

# PART FOUR – 4D

## OVERVIEW & SCRUTINY PROCEDURE RULES

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. What will be the number and arrangements for overview and scrutiny panels?**

The Council will have the overview and scrutiny panels set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such panels may appoint time-limited working groups/parties.

- (a) The Council will have an overview and scrutiny panel, which will perform all overview and scrutiny functions on behalf of the Council. Membership will consist of members of the Council and non-voting co-optees, as indicated in the schedule at the end of this section.
- (b) The Terms of reference of the overview and scrutiny panel will include:
  - i) the performance of all overview and scrutiny functions on behalf of the Council;
  - ii) the appointment of such working groups as it considers appropriate to fulfil those overview and scrutiny functions;
  - iii) to receive a report from the Leader of the Council at a meeting of the overview & scrutiny panel after each annual council meeting on the Council's priorities for the coming year;
  - iv) to approve an annual overview and scrutiny work programme, including the programme of any working groups it appoints so as to ensure that the panel's and working groups time is effectively and efficiently utilised;
  - v) where matters fall within the remit of more than one overview and scrutiny working group, to determine which of those working groups will assume responsibility for any particular issue;
  - vi) to put in place a system to ensure that referrals from overview and scrutiny to the policy committee 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 policy committee exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of policy committee to make decisions about the priority of referrals made.
- (c) The overview and scrutiny panel may appoint working groups to assist in their work. It may discontinue any of these working groups and/or appoint alternative or additional working groups, subject to there being a maximum of 3 working groups appointed by each panel. The panel may also amend the terms of reference of the working groups as appropriate.

(d) Where a panel seeks to discontinue or appoint working groups, 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 Chair of the overview and scrutiny panel.

## **2. Who may sit on overview and scrutiny panels?**

All Elected Members may be members of an overview and scrutiny panel. However, no member may be involved in scrutinising a decision which he/she has been directly involved.

## **3. Co-optees**

Each overview and scrutiny panel shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees as set out in the schedule at the end of this procedure rule.

## **4. Meetings of the overview and scrutiny panels**

The frequency of meetings of the overview & scrutiny panels shall be determined within the Municipal Timetable agreed by Full Council each year.

In addition, extraordinary meetings may be called from time to time as and when appropriate. An overview and scrutiny panel meeting may be requested by any 4 members of the panel by way of written request to the Proper Officer. The written request shall detail the reason the request is being made together with an explanation why the item(s) cannot await the next scheduled meeting for discussion.

The Proper Officer may also call a meeting of the panel if he/she considers it necessary or appropriate.

## **5. Quorum**

The quorum for an overview and scrutiny committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

## **6. Who Chairs overview and scrutiny panel meetings?**

Chairs of overview and scrutiny panel will be drawn from among the Elected Members sitting on the panel, and subject to this requirement the panel may elect such a person as it considers appropriate as Chair. A panel may also appoint a Vice Chair from among the Elected Members sitting on the panel.

The Chair of the panel shall normally be elected at the first scheduled meeting of the panel each new Municipal Year and would serve as Chair until the first scheduled panel meeting of the next Municipal

Year, except in a year where there are local elections their election as Chair will cease at the time of any local election. These rules also apply to the appointment of any Vice Chair.

## **7. Work programme & Methods of Operation**

The overview and scrutiny panel will be responsible for setting its own work programme and in doing so it shall take into account wishes of members on that panel who are not members of the largest political group on the Council.

Additionally, through identifying good practise, overview and scrutiny panels will develop the approved Overview and Scrutiny Toolkit as an aid to undertaking the overview and scrutiny function within the Council.

## **8. Agenda items**

- (a) Any 4 members of an overview and scrutiny panel shall be entitled to give written notice to the Proper Officer that they wish an item relevant to the functions of the panel to be included on the agenda for the next available meeting of the panel. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.
- (b) Any 5 members of the Council who are not members of the overview and scrutiny panel may give written notice to the Proper Officer that they wish an item to be included on the agenda of (a) (that) relevant overview and scrutiny panel. If the Proper Officer receives such a notification, then he/she will include the item on the first available agenda of the relevant overview and scrutiny panel for consideration by the panel.
- (c) The overview and scrutiny panel shall also respond, as soon as their work programme permits, to requests from the Council (and if it considers it appropriate the policy committee) to review particular areas of Council activity. Where they do so, the overview and scrutiny panel shall report their findings and any recommendations back to (the policy committee) and or Council. The Council and/or (the policy committee) shall consider the report of the overview and scrutiny panel at the next appropriate scheduled meeting.

## **9. Policy review and development**

- (a) The role of the overview and scrutiny panel in relation to the development of the Council's budget and policy framework is set out in details 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, overview and scrutiny panel may make proposals to Council or the policy committee for developments in so far as they relate to matters within their terms of reference.

- (c) Overview and scrutiny panels may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisors and witnesses a reasonable fee and expenses for doing so.
- (d) Overview and scrutiny panels will have regard to both recognised best practise and the Council's approved Overview & Scrutiny Toolkit when undertaking policy reviews and scrutiny work. The effectiveness of the Toolkit will be subject to review and be adapted as necessary to take into account statutory guidance & best practise.

#### **10. Reports from overview and scrutiny panels**

- (a) Once it has formed recommendations on proposals for development and reviews, the overview and scrutiny panel will prepare a formal report and submit it to the Proper Officer for consideration by (the policy committee) (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).
- (b) If an overview and scrutiny panel cannot agree on one single final report to the Council or (the policy committee) as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Policy committee) with the majority report.
- (c) The Council or (policy committee) shall consider the report of the overview and scrutiny panel at its next appropriate scheduled meeting after it having been submitted to the Proper Officer.

#### **11. Making sure that overview and scrutiny reports are considered by the policy committees**

- (a) The agenda for policy committee meetings may include an item entitled 'Issues arising from overview and scrutiny'. The reports of overview and scrutiny panels referred to the policy committee shall be included at this point in the agenda (unless they have been considered in the context of the policy committee's deliberations on a substantive item on the agenda) at its next appropriate scheduled meeting after the overview and scrutiny panel had completed its report/recommendations.
- (b) Once an overview and scrutiny report on any matter which is the responsibility of the policy committee has been completed, it shall be included on the agenda of the next available meeting of the policy committee, unless the matter which is the subject of the

report is scheduled to be considered by the policy committee when it considers that matter. If for any reason the policy committee does not consider the overview and scrutiny report within 8 weeks then the matter will be referred to Council for review, and the Proper Officer will ensure the item is placed on the agenda.

- (c) Once an overview and scrutiny panel has completed its deliberations on any matter it will forward a copy of its final report to the Proper Officer who will allocate it either to the policy committee and/or Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Proper Officer refers the matter to Council, he/she will also serve a copy on the Leader of the Council with notice that the matter is to be referred to Council. The policy committee will respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from an overview and scrutiny panel on a matter, which would impact on the budget and policy framework, it shall also consider the response of the policy committee to the overview and scrutiny proposals.

## **12. Rights of overview and scrutiny panel members to documents**

- (a) In addition to their rights as Elected Members, members of overview and scrutiny panels 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.
- (b) Nothing in this paragraph prevents more detailed liaison between the policy committee and overview and scrutiny panel as appropriate depending on the particular matter under consideration.

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

- (a) Any overview and scrutiny panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions within their terms of reference. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the policy committee, the Chief Executive and/or any senior officer (as defined as Head of Service or above) 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 service's performance.

And it is the duty of those persons to attend if so required having been given reasonable notice to attend.

- (b) Where any member or officer is required to attend an overview and scrutiny panel under this provision, the Chair of that panel will

inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving at least 5 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 panel. Where the account to be given to the panel 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, the member or officer is unable to attend on the required date, then the overview and scrutiny panel (through the Chair or Vice Chair) shall in consultation with the member or officer arrange an alternative date for attendance. A member or officer may request that another attend on their behalf or accompany them with the agreement of the Chair or Vice Chair.

#### **14. Attendance by others**

An overview and scrutiny panel may invite people other than those people referred to in the paragraph 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.

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

Call-in should only be used in exceptional circumstances. The approved Overview & Scrutiny Toolkit outlines approaches to call-ins. These are where members of the appropriate overview and scrutiny panel have evidence which suggests that the policy committee did not take the decision in accordance with the principles set out in Article 12 (Decision Making).

- (a) Where a decision is made by a policy committee or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. All Elected Members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) 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 an overview and scrutiny panel objects to it and calls it in.
- (c) During that period, the Proper Officer shall call-in a decision for scrutiny by the panel if so requested in writing by the Chair of the Panel or any 4 members of the panel, and shall notify the decision-taker of the call-in. The item will be placed on the agenda of the

next scheduled meeting of the panel by the Proper Officer. In exceptional circumstances, and after consultation with the Chair of the panel, a special meeting to consider the item called-in may be called.

- (d) If, having considered the decision, the overview and scrutiny panel is still concerned about it, then it may refer back to the decision making 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 at their next scheduled meeting, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the overview and scrutiny panel does not refer the matter back to the decision making body, the decision shall take effect on the date of the overview and scrutiny meeting.
- (f) 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, the Council may 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 a policy committee, the policy committee shall consider the reference back from Council at its next scheduled meeting.
- (g) If a matter is referred to Full Council for consideration Full Council may wish to resolve the matter itself and no reference back to the policy committee is necessary (see f above).
- (h) In exceptional circumstances, the Proper Officer may after consultation with the policy committee Chair call a special meeting of the policy committee to consider the reference back.
- (i) If the Council does not meet, or if it does but does not refer the decision back to the decision making body, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- (j) Where a 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 the relevant overview and scrutiny panel.

## **16. Exceptions**

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:

1. that an overview and scrutiny panel may only call-in a maximum of 3 decisions per two month period;
2. four full members of an overview and scrutiny panel or the Chair of the Panel are needed for a decision to be called in;
3. once a member (but excluding the Chair) has signed a request for call-in under paragraph 16 (call-in) above, he/she may not do so again until a period of one month has expired.

## **17. Call-in and Urgency**

1. The call-in procedure set out above shall not apply where the decision being taken by the policy committee 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 body, the decision is an urgent one, and therefore not subject to call-in.
2. For the Urgency provisions to be implemented the Proper Officer of the Council after consultation with the relevant Chair (or their Deputy), the local Monitoring Officer and the Chief Finance Officer (s.151) must determine that these provisions are utilised.
3. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for the urgency.
4. The operation of the provisions relating to call-in and urgency shall be monitored by the local Monitoring Officer annually, and a report submitted to Council with proposals for review if necessary.

## **18. Party Whip**

### **(a) Definition**

Any instruction given by or on behalf of a political group to any Elected Member who is a member of that group as to how that Elected Member 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 Elected Member should he/she speak or vote in any particular manner.

**(b) Conduct of Panels**

The party whip shall not apply to members of overview & scrutiny panels when undertaking the overview & scrutiny function of the Authority. The abeyance of the party whip shall also apply to members acting as substitutes for full members of an overview & scrutiny panel.

**19. Procedure at overview and scrutiny panel meetings**

- (a) Overview and scrutiny panels shall consider the following business:
- (i) minutes of last meeting;
  - (ii) declarations of interest (including whipping deliberations);
  - (iii) consideration of any matter referred to the panel for a decision in relation to call in of a decision;
  - (iv) responses of the policy committee to reports of the overview and scrutiny panel; and
  - (i) the business otherwise set out on the agenda for the meeting.
- (b) Where the overview and scrutiny panel conducts investigations (e.g. with a view to policy development), the panel may also ask people to attend to give evidence at panel meetings which are to be conducted in accordance with the following principles:
- (i) that the investigation be conducted fairly and all members of the panel given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the panel 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 panel shall prepare a report, for submission to the relevant policy committee(s) and/or Council as appropriate and shall make its report and findings public.

**20. Matters within the remit of more than one overview and scrutiny panel**

Where an overview and scrutiny panel conducts a review or scrutinises a matter which also falls (whether in whole or part) within the remit of another overview and scrutiny panel, then the panel conducting the review shall invite members of the other panel to attend and participate in its meetings (as non voting members) when the matter is being reviewed.

**21. Joint Meetings of overview and scrutiny panels**

- 21.1 Where the Proper Officer deems it appropriate and after consultation with the respective Chairs (or in their absence Vice Chairs) a joint meeting of two or more overview and scrutiny panels may be called to consider issues of general corporate concern and/or interest. All Elected Members invited will have full voting rights and shall elect a Chair from their number for that particular meeting only.
- 21.2 If a joint meeting agree a recommendation in relation to an agenda item, which it wishes a relevant policy committee or Full Council to consider, this will be forwarded to the Proper Officer to ensure it is placed on the next appropriate agenda for the relevant policy committee or Full Council.
- 21.3 To ensure that there is no abuse of this procedure joint meetings should only consider items that are of clear corporate importance, and do not fall easily into the existing Terms of Reference of a single overview and scrutiny panel.
- 21.4 The local Monitoring Officer will monitor the number of joint meetings being held and the reasons given for those meetings to ensure that the procedure is not being abused and is not causing a detrimental effect to the Council's policy-making and decision-making process.