

PART C4**OVERVIEW AND SCRUTINY PROCEDURE RULES****1. Arrangements for Overview and Scrutiny Committees**

- 1.1 The Council will appoint the Overview and Scrutiny Management Committee and the commissions set out in Part B of this Constitution to oversee the discharge of overview and scrutiny functions.
- 1.2 The Committee may, following consultation with any interested parties, recommend to the Council that a commission is dissolved or that a new commission is established. The extent and nature of consultation undertaken will depend on the substance of the Committee's proposals.

2. Composition of the Overview and Scrutiny Management Committee and commissions

- 2.1 All members of Council, except a member of the Cabinet, may be appointed to the Overview and Scrutiny Management Committee or a commission.
- 2.2 No member may participate in the scrutiny of a decision in which he/she has been directly involved unless he/she attends a meeting for the purpose of making representations, answering questions or giving evidence
- 2.3 The Council may relax the principles of political balance contained in the Local Government and Housing Act 1989 where one political group represented on the Council holds an overall majority of seats on the Council, provided that group has a simple majority of seats on a commission the number of seats allocated to opposition groups may be increased in accordance with the provisions of the Act.

3. Co-opted members

- 3.1 The Overview and Scrutiny Management Committee and each Overview and Scrutiny Commission shall be entitled to appoint a maximum of two people as non-voting co-optees either as standing members of the Committee or on a time limited basis. The selection and nomination of co-opted members shall be in accordance with any protocol agreed by the Overview and Scrutiny Management Committee. Where a co-optee is appointed the relevant Scrutiny Commission will ensure the publication of such appointment prior to the co-optee taking up that role.

4. Education representatives

- 4.1 The Overview and Scrutiny Management Committee or a commission having responsibility for the overview and scrutiny of education functions shall include in its membership the following voting representatives:
- 4.1.1 At least one Church of England diocesan representative.
 - 4.1.2 At least one Roman Catholic diocesan representative.
 - 4.1.3 At least two and up to five parent governor representatives.
- 4.2 The Committee or a commission has responsibility for the overview and scrutiny of education functions where its role and functions relate wholly or in part to any education functions which are the responsibility of the Cabinet. Where the Committee or a commission deals with other matters, any person appointed pursuant to paragraph 4.1 above shall not vote on any such matter but may remain in the meeting and may speak on the matter.
5. **Meetings of the Overview and Scrutiny Management Committee and commissions**
- 5.1 There shall be at least 11 ordinary meetings of the Overview and Scrutiny Management Committee and each commission in each year. In addition, extraordinary meetings may be called where appropriate. A meeting of the Overview and Scrutiny Management Committee may be called by the Chair of the Committee, by any five members of the committee giving written notice to the Chief Executive.
6. **Quorum**
- 6.1 The quorum for a meeting of the Overview and Scrutiny Committee or a commission shall be as set out in Part B of this Constitution and in default is prescribed by rule 37 of the Council Procedure Rules.
7. **Chair**
- 7.1 The Chair of the Overview and Scrutiny Committee and a commission shall be appointed in accordance with Council Procedure Rule 34.3
8. **Work programme**
- 8.1 A commission shall, subject to any decision of the Overview and Scrutiny Management Committee and any protocol agreed, be responsible for approving a work programme which takes into account the wishes of members of the commission who are not members of the largest political group represented on the Council.
9. **Agenda items**

- 9.1 A member who is not a member of the Overview and Scrutiny Management Committee or a commission may give written notice to the Chief Executive to refer any 'local government matter' relevant to the committee/commission's functions . The Chief Executive/Proper Officer shall arrange for the item to be included on the agenda of the Overview and Scrutiny Management Committee or appropriate commission for consideration at the earliest practicable opportunity.
- 9.2 A 'local government matter' is 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 and is not an 'excluded' matter. Excluded matters are:-
- 9.2.1 licensing decision;
- 9.2.2 planning decision;
- 9.2.3 a matter relating to an individual or entity where there is already a statutory right of a review or appeal (other than the right to complain to the Local Government Ombudsman; or
- 9.2.4 a matter which is vexatious, discriminatory or not reasonable to be included on the agenda or discussed at the Overview and Scrutiny meeting.
- 9.3 In relation to paragraphs 9.2.1, 9.2.2 and 9.2.3 in the limited circumstances of an allegation that a function for which the authority is responsible has not been discharged or that its discharge has failed or is failing on a systematic basis the item can in appropriate circumstances be placed on the agenda even if it relates to a planning or licensing decision or an individual or entity and the individual or entity have a separate legal right of review or appeal.
- 9.4 The decision concerning the inclusion or exclusion of matters listed in paragraph 9.2.4 will be made by the Chair of the Overview and Scrutiny Management Committee (or the deputy chair in his/her absence) having taken advice from the Council's Statutory Scrutiny Officer and where practicable, having afforded the member concerned the opportunity to make representations in the matter, or, in their absence, their Group Leader or Group Secretary.
- 9.5 The Overview and Scrutiny Management Committee or appropriate commission shall respond to any request from the Council and, where it considers it appropriate, the Cabinet to review particular areas of Council activity as soon as the agreed work programme permits. The Overview and Scrutiny Management Committee or commission shall report any findings and make any recommendations to the Council or the Cabinet as appropriate. The Council or the Cabinet shall consider the report of the Overview and Scrutiny Management Committee or commission within two months of receiving any findings or

recommendation.

10. **Policy review and development**

- 10.1 The role of the Overview and Scrutiny Management Committee and the commissions in relation to the development of the Council's budget and policy framework is set out in the Budget and Policy Framework Procedure Rules in Part C3 of this Constitution.
- 10.2 In relation to the development of the Council's approach to matters not forming a part of the budget and policy framework, the Overview and Scrutiny Management Committee or a commission may make proposals to the Cabinet or an area committee on matters within their terms of reference.
- 10.3 A commission may hold inquiries and investigate the available options for future policy development and officers may be called upon to assist in this process. A commission may do all that it reasonably considers necessary to inform their deliberations, including asking witnesses to attend to address the commission on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for attending.

11. **Reports from the Overview and Scrutiny Management Committee and commissions**

- 11.1 The Overview and Scrutiny Management Committee or a commission will prepare a formal report, which sets out any conclusions reached on a matter, and submit it to the Chief Executive for consideration by the Council or the Cabinet. A report of a sub-committee or panel shall be submitted to the relevant commission.
- 11.2 Unless the Overview and Scrutiny Management Committee, commission, sub-committee or panel agree the report to the Council or the Cabinet with no member voting against, one minority report may be prepared and submitted for consideration by the Council or the Cabinet with the majority report.
- 11.3 The Council or the Cabinet shall consider the report of the Overview and Scrutiny Management Committee or commission within two months of receipt by the Chief Executive and shall provide comments on it to the body making the report within a further two months.

12. **Consideration of reports by the Cabinet**

- 12.1 The agenda for all meetings of the Cabinet shall make provision for issues referred from overview and scrutiny. A report from the Overview and Scrutiny Management Committee or a commission referred to the Cabinet shall be taken at this point in the agenda, unless considered as a part of a separate substantive item on the agenda.

- 12.2 Where, for any reason, the Cabinet does not consider a report within two months, the matter shall be referred to the Council for review. The Chief Executive will arrange for the matter to be considered at a meeting of the Council which may make a recommendation to the Cabinet.
- 12.3 The Overview and Scrutiny Management Committee and the commissions shall have access to the Forward Plan which sets out the Cabinet's timetable for decisions and arrangements for consultation. Where an item is not the subject of proposals from the Committee or a commission following consideration of policy and service developments, the Committee or commission may respond as a part of the consultation in relation to any key decision.

13. **Rights of access to documents**

- 13.1 In addition to their rights as members of Council, a member of the Overview and Scrutiny Management Committee or a commission have additional rights of access to documents and notice of meetings as set out in the Access to Information Procedure Rules in Part C5 of this Constitution.
- 13.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Management Committee or a commission as appropriate depending on the particular matter under consideration.

14. **Member and officer accountability**

- 14.1 The Overview and Scrutiny Management Committee or a commission may scrutinise and review decisions made or actions taken in connection with the discharge of any function of the Council. The Committee or a commission may review documentation and may require:

- any member of the Cabinet,
- the Chief Executive
- Director/Chief Operating Officer
- City Manager
- Assistant City Manager
- Any officer below Assistant City Manager level (but only following consultation with any of the officers referred to above by the chair of the scrutiny committee or commission requiring the attendance and agreement having been reached that the attendance is necessary and appropriate) to attend and answer questions on matters within their area of responsibility and concerning:

- 14.1.1 A particular decision or series of decisions.

- 14.1.2 The extent to which actions taken implement Council policy.
 - 14.1.3 The performance of any service for which the officer has a responsibility.
 - 14.2 It is the duty of any person whose attendance is required pursuant to rule 14.1 above to attend as required. Any unresolved requests for officer attendance are to be brought to the attention of the Chair of the Overview and Scrutiny Management Committee and the Monitoring Officer.
 - 14.3 Where any member or officer is required to attend the Overview and Scrutiny Management Committee or a commission, the chair of that body will inform the Chief Executive who shall then inform the member or officer in writing giving at least five clear working days notice of the meeting at which he/she is required to attend. The notice will provide a summary of the matter and indicate whether any documentation is required to be made available. Where the production of a report is required the member or officer concerned will be given sufficient notice to allow for preparation of the report.
 - 14.4 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, the Overview and Scrutiny Management Committee or a commission shall, in consultation with the member or officer concerned, arrange an alternative date.
15. **Attendance by others**
- 15.1 The Overview and Scrutiny Management Committee or a commission may invite any person, not including a person referred to in rule 14.1 above, to address the Committee or commission, raise issues of local concern and/or answer questions. The Committee or a commission may hear from residents, stakeholders and members and officers from other public sector bodies and shall invite such people to attend recognising that their attendance cannot be required.
16. **Call-in**
- 16.1 The Overview and Scrutiny Management Committee may, subject to rules 16.2 and 16.3 below, call-in any decision made by:
 - 16.1.1 The Cabinet.
 - 16.1.2 A member of the Cabinet (Leader of Council, Deputy Leader or member of the Cabinet).
 - 16.1.3 A committee of the Cabinet Committee.
 - 16.1.4 An area committee in the case of an executive decision.

16.1.5 An officer in the case of a key decision.

Reasons for call-in

16.2 The discretion to call-in a decision may only be exercised subject to rule 16.3 below and where there is evidence that the decision was not made in accordance with the principles of decision making set out in Article 7.2 of this Constitution.

16.3 A decision which is alleged to be contrary to the budget or policy framework is not subject to call-in but may be dealt with under the provisions of rule 20 below.

16.4 A notice which sets out the decision subject to call-in shall:

16.4.1 Be published within 2 clear working days.

16.4.2 State the date of publication of the notice.

16.4.3 Specify the date on which it will take effect (five clear working days following the date of publication).

16.4.4 Be circulated to members of the Overview and Scrutiny Management Committee.

16.5 The period between the date of publication of the notice and the date on which a decision will take effect shall be known as the 'call-in period'.

Requests to call-in

16.6 During the call-in period the Chair of the Overview and Scrutiny Management Committee or any **two** members of the Council, not including a member of the decision making body, may request that a decision specified in rule 16.1 be called-in. The request shall be made to the Statutory Scrutiny Officer in writing and shall specify the details of how it is alleged that the decision was not made in accordance with the principles of decision making set out in Article 7.2 of this Constitution.

16.7 On receipt of a valid request the Statutory Scrutiny Officer shall:

16.7.1 Call a meeting of Overview and Scrutiny Management Committee to consider the matter.

16.7.2 Notify the person or body which took the decision that it is subject to call-in.

16.8 On receipt of a valid request the Statutory Scrutiny Officer shall:

Meetings at which a call-in is considered

- 16.9 The Statutory Scrutiny Officer will, in consultation with the Chair of the Overview and Scrutiny Management Committee, determine the date of the meeting at which the call-in is to be considered provided that five clear working days notice of the meeting is given.
- 16.10 Where the Overview and Scrutiny Management Committee is already scheduled to meet within the period in which a meeting would otherwise be called and take place the scheduled meeting shall consider the call-in.
- 16.11 The meeting of the Overview and Scrutiny Management Committee should take place no later than 10 clear working days following the receipt of the call-in request. If the meeting is not held within this period, the decision should take effect at the expiry of the 10 clear working days.
- 16.12 A member who has signed a call-in request is not eligible to be considered as a substitute for a member of the Overview and Scrutiny Management Committee which will consider the call-in request.
- 16.13 The meeting at which the call-in is considered may, subject to the provisions set out below, resolve to deal with the call-in in one of the following means:
- 16.13.1 Reject the call-In and endorse the decision.
- 16.13.2 Refer the matter to the decision maker for reconsideration.
- 16.13.3 Subject to rule 16.15 below, refer the matter to Council.

Endorse the decision

- 16.14 If the Overview and Scrutiny Management Committee decide to accept the decision it shall take effect on the date of the Committee's acceptance.

Referral to the person or body which took the decision

- 16.15 If the Overview and Scrutiny Management Committee decide to refer the matter back to the person or body which took the decision it shall set out in writing its reasons for so doing. The person or body concerned shall receive a revised report setting out those reasons and shall (i) reconsider the decision having regard to them, and (ii) address each specific issue raised in the revised report. The decision maker may amend or confirm the original decision, which shall be final and take immediate effect.

Referral to Council

16.16 The Overview and Scrutiny Management Committee may only refer a matter to Council where there has been a significant or repeated breach of the principles of decision making warranting the involvement of the Council. A meeting of Council shall consider the matter within 10 clear working days of the decision to refer the matter and on consideration of the referral the Council may:

16.16.1 Endorse the decision.

16.16.2 Refer the matter back to the decision maker.

16.17 Where the Council endorses the decision or does not meet within 10 clear working days the decision shall take effect on the day of the Council meeting or on expiry of 10 clear working days. Where the Council refers the matter back to the decision maker it shall set out in writing its reasons for so doing and the decision maker shall reconsider the original decision and may amend or confirm the original decision which shall be final and take immediate effect.

Special rules for decisions of area committee

16.18 Any three members (including members of the Cabinet) of an area committee may call-in a decision of another area committee on the grounds that a decision will have an adverse effect on the area for which the committee on which they sit relates. The procedure set out in rules 16.6 to 16.12 shall apply.

Abuse of call-in

16.19 The Overview and Scrutiny Management Committee may only call-in a reasonable number of decisions each year.

16.20 Where the Cabinet considers that an unreasonable number of decisions are subject to call-in, it may prepare and refer a report to the Overview and Scrutiny Management Committee or the Council for consideration.

Urgent implementation

16.21 Where a decision taken by the Cabinet, the Leader of Council, a committee of the Cabinet, a member of Cabinet or an executive decision by an area committee or a key decision by an officer requires urgent implementation the call-in procedure set out above shall not apply and the decision will have immediate effect, providing that the process set out in paragraph 16.2.1 is completed. A decision requires urgent implementation if any delay likely to be caused by the call-in process would seriously prejudice either or both of the following:

- 16.21.1 The legal or financial position of the Council.
- 16.21.2 The interests of the residents of the City.
- 16.22 Where a decision maker considers that a decision requires urgent implementation he/she shall:
 - 16.22.1 Consult with the Monitoring Officer.
 - 16.22.2 Record the fact that the decision requires urgent implementation and shall not be subject to call-in on the record of the decision and in any notice by which it is made public.
 - 16.22.3 Obtain approval to implement the decision from the Chair of the Overview and Scrutiny Committee or, in his/her absence the Deputy Chair or, in the absence of both, the agreement of two members of the Committee.
 - 16.22.4 On the day that any approval is provided, notify in writing the leader of each political group of the use of this provision.
- 16.23 All decisions taken under rule 16.21 shall be reported to the next meeting of the Council together with the reasons in support of urgent implementation.
- 16.24 The operation of arrangements relating to call-in and urgent implementation will be monitored and an annual report shall be submitted to Council with such recommendations as may be considered appropriate.
- 17. **The party whip**
 - 17.1 When considering any matter in respect of which a member of the Overview and Scrutiny Management Committee is subject to a party whip the member concerned shall declare the existence of the whip and the nature of it before the commencement of the Committee's deliberations on the matter. The member's declaration and the nature of the party whip shall be recorded in the minutes of the meeting.
 - 17.2 A 'party whip' for the purposes of rule 17.1 means any instruction given by or on behalf of a political group to a member of that group as to how that member shall speak or vote on any matter before the Council or any committee or commission, or the application or threat to apply any sanction by the group in consequence of the member speaking or voting, or not as the case may be, in any particular manner.
- 18. **Procedure at overview and scrutiny meetings**
 - 18.1 The Overview and Scrutiny Management Committee and commissions

shall consider the following business.

- 18.1.1 Declarations of interest (including any whipping declarations).
 - 18.1.2 Minutes of the last meeting.
 - 18.1.3 Consideration of any matter referred to the Committee for a determination in relation to the call-in of a decision.
 - 18.1.4 Response of the Cabinet to any report of the Overview and Scrutiny Management Committee or a commission.
 - 18.1.5 The business of the meeting as set out in the agenda.
- 18.2 Where the Overview and Scrutiny Management Committee or a commission conducts an investigation, the Committee or commission may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:
- 18.2.1 The investigation shall be conducted fairly and all members of the Committee or commission shall be given the opportunity to ask questions of persons attending, to contribute and speak.
 - 18.2.2 The persons assisting the Committee or commission to giving evidence shall be treated with courtesy and respect.
 - 18.2.3 The investigation shall be conducted so as to maximise the efficiency of the investigation or analysis.
- 18.3 At the conclusion of any investigation or review, the Committee or commission shall prepare a report for submission to the Cabinet and/or the Council, as appropriate, and shall make its report and findings public.
19. **Matters within the remit of more than one overview and scrutiny commission**
- 19.1 Where a matter for consideration by a commission falls within the remit of one or more other commissions, the decision as to which commission will consider the matter shall be resolved by the Overview and Scrutiny Management Committee.
20. **Reporting procedure for decisions outside the budget and policy framework**
- 20.1 Where the Overview and Scrutiny Management Committee determines that a decision taken in the discharge of an executive function is, or if made would be, contrary to or not wholly in accordance with the Council's budget or contrary to the policy framework, the Committee

shall seek the advice of the Chief Finance Officer and the Monitoring Officer.

- 20.2 The report of the Chief Finance Officer and the Monitoring Officer shall be to the Cabinet with a copy to every member of the Council. The Cabinet shall meet to decide what action will be taken in respect of the report and to prepare a report to Council in the event that it is the conclusion of the Chief Finance Officer and Monitoring Officer that the decision was a departure, and to the Overview and Scrutiny Management Committee if the conclusion is that the decision was not a departure.
- 20.3 If the decision has not been made, or it has been made but not implemented, and the advice of the Chief Finance Officer and the Monitoring Officer is that the decision is or would be contrary to or not wholly in accordance with the budget or contrary to the policy framework the Overview and Scrutiny Management Committee may refer the matter to Council, in which case no action may be taken to implement the decision until the Council has met and considered the matter. The Council shall meet within 7 clear days of the request by the Overview and Scrutiny Management Committee to receive a report of the decision and the advice of the Chief Finance Officer and the Monitoring Officer. The Council may:
- 20.3.1 Endorse the decision as one that falls within the budget and policy framework and take no further action.
- 20.3.2 Endorse the decision as an approved exception to the budget and policy framework or amend the budget and policy framework so that it includes the decision and take no further action.
- 20.3.3 Determine that the decision is contrary to or not wholly in accordance with the budget or contrary to the policy framework and require the Cabinet to reconsider the matter in accordance with the advice of the Chief Finance Officer and Monitoring Officer.

21. **Petitions Process**

Calling of an Officer to Account

- 21.1 A petition calling a senior officer to account at a public meeting of the Authority that has been brought in compliance with the Council's petition scheme shall be referred to the Overview and Scrutiny Management Committee at the first available meeting. The committee will decide whether any officer specified in the petition is the appropriate officer. The committee may direct that a different but more appropriate senior officer should attend.

- 21.2 The committee will decide whether the officer should be called to account before it or before one of the Overview and Scrutiny Commissions and if so, which Commission and shall direct the Statutory Scrutiny Officer to make the necessary arrangements to call a meeting and to arrange for the officer to attend together with the petition organiser.
- 21.3 At a meeting calling an officer to account all questions must be by the committee or commission although the petition organiser may suggest appropriate questions. The final decision on the appropriateness of a question shall be that of the Chair.
- 21.4 After the relevant officer has attended the committee or commission will make a report or recommendations to the Authority (directed to the Chief Executive) and will direct that a copy be sent to the petition organiser.

Review of steps taken in response to a petition

- 21.5 Upon a petition organiser requesting a review of the steps the Authority proposes to take or has taken in response to a petition the Overview and Scrutiny Committee will carry out a review at the next available meeting.
- 21.6 The committee will consider the adequacy of the steps proposed to be taken and will consider any representations made by the petition organiser.
- 21.7 The committee may recommend what different steps may be more appropriate.
- 21.8 The committee should direct that the petition organiser be informed about the result of the review. The committee should also direct that a copy of the result of the review should be published on the Authority's website unless it considers that in all the circumstances it would be inappropriate to do so.