

## **(5) Overview and Scrutiny Procedure Rules**

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

- (a) The Council's existing overview and scrutiny committees are set out in Article 6 but the Council will vary the number and memberships of scrutiny committees as it considers appropriate from time to time. Such committees may appoint sub-committees or panels. Overview and scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.
- (b) The terms of reference of the scrutiny committees are set out in Article 6 in Part 2 of this Constitution. At their discretion scrutiny committees are able to establish project boards to undertake service or policy reviews. These reviews are undertaken in accordance with established project management principles.
- (c) The scrutiny committees have responsibilities which are aligned with the core County Council services, and they are assisted in carrying out their work by Member Services.
- (d) The Council's priorities and arrangements for scrutinising those priorities will vary from time to time. These rules have been produced in order that a common approach is adopted in relation to the work of the scrutiny committees and to ensure that the roles and positions of scrutiny committees and the officers reporting to them on the one hand and the Cabinet and chief officers on the other are clearly understood.

### **2. Organisational Arrangements and Responsibilities**

#### **Report to Scrutiny Committees and Project Boards**

- (a) Chief Officers, through the Lead Officers, will be responsible for the production of reports as requested by Scrutiny Committees. Relevant Chief Officers will be given an opportunity to comment on draft reports being considered by Project Boards as part of reviews being undertaken, in particular to ensure that factual information is accurate. The advice of the Assistant Chief Executive and the Chief Finance Officer, or their representatives, will be obtained as necessary.

#### **Briefings**

- (b) Chairs' briefings will be arranged by the Assistant Chief Executive's staff and attended, as appropriate, by the relevant Chief Officer and Lead Scrutiny Officer, along with the Chief Finance Officer's and Assistant Chief Executive's representatives.

#### Attendance

- (c) Cabinet members and relevant Chief Officers shall attend Scrutiny Committees when requested to do so to give evidence (or introduce monitoring reports or reports on promotional activities).
- (d) As requested, Chief Officers should leave when the item for which they are invited has been dealt with.

#### Reports from Scrutiny Committees

- (e) Reports from Scrutiny Committees to the County Council will, in accordance with normal arrangements, be settled by the Assistant Chief Executive in consultation with the Chair of the Committee.
- (f) Individual Scrutiny Committee reports to the County Council will appear separately on the agenda. They are to go via the Cabinet for comment but the Cabinet may not alter them. This report and any report for the Cabinet will be considered together at the same meeting of the County Council.

### 3. **“Substitutes” on Scrutiny Committees**

- (a) There is a presumption against the appointment of “substitutes” on Scrutiny Committees and Project Boards. This is on the basis that it will be very difficult for a member attending a meeting on a one-off basis part way through an investigation to make a meaningful contribution. Given the strong desire on the part of all party groups to work together on these committees, Scrutiny Chairs feel that full representation from each party group is less important than in other situations.

### 4. **Press and media releases**

- (a) The basic rules and guidance set out in Part 5 of this Constitution apply. Any releases are to be issued through the office of the Head of Communications.
- (b) While it is important that the role of the Scrutiny Committees is understood by the public, it is also important to avoid misunderstandings and unnecessarily creating the impression of conflict between Scrutiny and the Cabinet (although conflict may sometimes be inevitable).
- (c) If a media release is to be made before or after a Scrutiny Committee, consideration must be given to whether an

appropriate quote from the Lead Cabinet member for the priority area concerned should be included if the release is to contain a quote from the Chair of the Scrutiny Committee. As stated, the normal ground rules apply; the action to be taken is to be settled in the dialogue between the Lead Scrutiny Officer (or their Chief Officer) and the office of the Head of Communications. It will not always be appropriate to include a quote from the Lead Cabinet member, but he/she should be kept informed. E-mail distribution to members of press releases before agenda papers are released to the media should ensure that this happens.

- (d) Care also needs to be taken where a review is incomplete. The Cabinet has the opportunity to comment to the County Council on a completed report from a Scrutiny Committee. Lead members of the Cabinet should refrain from comment until the review is complete. That may be a reason for not including a quote from the Lead Cabinet member in any press release issued in relation to Scrutiny when the review is incomplete.

#### **5. Timetable for Reviews**

- (a) The timetable for Scrutiny reviews must be carefully considered and, for example, include enough space for consultation with officers on draft reports of Project Boards, before reports are submitted to Boards for approval. Once reports have been approved by Project Boards they cannot be amended without reference back to the Board.
- (b) The following approach will usually be necessary:
  - (i) Project Board conduct interviews. (See 6 below) Notes taken by Project Officer.
  - (ii) Project Officer agrees notes with interviewees.
  - (iii) Project Officer drafts report and shares with interviewees and other key players (but not the Board) - if appropriate without, at this stage, incorporating conclusions and/or recommendations.
  - (iv) Project Officer takes on board as appropriate, points made by consultees.
  - (v) Project Officer prepares further draft and circulates to Assistant Chief Executive plus any other officers who should be consulted in accordance with the Guide to Decision Making Procedures and who have not already had that opportunity.

- (vi) Project Officer prepares final draft and shares with Project Board.
- (vii) Project Board agrees report, amends it or refers it back on the basis that any or all of the above steps may then need to be revisited.
- (viii) Project Board report presented to Scrutiny Committee.
- (ix) Where time permits reports from Scrutiny Committees to the County Council will be circulated to all members of the Committee for comment before they are finalised by the Assistant Chief Executive with the Chair.

## 6. Interviews as Part of Review

- (a) The list of members/employees/stakeholders to be interviewed as part of a review exercise is to be agreed by the Project Board (or Scrutiny Committee if there is no Board). The relevant Chief Officer should normally be given an opportunity to appear before the Project Board and Project Boards may wish to consider meeting with the Corporate Management Team where that might be considered helpful. People to be interviewed are to be given advance notice by the Lead Officer or Project Manager of:
  - (i) the broad areas for discussion and the terms of reference of the review so that they have time to prepare – this should ensure that maximum benefit is gained from the interview. More junior officers required to give evidence will be offered the opportunity to be accompanied by a “friend” should they wish to do so;
  - (ii) who will be interviewing them and that this is to be agreed by the Project Board (or Scrutiny Committee). The normal Interviewing Panel will involve the Project Manager or other officer to take notes and at least one other person. (Individual councillors have no authority to interview staff and staff may decline to be interviewed in such circumstances);
  - (iii) the fact that a written note summarising the interview will be produced by the Project Manager or other officer following the event and the content agreed with the person interviewed. The person will be informed that the note or its contents may form part of the final report from the Scrutiny Committee to the County Council which will be a public document in which case the relevant part of the report will be agreed with them. If there are any confidential issues to be discussed a way forward will be agreed with the person

interviewed. In the event of any disagreement under this section the advice of the Assistant Chief Executive will be sought;

- (iv) where it is necessary to agree a way forward with a person who has been interviewed because of the confidential nature of issues discussed, the member of the Project board involved in the interview will be involved in those deliberations;
- (v) there will be occasions when reports will need to be confidential, but the process will be kept as open as possible; reports will only be marked confidential where this is unavoidable and justified under the Access to Procedure Rules set out in Part 4 of this Constitution;
- (vi) these guidelines are designed to ensure that interviews as part of the scrutiny and best value reviews are undertaken in a structured way with a proper record being taken. They do not prevent Councillors approaching officers for information or to raise issues as part of performing their overall role as a Councillor; members are encouraged to go direct to the most appropriate officer.

- (b) Where requested, it may be appropriate to pay the reasonable expenses of those interviewed.

#### **7. Meetings of the Chairs and Vice-Chairs of Scrutiny and Audit Committees**

- (a) The Chairs and Vice-Chairs of Scrutiny and Audit Committees meet periodically on an informal basis to plan and co-ordinate the process of scrutiny, including:
  - making recommendations or progress reports to the County Council on the work programmes of Scrutiny Committees;
  - where a review or series of reviews cross the responsibilities of more than one Committee, to avoid duplication on the one hand and no aspect being overlooked on the other, the Chairs and Vice-Chairs may agree special arrangements for managing that review or programme of reviews. [For example, they may agree that one of them should be appointed to oversee the project, assisted by a Lead Officer to be nominated];
  - taking an overview of Member training with a view to improving the effectiveness of Scrutiny and Audit Committees.
- (b) Reports from Chairs and Vice Chairs of Scrutiny and Audit Committees to the County Council go direct and not via the Cabinet.

**8. Who may sit on overview and scrutiny committees?**

All councillors [except members of the Cabinet] may be members of an overview and scrutiny committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

**9. Co-opted Members**

Any Scrutiny Committee dealing with education matters (either for children or adults) shall include in its membership the following voting representatives:

- (a) 2 Denominational representatives;
- (b) 2 parent governor representatives.

A relevant overview and scrutiny committee in this paragraph is an overview and scrutiny committee of the County Council where the committee's functions relate wholly or in part to any education functions which are the responsibility of the Cabinet. These representatives shall not vote on other matters, though they may stay in the meeting and speak.

**10. Meetings of the overview and scrutiny committees**

There shall be at least 4 ordinary meetings of each overview and scrutiny committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate.

**11. 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 (see Standing Order 50.1).

**12. Who chairs overview and scrutiny committee meetings?**

The Chairs and Vice-Chairs of the Scrutiny Committees and Audit Committee are appointed by the full Council, and are allocated to the political groups in proportion to the number of seats they have on the Council. Within this allocation, the Chair of the Audit Committee is appointed from the largest Opposition Group.

**13. Work programme**

The overview and scrutiny committees/sub-committees will, subject to decisions by full Council, be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.

**14. Agenda items**

- (a) Any member of an overview and scrutiny committee or sub-committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.
- (b) The overview and scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council [and if it considers it appropriate the Cabinet] to review particular areas of Council activity. Where they do so, the overview and scrutiny committee shall report their findings and any recommendations back to the Cabinet and the Council.

**15. Policy review and development**

- (a) The role of the overview and scrutiny committees 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, overview and scrutiny committee or sub-committees may make proposals to the Cabinet and/or the County Council for developments in so far as they relate to matters within their terms of reference.
- (c) Overview and scrutiny committees may hold enquiries and investigate the available options for future direction in policy development. 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 within any budgets established by the County Council.

**16. Reports from overview and scrutiny committee**

Once it has formed recommendations on proposals for development, the overview and scrutiny committee will prepare a formal report and submit it to the proper officer for consideration by the Cabinet and the Council.

**17. Making sure that overview and scrutiny reports are considered by the Cabinet or policy committees**

- (a) Once an overview and scrutiny committee has completed its deliberations on any matter it will forward a copy of its final report to the proper officer who will refer it to the Cabinet and the Council for consideration. Reports from Scrutiny Committees will normally be considered by the Cabinet before they are submitted to the Council in order that the Cabinet can comment to the County Council on Scrutiny reports. (See paragraph 2(g) above).
- (b) Overview and scrutiny committees 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 an overview and scrutiny committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

**18. Rights of overview and scrutiny committee members to documents**

- (a) In addition to their rights as councillors, members of overview and scrutiny committees 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 Cabinet and overview and scrutiny committee as appropriate depending on the particular matter under consideration.

**19. Guidance on Call-in**

- (a) Call-in should only be used in exceptional circumstances and those considering a call-in should consider the following issues before invoking the procedure:-
  - (i) if it is a Cabinet or other decision which may affect more than one portfolio, consult any other Scrutiny Committee chairs affected.
  - (ii) if it affects an electoral division consult the local member(s).
  - (iii) consider any representations made, whether by members of the Scrutiny Committee, other members of the Council or members of the public.
  - (iv) take practical, financial and propriety advice to clarify any matters of doubt affecting the decision to call-in,

including consultation with the relevant Cabinet member or officers as appropriate.

- (v) take political soundings from all political parties on the Scrutiny Committee.
  - (vi) ascertain whether any other all-party Scrutiny Committee examination has already been given to the issue.
  - (vii) consider if the decision is likely to cause significant concern or distress to the local community or prejudice to individuals within it.
  - (viii) consider if the issue is one that has not been considered in open forum or at all, or otherwise the subject of consultation before the decision was made.
  - (ix) consider the implications of any delay in implementing the decision which might be subject to call-in.
  - (x) the level of representations against the decision from outside bodies.
- (b) Those calling-in a decision shall set out the reasons justifying, in their view, the reason for the call-in. Reasons must be legitimate and not designed to impede the proper transaction of business for vexatious, repetitive or other improper reasons. The advice of the Scrutiny Manager and the Monitoring Officer will be set out in the request for call-in.
- (c) A proposal should only be called in once. If, however, the Cabinet or individual Cabinet Members substantially amends the original proposal in a way which the Scrutiny Committee has not considered, nor could reasonably have foreseen, to the extent that in reality it is a different proposal, the Scrutiny Committee has the right to call it in again.

## 20. Call-in

- (a) When a decision is made by the Cabinet, an individual member of the Cabinet or a committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, 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 3 working days of being made. All Councillors will be sent copies of the records of all such decisions within the same timescale, by the proper officer.

- (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 4 working days after the publication of the decision, unless the relevant overview and scrutiny committee objects to it and calls it in. Guidance on the relevant committee will be sought from the Proper Officer.
- (c) During that period, the proper officer shall call-in a decision for scrutiny by the committee if so requested by three members of the committee provided that the reasons for the call-in are clearly set out and, in the view of the Monitoring Officer, comply with these procedures and meet the requirements of paragraph 19 (b) above. He/she shall then notify the decision-taker of the call-in. The Committee will consider the call-in at a meeting which shall take place within 10 working days of the decision to call the matter in.
- (d) If, having considered the decision, the overview and scrutiny committee 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. On receipt of the response from the scrutiny committee the decision making person or body may decide to proceed with the original decision or make an amended decision.
- (e) If following an objection to the decision, the overview and scrutiny committee 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, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of that further 10 working day period, whichever is the earlier.
- (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, it has no locus 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.

- (g) 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.
- (h) Where an executive 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 committee for consideration in accordance with these provisions. 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 committee.

### **Call-in and urgency**

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. 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, on advice from the Monitoring Officer. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Chief Executive's or the Assistant Chief Executive'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.

### **21. The party whip**

A party whip may be imposed, but when considering any matter in respect of which a member of an overview and scrutiny committee 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 committee'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 committee meetings**

- (a) Overview and scrutiny committees and sub-committees shall consider the following business:
  - i) minutes of the last meeting;
  - ii) declarations of interest;
  - iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;

- iv) responses of the Cabinet to reports of the overview and scrutiny committee; and
  - v) the business otherwise set out on the agenda for the meeting.
- (b) Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

**23. Matters within the remit of more than one overview and scrutiny committee**

Where a matter for consideration by an overview and scrutiny committee also falls within the remit of one or more other overview and scrutiny committees, the decision as to which overview and scrutiny committee will consider it will be resolved at a meeting of the Chairs and Vice Chairs of the Audit Committee and Scrutiny Committees (see paragraph 7 above).