

## **SECTION 9 – OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. General Arrangements**

Overview and Scrutiny is the responsibility of the Overview and Scrutiny Commission as described in Part 3 of the Constitution and the Council will appoint to it as it considers appropriate from time to time. The Commission shall appoint such overview and scrutiny panels as it determines, including those specified in Part 3 of the Constitution.

### **2. Who May Sit on the Overview and Scrutiny Bodies?**

All councillors except members of the Executive may be members of the Overview and Scrutiny Commission and/or one or more overview and scrutiny panels. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved. Council may also make appointments of people other than councillors to the Overview and Scrutiny Commission and Panels, to meet statutory and other requirements. This will include a representative of Local Healthwatch as an Observer on the Health Overview and Scrutiny Panel.

### **3. Co-optees**

The Commission and panels shall be entitled to appoint non-voting co-optees for the purpose of assisting with specific time limited reviews. Save for paragraph 9 references to “Members” in these rules shall be deemed not to include references to co-optees appointed pursuant to this Rule 3 or persons appointed pursuant to paragraph 4.

### **4. Education Representatives**

The Overview and Scrutiny Commission and the Children, Young People and Learning Overview and Scrutiny Panel shall include in their membership the following representatives:

- a) two voting parent governor representatives (one primary and one secondary) (Commission and Panel).
- b) two voting diocesan representatives (one Church of England and one Roman Catholic) (Commission and Panel).
- c) one non-voting teacher representative (Panel only).
- d) one non-voting children’s social care representative (Panel only).

These voting powers of representatives appointed pursuant to (a) to (b) above shall apply only to matters which relate wholly or in part to any education function which is the responsibility of the Executive. However, the representatives may remain in the meeting and speak whilst other matters are under consideration.

### **5. Meetings**

- (a) Six ordinary meetings of the Overview and Scrutiny Commission shall be held each year. In addition, extraordinary meetings may be called from time to

time as and when appropriate. Meetings may be called by the chairman, or by the proper officer if he/she considers it necessary or appropriate.

- (b) Overview and scrutiny panels shall determine the frequency and time of their own meetings, according to the work programme set by the Overview and Scrutiny Commission. Meetings may be called by the chairman, or by the proper officer if he/she considers it necessary or appropriate.

## **6. Quorum**

The quorum for the Commission or for an overview and scrutiny panel shall be one quarter of the whole number of its members, provided that for a panel the quorum shall be at least three.

## **7. Who Chairs Meetings?**

The chairmen of the Commission and panels will be drawn from among the councillors sitting on those bodies, and subject to this requirement the Commission/panel may appoint such a person as it considers appropriate.

## **8. Work Programme**

- (a) The work programme for overview and scrutiny panels shall be set annually by the Overview and Scrutiny Commission following consultation with the Executive and Senior Officers. In setting the work programme the Commission shall take into account the wishes of members who are not members of the largest political group on the Council.
- (b) The work programme shall identify topics for detailed consideration by the Overview and Scrutiny Commission and panels. Overview and scrutiny panels may recommend to the Overview and Scrutiny Commission at any time a proposed addition to the work programme. The Commission shall only consider proposed additions to the work programme that clearly identify the issue to be investigated.
- (c) The Commission shall allocate projects from the work programme to the service themed overview and scrutiny panels having regard to their service theme and shall allocate projects of a cross-cutting nature to any one of those overview and scrutiny panels, or to another panel at its discretion.
- (d) The Commission shall keep the work programme under review throughout the year, making additions and adjustments as necessary and shall be responsible for ensuring effective consultation with the Executive on developments.

## **9. Agenda items**

Any Member shall be entitled to give notice to the proper officer that he/she wishes an item relevant to its functions and which is not an "excluded matter" (as defined in regulations) to be included on the agenda for the next available meeting of the Commission or the panel (as the case may be). If the item proposes an addition to the work programme it shall fulfil the conditions set out in 8 (b), above. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.

The Overview and Scrutiny Commission shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Executive to review particular areas of Council activity.

## **10. Councillor Call for Action**

Any Member may refer (“the Councillor Call for Action”) to the Overview and Scrutiny Commission or one of its panels of which he is not a Member a local government matter relevant to the functions of the Commission or the panel by the following procedure (in which event the provisions set out below shall apply):-

- (a) a Member wishing to invoke the Councillor Call for action shall specify to the Head of Overview and Scrutiny the issue which the Member wishes to be considered
- (b) the Head of Overview and Scrutiny shall record the issue and give notice thereof to the Chairman of the Commission or the panel, the relevant Executive Member or Committee Chairman (as the case may be) and relevant Director
- (c) the Head of Overview and Scrutiny shall convene a meeting with the Member who has raised the Councillor Call for Action, the relevant Executive Member or Committee Chairman, the Chairman of the Commission or the panel and the relevant Director (or his/her nominee) to ensure a full understanding of the issue, determine whether any exclusions apply and to explore the resolution which is sought by the Member
- (d) the Head of Overview and Scrutiny shall convene a meeting of the Commission or the panel, to be held within two months of the meeting referred to in (c) above
- (e) in the case of a Councillor Call for Action referred to a panel the panel shall submit to the Commission a report on the matter to the Commission advising whether or not the Commission should exercise any of its powers in relation to the matter and setting out any recommendations
- (f) if the Commission decides not to exercise any of its powers in relation to the matter it must give written notice to the Member of its decision and the reasons for it
- (g) if the Commission should make a report or recommendations to the Council or to the Executive on a matter it should (subject to paragraph 14 below) provide the Member with a copy of the report or recommendations
- (h) the Head of Overview and Scrutiny shall include in the Annual Report of Overview and Scrutiny the number and nature of any Councillor Calls for Action and their outcome.

In considering whether or not to exercise any of its powers the Commission or the panel may have regard to:-

- any powers which the Member may exercise in relation to the matter by virtue of Section 236 of the Local Government and Public Involvement in Health Act 2007 or

- any representations made by the Member as to why it would be appropriate for the Commission or the panel to exercise any of its powers

“local government matters” means, in relation to a Member, a matter which:-

- relates to the discharge of any function of the Council (or the Executive)
- affects all or part of the Member’s Ward or any person who lives or works in that Ward, and
- is not an “excluded matter”

“Excluded Matter” means any matter which is a local crime and disorder matter (as defined in paragraph 15 below) or is of a description specified in regulations made by the Secretary of State

## **11. Policy Review and Development**

- a) The role of the Commission 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 Commission may make proposals to the Executive for developments, including considering and passing on to the Executive reports and recommendations from overview and scrutiny panels.
- c) Within the work programme determined by the Overview and Scrutiny Commission, 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 advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **12. Reports and Recommendations**

Other than pursuant to the Police and Justice Act 2006) a Panel may formulate a report or recommendations it shall submit itself or through the Overview and Scrutiny Commission. If the Panel cannot agree a single final report, then up to one minority report may be prepared and submitted for consideration annexed to the majority report or to the recommendations. The Commission or Panel shall determine whether it wishes to submit a report on the matter to the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council, as appropriate (for example, if a recommendation would require a departure from or a change to the agreed budget and policy framework).

Where the Commission or Panel has published a report on recommendations it must by notice in writing require the Council or the Executive within two months of receiving the report or recommendations:-

- to consider the report or recommendations

- to respond to the Commission or Panel indicating what (if any) action is proposed to be taken
- publish the response
- if the report or recommendation is in response to a Councillor Call for Action provide the Member with a copy of the response

The provisions of paragraph 14 below shall apply to the publication of a report or recommendation and to the response of the Council or the Executive.

The Council or the Executive to whom such notice is given shall comply with the notice.

**13.** If a report or recommendations of the Commission or Panel relates to a local improvement target which:-

- relates to a relevant partner authority (unless the report or recommendations is made by virtue of Section 244 of the National Health Service Act 2006 to an NHS Trust, NHS Foundation Trust or Primary Care Trust), and
- is specified in the Council's current Local Area Agreement

the Commission or Panel may by notice in writing to the relevant partner authority require it to have regard to the report or recommendations in exercising their functions. The notice must be accompanied by a copy of the report or recommendations. "Partner Authority" does not include a police authority or chief officer of police.

**14. Confidential and Exempt Information**

The following provisions apply to the publication of a report or recommendations of the Commission or Panel, the publication of the response of the Council or the Executive and the provision of a copy of any such document to a Member pursuant to paragraph 10 and 12 above or to a relevant partner authority under paragraph 13 above.

The Commission or Panel, the Council or the Executive in publishing the document or providing a copy to a relevant partner authority must exclude any confidential information and may exclude any relevant exempt information. The Commission or Panel, the Council or the Executive in providing a copy of the document to a Member may exclude any relevant exempt information.

Where information is excluded the Commission or Panel, the Council or the Executive may replace the information with a summary which does not disclose that information and **must** do so, if in consequence of excluding the information the document would be misleading or not readily comprehensible.

**15. Community Call for Action**

Any Member may refer a local crime and disorder matter to the Commission or Panel designated by the Council's Constitution as being the Crime and Disorder Committee. The procedures set out in paragraph 10 shall apply to the Community Call for Action. Where the Crime and Disorder Committee make a report or recommendations to the Council it must provide a copy of the same:-

- to the Member who made the reference, and
- to such of the responsible authorities and the co-operating persons and bodies as it considers appropriate

“local crime and disorder matter” in relation to a Member means a matter concerning:-

- (a) 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
- (b) the misuse of drugs, alcohol and other substances

which affects all or part of the Members Ward or any person who lives or works in that Ward.

#### **16. Response to Proposed Key Decisions**

The Overview and Scrutiny Commission will have access to the Executive’s forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an overview and scrutiny panel following a consideration of possible policy/service developments, the Commission will, at its discretion, be able to respond in the course of the Executive’s consultation process in relation to any Key Decision.

#### **17. Rights of Overview and Scrutiny Members to Documents**

- a) In addition to their rights as councillors, Members of the Overview and Scrutiny Commission and overview and scrutiny panels have (subject to paragraph 14) 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 Executive and the Overview and Scrutiny Commission as appropriate depending on the particular matter under consideration.

#### **18. Members and Officers Giving Account**

- a) The Overview and Scrutiny Commission and overview and scrutiny panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function, where in the case of a panel this falls within its remit. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, 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 a meeting under this provision, the chairman of that body will inform the proper officer. The proper officer shall inform the Member or officer in writing giving at least five 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 meeting. Where the account to be given to the Commission or 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 Commission or panel shall in consultation with the Member or officer arrange an alternative date for attendance (to take place within a maximum of ten days from the date of the original request).

#### **19. Attendance by Others**

The Commission or panel may invite people other than those people referred to in paragraph 18 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.

#### **20. Call-in**

- a) When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a Key Decision is made by an officer with delegated authority from the Executive, 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 two working days of being made. The chairmen of the Overview and Scrutiny Commission and overview and scrutiny panels will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- b) The 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 date the decision is published, unless the decision is called in as described below.
- c) During the period, the proper officer may call-in a decision for scrutiny by the Overview and Scrutiny Commission if so requested by the chairman and any 2 Members of the Overview and Scrutiny Commission, or any 5 Members of the Council and shall then notify the decision-maker and all other Executive members of the call-in, a Member requesting a call-in shall provide the proper officer with a brief written summary of their reasons for the request, and insofar as they are able to do so, briefly set out what action arising from the call-in they wish to be taken. The proper officer shall call a meeting of the Commission on such date as he/she may determine, where possible after consultation with the Commission chairman, and in any case be held as soon as reasonably practical but in any event within fifteen working days of the decision to call-in.

- d) For the purposes of this section, where the decision relates to the exercise of an education function, the duly appointed diocesan representatives and parent governor representatives shall have the same rights to seek or support the calling-in of a decision as any other member of the Overview and Scrutiny Commission.
- e) If, having considered the decision, the Commission 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 back the decision maker shall then reconsider within a further 7 working days, amending the decision or not, before adopting a final decision.
- f) If following an objection to the decision, the Overview and Scrutiny Commission does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body or to the Council, the decision shall take effect on the date of the meeting, or the expiry of the period in which the meeting should have been held, whichever is the earlier.
- g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was made by the Executive, as a whole or a committee of it, a meeting will be convened to reconsider within 7 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 working days of the Council request.
- h) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- i) The call-in procedure set out above shall not apply where the decision being made by the Executive 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. The Mayor 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 Mayor, the Deputy Mayor'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 made as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.



- j) 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.

## **21. The Party Whip**

When considering any matter in respect of which a member of the Overview and Scrutiny Commission or an overview and scrutiny panel 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 Commission's/panel's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **22. Procedure at overview and scrutiny meetings**

- (a) The Overview and Scrutiny Commission and overview and scrutiny panels shall consider the following business:
  - i) minutes of the last meeting;
  - ii) declarations of interest (including whipping declarations);
  - iii) submissions arising through the Overview and Scrutiny Public Participation Scheme;
  - iv) (Commission only) consideration of any matter referred to the Commission for a decision in relation to call-in of a decision;
  - v) responses of the Executive to Overview and Scrutiny reports; and
  - vi) the business otherwise set out on the agenda for the meeting.
- (b) Where an overview and scrutiny panel conducts investigations (e.g. with a view to policy development), it may also ask people to attend to give evidence at its 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 be 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 Commission or panel may prepare a report and make recommendations, and subject to the requirements of the Constitution on confidential and exempt information, shall make its reports and findings public.'

## **23. Matters within the Remit of More than One Panel**

In the event of an issue for review by an overview and scrutiny panel falling within the remit of more than one panel, the Overview and Scrutiny Commission shall determine which overview and scrutiny panel shall consider the matter.

**24. Terms of Reference**

The terms of reference of the Overview and Scrutiny Commission and Overview and Scrutiny Panels shall be as set out in Article 6 of the Constitution.