the Cabinet, and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

13. COUNCILLORS AND OFFICERS GIVING ACCOUNT

- 13.1** The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions save that, as provided by Article 6, the Overview and Scrutiny Committee shall not scrutinise individual decisions of other committees of the Council, particularly in respect of development control, licensing, registration, consents and other particular matters other than within the general context of any wider policy review and shall not act as an appeal forum in respect of any such individual decisions. As well as reviewing documentation, in fulfilling the scrutiny role, the Overview and Scrutiny Committee may require any member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain:

13.1.1 any particular decision or series of decisions;

13.1.2 the extent to which the actions taken implement Council policy;

and it is the duty of those persons to attend if so required.

- 13.2** Where any Councillor or officer is required to attend the Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving reasonable 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.
- 13.3** 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.

14. ATTENDANCE BY OTHERS

The Overview and Scrutiny Committee may invite people other than those people referred to in Rule 12 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 shall invite such people to attend.

15. CALL-IN

15.1 When a decision is made by the Cabinet, a Committee of the Cabinet or an individual Cabinet Member or a Key Decision is made by an officer with delegated authority from the Cabinet or Council 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 three days of being made. The Chair of the Overview and Scrutiny Committee will be sent a copy of the records of all such decisions within the same timescale.

15.2 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 three working days after the publication of the decision, unless the Overview and Scrutiny Committee exercises the right to call-in within that period.

15.3 During that period, the Proper Officer shall request the call-in of a decision for scrutiny by the Overview and Scrutiny Committee if so requested by the Chair or formally by any two members of the Council in accordance with paragraph 15.9 below, and shall then notify the decision-taker that a call-in request has been made.

The Proper Officer shall call a meeting of the Committee on such date as they may determine, where possible after consultation with the Chair or in the absence of the Chair the Deputy-Chair of the Committee, and in any case such meeting shall be held within seven working days of the request to call-in although, in the exceptional circumstances the period may be extended to twenty-one working days at the discretion of both the Chief Executive and the Monitoring Officer (such decision to extend the time limit and the reason for it to be formally recorded in writing).

The member or members requesting such call-in shall have the right to speak at such meeting, as shall the Leader and relevant Portfolio Holder or Holders. Should either of the call-in authors be a Member of the Overview and Scrutiny Committee, they will be present in their capacity as call-in author and not as a Member of the Overview and Scrutiny Committee. They should not sit on the Committee or take part in the debate or vote, as this could be seen as a conflict of interest. The call-in author should therefore send a substitute for the call-in hearing.

15.4 Following receipt of a call-in request from the Proper Officer, the Overview and Scrutiny Committee will consider the decision and the 'Criteria for Call-In. These

criteria can be found in paragraph 15.9 below.

If, having considered the decision in view of the 'Criteria for Call-In, the Overview and Scrutiny Committee is still concerned about it, then provided that a majority of the Members of the Overview and Scrutiny Committee agree, it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or, in the case of decisions outside the Council's Budget and Policy Framework, refer the matter to full Council as provided in the Budget and Policy Framework Procedure Rules.

If referred to the decision making person or body they shall then reconsider as soon as reasonably practicable amending the decision or not, before adopting a final decision, which shall not then be subject to further call-in (unless the final decision is different to or proposes a different course of action to the decision that was called-in).

In all cases of reference back, the Cabinet (or other decision making person or body) shall formally advise the Overview and Scrutiny Committee of their consideration of such referral and their final decision.

- 15.5** If following receipt of a call-in request, 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 Scrutiny meeting, or the expiry of the period in which the Overview and Scrutiny Committee should have met, whichever is the earlier.
- 15.6** If the matter was referred to full Council as provided herein 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 will have no power to alter the 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 person or body 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 as soon as possible thereafter. Where a decision was made by an individual, the individual will reconsider within three working days of the Council request.

- 15.7** If the Council does not meet, or if it does but does not refer the decision back to the decision making person or body, 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.
- 15.8** In the event that an executive decision has been taken by a Neighbourhood Partnership (having delegated power so to do) then the right to request a call-in shall extend to any other Neighbourhood Partnership which resolves to refer a

decision which has been made but not implemented to the Overview and Scrutiny Committee for consideration in accordance with these provisions. A Neighbourhood Partnership may only ask the Proper Officer to request the call-in of the decision of another Neighbourhood Partnership if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call-in shall apply as if the call-in request had been made in accordance with 15.3 above.

15.9 CRITERIA FOR CALL-IN

15.9.1 In order to ensure that call-in is not abused, nor causes unreasonable delay the following criteria in this paragraph 15.9 must be observed.

15.9.2 A request to call-in a decision may only be made by:

15.9.2.1 two members of the Council (not being members of the Cabinet when the decision being called-in was made)

15.9.2.2 the Chair of the Overview and Scrutiny Committee; or

15.9.2.3 a Neighbourhood Partnership pursuant to 15.8 above

provided that such call-in request complies with the requirements of paragraph 15.9.3 below

15.9.3 A call-in request shall be sent or delivered to the Proper Officer and shall comply with the following requirements:

15.9.3.1 the request must be in such form as the Chief Executive shall from time to time require; and

15.9.3.2 the form must specify the decision to be called-in and the reasons for the call-in which must not be invalid in accordance with paragraph 15.9.4 below;

15.9.4 A reason for call-in shall be invalid if:

15.9.4.1 the reason for call-in does not relate directly to the decision;

15.9.4.2 the reason for call-in is answered by information already found in the report relating to the decision;

15.9.4.3 the reason for call-in is to obtain information which does not directly relate to the reasons for taking the decision which is being called-in

15.9.4.4 the reason for call-in is repetitious being in respect of a decision taken by Cabinet following call-in of an earlier decision;

15.9.4.5 the reason given is not a substantial reason for such a call-in;

15.9.4.6 it appears that the call-in request is vexatious, frivolous or defamatory, or if it appears the call-in is intended to delay the implementation of the decision rather than to examine its merits.

15.9.5 The Chief Executive or Monitoring Officer in consultation with the Chairman of the Overview and Scrutiny Committee shall determine whether the call-in request meets the requirements of paragraphs 15.9.3 and 15.9.4. The Proper Officer shall not request the Overview and Scrutiny Committee to call-in any decision if the call-in request does not so comply. If a call-in request is rejected as inappropriate, the signatories will be advised of the decision and the reason for it. The Overview and Scrutiny Committee will be informed at its next meeting.

15.9.6 Where the Proper Officer is satisfied that a request complies with this paragraph 15.9 they shall notify the decision taker that a request for call-in has been made to the Overview and Scrutiny Committee.

15.10 CALL-IN AND URGENCY

The call-in procedure set out above shall **not** apply where the decision being taken 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 Mayor 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 Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Head of Paid Service 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.

15.11 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report may be submitted to Council, with any proposals for review if necessary.

16. THE PARTY WHIP

When considering any matter in respect of which a member of the 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.

17. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS

17.1 The Overview and Scrutiny Committee shall consider the following business:

17.1.1 minutes of the last meeting;

- 17.1.2 declarations of interest (including whipping declarations);
 - 17.1.3 consideration of any matter referred to the Committee by way of call-in;
 - 17.1.4 responses of the Cabinet or Council to reports of the Overview and Scrutiny Committee; and
 - 17.1.5 the business otherwise set out on the agenda for the meeting.
- 17.2** 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 contribute at Committee meetings, which are to be conducted in accordance with the following principles:
- 17.2.1 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;
 - 17.2.2 that those assisting the Committee by giving evidence or otherwise contributing be treated with respect and courtesy; and
 - 17.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 17.3** Following any investigation or review, the Committee shall prepare a report of any recommendations or conclusions in the name of the Chair, for submission to the Cabinet and Council as appropriate and shall make its report and findings public.

18. SCRUTINY PANELS

- 18.1 The Overview and Scrutiny Committee will set up three scrutiny panels (which may be referred to as "Scrutiny Panels") to assist the Overview and Scrutiny Committee in carrying out reviews.
- 18.2 The Overview and Scrutiny Committee will in accordance with Article 6 determine and agree the Scrutiny Panels' memberships, terms of reference and work programmes.
- 18.3 Scrutiny Panels will be given briefs for the work they are required to do and each Scrutiny Panel will undertake one scrutiny review at any one time. The Scrutiny Panels will only be able to commence work once a work programme has been approved by the Overview and Scrutiny Committee.
- 18.4 Although the Scrutiny Panels will not carry out the functions of the Overview and Scrutiny Committee and will not have the formal powers of overview and scrutiny committees conferred by the Local Government Act 2000, it is expected that members of the Executive and officers will cooperate with the Scrutiny Panels. To this extent, the provisions of paragraph 17.2 above shall apply (with the necessary modifications) to the meetings of the Scrutiny Panels.

18.5 The Overview and Scrutiny Committee will have the power at any time for any reason to require a particular scrutiny review or piece of work being carried out by one of the Scrutiny Panels to be referred back to the Committee.

19. PRIVATE MATTERS

Where reports, documents or advice have been dealt with by the Cabinet or a Committee in private pursuant to Section 100 (I) of the Local Government Act 1972 they shall, in the absence of prior consent from the Cabinet or Committee concerned, be dealt with in like manner by the Overview and Scrutiny Committee or the Overview and Scrutiny Panel considering the same.