

## **Part 4**

### **3. Overview and Scrutiny Procedure Rules**

#### **1 The Three Overview and Scrutiny Committees**

The Council will have three scrutiny committees. The terms of reference for each committee are set out in Article 6 of Part 2.

These rules include arrangements for the Call-In procedure which will only be operated by the principal Overview and Scrutiny Committee (hereinafter referred to the Principal Committee) and not the Business and Housing Policy Committee and Health and Environment Policy Committee.

#### **2 The arrangements for scrutiny committees**

Each Committee will consist of a maximum of 9 members of the Council. The Council will normally observe the rules governing political balance contained in Section 15 of the Local Government and Housing Act 1989 when allocating seats to each committee but it may resolve to vary this provision by unanimous vote at the Annual Meeting.

The Committees may appoint sub-committees.

Scrutiny Committees may appoint task and finish groups which shall be given a brief to consider a specified subject area and report back to Committee on a regular basis as determined by the Committee.

#### **3 Who may sit on Scrutiny committees?**

All Councillors except Members of the Cabinet may be members of a scrutiny committee. However, no Member may be involved in scrutinising a decision in which he or she has been directly involved. In addition no Member may sit on more than one committee.

#### **4 Appointment of members and deputies**

Members and Deputies on scrutiny committees shall be appointed by Annual Council in accordance with the wishes of the political group to whom the seats have been allocated.

#### **5 Co-optees**

Each scrutiny committee or sub-committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

## **6 Meetings of the scrutiny committees**

Meetings of the committees and groups shall be held in accordance with the approved timetables of meetings.

In addition, extraordinary meetings may be called from time to time as and when appropriate. Such extraordinary meetings shall be convened by the Strategic Director of Resources following consultation with the Chairman of the relevant committee concerned.

Where any five members of a committee make a request for the committee to be convened this shall be communicated to the Strategic Director of Resources who will convene such a meeting subject to a discussion with the Members and the Chairman as to the reasons and the agenda items.

## **7 Quorum**

The quorum for a scrutiny committee shall be four, and the quorum for a sub-group shall be three.

## **8 Who chairs Overview and Scrutiny Committees?**

The Chairman for each committee shall be appointed by the Council and shall be a Member from an opposition party in respect of the principal Overview and Scrutiny Committee. The Chairpersons of the two other committees shall be drawn from Members of the majority party.

## **9 Work programme**

The scrutiny committees/sub-committees will be responsible for setting their own work programme.

## **10 Agenda items**

Any Member of a scrutiny committee or sub-committee shall be entitled to give notice to the chairman of that committee, in consultation with the Strategic Director of Resources that he or she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. On receipt of such a request the Strategic Director of Resources will ensure that it is included on the next available agenda, subject to having scoped out the work required to deliver the item and considered the feasibility of this work in terms of officer/other resources.

The scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where they do so, the scrutiny committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the scrutiny committee at its next meeting.

## **11 Reports from Scrutiny Committees**

Executive arrangements by local authorities must ensure that Overview and Scrutiny Committees have the power to make report or recommendations to the Council or the Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet. The following paragraphs set out a procedure for this statutory framework.

Where Scrutiny proposes to deliver a report then, once it has formed recommendations on proposals, the scrutiny committee (with support from officers) will prepare a formal report and submit it via the Strategic Director of Resources for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

If a scrutiny committee cannot agree on one single final report to the Council or Cabinet as appropriate, then a minority report may be prepared and submitted for consideration by the Council or Executive with the majority report with the agreement of the Committee.

The Council or Cabinet shall consider the report of the scrutiny committee at its next meeting.

## **12 Making sure that scrutiny reports are considered by the Cabinet**

A final report will be allocated to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. The procedure will be overseen by the Strategic Director of Resources.

The Cabinet must be given the opportunity to respond to the Scrutiny report before the Council meets to consider it. When the Council does meet to consider any referral from the Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider any response of the Cabinet to the Scrutiny proposals.

## **13 Members and officers giving account**

Any scrutiny committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions within the terms of reference of the relevant committee.

As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:

- (i) any particular decision or series of decisions;
- (ii) the extent to which the actions taken implement council policy; and/or
- (iii) their performance;

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

Where any Member or officer is required to attend a scrutiny committee under this provision, the Chairman of that committee will inform the Strategic Director of Resources giving at least seven working days' notice of the meeting which the officer is asked to attend, and state the nature of the item on which the officer is required to give account and whether any papers are required to be produced for the Committee.

#### **14 Attendance by Others**

A scrutiny committee may invite people other than those people referred to in paragraph 1.12 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to address it.

#### **15 Call-in**

##### Operation only by One Committee

The following procedure will not be operated by all three scrutiny committees. The Call-In function will solely be in the remit of The Overview and Scrutiny Committee as the Council's principle Scrutiny Committee. The two policy driven committees (Business and Housing Policy Committee and Health and Environment Policy Committee) will not operate the Call-In procedures.

A key element of the scrutiny role concerns the arrangements for the "call-in" of a key decision taken by or on behalf of the Cabinet. Key decisions by the Cabinet, a committee of the Cabinet or an individual Cabinet Member and key decisions made by an officer with delegated authority from the Cabinet, may be "called in" by five members of the Council submitting a request in writing on the call in request form to the Chief Executive within five working days of the publication of that decision. No action can be taken on an item called in for scrutiny.

### Ground for Call-In

Call-in should only be used in exceptional circumstances. These are where Members have evidence which suggests that the Executive decision was not taken in accordance with the principles set out in Part 2, (Decision Making).

The grounds of call-in are:

- (i) the decision is outside the terms of reference of the Cabinet, or delegated powers of the decision-maker; or
- (ii) the decision appears to be contrary to, or not wholly consistent with, the Council's Budgetary and Policy Framework or other Council Policy:  
or
- (iii) the information contained within the report, and/or considered by the Cabinet (or other decision-maker) was incomplete or inaccurate: or
- (iv) new information has come to light which might cause the decision to be changed; or
- (v) the decision was not made in accordance with the 'Principles of Decision making' set out in Article 11 of the constitution or in some other way appears to give rise to significant legal, financial or propriety issues.

### Valid and Non-Valid Call-In Requests

On receipt of a valid Call-In Notice the Monitoring Officer will convene a meeting of the Overview and Scrutiny Committee within fifteen working days in consultation with the Chair of the Committee. Any signatories to the Call-In Notice who are not members of the Overview and Scrutiny Committee shall have the right to attend and speak (but not vote) at the Committee Meeting.

If however a Call-In Notice is considered not to be valid in the opinion of the Monitoring Officer, having regard to the procedures in these rules and the law, it will not be accepted without prior discussion with the Chair of the Committee.

Where a Call-In Notice is not accepted the Monitoring Officer will submit a report to the next available meeting of the Overview and Scrutiny Committee giving details of the request and the reasons for not accepting it.

### Limitation on Call-In

In order to ensure that call-in is not abused; nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

- (i) a decision must be called-in by at least five Members of the Council;  
and
- (ii) a decision on the same item may only be “called in” for scrutiny by the Committee on one occasion within a six month period. The six month period is to commence from the date the “call-in” request is received by the Chief Executive;
- (iii) members who have called in a decision may withdraw their call-in at any time prior to the meeting taking place to hear the call-in, by giving notice in writing to the Strategic Director of Resources.

### Publication of the Notice of Decisions

The following arrangements for the call-in will apply:

- (i) when a key decision is made by the Cabinet (or by any committee or members of the Cabinet with a delegated authority contained in Part 3 of this Constitution) or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published electronically. Notification of all such decisions will also be issued to all members by the person responsible for publishing the decision;
- (ii) the relevant 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 five working days after the publication of the decision, unless it is called in;
- (iii) during that period, the Chief Executive shall call-in a decision for scrutiny by the committee if so requested by members (in accordance with the procedure above), and shall notify the decision-taker of the call-in. An item called in for scrutiny will normally be considered by the Overview and Scrutiny Committee at its next scheduled meeting. However, in consultation with the Chairman of the Committee, he or she may call an extraordinary meeting of the Committee on such date as he or she may determine (in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution);

## Procedure Matters

- (i) any member considering calling in a decision must first make every effort to discuss the issue with the relevant Cabinet Member or the Leader of the Council;
- (ii) members using the call-in arrangements have the right to address the Committee when it deals with the issue;
- (iii) normally, the Committee will complete its scrutiny of the issue at that meeting and report the outcome to the next meeting of the Cabinet. However, the Committee may consider that further time is required to consider the issue and would therefore need to recommend to the Cabinet that further work be carried out and that the Overview and Scrutiny Committee makes recommendations at a later date. In these circumstances, the Cabinet will decide whether or not the decision should be implemented, having regard to the urgency, if any, of the matter and the provisions of the Budget and Policy Framework Rules;
- (iv) if the Overview and Scrutiny Committee agrees with a called-in decision, the decision may be implemented immediately following the Overview and Scrutiny Committee meeting;
- (v) if, through the scrutiny process and/or in pursuance of the Budget and Policy Framework Procedure Rules set out in Part 4 of this constitution, a called-in decision is deemed to be contrary to the policy framework, and/or contrary to or not wholly consistent with the budget, it may have to be referred to the Council for a final decision and the action cannot be acted upon until this decision is made;
- (vi) if the called in decision does not contradict the policy framework and/or budget but the Committee decides to make an alternative recommendation, this will be considered by the Cabinet at its next meeting and no action should be taken until a final decision has been made by the Cabinet.

## **16 Call-in and Urgency**

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the council's or the public's 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 Overview and Scrutiny Committee must agree both that the decision proposed is reasonable and that there are reasonable grounds

for treating the decision as a matter of urgency. In the absence of the Chairman, the Vice Chairman of the Overview and Scrutiny Committee's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

## **17 Procedure at scrutiny committee meetings**

### Agenda Business

Scrutiny committees and sub-committees shall consider the following business:

- (i) minutes of the last meeting;
- (ii) declarations of interest;
- (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
- (iv) responses of the Cabinet to reports of the scrutiny committee;
- (v) consideration of the forward plan and
- (vi) the business otherwise set out on the agenda for the meeting, including the committee's workplan.

### Cabinet Members

The Cabinet members will be individually invited to give an account of his or her portfolio to one of the scrutiny committees at least once annually and will answer any questions posed by committee members. This attendance shall be in addition to any attendance required or invited by the committee in relation to specific items of business. The time set aside for presentation of each portfolio report and questions thereon shall be at the discretion of the Chairman.

### Investigations

Where the scrutiny committee conducts investigations (for example, with a view to policy options), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- (i) 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;



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

Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

## **18 Matters within the remit of more than one scrutiny committee**

Where a scrutiny committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of the other scrutiny committee, before submitting its findings to the Cabinet and/or Council for consideration, the report of the reviewing scrutiny committee shall be considered by the other scrutiny committee for comment. Those comments shall be incorporated into the report which is then sent to that body for consideration. The two committees, through their Chairmen and with agreement of the Council, may decide to hold a joint meeting of scrutiny committees if they feel this would be a more effective way of carrying out occasional business where there is clearly value in both committees considering a report simultaneously.

## **19 The Party Whip**

For the purpose of this section, reference to “the party whip” shall mean:

*“Any instruction given by or on behalf of a political Group to any Councillor who is a Member of that Group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the Group in respect of that Councillor should he/she speak or vote in any particular manner.”*

As part of the scrutiny function, the imposition of the party whip is regarded by the Council as incompatible with each Committee’s terms of reference. The party whip should not therefore be imposed on any member of the Overview and Scrutiny committees.

## **20 Councillor Call for Action (CCfA)**

Any Councillor may request that a scrutiny committee consider the inclusion of a Councillor Call for Action (CCfA) on its work programme, under the terms of the CCfA Protocol set out below. The operation of CCfA will be in full compliance with the Protocol and, as for call-in, will be used only in exceptional circumstances where all other possible avenues for resolution of

the issue have been followed by the referring Councillor, and yet a problem still exists.

## **Councillor Call for Action (CCfA) Protocol**

Under section 119 of the Local Government and Public Involvement in Health Act 2007, a Member may call for debate and discussion at committee, a topic of neighbourhood concern. These powers are limited to an issue which affects a single council ward. CCfA will be considered by the scrutiny committee, whose terms of reference include within its remit, the subject of the CCfA. If in doubt, the Monitoring Officer shall determine which scrutiny committee would be the relevant recipient. In order to initiate the CCfA process, the Chairman of the relevant scrutiny committee in conjunction with the Monitoring Officer will need to be satisfied that the following criteria have been met:

### **Criteria**

Statutory Regulations specify matters that are excluded from CCfA:

1. any matter which is vexatious, discriminatory or not reasonable;
2. any matter which is the subject of an individual complaint;
3. any matter relating to a planning appeal, licensing appeal or other issue where there is an alternative avenue available; and
4. the matter must be one where all other attempts at resolution have been exhausted.

The following process will need to be followed:

### **Process**

1. A Member should direct a CCfA request in writing to the Chairman of the Overview and Scrutiny Committee (not the policy committees) and the Monitoring Officer who will, if the above criteria are met, allow the issue to be placed on the agenda for a subsequent meeting. The request should specify:
  - the ward concerned and how the issue relates only to that ward;
  - the views and concerns of local residents;

- how existing mechanisms for resolution have been tried and exhausted; and
  - the desired outcomes for resolving the issue.
2. The scrutiny Chairman, in conjunction with the Monitoring Officer, may determine whether the next scheduled meeting of the relevant scrutiny committee is appropriate or if an additional meeting needs to be convened.
  3. The scrutiny committee, subject to the necessary notice being given, will be able to request attendance from the relevant Cabinet Member and/or representatives of partner organisations, and/or to request information.
  4. The scrutiny committee should discuss how to achieve the desired outcomes that the member bringing the CCfA has specified and should conclude its consideration with a recommendation that certain action(s) should take place. The scrutiny committee may decide to challenge whether the desired outcome is reasonable.
  5. Whilst there will be no specified procedure for the discussions at committee, the scrutiny Chairman, in consultation with Officers, may determine an informal structure that will enable all parties to contribute.
  6. All CCfA requests, whether pursued or not, should be reported to the next relevant scrutiny committee for information. This will enable scrutiny committees to take account of all requests in determining work programmes.