

# Overview and Scrutiny Procedure Rules

## 1.0 What will be the Number of and Arrangements for Overview and Scrutiny ~~Committee~~ Panels?

- (a) Unless the Council decides otherwise under Article 6, the Council will always have at least one Overview and Scrutiny ~~Committee~~ Panel, which will perform all Overview and Scrutiny functions on behalf of the Council.

(NB. Scrutiny arrangements effective from 1<sup>st</sup> October 2002 are detailed in the Annex to Article 6.)

- (b) Unless otherwise provided in Article 6, the terms of reference of the Overview and Scrutiny ~~Committee~~ Panel will be:
- (i) ~~the performance of to perform~~ all Overview and Scrutiny functions on behalf of the Council;
  - (ii) ~~the to~~ appointment of such Sub-Committees and working parties as it considers appropriate to fulfil and assist with Overview and Scrutiny functions;
  - (iii) to receive any reports from the Leader on the Cabinet's priorities for the coming year and its performance in the previous year;
  - (iv) to approve an annual Overview and Scrutiny work programme, including the programme of any Sub-Committees it appoints so as to ensure that the ~~Committee~~ Panel's and Sub-Committee's time is effectively and efficiently utilised;
  - (v) where matters fall within the remit of more than one Overview and Scrutiny Sub-Committee, to determine which of those Sub-Committees will assume responsibility for any particular issue;
  - (vi) to put in place a system to ensure that referrals from Overview and Scrutiny to the Cabinet either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;
  - (vii) in the event of reports to the Cabinet exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet, to ~~make decisions about the priority of~~ prioritise referrals made.

(NB. Current scrutiny arrangements are detailed in the Annex to Article 6.)

- (c) Any Overview and Scrutiny ~~Committee~~ Panel may discontinue any Sub-Committee and/or appoint alternative or additional Sub-Committees. The ~~Committee~~ Panel may also amend the terms of reference of any Sub-Committee as appropriate.
- (d) Where any ~~Committee~~ Panel seeks to discontinue or appoint Sub-Committees, it may do so provided that it has consulted with interested parties, if appropriate. The extent and nature of consultation will depend on the nature of the proposed alterations. Any change will be reported to the proper officer and then to the next meeting of the Council by the Chairman of the Overview and Scrutiny ~~Committee~~ Panel, so that the Constitution may be amended accordingly.

## 2.0 Who May Sit on Overview and Scrutiny ~~Committee~~Panel?

- (a) All Councillors except members of the Cabinet and the Chairman and Vice Chairman of Council are eligible to be members of an Overview and Scrutiny ~~Committee~~Panel.
- (b) Any Overview and Scrutiny ~~Committee~~Panel or Sub-Committee or Working Party shall be entitled to appoint up to three people who are not Members of the Council as non-voting co-optees. ~~– If these co-optees are subject to a circumstance that would disqualify them from being a Councillor (such as being bankrupt, they would be ineligible to become a co-optee. However a co-optee would not need to fulfil the same qualification criteria as a Councillor of TDC in order to be a co-optee.(i.e. that they lived or worked in the district) Such persons shall not be disqualified from being a Member of the Council (but need not be qualified to be a Member of the Council).~~
- (c) ~~The~~ ~~Committee~~Panel, ~~Sub-Committee~~ or Working Party ~~They~~ shall also be entitled to appoint up to three additional Members of the Council from among those members who are eligible to assist with their work where those additional members are considered to have particular skills, knowledge or experience relevant to the matter assigned to the Sub-Committee or Working Party. Such additional Members shall not be entitled to vote ~~on matters arising.~~

## 3.0 Scrutiny Requirements

- (a) No member, co-optee or additional member may be involved in scrutinising a decision in which he/she has ~~been directly involved.made.~~
- (b) Co-optees shall be required to declare any interest, pecuniary or otherwise, as if they were a Member of the Council.
- (c) Co-optees shall comply with the Council's Rules.

## 4.0 Meetings of the Overview and Scrutiny ~~Committee~~Panel

There shall be at least 6 ordinary meetings of each Overview and Scrutiny ~~Committee~~Panel ~~and of each standing Sub-Committee~~ in each year ~~and the total number of meetings shall be determined by the Chairman of that Panel, in conjunction with Officers.~~ In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny ~~Committee~~Panel meeting may be called by the Chairman of the relevant Overview and Scrutiny ~~Committee~~Panel, by any 5 members of the ~~Committee~~Panel or by the proper officer if he/she considers it necessary or appropriate.

## 5.0 Quorum

The quorum for an Overview and Scrutiny ~~Committee~~Panel shall be as set out in the Council Procedure Rules in Part 4 of this Constitution.

The quorum for a Sub-Committee or Working Party shall be one-half of the membership provided that a quorum shall never be less than two.

## 6.0 Who Chairs Overview and Scrutiny ~~Committee~~Panel Meetings?

- (a) Any Overview and Scrutiny ~~Committee~~Panel will be ~~c~~Chaired by a Councillor in accordance with the Council Procedure Rules.

- (b) Chairmen of Overview and Scrutiny Sub-Committees and working parties will be drawn from among the Councillors sitting on the Sub-Committee or Working Party and subject to this requirement the Sub-Committee or Working Party may appoint such a person as it considers appropriate as Chairman.

## 7.0 Work Programme

Any Overview and Scrutiny ~~CommitteePanel~~ will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that ~~CommitteePanel~~ who are not members of the largest political group on the Council.

NB. In order to allow sufficient time to adequately consider the development of the budget framework, the relevant scrutiny panel should normally ensure that any necessary Budget Working Parties are established or other arrangements made by mid-September in each year.

## 8.0 Agenda Items

~~(a)~~ (a) Any member of an Overview and Scrutiny ~~CommitteePanel~~ or Sub-Committee shall be entitled to give notice to the ~~Democratic Services and ScrutinyCommittee Services~~ Manager that he/she wishes an item relevant to the functions of the ~~CommitteePanel~~ or Sub-Committee to be included on the agenda for the next available meeting of the ~~CommitteePanel~~ or Sub-Committee.

(b) In addition, any member of the Council shall be entitled to give notice to the ~~Democratic Services and ScrutinyCommittee Services~~ Manager that he/she ~~wished wishes~~ a local government matter to be included on the agenda for the next available meeting of the ~~CommitteePanel~~ ~~PROVIDED provided~~ such notice complies with the requirements of any protocol from time to time adopted by the Council regulating the exercise of such right.

~~(a)~~(c) On receipt of such a request not later than two weeks prior to the meeting in question identifying the subject matter and briefly stating the reasons why it is suggested it is an appropriate subject (or in the case of a local government matter briefly stating the steps that have already been taken to try to resolve the matter in question and why such steps have been unsuccessful) the ~~Democratic Services and ScrutinyCommittee Services~~ Manager will ensure that it is included on the next available agenda and copy the same as soon as practicable to the Chairman of the ~~CommitteePanel~~ for information.

## 9.0 Policy Review and Development

(a) The role of the relevant Overview and Scrutiny ~~CommitteePanel~~ 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.

(b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework the relevant Overview and Scrutiny ~~CommitteePanel~~ may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

- (c) The relevant Overview and Scrutiny CommitteePanel may hold inquiries 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, as determined by the Chairman of the Overview and Scrutiny Panel in consultation with the Monitoring Officer.

#### 10.0 Reports from Overview and Scrutiny CommitteePanels

- (a) Once it has formed recommendations on proposals the relevant Overview and Scrutiny CommitteePanel will prepare a formal report and submit it to the proper officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (eg, if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) The Council or Cabinet shall consider the report of any Overview and Scrutiny CommitteePanel within 6 weeks of it being submitted to the proper officer.

#### 11.0 Making Sure that Overview and Scrutiny Reports are Considered by the Cabinet

11.1—Once an Overview and Scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of 6 weeks from the date the report was adopted by the Overview and Scrutiny CommitteePanel. In such cases, the report of the Overview and Scrutiny CommitteePanel shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the Overview and Scrutiny report within 6 weeks then the matter will be referred to Council for review, and the proper officer will call a Council meeting to consider the report and make a recommendation to the Cabinet. The Cabinet should provide their response to such a report from the Overview and Scrutiny Panel in writing.

11.2 Where an Overview and Scrutiny CommitteePanel prepares a report for consideration by the Cabinet in relation to a matter where an individual member of the Cabinet has delegated decision making power, then the Overview and Scrutiny CommitteePanel will submit a copy of their report to that individual for consideration.

11.2.1 At the time of doing so, the Overview and Scrutiny CommitteePanel shall serve a copy the report on the proper officer and the Leader (unless it is the Leader who has the delegated decision making power). If the member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny CommitteePanel then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny CommitteePanel.

**11.2.2** The Cabinet member to whom the decision making power has been delegated will respond to the Overview and Scrutiny [CommitteePanel](#) within 6 weeks of receiving it. A copy of his/her written response to it shall be sent to the proper officer and he/she may attend a future meeting to respond.

**11.3** Not more than 6 reports in any three-month period may be submitted by any Overview and Scrutiny [CommitteePanel](#) to the Cabinet.

**11.4**—Any Overview and Scrutiny [CommitteePanel](#) will in any event have access to the Cabinet'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 [CommitteePanel](#) following a consideration of possible policy/service developments, the [CommitteePanel](#) will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

## **12.0 Rights of Overview and Scrutiny [CommitteePanel](#) Members to Documents**

In addition to their rights as Councillors, members of Overview and Scrutiny [CommitteePanel](#)s 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. Nothing in this paragraph prevents more detailed liaison between the Cabinet and any Overview and Scrutiny [CommitteePanel](#) as appropriate depending on the particular matter under consideration.

## **13.0 Members and Officers Giving Account**

(a) Any Overview and Scrutiny [CommitteePanel](#) or a Sub-Committee 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 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.

(b) Where any member or officer is required to attend an Overview and Scrutiny [CommitteePanel](#) or Sub-Committee under this provision, the Chairman will inform the proper officer. The proper officer shall inform the member or officer in writing giving reasonable 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 [CommitteePanel](#). Where the account to be given to the [CommitteePanel](#) or Sub-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.

- (c) Where, in exceptional circumstances (as determined by the Chairman of the Overview and Scrutiny Panel), the member or officer is unable to attend on the required date, then the Chairman of the Overview and Scrutiny Panel or Sub-Committee shall in consultation with the member or officer arrange an alternative date for attendance.

#### 14.0 Attendance by Others

- (a) An Overview and Scrutiny CommitteePanel or Sub-Committee may invite people other than those people referred to in paragraph 13 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.
- (b) Working parties may invite attendance by those mentioned in 13 and 14 (a) above.

#### 15.0 Call-In

- (a) Call-in should only be used in exceptional circumstances, for example, where members of the appropriate Overview and Scrutiny Panel have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making).
- (b) When a decision is made by the Cabinet, an individual member of the Cabinet or a CommitteePanel of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or an area CommitteePanel 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 2 days of being made. The Chairman of the relevant Overview and Scrutiny Panel will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (c) 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 relevant Overview and Scrutiny Panel objects to it and calls it in.
- (d) During that period, the proper officer shall call-in a decision for scrutiny by the Panel if so requested in writing (including e-mail) specifying the decision in question with a brief statement of reasons for the call-in by the Chairman or any five members of the Panel (who shall not all be from the same political group), and shall then notify the decision-taker in writing of the call-in.
- (e) If a decision is called-in then a meeting of the Overview and Scrutiny Panel must be called within 15 calendar working? days of the decision to call in, unless the Leader of the Council (or the Deputy Leader in the Leaders absence) and the Chairman of the Overview and Scrutiny Panel have agreed that the call-in may take place at the next scheduled meeting of the Overview and Scrutiny Panel.

(f) The decision notice and the report underpinning the decision will be made available, to the Panel but no witnesses (other than persons who reported directly to the decision maker) will be called in respect of the call-in.

(f) If, having considered the decision, the Panel is still concerned about it, then it may 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 15 working days from the date of the meeting, amending the decision or not, before adopting a final decision.

(g) If it has not been agreed to consider the objection at the next scheduled meeting of the Overview and Scrutiny Panel, but the Panel does not hold a valid meeting within the 15 ~~working?calendar~~ day period (as set out in (e) above), or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the expiration of that period or the date of the Overview and Scrutiny meeting, whichever is the earlier.

(h) If it has been agreed to consider the objection at the next scheduled meeting of the Overview and Scrutiny Panel (as set out in (e) above), but the Panel does not meet, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the scheduled Overview and Scrutiny meeting at which it was due to be considered.

(i) If the ~~matter-Call-In function~~ is 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 on the date of the Council Meeting.

(i) However, if the Council does object ~~to a decision which has been made~~, it has no ~~locus power~~ to make decisions in respect of a Cabinet 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.

(k) Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider within 15 working days of the Council meeting. Where the decision was made by an individual, the individual will reconsider within 15 working days of the Council meeting.

(lj) If the Council does not meet within 15 working days of the day on which the matter was referred to full Council the decision will become effective on the expiry of that period.

(mk) Where a Cabinet decision has been taken by an area Committee then the right of call-in shall extend to any other area Committee which resolves to refer a decision which has been made but not implemented to a relevant Overview and Scrutiny Panel for consideration in accordance with these provisions. An area Committee may only request the proper officer to call-in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call-in shall apply as if the call-in had been exercised by members of a relevant Overview and Scrutiny Panel.

### Call-in and urgency

Formatted: Indent: Left: 0.63 cm, First line: 0 cm

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Indent: Left: 0 cm, Hanging: 1.25 cm

Formatted: Font: (Default) Arial

Formatted: Highlight

Comment [NH1]: Appreciate where they are coming from however this can't be left open ended.

Formatted: Highlight

- (h) 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 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.
- (o) 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 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.
- (p) 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.

## 16.0 The Party Whip

When considering any matter in respect of which a member of an Overview and Scrutiny CommitteePanel, Sub-Committee or Working Party is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the CommitteePanel, Sub-Committee or Working Party's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## 17.0 Procedure at Overview and Scrutiny CommitteePanel Meetings

- (a) Overview and Scrutiny CommitteePanels shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the CommitteePanel for a decision in relation to call-in of a decision;
  - (iv) responses of the Cabinet to reports of the Overview and Scrutiny CommitteePanel; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where any Overview and Scrutiny CommitteePanel conducts investigations (eg, with a view to policy development), the CommitteePanel may also ask people to attend to give evidence at CommitteePanel meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all members of the CommitteePanel be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the CommitteePanel 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.

(c) Following any investigation or review, the CommitteePanel shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public unless involving confidential or exempt information.

(d) These rules shall apply to Sub-Committees and working parties. Their reports shall be referred to the CommitteePanel in the first instance.

#### **18.0 Confidential and Exempt Information**

Until reported to any Overview and Scrutiny CommitteePanel, the work of any Sub-Committee or Working Party dealt with when the public have been excluded from the meeting shall be treated as being subject to a requirement not to disclose the same in any way to any third party, unless there is a legal requirement to disclose such information. [For the purposes of this rule a “third party” shall not include any Member or officer of the Council nor any person co-opted as a member of a Sub-Committee or Working Party.]