

E. Scrutiny and Overview Procedure Rules

Table of Contents

E. Scrutiny and Overview Procedure Rules	60
1. Arrangements for Scrutiny and Overview Committees	62
2. Membership of Scrutiny and Overview Committees.....	62
3. Co-optees	62
4. Meetings of Scrutiny and Overview Committee(s).....	62
5. Quorum	62
6. Chairs and Vice-Chairs.....	63
7. Work Programme	63
8. Agenda Items.....	63
9. Cabinet consideration of issues arising from Scrutiny and Overview Committee(s).....	64
10. Rights of Committee Members to Documents.....	65
11. Members and Officers giving account at a Scrutiny and Overview Committee	65
12. Attendance by Others	66
13. Call-In by the Scrutiny and Overview Committee.....	66
Procedure	67
Referral to Council	68
Liability for Further Call-in	69
Call-in and urgency	69
14. Crime and Disorder Matters	70
15. Party Whip	71

16. Procedure at Scrutiny and Overview Committee Meetings.....71

17. Operating guidelines for Task and Finish Groups set up by a Scrutiny and Overview Committee72

1. Arrangements for Scrutiny and Overview Committees

- 1.1 The Council shall have one or more scrutiny and overview committees as indicated in Article 6.
- 1.2 A scrutiny and overview committee may appoint such sub-committees or task and finish groups as it considers appropriate.

2. Membership of Scrutiny and Overview Committees

All councillors, except members of the Cabinet, may be members of a scrutiny and overview committee, sub-committee or task and finish group. However, no member may be involved in scrutinising a decision or policy made by a body of which they were a member at the time the decision was made, but they may attend to give evidence.

3. Co-optees

- 3.1 A committee may not co-opt persons who are not councillors but may invite representatives from any body or organisation or any individual to attend meetings to give their views on any matter being considered.
- 3.2 This restriction does not extend to task and finish groups established by a committee.

4. Meetings of Scrutiny and Overview Committee(s)

Meetings of a scrutiny and overview committee shall be held on such dates and times as may be specified in the Council's calendar of meetings. However, such dates may be varied at the discretion of the Chair of the committee. In addition, extraordinary meetings may be called by the Chair of the relevant Committee, by half the members or by the proper officer if they consider it necessary or appropriate. All members of the Council may attend meetings of a scrutiny and overview committee and, with the agreement of the Chair, may address the meeting.

5. Quorum

The quorum for a committee shall be at least one quarter of its membership.

6. Chairs and Vice-Chairs

The Chair and Vice-Chair of a scrutiny and overview committee shall be appointed by the Council at its annual meeting. Sub-committees, task and finish groups and other groups established by a committee, from time to time, may elect a Chair from amongst their membership.

7. Work Programme

7.1 A scrutiny and overview committee shall be responsible for setting its own work programme and, in doing so, it may use the following process:

- (a) initial topic selection, including input from officers, Cabinet and external stakeholders;
- (b) establishment by the committee of priority work areas based on key factors such as importance to residents, ability of the committee to influence, Council / local performance in the work area concerned;
- (c) consultation with Senior Leadership Team; and
- (d) consultation with Leader and Cabinet.

7.2 The Chair and Vice Chair of a scrutiny and overview committee shall review the Cabinet's Notice of Key and Non-Key Decisions and shall select which key and, where considered appropriate, non-key decisions should be the subject of pre-scrutiny by the committee. Urgent decisions (as defined in Rule 13.19) shall not be subject to pre-scrutiny.

7.3 The Leader may request the Chair of a scrutiny and overview committee to consider inclusion of an item within the committee's work programme.

8. Agenda Items

8.1 Any member of a scrutiny and overview committee may give written notice to the proper officer that they wish to refer to the committee an item relevant to its functions

8.2 Any member of the Council may give written notice to the proper officer that they wish to refer to a scrutiny and overview committee an item which is relevant its functions, relates to all or part of their Ward and is not an excluded matter (see note 1 below).

- 8.3 If the proper officer receives a notification under 8.1 or 8.2 above, then they shall include the item on an agenda for consideration by the committee.
- 8.4 A scrutiny and overview committee shall also respond, as soon as its work programme permits, to requests from the Council or the Cabinet to review particular areas of Council activity. Where it does so, the committee shall report its findings and any recommendations back to the Cabinet and / or Council. The Council and / or the Cabinet shall consider the report of the committee as soon as reasonably practicable after receiving it.

[Note 1: "Excluded matter" means any matter which is:

- (a) A local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters); or
- (b) A matter specified by the Secretary of State including any matter relating to a planning decision; a licensing decision, a matter where another right or recourse or appeal exists or any matter which is vexatious, discriminatory or not reasonable to be included in agenda for, or discussed at, a scrutiny and overview committee meeting.]

9. Cabinet consideration of issues arising from Scrutiny and Overview Committee(s)

- 9.1 The agenda for Cabinet meetings shall include an item entitled 'Issues arising from Scrutiny and Overview'. Any reports of a scrutiny and overview committee referred to the Cabinet shall be included at this point in the agenda.
- 9.2 Once a committee has completed its deliberations on any matter it shall forward a copy of its final report to the proper officer who shall allocate it 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. If the proper officer refers the matter to Council, they shall also serve a copy on the Leader with notice that the matter is to be referred to Council. The Cabinet shall have three weeks, from the date of receiving the report, in which to respond, and the Council shall not consider it within that period. When the Council does meet to consider any referral from the committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the committee proposals.
- 9.3 Where a committee agrees to submit a report for consideration by the Cabinet in relation to a matter where the Leader has delegated decision-making power to another individual member of the Cabinet, then the committee shall submit a copy of its report to them for consideration. At the time of doing so, the committee shall serve a copy on the proper officer. The member with

delegated decision-making power shall consider the report and respond in writing to the committee within three weeks of the date of receiving it. A copy of their written response to it shall be sent to the proper officer and the Leader. The member shall also attend a future meeting of the committee to present their response.

10. Rights of Committee Members to Documents

10.1 In addition to their rights as councillors, members of a scrutiny and overview 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.

10.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and a scrutiny and overview committee as appropriate depending on the particular matter under consideration.

11. Members and Officers giving account at a Scrutiny and Overview Committee

11.1 A scrutiny and overview committee, or any of its sub-committees, may scrutinise and review decisions made, or actions taken, in connection with the discharge of any Council functions as specified in its terms of reference. As well as reviewing documentation, it may require any member of the Cabinet, the Head of Paid Service, the Chief Operating Officer, any Director and / or any 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.

11.2 Where any member or officer is required to attend a meeting of a committee under this provision, the Chair of the committee shall inform the proper officer. The proper officer shall inform the member or officer in writing giving at least five clear working days' notice of the meeting at which they are required to attend. The notice shall state the nature of the item on which they are 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 shall be given sufficient notice to allow for preparation of that documentation. **Wherever**

possible, invitations should be made and accepted without recourse to the formal summons outlined here, which should be used only in the event of disputes which cannot be resolved by other means.

11.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the committee shall, in consultation with the member or officer, arrange an alternative date for attendance.

12. Attendance by Others

A committee may invite people other than those referred to in paragraph 11 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. The public has a right to speak at open meetings of the committee as set out in the Access to Information Rules and the Council's Public Speaking Scheme.

13. Call-In by the Scrutiny and Overview Committee

13.1 Call-in should be used only in exceptional circumstances and shall relate only to executive decisions made by the executive decision takers referred to in the Budget and Policy Framework Rules, Rule 7 (see note 2 below). There are only two grounds on which call-in of any decision can be requested:

- (a) It is or would be contrary to the policy framework or contrary or not wholly in accordance with the Council's budget – a "Departure Decision" as defined in Budget and Policy Framework Rule 7; or
- (b) It is not in accordance with the principles set out in Article 13 (Decision-making) ("Outside Article 13 decision")

[Note 2: "Executive decision taker" means the Cabinet; any member of the Cabinet; any committee or group of the Cabinet; any officer (key decision only); an area committee; or a committee under joint arrangements.]

13.2 The Chair of the relevant scrutiny and overview committee (see note 3 below) has discretion, unless otherwise advised by the Monitoring Officer, to refuse a call-in request if they consider that the reasons given do not satisfy the grounds above; or may limit the issues to be considered to those satisfying the grounds.

Procedure

- 13.3 When a decision is made by any of the executive decision takers referred to in Budget and Policy Framework Rule 7, the decision shall be published in accordance with Rule 18 of the Access to Information Procedure Rules.
- 13.4 At any time until the expiry of the call-in period (five working days after publication), or before the decision is made, the proper officer shall call-in an executive decision for scrutiny by the relevant scrutiny and overview committee if so requested by the Chair of the committee, or any five councillors, whether or not they are members of that committee, on either of the grounds in 13.1 above, and shall notify the executive decision taker straightaway of the call-in.
- 13.5 No further action on the decision or any implementation shall take place other than in accordance with these Rules.
- 13.6 Before invoking call-in of any **departure decision**, the Chair of the relevant scrutiny and overview committee or the five invoking councillors shall seek advice from the Monitoring Officer, and / or the Chief Finance Officer as appropriate, on whether the decision is contrary to the policy framework or the budget. The invoker shall notify the proper officer accordingly and within the call-in period.
- 13.7 In the case of a **departure decision**, the Monitoring Officer and / or Chief Finance Officer (as appropriate), or an experienced senior officer authorised by them, shall report as soon as possible to the executive decision-taker(s), proper officer, the invoker and the Chair of the relevant scrutiny and overview committee on whether the decision is, or would be, a departure from policy or budget. If the report concludes that the decision is not a departure, the Chair of the committee has discretion to refuse the call-in request or put the matter before the committee for consideration.
- 13.8 In all cases, unless the decision is revoked or withdrawn by the executive decision taker(s) or is not to be proceeded with, or has been refused by the Chair of the relevant scrutiny and overview committee, the proper officer shall, within five working days of the request to call-in, call a meeting of the committee on such date as the proper officer may determine, where possible after consultation with the Chair of the committee, to consider the decision.
- 13.9 If, having considered the decision, the scrutiny and overview committee is concerned about it or agrees that the decision is a departure, it may take one of the following courses:
- (a) refer the decision back to the executive decision taker for re-consideration, setting out in writing the nature of its concerns. If referred back, the executive decision taker shall then respond within five working days, re-considering the decision, before confirming the original decision,

adopting an alternative decision or adopting a course of action leading to a final decision, such as, but not limited to, further consultation or exploration of other options, and confirming the deadline by which the final decision will be taken. The final decision, once taken, may be implemented immediately:

- (b) refer the matter to Council; or
- (c) not refer the matter back or to Council, in which case the decision if made may be implemented immediately following the scrutiny and overview committee meeting.

Referral to Council

13.10 In the case of decisions referred to Council by the scrutiny and overview committee under Rule 13.9(b) the following provisions shall apply.

13.11 The Council shall meet within twenty-one days of the reference by the scrutiny and overview committee. This period may be extended by agreement of the Chair of the committee. If the matter is urgent an extraordinary meeting of Council may be called if the scrutiny and overview committee so requests.

13.12 At its meeting the Council shall receive a report of the decision made or to be made, any report and advice of the Monitoring Officer and / or the Chief Finance Officer, any report of the Cabinet, the request from and the concerns of the scrutiny and overview committee and any other relevant material.

13.13 The Council may, in the case of Departure Decisions:

- (a) endorse the decision or proposal of the executive decision taker as falling within the existing budget and policy framework. The decision can be implemented immediately.
- (b) amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. The decision can then be implemented.
- (c) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, it shall require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer / Chief Finance Officer.

13.14 The Council may, in the case of any Outside Article 13 decision:

- (a) not object, in which case the decision if made may be implemented immediately after the Council meeting.
- (b) refer the decision back to the executive decision taker(s) together with the Council's views on the decision. The executive decision taker(s) shall then re-consider within five working days, amending the decision or not, before adopting a final decision, which may be implemented immediately.

13.15 If the Council fails to meet by the end of twenty-one days from reference by the scrutiny and overview committee or other date agreed between the Chair of the committee and the Chair of Council, the decision may be implemented immediately.

Liability for Further Call-in

13.16 Any decision referred back by a scrutiny and overview committee or by Council for reconsideration by Cabinet or the decision-taker(s) shall not be subject to further call-in, whether or not it is altered or adjusted to accommodate some or all of the concerns of the invoker.

13.17 Any decision proposed but not yet made, and considered by the scrutiny and overview committee under the call-in provisions, shall be subject to the recording, publication and call-in rules under Rule 18 Access to Information Procedure Rules if it is to proceed.

13.18 Any decision not formally referred back but taken back by the executive decision-taker for reconsideration shall be subject to further call-in procedure in accordance with Rule 18 Access to Information Rules, but only to the extent that the decision on reconsideration does not accommodate the concerns of the original invoker.

Call-in and urgency

13.19 The call-in procedure set out above shall not apply where the decision being taken by the executive decision taker is urgent. A decision shall be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. 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.

13.20 The Chair of the Council and the Chair of the relevant scrutiny and overview committee shall previously 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 Chair, the Vice-Chair's consent shall be required. In the absence of both, the consent of the Chair of the Audit and Corporate Governance Committee, or Vice-Chair in their absence, shall be

required. Decisions taken as a matter of urgency shall be reported to the next available meeting of the Council, together with the reasons for urgency.

- 13.21 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.

[Note 3: The Vice-Chair may exercise any powers of the Chair of the relevant scrutiny and overview committee set out in the Rule 13 above in their absence]

14. Crime and Disorder Matters

- 14.1 The Council shall designate one of its scrutiny and overview committees as the Council's Crime and Disorder Committee with responsibility for scrutinising crime and disorder and community safety matters and the designated committee shall meet in this capacity at least once a year, or as required. The committee may:

- (a) consider the decisions and actions undertaken by the responsible authorities involved in the Community Safety Partnership and make any recommendations or reports to the Partnership;
- (b) request information from the responsible authorities;
- (c) request attendance of officers or employees of responsible authorities to answer questions or to provide information; and
- (d) receive Councillor Calls for Action under Rule 14.2 below in relation to crime and disorder and community safety issues in accordance with the Police and Justice Act 2006.

- 14.2 Any member of the Council may give notice to the Monitoring Officer to include an item that they consider to be a crime and disorder matter (see note 4 below) relating to their Ward to be included on the agenda for discussion at a meeting of the scrutiny and overview committee responsible for crime and disorder.

- 14.3 On receipt of the request, the Monitoring Officer shall notify the Chair of the committee of the receipt of the item and ensure that the item is included on the next available or subsequent agenda for consideration by the committee.

- 14.4 If the relevant committee decides not to make a report or recommendation in relation to the matter, it shall notify the member who referred the matter of its decision and the reasons for it.

14.5 Where the committee makes a report or recommendations it shall, as it considers appropriate:

- (a) provide a copy of the report or recommendations to the member who referred the matter to the committee; and
- (b) provide a copy of the report or recommendations to the responsible authorities (within the meaning of Section 5 of the Crime and Disorder Act 1998) and the co-operating persons and bodies (i.e. those persons and bodies with which the responsible authorities have a duty to co-operate under Section 5(2) of the Crime and Disorder Act 1998).

[Note 4: “Local crime and disorder matter” in relation to a member means a matter concerning:

- (i) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- (ii) the misuse of drugs, alcohol and other substances,

which affects all or part of their Ward.]

15. Party Whip

When considering the review of any decision in respect of which a member of a scrutiny and overview committee is subject to a party whip, the member shall declare the existence of the whip, and the nature of it, before the commencement of the committee’s deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes.

16. Procedure at Scrutiny and Overview Committee Meetings

16.1 A scrutiny and overview committee), and any of its sub-committees, (unless otherwise specified) shall consider the following business:

- (a) minutes of the last meeting;
- (b) declarations of interest (including whipping declarations);
- (c) consideration of any matter referred to the committee for a decision in relation to call in of a decision
- (d) responses of the Cabinet to reports of a scrutiny and overview committee;

- (e) any recommendations or reports from the committee’s task and finish groups;
- (f) reports from Scrutiny Monitors; and
- (g) the business otherwise set out on the agenda for the meeting.

16.2 Following any investigation or review, the relevant 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.

16.3 Where a scrutiny and overview committee conducts investigations, 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:

- (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.

16.4 The Chair may alter the structure of meetings at their discretion in order to ensure that the above principles are followed.

17. Operating guidelines for Task and Finish Groups set up by a Scrutiny and Overview Committee

Formal Agenda	Optional
Formal, detailed minutes / notes	No
Lead Officer(s)	Democratic Services Team Leader or Scrutiny and Governance Adviser and lead officer(s) from the relevant service area

Action notes	To be compiled by the allocated lead officer and reviewed from meeting to meeting. Normally to be made available to the public on request after publication of the final report.
External / public involvement	Meetings shall not be public; however, stakeholders shall be invited to attend and to contribute to the group's work programmes, including co-option to the group, as appropriate.
Politically proportionate	No, but there is an expectation that task and finish groups shall include representatives from more than one political group, as far as reasonably practicable.
Composition	<p>Appointed by the relevant scrutiny and overview committee from non-executive members with the relevant experience / interest.</p> <p>The lead Cabinet member may be invited to contribute in an advisory capacity to reviews.</p>
Size	This shall vary according to the matter under discussion; however, groups should not normally comprise more than five members of the Council.
Terms of Reference	<p>Terms of Reference shall be agreed by the relevant parent scrutiny and overview committee at the point of establishment and shall include:</p> <ul style="list-style-type: none"> (a) The specific issue to be considered; (b) A timescale and deadline; (c) Principal aims and objectives.