

ARTICLE 6 - OVERVIEW AND SCRUTINY COMMITTEE

1. ROLE AND RESPONSIBILITIES

- 1.1 The Council will annually appoint one Overview and Scrutiny Committee to discharge the overview and scrutiny responsibilities conferred by Section 21 of the Local Government Act 2000 or regulations under Section 32 of the Local Government Act 2000, and those additional functions allocated by the Council.
- 1.2 The work of the Overview and Scrutiny Committee shall cover all services, insofar as they relate to the Council or other public bodies providing services within the District. The scrutiny of health and social care services will normally be reserved to Essex County Council. The Council will undertake scrutiny activity in these areas only with the agreement of the County Council.
- 1.3 To facilitate cross-party working, party whips will not be applied to the overview and scrutiny process.

2. FORM AND COMPOSITION

- 2.1 Membership of the Overview and Scrutiny Committee will be appointed by the Council at its annual meeting each year.
- 2.2 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 in which they have previously been directly involved.
- 2.3 The Overview and Scrutiny Committee shall be entitled to recommend to the Council the appointment of appropriate persons as non-voting co-optees.

3. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

- 3.1 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.
- 3.2 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.

4. ROLE OF THE OVERVIEW AND SCRUTINY COMMITTEE

- 4.1 The arrangements for the discharge of overview and scrutiny functions are set out in Article 6 (Overview and Scrutiny) of the Constitution.
- 4.2 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 contained in Part ??? of this Constitution.
- 4.3 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.
- 4.4 The Overview and Scrutiny Committee may hold enquiries and investigate options for

future direction in policy development and may appoint advisers and assessors to assist them in this process. The Committee may hold site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. The Committee 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.

- 4.5 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 Select Committee or a Task and Finish Panel for consideration.
- 4.6 The Overview and Scrutiny Committee shall receive a verbal report from the relevant portfolio holder after three months from completion of any completed scrutiny study indicating whether recommendations from that study have been agreed or modified. After six months the Portfolio Holder will give a report to the Committee or Panel on Progress with implementation of those recommendations. **IS THIS NECESSARY, NOT SURE THAT IT IS DONE?**

5. SPECIFIC FUNCTIONS

(a) Policy Development and Review

5.1 The Overview and Scrutiny Committee may:

- (a) assist the Council and the executive, in the development of its budget and policy framework by in-depth analysis of policy issues;
- (b) conduct research, community and other consultation in the analysis of the policy issues and policy options;
- (c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) question members of the Executive, committees and chief officers about their views on issues and proposals affecting the area; and
- (e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) Scrutiny

5.2 The Overview and Scrutiny Committee may:

- (a) review and scrutinise the decisions made by and performance of the Executive and Committees and Council officers both in relation to individual decisions and over-time;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) question members of the Executive and chief 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;

- (d) make recommendations to the Executive and appropriate Committees and the Council arising from the outcome of the scrutiny process;
- (e) ~~invite review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and~~
- (f) question and gather evidence from any person (with their consent).

(c) Methods

5.3 For the purposes of their general, policy development and review and scrutiny roles, the Overview and Scrutiny Committee may:

- (a) undertake such work itself; or
- (b) refer matters to an appropriate Select Committee or Task and Finish Panel.

(d) Finance

5.4 The Overview and Scrutiny Committee may exercise overall responsibility for its finances made available by the Council.

(e) Officers

5.5 The Overview and Scrutiny Committees may exercise overall responsibility for the work programme of the officers employed to support their work.

6. PROCEEDINGS OF THE OVERVIEW AND SCRUTINY COMMITTEE

(a) Access for Public and Press

6.1 All meetings of the Overview and Scrutiny Committee shall be held in accordance with Section 13 of the Access to Information Procedure Rules of this Constitution.

(b) Application of Rules

6.2 All meetings of the Overview and Scrutiny Committee will be subject to those rules that are applied to the Committee in the Rules section of this Constitution.

(c) Business to be conducted at each ordinary meeting

6.3 The Overview and Scrutiny Committee will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part ??? of this Constitution. At each Committee, the following business will be conducted:

- (a) consideration of the minutes of the previous meeting;
- (b) declarations of interest (if any);
- (c) consideration of any matter referred to the Committee for a decision in relation to a call-in (if any);

- (d) responses of the Executive to reports of the Overview and Scrutiny Committee (if any);
- (e) questions or requests by members of the public to address the Committee on any agenda item in accordance with Paragraph ??? of this Article; and
- (f) the business otherwise set out on the agenda for the meeting.

(d) Agenda items

- 6.4 Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Proper Officer that they wish an item relevant to the functions of the Committee to be included on the agenda for the next available meeting. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda. Any other member of the Council may also give written notice to the Proper Officer that they wish an item to be included on the agenda of the 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.~~ **DELETE - DUPLICATION**

(e) Requests to address the Overview and Scrutiny Committee

- 6.5 Any member of the public or a representative of an outside organisation may address the Overview and Scrutiny Committee 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:
- (a) requests must relate to an existing agenda item;
 - (b) requests must not raise new business for the meeting concerned;
 - (c) all requests must be notified to the Council by no later than 4.00pm on the day of the meeting;
 - (d) 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;
 - (e) requests need not be in writing;
 - (f) a maximum of two persons shall be allowed to address the Committee on any one agenda item;
 - (g) a time limit of 3 minutes per speaker shall apply;
 - (h) the Overview and Scrutiny Committee shall be able to ask questions on any comments made by persons addressing the Committee;
 - (i) 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 ask questions or if it is considered that the number of such speakers will unduly delay the proper despatch of business at any meeting;

(f) Questions

- 6.6 Members of the public may ask questions of the Chairman of Overview and Scrutiny Committee at ordinary meetings of the Committee, in accordance with the procedure set out in Part ??? of the Council procedure rules.
- 6.7 The procedures for addressing the Overview and Scrutiny Committee or asking questions of the Chairman of the Committee, do not apply to Select Committees or Task and Finish Panels.

(g) Attendance by others

- 6.8 The Overview and Scrutiny Committee, a Select Committee or a Task and Finish Panel may invite any person, including residents, stakeholders, members and officers of other parts of the public sector to address it, or to discuss issues of local concern and/or answer questions.
- 6.9 Where such persons are invited to give evidence, meetings will be conducted in accordance with the following principles:
- (a) the investigation will be conducted fairly and all members will be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (b) those assisting the committee or Task and Finish Panel by giving evidence will be treated with respect and courtesy; and
 - (c) the investigation will be conducted so as to maximise the efficiency of the investigation or analysis.
- 6.10 Following any investigation or review, the Overview and Scrutiny Committee, Select Committee or Task and Finish Panel shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

(h) Members and officer giving account

- 6.11 The Overview and Scrutiny Committee, a Select Committee or a Task and Finish Panel may require a member of the Cabinet, the Head of Paid Service, a Director or Assistant Director to attend before it to explain matters within their responsibility, including:
- (a) any particular decision or series of decisions;
 - (b) the extent to which the actions taken implement Council policy; and/or
 - (c) their performance;
- 6.12 Where any member or officer is required to attend the Overview and Scrutiny Committee or a Select Committee or Task and Finish 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. **Is this necessary, not sure that it is done?**

- 6.13 It is the duty of those persons to attend if so required. Where, in exceptional circumstances, the member or officer is unable to attend on the required date, 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

7. WORK PROGRAMME

- 7.1 The Overview and Scrutiny Committee shall approve an annual overview and scrutiny work programme-at the first meeting of each municipal year.

(a) Development

- 7.2 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 including via the Council's website; **IS THIS NECESSARY, NOT SURE THAT IT IS DONE?**
- (b) invite the Leader of the Council to attend the first meeting of each Council year to present the Cabinet's Forward Plan 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 and scrutiny; **DELETE – NOT NECESSARY**
- (c) ~~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;~~ **DELETE – SEEMS TO DUPLICATE (b) ABOVE**
- (d) review the work programme for overview and scrutiny in respect of the previous year;
- (e) consider external organisations to be scrutinised during the year in question;
- (f) review all proposals submitted to ensure that they relate to the Council's Policy Framework including the Corporate Plan and the Cabinet Forward Plan;
- (g) ensure the agreed work programme has sufficient member and officer resources to support it;
- (h) identify in advance any budgetary provision required for specific projects;
- (i) ensure that the work programme is properly prioritised.
- (j) allocate time limits for each project;
- (k) ensure that any projects which do not find a place in the work programme are placed in a reserve programme for further review;
- (l) ensure that all Members of the Council are informed about the work programme as part of the annual overview and scrutiny report; and
- (m) review the work programme on a regular basis during the year.

(b) Cabinet Business

- 7.3 The Overview and Scrutiny Committee will have access to the Executive's programme of Key Decisions (the Cabinet Forward Plan) at each meeting, to enable the identification of appropriate matters for the overview and scrutiny work programme;

(c) Urgent Items and New Proposals

- 7.4 Where new proposals or matters of urgency arise during the currency of an annual work programme, the Committee may:
- (d) determine that any new project should be added to the programme and adjust the remainder of the programme accordingly;
 - (e) determine that a new project should be deferred for review when the next work programme is considered;
 - (f) decline to accept an additional project and give grounds for so doing.
- 7.5 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.

(d) Annual Report

- 7.6 The Overview and Scrutiny Committee shall submit an annual report to the Council at the beginning of each municipal year on work undertaken during the preceding year.

(e) Motions at Council Meetings

- 7.7 Any motion adopted by the Council which relates to the responsibilities of the Overview and Scrutiny Committee shall stand referred to the 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 Section 8.3 above. The Committee shall advise the Council of the action taken on such motions.
- 7.8 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 Council or the Executive. 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.

8. REPORTS OF THE OVERVIEW AND SCRUTINY COMMITTEE

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

- 8.1 The Overview and Scrutiny Committee may prepare a formal report for consideration by the Executive, if its recommendations are consistent with the existing budgetary and policy framework, or the Council if its proposals would require a departure from, or a change to, the budget and policy framework. ~~The Proper Officer will allocate the report to either the Executive or the Council for consideration, according to whether the contents of the report~~

would have implications for the Council's budgetary and policy framework. **DELETE – NOT NECESSARY**

- 8.2 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 considers 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.
- 8.3 If the Overview and Scrutiny Committee cannot agree on a single final report to the Council or Executive as appropriate, up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.
- 8.4 Reports by the Overview and Scrutiny Committee shall normally be presented by the Chairman of the Committee, unless they determine that it would be beneficial for the Chairman of a Select Committee or Task and Finish Panel to present the report instead, or if a joint presentation is considered appropriate.

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

- 8.5 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 an individual Portfolio Holder or a Cabinet Committee, the Overview and Scrutiny Committee will report to that individual or committee. If the Portfolio Holder or Executive Committee with delegated decision making powers does not accept the recommendations of the Overview and Scrutiny Committee, these will be referred to the next available meeting of the Cabinet for debate before the Portfolio Holder exercises their 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 at the first available meeting.

9. CALL-IN

- 9.1 When an executive decision is made by the Cabinet, a Portfolio Holder or a Cabinet Committee, or a key decision is made by an officer with delegated authority, such decision will be published in a notice specifying when the decision will come into force and be implemented, unless it is called-in.
- 9.2 These call-in arrangements shall not apply to decisions on non-executive functions made by any decision-making body. 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 must be delivered to the Proper Officer. **NB. IT IS UNCLEAR WHETHER THE 'PRESCRIBED FORMAT' (I.E. THE CALL-IN FORM) HAS ALWAYS BEEN USED TO REQUEST CALL-IN OF AN EXECUTIVE DECISION. IT MIGHT BE MORE APPROPRIATE JUST TO SPECIFY THAT A CALL-IN REQUEST BE MADE IN WRITING)**
- 9.3 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. The Proper Officer shall consult with the Chairman of the Overview and Scrutiny Committee who will determine whether consideration of the call in will be referred to:
- (a) the next meeting of the Overview and Scrutiny Committee; or

- (b) the relevant Select Committee; or
 - (c) an appropriate Task and Finish Panel.
- 9.4 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 of the Committee to be convened at an earlier date if the circumstances appear to warrant this.
- 9.5 If, having considered the decision subject of the call-in, the Overview and Scrutiny Committee (or Select Committee or Task and Finish Panel) is still concerned about it, it may, subject to the procedures outlined in Article 6 of this Constitution, 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 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.
- 9.6 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.
- 9.7 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 earlier.
- 9.8 In the operation of these call-in arrangements, members of the Council shall also adhere to the terms of the Protocol set out in Appendix 1 to these rules.
- 10. CALL-IN AND URGENCY**
- 10.1 The call-in procedure 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, the Chief Executive or their nominee's consent shall be required.
- 10.2 Decisions taken as a matter of urgency must be reported to the next available **ordinary** meeting of the Council, together with the reasons for urgency.

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APPENDIX 1

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

1. Purpose of Protocol

1.1 The purpose of this protocol is:

- (a) To codify how the Overview and Scrutiny Committee (or a delegated Select Committee or Task and Finish Panel) should deal with call-in items; and
- (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 ~~Overview and Scrutiny Procedure Rule ???~~ **paragraph 9.2 of this Article**. 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 Overview and Scrutiny ~~Procedure Rules~~ **Article**.

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

- 3.1 Consideration of a call-in shall be the responsibility of the Overview and Scrutiny Committee, which will decide whether to consider the issue itself or to direct a Select Committee or a Task and Finish 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 Select Committee or Task and Finish Panel). The provisions of the Overview and Scrutiny Rules in the 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 Select Committee/Task and Finish 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
- 3.3 The relevant Portfolio Holder and at least one of the members who requested the call-in and who shall act as spokesperson for those members, shall attend the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) meeting.
- 3.4 The call-in decision shall be considered in the following manner:
- (a) the lead signatory to the call-in of the decision shall describe their concerns;
 - (b) the Portfolio Holder responds;

- (c) the remaining signatories then speak in support of the call-in. If there are more than 5 signatories, only the lead member and the remaining two (or four) 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));
- (d) the Portfolio Holder responds;
- (e) the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) will then debate the issues involved;
- (f) the lead signatory will then have an opportunity to respond to the debate;
- (g) the Portfolio Holder shall then have an opportunity to respond to the debate. (NB. 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);
- (h) following the debate, the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) has the following options:
 - (i) to confirm the decision, which may then be implemented immediately; or
 - (ii) to refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or
 - (iii) to refer the matter to full Council in the event that the Overview and Scrutiny Committee (or Select Committee/Task and Finish 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;
- (i) 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 Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) may have and a proposed timescale for the completion of the review. The Chairman of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) shall, if necessary, consult with the Leader of the Council regarding the urgency of the proposed decision or any other related matter;
- (j) The Chairman of the Overview and Scrutiny Committee (or Select Committee/Task and Finish 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;
- (k) In cases where the Overview and Scrutiny Committee (or Select Committee/Task and Finish 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 Select Committee/Task and Finish Panel) shall ensure that its decision is published in the Council Bulletin;
- (l) 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;

- (m) A report detailing any appropriate recommendations of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) shall be reported to the decision-taker;
- (n) In presenting the recommendations of the Overview and Scrutiny Committee (or Select Committee/Task and Finish 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;
- (o) The report of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) shall be sent in draft to all its Members for approval prior to their submission to the decision-taker; and
- (p) Minority reports may be made by members of Overview and Scrutiny Committee (or Select Committee/Task and Finish 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 the Overview and Scrutiny Committee (or Select Committee/Task and Finish 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, they shall consider the written proposals of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) and must consult the Chairman of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) if they are 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 Select Committee/Task and Finish Panel) and refer them, with their 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 Select Committee/Task and Finish 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 Select Committee/Task and Finish 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 Select Committee/Task and Finish Panel) shall present the views and recommendations of the Committee/Panel 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 Select Committee/Task and Finish Panel);
- (c) the Executive (or Committee thereof) shall consider the original decision, the views of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) and any proposals by the Portfolio Holder; and
- (d) the Executive (or Executive Committee) will 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 Select Committee/Task and Finish 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 Select Committee/Task and Finish Panel) may choose to refer the results of the 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 Select Committee/Task and Finish 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 Call-In

- 8.1 A valid call-in may be withdrawn at any time by the lead signatory. The lead signatory to a validated call-in or the relevant Portfolio Holder may request a meeting with the Chairman of the Overview and Scrutiny 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 meeting of the Committee (or Select Committee/Task and Finish Panel) 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
- 8.2 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 and Scrutiny Committee.
- 8.3 If a call-in is withdrawn, the circumstances will be notified to all members of the Council through the Council Bulletin.
- 8.4 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 back to the Cabinet, if the latter made the original decision.

9. Definitions

- 9.1 For the purpose of this Protocol, the following definitions shall apply:
 - (a) **"Executive"**
- 9.2 This term should be interpreted as referring to the Cabinet, a Cabinet Committee or an individual Portfolio Holder acting under delegated powers.
 - (b) **"Decision"**
- 9.3 Denotes a decision on an Executive function by the Cabinet, a Committee of the Cabinet or of an individual Portfolio Holder.
 - (c) **"Decision Taker"**

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

10. Review of Protocol

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

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