

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

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## **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) determining work programmes in accordance with items falling within Committee's ambit in accordance with (a)-(q) 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-OPTEEES**

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.

## **9. WORK PROGRAMME**

### **Responsibilities**

1. The Overview and Scrutiny Committee shall approve an Overview and Scrutiny Work Programme.

### **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 Members' Bulletin;
- (b) invite the Leader of the Council and other Portfolio Holders to submit proposals in respect of the Council's executive functions;
- (c) arrange meetings with the Leader and other Portfolio Holders to discuss their plans 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.

### **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 six months' duration. The programme shall be reviewed at or before the expiration of that six-month period.

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 Community Strategy, the Improvement Plan, the Council Plan, and the Best Value Performance Plan;
- (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.

## **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 on a regular basis to the Overview and Scrutiny Committee on progress with their work programme and on any recommendations for consideration;
  - (h) be able, with the prior approval of the Overview and Scrutiny Committee, to report direct to the Cabinet, a Cabinet Committee or a Portfolio Holder, to another Committee or to the Council with recommendations.
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.

### **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 on a regular basis to the Overview and Scrutiny Committee on progress with their work programme and on any recommendations for consideration;
  - (h) report, with the prior approval of the Overview and Scrutiny Committee, direct to the Cabinet, a Cabinet Committee or a Portfolio Holder, to another Committee or to the Council.
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.



#### **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 17 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.

## **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; and
  - (e) 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 representative of the Councillors calling in the decision shall describe their concerns;

(b) the Portfolio Holder shall then respond

(c) 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. 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.