

# **Supplementary Committee Agenda**



## **Overview and Scrutiny Review Task and Finish Panel Thursday, 31st October, 2013**

**Place:** Committee Room 1, Civic Offices, High Street, Epping

**Time:** 7.00 pm

**Committee Secretary:** A Hendry, Office of the Chief Executive  
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### **5. DRAFT FINAL REPORT (Pages 3 - 44)**

The Panel's final report is attached.

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## **Report to Overview and Scrutiny Review Task and Finish Panel**



**Date of meeting:** 31 October 2013

**Report of:** Overview and Scrutiny Review Task and Finish Panel

**Chairman:** Councillor K Angold-Stephens

**Officer contact for further information:** I Willett (01992 564243)  
Assistant to the Chief Executive

**Committee Secretary:** Adrian Hendry (01992 564246)  
Democratic Services Officer

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### **Recommendations:**

- (1) That a report be submitted to the Council recommending that the proposals arising from this review of Overview and Scrutiny as set out in Appendix 1 be approved;**
- (2) That the amendments set out in Appendix 2 (Overview and Scrutiny Procedure Rules) be approved and recommended to the Council for adoption and publication in the Constitution;**
- (3) That this report be referred to the Audit and Governance Committee as previously requested.**

### **Report:**

#### **1. Introduction**

- 1.1 We were appointed by the Overview and Scrutiny Committee on 7 April 2012 to review Overview and Scrutiny arrangements within the Council with particular reference to working relationships with the Cabinet.
- 1.2 We were originally set a deadline of completing this review and making recommendations with a view to introducing the proposed changes by the beginning of the current Council year. In practice this did not prove to be possible in view of the discussion prompted feedback from consultation.

#### **2. Approach to the Review**

- 2.1 We were provided with a comprehensive summary of all the statutory provisions relating to the Overview and Scrutiny (OS). If any members of the Council wish to review this information it can be found appended to the agenda for our meeting on 6 December 2012 (Agenda Item 5 – Appendix – Page 15). We were satisfied that the Council had met its statutory obligations and that the Council's Constitution and, more particularly, the Overview and Scrutiny Procedure Rules adequately reflected the statutory arrangements which apply.

- 2.2 Within the same Panel agenda, members will find further research which we commissioned as part of the review. This included:
- (a) a summary of outcomes from previous OS reviews;
  - (b) a digest of views received during consultation from Councillors and Officers about OS;
  - (c) best practice examples from other Councils of good OS practice.
- 2.3 We reported to the Committee on 20 May 2013 with our provisional recommendations and the Committee made a number of comments and raised questions about some of our proposals. These included:
- (a) a query as to whether a call-in is still to be reported to the Overview and Scrutiny Committee even if it had been withdrawn by mutual consent;
  - (b) views regarding the proposal to allow only a lead call-in sponsor to speak to the call-in, thereby excluding other signatories;
  - (c) questions regarding our proposals for a new seating plan to deal with scrutiny of external organisations and call-in; and
  - (d) the question of whether the public should be asked to raise questions at OSC meetings or make presentations on matters of concern.
- 2.5 These concerns from the Committee had been addressed at our most recent meeting and we explain below that we have responded positively to the comments made.
- 2.6 The Audit and Governance Committee request an opportunity to review our interim findings and also the process of the review itself, to seek assurance, from the point of view of good governance, that the review was a robust one. The Audit and Governance Committee received a report with the interim proposals at its meeting on 27 June 2013 and was happy with the process.
- 2.7 However, the Committee also asked for sight of the final proposals of the Committee before these are submitted to the Council. With this in mind, we have asked for this report to be supplied to the Audit and Governance Committee at its next meeting.

### **3. Findings and Recommendations**

- 3.1 Appendix 1 to this report shows our recommendations for changes to Overview and Scrutiny arrangements. A commentary is given below of our main findings in relation to a number of separate topic areas.

**Overview and Scrutiny Committee – Chairman**

- 3.2 At present, there are no specific rules concerning the appointment by the Council of an Overview and Scrutiny Committee Chairman. It is clear to us however that OS should not be a political process. We received representations as part of the consultation that the Chairman of OSC should automatically be a member of a minority party but reached the conclusion that the only requirement should be that the Councillor appointed should have experience and understanding of Overview and Scrutiny in order to be qualified for the position.

### **Cabinet/Overview and Scrutiny - Liaison**

- 3.3 We feel that changes need to be made in order to facilitate closer working between the Cabinet and Overview and Scrutiny. One of the roles of Overview and Scrutiny is to assist the Cabinet in the conduct of its responsibilities whilst at the same time holding the Cabinet to account for the decisions that are made. However, our view is that there has been too much reliance in the past on call-ins as a way of bringing the Cabinet to account and not enough emphasis on pre-scrutiny.
- 3.4 Pre-scrutiny would allow a discussion to take place between the Cabinet and the Leader of Council and OSC in order to look at the forward programme of work of the Cabinet, decide how Overview and Scrutiny could assist in the delivery of that programme and monitor progress by the Cabinet in delivering its programme.
- 3.5 We think this can be best achieved by linking the Cabinet's forward plan with the work programme for OS. We are recommending that at the first OSC each year, the Leader of Council and his Cabinet colleagues should present their programme and answer questions. This would also give an opportunity for the Leader of Council to advise OSC of those matters which could be undertaken on the Cabinet's behalf.
- 3.6 We would like to see more attendance by Portfolio Holders at Scrutiny Panel meetings.
- 3.7 We also propose that progress reports be given after 6 months to OS on the Cabinet forward plan for the year and the delivery of its priorities so that OS has a chance to comment on Executive activities without the need for call-ins to express concerns.
- 3.7 We have looked at the process by which the Overview and Scrutiny Committee reviews the Cabinet agenda at each meeting and we think there is scope of improving the arrangements.
- 3.8 The interval between the despatch of the Cabinet agenda and the Overview and Scrutiny Committee meeting is currently very short and we feel that this may not give OS members enough opportunity to really study Cabinet business. Pre –scrutiny of the kind we have described earlier in the report means that none of those items on the Cabinet agenda should be a surprise to OS members as their should have been discussion with the Leader of Council at the beginning of the year. The Cabinet review item is currently placed at the end of the OSC agenda and we think it should be placed earlier on the agenda to give it more prominence and to allow more time for discussion.

## **Overview and Scrutiny Work Programme**

- 3.9 One of our concerns is that the management of the OS Work Programme should be improved.
- 3.10 We have listed in our recommendations a wide range of information from which the OS Work Programme could be drawn. For instance, there may be useful data on public concerns from the complaints or from Freedom of Information requests. We feel that the Cabinet Work Programme should be taken into account in deciding how the OS programme should be structured.
- 3.11 We would also like to see use made of digests from Directorate Business Plans and information from petitions.
- 3.12 Another area where we feel that more work can be done is following up on previous scrutiny work. We are suggesting that once scrutiny work has been completed there should be a 3 monthly and 6 monthly review on action which has been taken following a scrutiny report. This may mean a review of matters such as Cabinet decisions and monitoring of external organisations following reviews.
- 3.13 We think the management of the OS Work Programme should be co-ordinated by the officer agenda planning group. We would wish that group to review the work programme, review requests from the public and Councillors for reviews (via the pick system) and programme 3 monthly and 6 monthly follow ups. This group could also determine any requests for reviews which are inappropriate or not relevant to OS. In our view, work programming by OS should start well before the start of the Council year. We are recommending that preparation should begin in February with a pause if necessary during April/May if EFDC Elections are due.
- 3.14 We also re-affirm the use of the “pick “system as the basis of assessing requests for reviews. The Officer Group should be strict in ensuring that items are all submitted on the form and if, requests are unclear or incomplete, refer them back for clarification.

## **Scrutiny Panels**

- 3.15 We have no major proposals in relation to Scrutiny Panels except that we wish to see Panel Chairmen more disciplined in attending meetings of the OSC in order to give progress reports on the work of their Panels.
- 3.16 We looked at the question whether pro-rata requirements for Standing Scrutiny Panels could be discontinued in order to ensure that memberships comprised Councillors who had a keen interest in the subject matter and did not merely attend to fulfil the pro-rata formula. Although in discussion, this did find some support, it was felt that in practical terms this would not be deliverable within the Council and we have therefore decided not to make any proposals in that regard.

## **“Call-in” Procedure**

- 3.17 The “call-in” process operated by the Council has been reviewed several times and we think that, on the whole, it is working well. We are, however, making recommendations about the improving the process as discussed below.

- 3.18 We wish to introduce arrangements whereby a Cabinet member and a call-in sponsor could meet before the call in is referred to OSC. Such a meeting would be convened by the Chairman of the Overview and Scrutiny Committee and would explore whether an agreement can be reached on a way forward. This might allow a call-in to be withdrawn or modified or allow a Portfolio Holder to agree changes to the decision so as to reflect the concerns expressed. We were asked by the Committee what would happen if a call-in is withdrawn. We have looked at this issue and feel that OSC should be advised for information at the next meeting of any prior discussions about the call in and the outcome.
- 3.19 The deadline for a call-in is 5 days following the publication of a notice of the relevant executive decision. We feel that this is a tight timescale, particularly as five members have to sign in order to validate the "call in". We have asked officers to look at a more flexible arrangements. We still feel that a signed document is still required but e-mail submissions of support by the 5 call-in sponsors could speed up the process. In the longer term we would like the opportunities for an electronic call-in system to be investigated.
- 3.20 We have also looked at the way in which debates at OSC are structured. The Overview and Scrutiny Committee asked us to think again about the idea of only the lead call-in sponsor speaking on the call-in. We originally felt that this would allow the Portfolio Holder to respond to those comments on a balanced basis. At present the arrangement is that all 5 sponsors of the call-in would be able to speak and the Portfolio Holder would be the only person to be able to reply. Now that we have the benefit of the Committee's views, we are recommending that lead "call-in" sponsor should speak first with the 4 other signatories and the Portfolio Holder following in that order. If more than 5 Councillors have signed the "call in", the lead member and the following 4 names on the form plus the portfolio holder would speak. Any other signatories would then be free to speak in the debate following the Portfolio Holder's response.
- 3.21 We have made recommendations on the use of the Council Chamber in the section of this report relating to the scrutiny of external organisations (see below). We recommend that the same seating arrangements should apply to call-ins, the relevant Director and the Portfolio Holder being asked together in the well of the Chamber to make their presentations and answer questions.

### **Scrutiny of External Organisations**

- 3.22 We have probably spent more time on how to scrutinise the activities of other agencies who affect the District than any other issue. Although a procedure is outlined in the Overview and Scrutiny rules regarding how such a scrutiny is to be conducted we do not feel that this is fully effective.
- 3.23 The essence of scrutiny of external organisations is preparation. Currently, members of OSC have a private meeting on tactics prior to the meeting. This is linked to an earlier invitation in the bulletin to put forward questions. We think that this is probably leaving matters too late for proper preparation and we would like a preliminary discussion to be held at the previous OSC agree the topics which need to be raised. This should guide the Committee and officers on the kind of topics which need to be explored. We hope that this will enable more background information to be prepared by officers and avoid duplicating questions in debate. It will also enable the issues of concern to be sent to the organisation at an earlier stage, improving the prospects for meaningful answers being given at the meeting.

- 3.24 We have looked at the way in which time is allocated at Overview and Scrutiny Committee meetings for this kind of scrutiny. We think that time limits should be applied to presentations by external bodies. We do not propose to be prescriptive about this as we are content for the Chairman of OSC to do this. However, we do not wish to see a time limit on the period on for questions. We feel that an arbitrary time limit can often prevent members from asking significant follow up questions and frustrate the main purpose in inviting external agencies, namely of finding out the true position on how the District is affected.
- 3.25 We also feel that there is an issue around the selection of organisations who attend Overview and Scrutiny Committee meetings. Quite often requests are made simply to allow representatives to come to meetings to present information on some new initiative they are undertaking. In our view, this is not the same as Scrutiny. We feel that in planning the work programme for OS each year there must be regard to real issues for the Council and the community.
- 3.26 We are also proposing new seating arrangements for external organisations. We consider that representatives of the external organisations should be seated in the well of the Chamber because this would provide a better focus for questioning and change the relationship between the organisation scrutinised and the OSC. The latter is in our view not on the right footing if representatives are seated on the "top table". We are aware that when we reported our provisional recommendations to the Overview and Scrutiny Committee, some reservations were expressed about this idea. However, we still wish to recommend this new seating arrangement because we feel that with representatives of external organisations sitting at the 'top table', scrutiny is less effective.

### **Budget Scrutiny**

- 3.27 We have reservations about the current involvement of Overview and Scrutiny in budget monitoring. Currently the activities of the Finance and Performance Management Scrutiny Panel ("Scrutiny Panel") seem to mirror the work of the Cabinet Committee to an excessive extent. We received representations as part of consultation about the current practice of submitting the same budget papers to the Scrutiny Panel as are discussed by the Cabinet Committee. We feel that all the detailed financial information is really the responsibility of the Cabinet Committee and budget scrutiny by Overview and Scrutiny should be based on broader topics.
- 3.28 We feel that the Scrutiny Panel should be reviewing the financial issues paper produced by the Director of Finance and ICT September each year and the mid-term financial strategy document. Throughout the budget process, the Scrutiny Panel should concentrate on policy issues, trends, problems and themes rather than trying to assimilate the vast amount of financial data which the Cabinet Committee must have to meet its responsibilities. We wish to avoid the duplication that currently exists between the Cabinet Committee and this Scrutiny Panel.
- 3.26 At our request the Director of Finance and ICT has developed an OS budget review timetable which is set out in our recommendations. Principally this will involve an initial look at the financial issues paper in September. In November this will be followed by examination of the draft growth lists and savings and the DDF programme (plus fees and charges), followed, in January, by an update of the medium term financial strategy for the next financial year. The timetable would conclude in February with the final form of the draft budget.



- 3.27 We think that this should be the basis of scrutiny of the budget each year. This will allow the Scrutiny Panel to comment on the broad issues affecting the budget without becoming unduly immersed in the detail. This process should, in our view, be coupled with training in financial procedures preceding the beginning of the budget cycle in September. We are happy for the content of that report and also the timing to be left with the Director of Finance and ICT but we feel it is essential that this training is given if OS is to make a real contribution to the budget process.
- 3.28 We wish the Scrutiny Panel's term of reference to be reviewed to avoid duplication with the Cabinet Committee and to see the joint meetings with the Cabinet Finance Committee discontinued. We also would like the Scrutiny Panel to look at the timetable for business plans so that this too can complement the OS work programme for the year.

### **Scrutiny of Key Performance Indicators**

- 3.29 Review of Key Performance Indicators (KPI's) is currently co-ordinated through the Finance and Performance Management Standing Scrutiny Panel ("Scrutiny Panel"). We wish to see this continue but we would like reviews of KPI's to concentrate on those measures which are either "red" or "amber" only. We see limited value in considering indicators which are being met. Furthermore, although we support the co-ordinating role of that Panel, we feel that where other Scrutiny Panels are in being and have a direct interest in any KPI, they should be involved in assessing reasons for non achievement. Once a presentation has been made to the Scrutiny Panel. We are asking that the terms of reference of that Panel should also be amended to reflect this approach.
- 3.30 It goes without saying that if there is not a separate Panel to deal with any KPI, these will have to be dealt with by the Scrutiny Panel.

### **The Public Profile of Overview and Scrutiny**

3.31 At previous reviews of Overview and Scrutiny there has been discussion regarding the public profile of Overview and Scrutiny. We feel that although the Constitution adequately reflects the need for Overview and Scrutiny to engage with the public, this has not been achieved in practice and continues to be a problem. We have a number of ideas as to how we can improve things and these are set out below.

#### **(a) Items from the Public**

3.32 The Overview and Scrutiny rules should be amended to allow the public the opportunity to ask questions at Overview and Scrutiny and Panel meetings and to address those bodies on issues of concern.

3.33 This is an issue which was commented upon by Overview and Scrutiny Committee at the provisional recommendation stage because there were fears about the public raising topics which are not otherwise on the agenda. The Committee also felt that Overview and Scrutiny should avoid a situation where a question or a request to address a Committee or Panel could be repeated at another stage in the process.

3.34 We accept those concerns and are proposing that questions and requests to address a Panel or the OSC should be limited to existing agenda items. If requests are received for topics which are not included on the agenda, these need to be dealt with under the "pick" system and submitted to a later meeting. We are sure that officers will look at these proposals carefully to ensure that they are relevant before placing them before members.

3.35 We accept the view that a matter raised in a panel should not then be raised again at OSC. We are therefore proposing that the rules should say such questions or proposals should only be dealt with at one meeting. We would like to see more opportunities for Panels to deal with relevant subjects as questions may be better dealt with in a smaller group of Councillors with more background knowledge of the subject matter. However some matters will be more appropriate for OSC.

**(b) Encouraging Participation by the Public**

3.36 We wish Chairmen to use their discretion whenever possible at both at OSC and Panel meetings, to ensure that the public can easily engage with OS and make a real contribution. We would like to see the website used to encourage the public to come forward with questions and ideas, particularly where scrutiny of external agencies is planned. Specific publicity for those sessions should also be given.

**Safer Communities & National Health Service Scrutiny**

3.37 We have reviewed the arrangements for scrutiny of Crime and Disorder and NHS issues as these are likely of interest to the public and Councillors alike. We are broadly quite happy with the arrangements on crime and disorder. We feel that there is a willingness by the Police and Crime Commissioner to come to this District to answer questions from the public and Councillors and we are confident that this will continue.

3.38 We feel with NHS scrutiny awareness of the process is not at a high level. This is particularly concerning because this is a topic which will be of great concern to the public. Currently, statutory responsibility for NHS scrutiny lies with the County Council but we are concerned about local scrutiny of health care issues. We take the view that scrutiny on a County-wide basis may not be at a sufficiently local scale and we are proposing that an approach should be made to the County Council to carry out local review as and when the need arises. We are hopeful that Essex County Council will accept the need for local NHS reviews. However, it will be important that the results are fed back to the County Council and this Council's representatives clearly have a crucial role in acting as a link.

**Training**

3.39 We have mentioned training in relation to the budget and we are proposing that the training courses on Overview and Scrutiny should be reinstated and held each June in the years when there are Epping Forest District Council elections. We think it is very important that Councillors are constantly refreshed regarding Overview and Scrutiny techniques and particularly newly-elected Councillors, who need to be aware of the opportunities which OS opens up to non Cabinet members. We hope that this will not be the only Overview and Scrutiny training to be provided and that more specialist courses will be facilitated as and when needed.

3.40 Finally, we have been advised that the Tenants' Federation are forming their own Overview and Scrutiny Committee to monitor their relationship with the Council as housing authority. We are very supportive of this initiative and wish to see representatives of the Federation fully involved in any training sessions held.

#### **4. Constitutional Changes**

4.1 Revised Overview and Scrutiny Procedure Rules are attached as Appendix 2 and incorporate the proposals in our recommendations which require constitutional changes. The Committee will appreciate that many of the changes mentioned in our recommendations are more operational in character or merely support provisions in the Constitution which exist already. Any changes are shown in bold type/underlined and, if approved, should be submitted to the next Council meeting for adoption and publication in the Constitution.

#### **5. Conclusions**

5.1 Our overriding impression of OS within the Council at present is that constitutionally it is well established but the full scope of the opportunities it offers to councillors and the community to influence the way in which the Council and others work has yet to be fully grasped.

#### **6. Thanks**

6.1 The Panel wishes to acknowledge the support and responses received from all those consulted about this review. In particular we acknowledge the work carried out in support of the review by Connor Lattimer and Nicholas Trower for undertaking research and general support for the review during their summer internships in 2012.

K Angold-Stephens (Chairman),  
R Gadsby (Vice-Chairman)  
A Grigg  
M Sartin  
D Stallan  
J H Whitehouse

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## OVERVIEW AND SCRUTINY REVIEW – DRAFT RECOMMENDATIONS

Section marked thus \* involve constitutional changes.

### Overview and Scrutiny Committee – Appointment of Chairman\*

(1) That Overview and Scrutiny Procedure Rule 8 be amended by the addition of a new sub-paragraph (3) as follows:

**“3. The Chairman of the Committee must have experience and understanding of the Overview and scrutiny system.”**

### Cabinet/Overview and Scrutiny Committee Liaison\*

(2) That in order to improve liaison arrangements between the Cabinet and Leader of the Council with the Overview and Scrutiny Committee the following proposals be agreed and incorporated in the Overview and Scrutiny rules:

(a) that the Leader of Council attend the first Overview and Scrutiny Committee of any Council year so as to present the Cabinet’s Forward Plan and to attend after six months to update the Overview and Scrutiny Committee on progress with that plan;

(b) that at the first meeting of the Overview and Scrutiny Committee each year, the Leader should indicate, where appropriate, any work to be undertaken by Overview and Scrutiny on behalf of the Cabinet;

(c) that at the initial meeting of the Overview and Scrutiny Committee each year, members should have the opportunity to ask the Leader of Council and Portfolio Holders questions on matters of concern regarding Cabinet business;

(d) individual Portfolio Holders should attend appropriate Overview and Scrutiny Standing Panel meetings which deal with matters relating to their portfolios and should answer questions on their portfolio from Panel members;

(e) that relevant Portfolio Holders should attend any of the appropriate Standing Panel meetings dealing with matters related to their portfolio; that in terms of discussions with the Leader of Council and Portfolio Holders whether at the Overview and Scrutiny Committee or any Standing Scrutiny Panel, all members of the Council should be encouraged to attend where they have particular interest in the subject matter concerned;

(f) that the Standing Item on the Overview and Scrutiny Committee Agenda relating to the review of Cabinet business at its next meeting be placed earlier on the Committee’s agenda to allow more opportunity for discussion; and

(g) that the Council calendar of meetings be reviewed so as to allow more time between meetings of the Cabinet and the Overview and Scrutiny Committee so as to ease the process for call-ins and also the review of Cabinet agenda business.

### Overview and Scrutiny - Work Programme\*

- (3) That the agenda first meeting of the Overview and Scrutiny Committee each year should include consideration of the work programme both for the Committee and Panels and that the compilation of the work programme should take account of the following:
- (a) significant decisions, whether or not they are key decisions, which are included in the Council's Forward Plan;
  - (b) monitoring of the Cabinet Forward Plan as to progress and content of proposed decisions;
  - (c) items arising from the Forward Plan to be raised as part of the Cabinet review item on Overview and Scrutiny Committee agenda;
  - (d) submissions by the public or Councillors;
  - (e) a review of topics raised by way of formal complaints to the Council during the preceding year;
  - (f) topics which have arisen in Freedom of Information Act requests during the previous year;
  - (g) agreed Cabinet priorities for the year;
  - (h) any outstanding Task and Finish Panel work not completed during the previous Council year;
  - (i) digests of information arising from petitions received during the previous year;
- (4) That the submission of items by members of the Council or the public for consideration by Overview and Scrutiny Committee continue to be based on the "pick" work request form, use of which should be enforced and that better training be provided on the completion of the form and that in cases where the pick form is unclear or incomplete in relation to the nature of the work to be undertaken by Overview and Scrutiny, this be returned to the proposer with a request for greater clarity;
- (5) That where Overview and Scrutiny Committee or any Panel undertakes reviews of Council services, more emphasis be given in future to monitoring the outcomes from those reviews after three months and six months from completion;
- (6) That the Overview and Scrutiny Agenda Planning Group of officers be given prime responsibility for managing the Overview and Scrutiny work programme including reviews of requests from the public and members via the "pick" form procedure so as to establish the relevance and suitability of reviews requested;
- (7) That the preparation of the Overview and Scrutiny Work Programme should commence in February 2013 but with account taken of the election period April/May each year if District Council elections are taking place;
- (8) That, in terms of Council budgets, provision be made in the Council's annual training programme for Overview and Scrutiny members to be trained in budget processes before the commencement of the budget round each year and that the Director of Finance and ICT being asked to determine the most appropriate timing and content for such training sessions.

## **Overview and Scrutiny Panels\***

(9) That Overview and Scrutiny procedure rules 12 and 13 be amended so as to require all Chairmen of Standing and Task and Finish Panels to attend each Overview and Scrutiny Committee to give oral or written progress reports on the work of their Panels.

## **Call-in Procedure\***

(10) That the following changes be made to the call-in procedure set out in the Overview and Scrutiny Procedure Rules and Protocol:

- (a) that the Chairman of the Overview and Scrutiny Committee, if requested either by the lead Councillor for a call-in or the relevant Cabinet member, should convene a meeting to discuss the call-in before this is considered formally by the Overview and Scrutiny Committee with a view to establishing whether there could be agreement between the Cabinet member and the call-in sponsor as to other proposed decisions or the call-in could be altered so as to achieve agreement on progressing the decision concerned;
- (b) that the present deadline for calling in decisions by the Cabinet or Portfolio Holders remain at five days and that in terms of the requirement to submit a call-in request signed by all sponsors, a more flexible approach be adopted by allowing signing in to be achieved by separate e-mails from the members who support the call-in concerned;
- (c) that further work be undertaken as to the possibility of instituting full electronic call-ins so as to speed up the process for dealing with these requests;
- (d) that a new provision be introduced so as to allow "call-in" sponsors to withdraw any objections they may have notified if having met with the Portfolio Holder and the Chairman of the Overview and Scrutiny Committee their concerns are met;
- (e) that situations where the procedure outlined in (d) above has been followed, an agreement has been reached on the withdrawal of call-in objections, an information report be submitted to the next meeting of the Overview and Scrutiny Committee on that withdrawal and the circumstances which led to changes in the original Cabinet decision being agreed by the Portfolio Holder or the Cabinet;
- (f) that the procedure for dealing with call-ins at the Overview and Scrutiny Committee meetings be amended to take place in the following order:
  - (i) lead call-in sponsor to speak first;
  - (ii) the four other signatories to the call-in to be given the opportunity to speak next;
  - (iii) Portfolio Holder then responds;
  - (iv) Debate

(g) that in cases where the number of signatories to a call-in exceeds five, the first five signatories on the call-in sheet be dealt with under the previous sub-paragraph with any other signatories being able to speak only during the ensuing debate on the call-in.

### **Scrutiny of External Organisations**

(11) That arrangements for scrutinising the work of external organisations be amended as follows:

- (a) that for the purposes of presentations by representatives of outside organisations, they should be seated in the well of the Chamber.
- (b) That this layout also be used for call-ins with the relevant Portfolio Holder and Director sitting together in the well of the Chamber in order to answer questions from the Overview and Scrutiny Committee on call-in business.
- (c) That members take a more critical approach to the selection of outside organisations to be scrutinised, ensuring that invitations are only issued to the organisations where there are public concerns.
- (d) That a flexible approach be taken on whether or not scrutiny of an external organisation would be better conducted by a Standing or Task and Finish Panel rather than the Overview & Scrutiny Committee.
- (e) That priority be given to preparing for external scrutiny sessions by extending existing arrangements by the addition of preliminary consideration at the meeting preceding the visit of the organisation concerned on the topics to be covered with Service Directors being encouraged to assist with background information which might assist follow-up questions to be formulated.
- (f) That the Overview and Scrutiny Chairman determine the appropriate time allocation for presentations by external organisations but no time limit be set for questions from members of the Council.
- (g) That more emphasis be given to monitoring undertakings given and proposals made by external organisations through follow up reviews after three and six months.

### **Scrutiny of Council Finances and Budgets**

(12) That a new timetable for review of the budget by Overview and Scrutiny be introduced as follows:

September – Financial Issues paper from Director of Finance submitted to the Finance and Performance Management Standing Panel (“the Standing Panel”).

November – Draft growth lists/savings and DDF programme and information on fees and charges submitted to the Standing Panel.

January – Update of medium term financial strategy for the next financial year to be considered by the Panel.

February – Final form of draft budget to be submitted to the Panel for comment.



(13) That the timetable for the budget review be publicised in the Council Bulletin so that members who are interested in particular budget issues are aware of the meetings at which the Standing Panel will be examining proposals.

(14) That in future the Standing Panel should concentrate on policy issues and emerging trends, problems and themes rather than individual budget details which are a matter for the Cabinet.

(15) That the Standing Panel be asked to review their terms of reference so as to avoid duplication with the work of the Finance and Performance Management Cabinet Committee.

(16) That, in line with this new approach for the Standing Panel, the present practice of holding joint meetings with the Cabinet Finance Committee be discontinued so as to separate the roles of the two bodies.

(17) That, in reviewing budgets, the Standing Panel should take account of budget issues from previous years if relevant to the current budget.

### **Key Performance Indicators – Role of Overview and Scrutiny**

(18) That the following changes be made to arrangements for reviews of key performance indicators by Overview and Scrutiny:

- (a) that the Finance & Performance Management Standing Scrutiny Panel (“Standing Panel”) should continue to be responsible for the review of KPIs on behalf of the Overview & Scrutiny Committee;
- (b) that the Standing Panel should take an overview of all KPI performance but any “red” or “amber” KPIs which arose should be referred for further review to the appropriate Scrutiny Panel where one exists with an explanation by relevant officers and the Portfolio Holder on the reasons;
- (c) the Standing Panel should deal with “red” or “amber” KPIs for which there no other Panel exists;
- (d) that the Standing Panel be asked to review their terms of reference with these changes in mind.

### **Overview and Scrutiny – Public Profile**

(19) That the following steps be taken so as to improve the public profile of the Council’s Overview and Scrutiny function:

- (a) that a more proactive stance be adopted with regard to engagement with the public;
- (b) that the Overview and Scrutiny rules be amended so as to allow an opportunity for the public to ask questions at Overview and Scrutiny Committee meetings and Scrutiny Panels and also to address those bodies on issues of concern subject to the following:

- (i) that the questions concerned or the matters on which the Committee or Panel is to be addressed are relevant to the powers and responsibilities of the Council or relevant to the District;
  - (ii) that questions or matters of concern only be raised at a Panel or at the Overview and Scrutiny Committee as appropriate but not at both;
  - (iii) that matters on which questions or issues are raised should be items which are on the relevant agenda;
  - (iv) that any questions or issues raised for the Overview and Scrutiny Committee or a Panel which are not set out in the agenda for the following meeting be deferred and subjected to the pick process and brought back for further discussion at the next available meeting;
- (c) that a flexible approach be adopted to facilitate the submission of business from the public for Overview and Scrutiny including the use of correspondence, email through the website and the pick form process as appropriate;
- (d) that the Forester and local press releases be used to heighten the profile of Overview and Scrutiny including:
- (i) the annual work programme for Overview and Scrutiny;
  - (ii) specific items due to be considered by the Overview and Scrutiny Committee or its Panels so as to encourage the public to submit evidence or comments, particularly where scrutiny of external bodies is planned; and
  - (iii) that the Chairman of the P&C Committee be allowed maximum discretion within the Overview and Scrutiny rules to allow the public to contribute fully to the work of Overview and Scrutiny

### **Scrutiny of Crime and Disorder**

(20) That the current arrangements for scrutiny of Crime and Disorder issues including the activities of the Police and Crime Commissioner for Essex be continued.

### **Scrutiny of National Health Service**

(21) That, notwithstanding that the health scrutiny was a County Council function, that an approach be made to Essex County Council for local health scrutiny to be undertaken under the auspices of the Overview and Scrutiny Committee and conducted by the Safer Cleaner Greener Standing Panel.

(22) That if members of the public or Councillors wish to raise specific health issues for review by the Panel, the pick form procedure be used and authority sought from Essex County Council to undertake local scrutiny.

(23) That liaison arrangements be put in place between the Safer Cleaner Greener Standing Panel and the Council's representative on the County Council's Health Scrutiny Committee to ensure that there is proper liaison with the County Council.

## **Training**

(24) That the following arrangements be put in place regarding training of Councillors in Overview and Scrutiny techniques:

- (a) that each year an Introductory Course on Overview and Scrutiny be held in June during years when there are District Council Elections;
- (b) that Budget Scrutiny Training be given in September as indicated earlier in these recommendations;
- (c) that further specialist training in Overview and Scrutiny techniques be arranged as and when thought necessary and dependent on available funding;
- (d) that the Tenant's Federation which has established its own Overview and Scrutiny Committee be invited to attend future training courses on Overview and Scrutiny and that the possibility of a financial contribution towards the cost of such training from the Housing Revenue Account be researched.

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Appendix 1 Protocol on Consideration and Reporting on Executive Decisions Called in by the Overview and Scrutiny Committee.

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. ARRANGEMENTS FOR OVERVIEW AND SCRUTINY**

- (a) The Council will, at the Annual Council meeting, appoint an Overview and Scrutiny Committee as set out in Article 6.
- (b) Each Overview and Co-ordinating Committee shall comprise 11 members, including a Chairman and Vice-Chairman appointed by the Council.

### **2. OVERVIEW AND SCRUTINY COMMITTEE - FUNCTIONS**

- 1. The Overview and Scrutiny Committee will discharge the Overview and Scrutiny functions conferred by Section 20 of the Local Government Act 2000 plus those responsibilities allocated by the Council.

### **3. OVERVIEW AND SCRUTINY COMMITTEE - TERMS OF REFERENCE**

- 1. The functions of the Overview and Scrutiny Committee shall be as follows:
  - (a) review of corporate strategies;
  - (b) ensuring that the decisions/actions of the Cabinet accord with the Council's policies and budget;
  - (c) monitoring and scrutinising the financial performance of the Council and making recommendations to the Cabinet in relation to annual revenue and capital guidelines, bids and submissions;
  - (d) when required, questioning members of the Cabinet or other Committees and officers about their decisions and performance whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  - (e) making recommendations to Cabinet and appropriate Committees and the Council arising from the outcome of the overview and scrutiny process;
  - (f) review and scrutiny of the performance of other public bodies active in the District, inviting reports from them by requesting them to address the Committee and local people about their activities and performance;
  - (g) questioning and gathering evidence from any person (including Councillors, members of Council staff and others) on issues falling within the functions of the Committee;

- (h) determining terms of reference, memberships (including the appointment of Chairman and Vice-Chairman) and reporting for all Standing and 'Task and Finish' Scrutiny Panels;
- (i) scrutinising executive decisions;
- (j) considering and making responses to executive decisions which are called in either as a Committee or through referral to a Standing or 'Task and Finish' Panel;
- (k) monitoring the effectiveness of the call-in procedure, reviewing the number and reasons for call-in and making recommendations to the Council on any changes required to improve operation of the process;
- (l) monitoring and scrutiny of the Forward Plan;
- (m) review of implications of Government Consultation documents where requested by members;
- (n) reports on key performance Indicators referred to the Committee;
- (o) reports on Service Business Plans as requested by members;
- (p) receiving presentations from the Leader of the Council and other Portfolio Holders early in the Council year outlining their plans for the year ahead and reporting performance in the previous Council year;
- (q) consideration of requests from Cabinet for scrutiny involvement in policy development and determining appropriate action;
- (r) to receive evidence from a senior officer relating to a petition where the number of signatures meets or exceeds the trigger level contained in the Council's Petitions Scheme and make recommendations as appropriate;
- (s) to review, when requested by the petition organiser, the Council's response to any petition which they consider has not been dealt with properly including, if appropriate, investigating, making recommendations to the Council or Executive or arranging for the matter to be considered at a meeting of the full Council;
- (t) determining work programmes in accordance with items falling within Committee's ambit in accordance with (a)-(s) above.

#### **4. WHO MAY SIT ON THE OVERVIEW AND SCRUTINY COMMITTEE?**

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



## 5. CO-OPTees

1. The Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of appropriate persons as non-voting co-optees.

## 6. MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEE

1. Meetings of the Overview and Scrutiny Committee will be held in accordance with the Council's calendar of meetings in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman, or by the Proper Officer if he/she considers it necessary or appropriate.

## 7. QUORUM

1. 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.

## 8. WHO CHAIRS OVERVIEW AND SCRUTINY COMMITTEE MEETINGS?

1. The Overview and Scrutiny Committee will be chaired by the Councillor appointed as Chairman of the Committee at the Annual Council meeting.

2. A Vice-Chairman will also be appointed by the Council at its Annual Meeting. The Chairman and Vice-Chairman of the Committee will be appointed from those Councillors serving on the Committee. The Chairman and Vice-Chairman will be appointed for a term of one year and will be eligible for re-appointment.

**3. The Chairman of the Committee must have experience and understanding of the Overview and scrutiny system.**

## 9. WORK PROGRAMME

### Responsibilities

1. The Overview and Scrutiny Committee shall approve an Overview and Scrutiny Work Programme. **This programme will be co-ordinated and prepared in draft by the Overview & Scrutiny Agenda Planning Group or equivalent body for consideration by the Committee.**
2. **The programme shall be compiled over the period February to May each year, with allowance made in the timetable for preparing the programme for the electoral period. A draft programme will be submitted to the first Overview & Scrutiny Committee meeting of each Council year for approval.**

### Compiling the Work Programme

2. In determining the contents of the work programme, the Committee will:
  - (a) seek proposals for inclusion from all Members of the Council through the Council Bulletin **and from the public via the Council's website;**

- (b) invite the Leader of the Council and other Portfolio Holders **to attend the first meeting of each Council year to present the forward plan for the Cabinet for the following year in respect of the Council's executive functions, to answer questions on that plan and to indicate where appropriate work on the Cabinet's behalf which could be undertaken by Overview & Scrutiny;**
- (c) arrange for the Leader of the Council and other Portfolio Holders **to attend a further meeting of the meeting six months after the first meeting of the council year to provide a progress report on the forward plan for the year in question;**
- (d) agree with the Leader of the Council and Portfolio Holders on any items for inclusion in the work programme which may be undertaken by Overview and Scrutiny on the Cabinet's behalf;
- (e) seek proposals from any partnership organisations on any projects which Overview and Scrutiny could undertake on behalf of those partnerships;
- (f) review the work programme for Overview and Scrutiny in respect of the current year;
- (g) consider external organisations to be scrutinised during the year in question.**

### **Approving the Work Programme**

3. The Overview and Scrutiny Work Programme shall be approved prior to the Annual Council meeting each year and shall be of twelve months' duration. The programme shall be reviewed after six months.
4. The Committee will, in determining the work programme for Overview and Scrutiny:
  - (a) review all proposals submitted to ensure that they relate to the Council's Policy Framework including the Corporate Plan , the Forward Plan and other appropriate corporate information;
  - (b) ensure the agreed work programme has sufficient member and officer resources to support it;
  - (c) identify in advance any budgetary provision required for specific projects;
  - (d) ensure that the work programme is properly prioritised.
  - (e) allocate time limits for each project;
  - (f) ensure that any projects which do not find a place in the work programme are placed in a reserve programme for further review;
  - (g) ensure that all Members of the Council are informed about the work programme as part of the annual report to the Council in April each year;

- (h) review the work programme on a regular basis during the year.

### **Urgent Items and New Proposals**

5. Where new proposals or matters of urgency arise during the currency of an annual work programme, the Committee may:

- (a) determine that any new project should be added to the programme and adjust the remainder of the programme accordingly;
- (b) determine that a new project should be deferred for review when the next work programme is considered;
- (c) decline to accept an additional project and give grounds for so doing.

6. All proposals for additional or urgent projects shall be submitted in writing and presented at a convenient meeting of the Overview and Scrutiny Committee by the member or officer so proposing.

### **Motions at Council Meetings**

7. Any motion adopted by the Council following due notice from a Member of the Council and which relates to the responsibilities of Overview and Scrutiny shall, on adoption, stand referred to the Overview and Scrutiny Committee for consideration. In determining how to respond to the motion, the Overview and Scrutiny Committee shall consider whether the proposal should be incorporated in the work programme or held for future consideration in accordance with the procedures outlined in Paragraph 4 and 5 above. The Committee shall also advise the Council, via the Members' Information Bulletin, of the action taken on such motions.

## **10. AGENDA ITEMS**

1. Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

2. Any members of the Council who are not members of the Overview and Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of that Committee. If the Proper Officer receives such a notification, then he/she will include the item on the first available agenda of the Overview and Scrutiny Committee for consideration.

3. The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council or the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Executive and/or the Council. The Executive shall consider the report of the Overview and Scrutiny Committee within one month of receiving it and the Council

within two months of receiving it, or, in either case, as soon as is reasonably possible.

## **11. POLICY REVIEW AND DEVELOPMENT**

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.

2. In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Executive in so far as they relate to matters within their terms of reference.

3. The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

4. In carrying out any policy review or policy development work within their terms of reference, the Overview and Scrutiny Committee may refer all or part of such matters to a Standing Scrutiny Panel or a 'Task and Finish' Scrutiny Panel for consideration in accordance with the programme approved by the Overview and Scrutiny Committee.

**5. The Overview & Scrutiny Committee or relevant Scrutiny Panel shall undertake an implementation review of completed scrutiny studies at three and six months after completion**

## **12. STANDING SCRUTINY PANELS - PROCEDURAL REQUIREMENTS**

1. Standing Scrutiny Panels may be established on an annual basis by the Overview and Scrutiny Committee.

2. Standing Scrutiny Panel status will be restricted to those activities of a recurring or cyclical character which require a longer term involvement by members.

3. The Overview and Scrutiny Committee shall determine the number and terms of reference of Standing Scrutiny Panels and shall review whether they should continue in being before the end of each Council year.

4. Standing Scrutiny Panels will:

(a) adhere to a work programme agreed by the Overview and Scrutiny Committee;

- (b) have a chairman and vice-chairman appointed by the Overview and Scrutiny Committee;
- (c) have memberships which reflect pro rata requirements and the lowest number of members required to achieve cross-party representation whilst allowing the inclusion of members who are not members of a political group or are not members of the Overview and Scrutiny Committee;
- (d) have memberships which represent the minimum number necessary to adhere to their work programmes;
- (e) be able to make proposals to the Overview and Scrutiny Committee for the variation of their terms of reference or work programme;
- (f) be able to seek delegated authority from the Overview and Scrutiny Committee, to vary their terms of reference and work programme according to circumstances;
- (g) report **through the Panel Chairman to each meeting** of the Overview and Scrutiny Committee on progress with their work programme and on any recommendations for consideration;
- (h) be able, after consideration by the Overview and Scrutiny Committee, to report direct to the Council, the Cabinet Committee a Portfolio Holder, or any other Council body'
- (i) in the circumstances set out in (h), the report shall be submitted in the name of the Panel and presented by its Chairman, unless the work of more than one Scrutiny Panel is involved, in which case any report to another Council body will be in the name of the Overview and Scrutiny Committee and presented by its Chairman;
- (j) in the event that the submission of a Panel report to another Council body is required such that it cannot be considered by the Overview and Scrutiny Committee in accordance with paragraph (h) above, the Panel report may proceed for consideration subject to prior consultation with the Chairman of that Committee as to the reasons for urgency;
- (k) extend a standing invitation to relevant portfolio holder(s) to attend panel meetings to answer questions and provide information on any matters affecting their portfolios which are under consideration; and**
- (l) hear questions and presentations by members of the public or external organisations which are relevant to the work of the Panel concerned.**

5. Any member of the Council may be a member of a Standing Scrutiny Panel, provided that any Cabinet member may not be a member of a Panel which directly deals with matters within his or her portfolio.

6. Any member of the Council shall be able to attend any meeting of a Standing Scrutiny Panel and be notified of the publication of the agenda.

7. The provisions of Operational Standing Order 14 shall apply to Standing Scrutiny Panels.

### 13. 'TASK AND FINISH' SCRUTINY PANELS

1. 'Task and Finish' Scrutiny Panels may be established by the Overview and Scrutiny Committee in order to deal with ad hoc projects or reviews included in the annual work programme for Overview and Scrutiny.

2. 'Task and Finish' Scrutiny Panel status will be restricted to those activities which are issue-based, time limited and non-cyclical in character and have clearly defined objectives.

3. 'Task and Finish' Scrutiny Panels will:

- (a) have terms of reference, membership and a work programme approved by the Overview and Scrutiny Committee;
- (b) have a Chairman and Vice-Chairman appointed by the Overview and Scrutiny Committee;
- (c) have memberships which need not be based on pro rata rules;
- (d) have memberships which represent the minimum number necessary to adhere to their work programmes;
- (e) be able to make proposals to the Overview and Scrutiny Committee for the variation of their terms of reference or work programme;
- (f) be able to seek delegated authority from the Overview and Scrutiny Committee for the variation of their terms of reference and work programmes according to circumstances;
- (g) report **through the Panel Chairman at each meeting of** the Overview and Scrutiny Committee on progress with their work programme and on any recommendations for consideration;
- (h) be able, after consideration by the Overview and Scrutiny Committee, to report to the Council, the Cabinet, a Cabinet Committee, a Portfolio Holder or any other Council body;
- (i) in the circumstances set out in (h), the report shall be submitted in the name of the Panel and presented by its Chairman, unless the work of more than one Scrutiny Panel is involved, in which case any report to another Council body will be in the name of the Overview and Scrutiny Committee and presented by its Chairman;
- (j) in the event that the submission of a Panel report to another Council body is required such that it cannot be considered by the Overview and Scrutiny Committee in accordance with paragraph (h) above, the Panel report may proceed for consideration subject to prior consultation with the Chairman of that Committee as to the reasons for urgency;

**(k) extend a standing invitation to relevant portfolio holder(s) to attend Panel meetings to answer questions and provide information on any matters affecting their portfolios which are under consideration; and**

**(l) hear questions and presentations by members of the public or external organisations which are relevant to the work of the Panel concerned.**

4. 'Task and Finish' Scrutiny Panels shall be flexible as to the number of Councillors appointed to membership. There will be no restriction on the numbers appointed.

5. Any Councillor may be a member of a 'Task and Finish' Scrutiny Panel, save that a member of the Cabinet may not be a member of any Panel which bears directly on his or her portfolio.

6. No 'Task and Finish' Scrutiny Panel shall be comprised of members of a single group only.

7. Any member of the Council shall be able to attend any meeting of a 'Task and Finish' Scrutiny Panel and to receive copies of agenda.

8. The normal arrangements for substitute members as set out in Operational Standing Order 14 shall not apply to Task and Finish Panels but the Chairman of any such Panel shall have discretion to accept alternate members to cover for existing members for any meeting.

#### **14. NOMINATIONS TO STANDING SCRUTINY AND 'TASK AND FINISH' PANELS**

1. The Leader of each political group (and any Councillor who is not a member of a political group) shall be notified before the commencement of each Council year of the number of Standing Scrutiny and 'Task and Finish' Panels to be appointed and the number of members to serve on each Panel, indicating pro rata requirements where applicable. Similar notice will be given through the Members' Bulletin to other members of the Council.

2. The Leader of each political group will also be notified of the number of Chairmen and Vice-Chairmen positions to be filled before the commencement of each Council year.

3. Group Leaders shall ensure that members of all political groups have an opportunity to nominate to any positions referred to under 1 and 2 above. Any nominations may be made up to the day before the meeting in question. Such nominations shall include a case for the position sought.

4. Nominations to these Panels shall be excluded from the calculation required under the Council's protocol regarding allocation of Chairman and Vice-Chairman positions between the political groups.

#### **15. REPORTS FROM THE OVERVIEW AND SCRUTINY COMMITTEE**

1. Once recommendations on proposals for policy review or development, the Overview and Scrutiny Committee will prepare a formal report and submit it for consideration by the Executive if the proposals are consistent with the existing budgetary and policy framework, or to the Council if the recommendation would require a departure from, or a change to, the agreed budget and policy framework.
2. If the Overview and Scrutiny Committee cannot agree on a single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.
3. Reports by the Overview and Scrutiny Committee shall normally be presented by the Chairman of that Committee, unless he or she determines that it would be beneficial for a Panel Chairman to undertake this role instead or that a joint presentation is appropriate.

**16. ENSURING THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY EXECUTIVE**

**(a) Executive matters not delegated to the Cabinet, a Cabinet Committee or a Portfolio Holder**

1. Once the Overview and Scrutiny Committee 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 or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Proper Officer refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive will have 6 weeks or as soon as reasonably practical thereafter in which to respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from the Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Executive to the overview and scrutiny proposals.

**(b) Executive Matters Delegated to an Executive Committee or Executive Member**

2. Where the Overview and Scrutiny Committee prepares a report for consideration by the Executive in relation to a matter where the Executive has delegated decision making powers to another individual member of the executive or to an Executive Committee, then the Overview and Scrutiny Committee will submit a copy of their report to that individual or committee for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Proper Officer and the Leader. If the member or Executive Committee with delegated decision making powers does not accept the recommendations of the Overview and Scrutiny Committee then the matter will then be referred to the next available meeting of the Executive for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Executive member or Committee to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within 6 weeks of receiving it. A copy of his/her written response to it shall be sent to the Proper Officer



and the Executive Member or Committee Chairmen will attend a future meeting to respond.

**(c) Cabinet Business - Work Plan**

3. The Overview and Scrutiny Committee will have access to the Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the executive's consultation process in relation to any key decision.

**17. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

1. In addition to their rights as councillors, members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

2. Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Committee (or any Scrutiny Panel) as appropriate depending on the particular matter under consideration.

**18. MEMBERS AND OFFICERS GIVING ACCOUNT**

1. The Overview and Scrutiny Committee or a Standing Scrutiny Panel or 'Task and Finish' Scrutiny 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 Cabinet, the Head of Paid Service, or Joint Chief Executive, the Head of Service, or Assistant Head of Service to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance;

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

2. Where any member or officer is required to attend the Overview and Scrutiny Committee or Panel under this provision, the Chairman will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving at least 14 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

3. Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee or Panel concerned shall in consultation with the member or officer arrange an alternative date for attendance not less than 14 days from the date of the original attendance.

## 19. ATTENDANCE BY OTHERS

1. The Overview and Scrutiny Committee or Panel may invite people other than those referred to in paragraph 18 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. Such attendance is optional for those invited.

2. Any member of the public or a representative of an outside organisation may ask a question or address the Overview and Scrutiny Committee, **any Scrutiny Panel** on any agenda item (except those dealt with in private session as exempt or confidential business) due to be considered at a meeting. The following rules shall apply to such requests:

- (i) requests must relate to an existing agenda item;
- (ii) requests must not raise new business for the meeting concerned;
- (iii) all requests must be notified to the Council by 4 pm on the day of the meeting;
- (iv) the request to ask a question or address the Committee or a Panel shall only be allowed once and the same question or address may not be repeated subsequently to another scrutiny body;**
- (iv) requests accompanied by proposals to circulate written material must be received **five clear days** before the meeting in time to be sent to Overview and Scrutiny Committee members in advance of the meeting;
- (v) requests need not be in writing;
- (vi) a maximum of two persons shall be permitted to address the Committee on any one agenda item;
- (vii) a time limit of 3 minutes per speaker shall apply;
- (viii) the Overview and Scrutiny Committee shall be able to ask questions on any comments made;
- (ix) the Chairman of the Overview and Scrutiny Committee shall have discretion as to whether to limit the number of persons wishing to address the Committee if it is considered that the number of such speakers will unduly delay the proper despatch of business at any meeting.

## 20. CALL-IN

1. When a decision is made by the Executive, an individual member of the executive or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 5 working days of being made. All members of the Council will be sent copies of the written records of all such decisions within the same timescale, by the person responsible for publishing the decision.

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 5 working days after the publication of the decision, unless the required number of members objects to it and calls it in.

3. During that period, the Proper Officer shall call in a decision for scrutiny if so requested in accordance with paragraph (h) below and shall then notify the decision-taker of the call-in. He/she shall consult with the Chairman of the Overview and Scrutiny Committee who will determine that consideration of the call in will be referred to:

- (i) the next Overview and Scrutiny Committee; or
- (ii) an appropriate Standing Panel; or
- (iii) a Task and Finish Panel.

If consideration of any executive decision is likely, under these rules, to be delayed for more than two weeks the Chairman of the Overview and Scrutiny Committee may require an extraordinary meeting to be convened at an earlier date if the circumstances appear to warrant this.

4. If, having considered the decision, the Overview and Scrutiny Committee or delegated Panel is still concerned about it, then it may, subject to the procedures outlined in Rule 16(a) or (b) above, refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 5 working days, or in the case of a Cabinet decision, as soon as practically possible amending the decision or not, before adopting a final decision.

5. If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no power 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, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider within 14 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 14 working days of the Council request.

6. If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

7. Where an Executive decision has been taken by an area committee, then the right of call-in shall extend to any 3 members of another area committee if they are of the opinion that the decision made but not implemented will have an adverse effect on the area to which their committee relates. In such cases, those 3 members may request the Proper Officer to call-in the decision. He/she shall call a meeting of the Overview and Scrutiny Committee on such a date as he/she may determine, where possible after consultation with the chairman of the committee, and in any case within five days of the decision to call-in. All other provisions relating to call in shall apply as if the call in had been exercised by members of the Overview and Scrutiny Committee.

8. Three members of the Overview and Scrutiny Committee or any five members of the Council have the right to call in an Executive decision. Such a request shall be in writing in the prescribed format and referred in Person to the Proper Officer.

9. Call in arrangements shall not apply to decisions on non-executive functions by Committees, Sub-Committees, Panels or Boards of the Council.

10. In the operation of "call in" arrangements, members of the Council shall also adhere to the terms of the Protocol approved by the Council and set out in Appendix 1 to these rules.

## **21. CALL-IN AND URGENCY**

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 is likely to be caused by the call in process would seriously prejudice the Council's or the public interest. 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 Council 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 Chairman, the Vice-Chairman's consent shall be required. In the absence of both, a Joint Chief Executive or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

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

## **22. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

1. The Overview and Scrutiny Committee shall consider the following business:

- (a) minutes of the last meeting;
- (b) declarations of interest;
- (c) consideration of any matter referred to the committee for a decision in relation to a call in;
- (d) responses of the executive to reports of the Overview and Scrutiny Committee;
- (e) **questions or requests by members of the public to address the Committee on any agenda item provided that these are relevant to the Council or the District and have not been dealt with at a previous meeting of the Committee or of any Scrutiny Panel**
- (f) the business otherwise set out on the agenda for the meeting.

### **23. CONDUCT OF OVERVIEW AND SCRUTINY FUNCTIONS**

1. Where the Overview and Scrutiny Committee or a Panel conducts investigations (e.g. with a view to policy development), they may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- (a) 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;
- (b) that those assisting the committee by giving evidence be treated with respect and courtesy; and
- (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

2. Following any investigation or review, the Committee/or Panel concerned shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

### **24. ANNUAL REPORT**

1. The Overview and Scrutiny Committee shall submit an annual report to the Council in April each year on work undertaken during the preceding 12 months.

### **25. PARTY WHIPS**

1. To facilitate cross party working, party whips will not be applied to the overview and scrutiny process.

## PROTOCOL ON CONSIDERATION AND REPORTING ON EXECUTIVE DECISIONS CALLED IN BY OVERVIEW AND SCRUTINY

### 1. Purpose of Protocol

- (a) To codify how the Overview and Scrutiny Committee or delegated Panel should deal with "call in" items.
- (b) To codify how the Executive should respond to reports by Overview and Scrutiny on decisions which have been called in.

### 2. Validation of "Call In"

- 2.1 All "call in" requests shall be made in writing in accordance with the Council's constitution. "Call in" requests shall only be made by members of the Council who are not members of the Executive. The "call in" shall be validated by the Chief Executive and referred to the Overview and Scrutiny Committee for consideration in accordance with the provisions of the constitution.

### 3. Consideration of "Call In" Items by Overview and Scrutiny Committee

- 3.1 Consideration of Call-ins shall be the responsibility of the Overview and Scrutiny Committee which will decide whether to consider the issue itself or direct a Panel to undertake it and report back to the decision maker. "Call in" items shall be referred to the next available date for the Overview and Scrutiny Committee or delegated Panel. The provisions of the Overview and Scrutiny Rules in the Council's constitution will apply to "call in" requests which need to be dealt with more quickly.
- 3.2 At its meeting, the Overview and Scrutiny Committee or delegated Panel will receive:
  - (a) copies of all documentation submitted to the Executive on which the decision was based;
  - (b) a copy of the written notification of the "call in" including the names of the relevant Councillors who requested the "call in" and their grounds for so doing; and
  - (c) any other relevant documentation.
- 3.3 The relevant Executive Portfolio Holder and at least one of the members who activated the "Call in" and who shall act as spokesperson for those members, shall attend the Overview and Scrutiny Committee or delegated Panel meeting.
- 3.4 The "Call in" decision shall be considered in the following manner:
  - (a) the **Lead Signatory to the calling in of the decision** shall describe their concerns;
  - (b) **the four remaining signatories shall then speak in support of the "Call in"**

- (c) **(NB if there are more than 5 signatories, only the lead member and the following 4 Councillors on the call in notification shall be called to speak. Any other Councillor whose name appears on the call in notification shall be able to speak during the general debate on the item – see (d) below.)**
- (c) the Portfolio Holder shall then respond;
- (d) the Overview and Scrutiny Committee or delegated Panel will then debate the issues involved. The Chairman of the meeting shall have the discretion to vary the way in which evidence is gathered including speakers and public participation if appropriate but shall seek a response from the initiating Councillor(s) and the Portfolio Holder before formulating its recommendations;
- (d) The Overview and Scrutiny Committee or delegated Panel has the following options:
- (i) confirm the decision, which may then be implemented immediately, or
- (ii) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or
- (iii) refer the matter to full Council in the event that the Committee or Panel considers the decision to be contrary to the policy framework of the Council or contrary to, or not wholly in accordance with, the budget.
- (e) If it appears that the review of a decision of the Executive cannot be completed at one meeting, the Executive or decision taker will be informed, indicating any preliminary views the Committee or Panel may have and a proposed timescale for the completion of the review. The Chairman of the Overview and Scrutiny Committee/Panel shall, if necessary, consult with the Leader of the Council regarding the urgency of the proposed decision or any other related matter;
- (f) The Chairman of the Overview and Scrutiny Committee or delegated Panel shall sum up the recommendations to be submitted to the Executive and these shall be incorporated in full in the Minutes or report of the meeting;
- (g) In cases where the Overview and Scrutiny Committee or delegated Panel determines that a review of the decision is not justified or that, having reviewed the decision of the Executive, it has no adverse comment to make, the Committee or Panel shall ensure that its decision is published in the Members' Bulletin;
- (h) In the circumstances outlined in (g) above, the decision of the Executive or Decision Taker may be implemented with effect from the date of that meeting;
- (i) A report detailing any appropriate recommendations of the Overview and Scrutiny Committee or delegated Panel shall be reported to the Decision Taker
- (j) In presenting the recommendations of the Overview and Scrutiny Committee or delegated Panel, the Chairman may make general comments on the

Committee's/Panel's recommendations, answer questions and respond to comments or new proposals made by the Executive at that meeting; and

(k) The report of the Overview and Scrutiny Committee or delegated Panel shall be sent in draft to all its Members for approval prior to their submission to the Decision Taker.

(l) Minority reports may be made by members of Overview and Scrutiny Committee or delegated Panel in accordance with the Protocol for that purpose.

#### **4. Consideration of Reports on "Call In" Items by the Executive**

4.1 The report of an Overview and Scrutiny Committee or delegated Panel will be referred in the first instance to the relevant Portfolio Holder(s) for the executive function concerned.

4.2 If the Executive decision is one which the Portfolio Holder(s) has delegated powers to make, he or she shall consider the written proposals of the Overview and Scrutiny Committee or delegated Panel, must consult the Overview and Scrutiny Committee and delegated Panel Chairmen if he or she is minded to accept or reject them. In doing so the Portfolio Holder will ensure that, in recording that decision, the reasons for accepting, rejecting or amending those views are set out in the decision notice.

4.3 If the Executive decision is one which the Executive itself or a Committee of the Executive (acting under delegated powers) is competent to take, the relevant Portfolio Holder will consider the proposals of the Overview and Scrutiny Committee or delegated Panel and refer them, with his or her written response, to the decision making body concerned.

4.4 At a meeting of the Executive or of any Committee of the Executive, the following documentation shall be submitted:

(a) the agreed report of the Overview and Scrutiny Committee or delegated Panel and any other supporting documents considered by it;

(b) a report of the Portfolio Holder indicating the response to the proposals of the Overview and Scrutiny Committee or delegated Panel, indicating the options available and recommendation for acceptance, rejection or alteration of those proposals with reasons; and

(c) any other information.

4.5 The Executive or Committee of the Executive shall consider the matter as follows:

(a) the Chairman of the Overview and Scrutiny Committee or delegated Panel shall present the views and recommendations of the Committee/Panel based on the report of the relevant OSC meeting and respond to questions, make general comments and respond to new proposals as appropriate;

(b) the relevant Portfolio Holder shall then respond by presenting his report and recommendations on the proposals of the Overview and Scrutiny Committee or delegated Panel;



(c) the Executive (or Committee thereof) shall then consider the original decision, the views of the Overview and Scrutiny Committee or delegated Panel and any proposals by the Portfolio Holder; and

(d) the Executive (or Executive Committee) will then make a final decision on whether to re-affirm the original decision, amend the original decision or substitute a new decision. This decision shall be recorded in the minutes of the meeting together with supporting reasons.

4.6 Where a Committee of the Executive is required to report to the full Executive on any matter, it shall submit a recommendation on action proposed to the Executive as part of the minutes of the meeting.

## **5. Implementation of Decisions When Cabinet Control or Membership Changes**

5.1 Notwithstanding the provisions of paragraphs 3.4(g) and (h) above, where political control of the Cabinet or Cabinet membership changes following the Annual Council meeting each year, any decision made by the Executive and supported by the Overview and Scrutiny Committee or delegated Panel following a "call-in" but not implemented before the changes occur, shall stand referred to the Cabinet for further review before action is taken.

## **6. Consideration of "Call In" Reports of Overview and Scrutiny Committees made to the Full Council**

6.1 In some circumstances, the Overview and Scrutiny Committee or delegated Panel may choose to refer the results of their consideration of "call in" items to the full Council, rather than the Executive in those instances set out in paragraph 3.4 (d) (iii) above and 6.2 below. With any necessary modification the "call in" shall be dealt with at the Council meeting in accordance with paragraphs 4.1 - 4.5 above.

6.2 In considering whether to report to the full Council, the Overview and Scrutiny Committee or delegated Panel shall take account of the advice of the proper officer on:

(a) whether the Council may properly determine the matter if the function is delegated to the Executive;

(b) whether the Executive decision affects the policy or budget framework of the Authority and should properly be determined by the Council;

(c) whether the Executive decision relates to a matter which either reserved to the full Council by the constitution or by resolution; and

(d) any other advice which indicates that, for whatever reason, a report to the Executive is more appropriate to the proper despatch of Council business.

## **7. Restriction on "Call In"**

7.1 The Overview and Scrutiny Committee shall at all times be aware that the decisions of the regulatory or non-executive bodies of the Council are not subject to "call in".

7.2 The "call in" procedure shall also not apply to any recommendation by the Cabinet to the full Council.

## **8. Withdrawal or Modification of a "Call In"**

**8.1 A valid "Call in" may be withdrawn at any time by the Lead signatory.**

**8.2 The lead signatory to a validated "Call In" or the relevant Portfolio Holder may request a meeting with the Chairman of the Committee prior to the call in being considered by the Committee in order to discuss the following:**

- (a) the management of the "Call in" debate at the Committee meeting concerned;**
- (b) the possibility of reaching agreement on removing any objections to the decision in question which are raised in the call in request; and**
- (c) the withdrawal of a "Call in".**

**8.3 Where the lead signatory agrees to withdraw or modify a "Call in", the Councillor concerned shall notify his fellow signatories as soon as practicable and the circumstances shall be reported to the Overview & Scrutiny Committee.**

**8.4 If a Call in is withdrawn, the circumstances will notified to all members of the Council via the Council Bulletin.**

**8.5 In cases where a Portfolio Holder has agreed to modify a decision, he or she shall issue a revised decision notice or refer the proposal to be back to the Cabinet, if the latter made the original decision.**

## **8. Definitions**

8.1 For the purpose of this Protocol, the following definitions shall apply:

**(a) "Executive"**

This term should be interpreted as referring to the Cabinet, a Cabinet Committee or an individual Portfolio Holder acting under delegated powers.

**(b) "Decision"**

Denotes a decision on an Executive function by the Cabinet, a Committee of the Cabinet or of an individual Portfolio Holder.

**(c) "Decision Taker"**

This means the Cabinet, a Cabinet Committee or an individual Portfolio Holder who made the original decision.

## **9. Review of Protocol**

9.1 This Protocol will be reviewed by the Council as part of its constitution as and when appropriate.

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