OVERVIEW AND SCRUTINY PROCEDURE RULES

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1. Arrangements for Scrutiny

The Council will have an Overview and Scrutiny Committee and two Select Committees ('the Scrutiny Committees') as set out in Article 6 of this Constitution to undertake its functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000, functions conferred by sections 119 and 126 of the Local Government and Public Involvement in Health Act 2007, and Section 19 of the Police and Justice Act 2006.

The terms of reference of the Overview and Scrutiny Committee and the three Select Committees are set out in Part 3 of this Constitution.

2. Scrutiny Members

The Leader, Members of the Cabinet and the Chair of the Audit Committee may not be appointed to serve on the Scrutiny Committees.

No Member may be involved in scrutinising a decision in which he/she has been directly involved.

3. Co-optees

The Committees may recommend to Council the appointment of a number of people as non-voting co-optees to serve.

4. Meetings of the Scrutiny Committees

The Committees will meet as and when required. A meeting of the Committee may be called by the Chair, by a majority of the Members of the Committee or by the proper officer if he/she considers it necessary or appropriate.

5. Quorum

The quorum for Overview and Scrutiny Committee is four elected Members. The quorum for each of the Select Committees is three elected Members.

6. Chairing Meetings

The Chairs of each Committee are appointed by Council and that person shall preside at all meetings. In the absence of the Chair, the appointed Vice-Chair shall preside.

7. Work Programme

The Scrutiny Committees will be responsible for setting their own

programme, subject to their individual terms of reference.

8. Agenda items

Any Member of a Committee shall be entitled to give notice to the proper officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.

The Committees shall respond, as soon as the work programme permits, to requests from the Council and if it considers it appropriate the Leader / Cabinet to review particular areas of Council activity. Where they do so, the Committee shall report their findings and any recommendations back to the Council or Cabinet, as appropriate. The Council and/or the Cabinet shall consider the report of the Committee as soon as reasonably practicable.

Under Section 126 of the Local Government and Public Involvement in Health Act 2007, any Member of the Council may refer a local crime and disorder matter to Community Select Committee for consideration. Such requests should be made to Constitutional Services. The Chair of the Community Select Committee will then determine, in consultation with the proper officer, whether to accept the referral.

9. Councillor Call for Action (CCfA)

a. Under Section 119 of the Local Government Act and Public Involvement in Health Act 2007, any Member of the Council may raise a local government matter for inclusion on the agenda for the next meeting of the relevant Scrutiny Committee.

b. Before exercising this power, Members must ensure that all possible alternative methods of resolving the issue have been exhausted.

c. Items to be raised under the CCfA should be referred to Constitutional Services. The Chair of the relevant Scrutiny Committee will then determine, in consultation with the Proper Officer, whether the requirements of b. above have been met.

d. If the item is accepted onto the agenda under the CCfA arrangements, the matter will be included on the agenda for the next available meeting of the relevant Committee, and the Member who raised the issue will be permitted to present the item at the meeting.

e. Having considered a matter raised under CCfA, that Committee will determine whether to make any recommendations in relation to the issue.

f. The CCfA powers may not be used during the six weeks immediately prior to an election.

10. Budget and Policy Framework, Policy Development and Scrutiny Studies

a. The Overview and Scrutiny Committee is responsible for working with the Leader / Cabinet on the development of the Council's budget and policy framework. Details are set out in the Budget and Policy Framework Procedures Rules. Officers are to include the views of the Overview and Scrutiny Committee in the final report to the Cabinet.

b. In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Committees may make proposals to the Leader / Cabinet for developments insofar as they relate to matters within their terms of reference. Committees are expected to meet on an informal basis with the relevant Cabinet Member and Officers on policy development matters going forward to the Cabinet. Officers are to include the views of the relevant Committee in the final report to the Cabinet.

c. The Committees may undertake Scrutiny Studies 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.

11. Scrutiny Reports to the Cabinet

a. Once recommendations on proposals following a scrutiny study have been finalised, the Committees will prepare formal reports and submit them for consideration by the Leader / Cabinet/ Portfolio Holder 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. The Council, Leader / Cabinet / Portfolio Holder shall consider and respond in writing to the report and recommendations of the

Scrutiny Committees, indicating what (if any) action the Council, or the Cabinet, proposes to take and to do so within two months of receiving the report and recommendations.

c. The agenda for Cabinet meetings shall include provision for issues raised by the Committees or may be considered together with a substantive item on the agenda to which they relate.

d. Where a Committee submits a report for consideration by the Cabinet in relation to a matter where power is delegated to an individual Member of the Cabinet, then the Scrutiny Committee will submit a copy of their report to her/him for consideration. At the time of doing so, the Scrutiny Committee shall serve a copy on the proper officer. The Member with delegated decision-making power must consider the report and recommendations and respond in writing to the Committee indicating what (if any) action they propose to take and to do so within two months of receiving the report and recommendations. A copy of her/his written response to it shall be sent to the proper officer and the Leader. The Member will also attend a future meeting of the Scrutiny Committee, if requested to present their response.

e. The Members of the Scrutiny Committees will be alerted to Key Decisions to be taken by the Cabinet and decisions to be taken in Part II by way of the Forward Plan that is published at least 28 days before the meeting where these matters are to be considered.

f. If a Key Decision is taken by the Cabinet and details have not been published with 28 days' notice, or if a matter is taken in Part II and details have not been published with 28 days' notice, the Chair of the Overview and Scrutiny Committee must consider whether it is appropriate to take that report given the reason for urgency. Any such decisions taken by the Chair should be reported to the next meeting of the Committee.

g. If it is considered that an Cabinet decision has been taken that was not treated as being a key decision the Overview and Scrutiny Committee may require the Cabinet to submit a report to the next ordinary meeting of the Council, or sooner if specified.

The report must include details of -

(i) the decision and the reasons for the decision
(ii) Who took the decision; and
(i) if the Cabinet of the relevant local authority are of the opinion that the decision was not a key decision, the reasons for that opinion.

12. Rights of Scrutiny Members

a. In addition to their rights as Councillors, Members of the 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. There are no rules to prevent a more detailed liaison between the Leader / Cabinet and Scrutiny Committees, as appropriate depending on the particular matter under consideration.

13. Members and officers giving account

a. The Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions, subject to their remit. As well as reviewing documentation, in fulfilling the scrutiny role, they may require the Leader, 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 a Committee under this provision, the Chair of that Committee 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 give account and whether any papers are required to be produced for the meeting. Where the account to be given to the 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, the Member or officer is unable to attend on the required date, then the Committee shall, in consultation with the Member or officer, arrange an alternative date for attendance to take place as soon as reasonably practicable.

14. Attendance by others

A Scrutiny 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. Attendance by these persons is, of course, entirely optional.

15. Call-in

(Note: Within Cabinet forms of constitutions there are several mechanisms which can be used to resolve conflict between the Cabinet and the Council/development and scrutiny committees. So long as there is compliance with section 21(3) of the Local Government Act 2000, Councils have a choice about the chosen mechanism.)

Call-in should only be used in most exceptional circumstances. These are where Members of the Overview and Scrutiny Committee have evidence which suggests that the body or person deciding the matter did not take the decision in accordance with the principles set out in Article 11 (Decision Making).

a. When a decision is made by the Leader, Cabinet, an individual Member of the Cabinet or a committee of the Cabinet or under joint arrangements, or a key decision is made by an officer with delegated authority, the decision shall be published, including where possible by electronic means, and shall be available at the main office of the Council normally within two days of being made. All Members of the Scrutiny Committees shall be alerted of each decision.

b. That notice will bear the date on which it is published and will specify the date on which decision is to be implemented i.e. on the expiry of five working days after the publication of the decision, unless the Overview and Scrutiny Committee objects to it and calls it in.

c. During that period, the proper officer shall call-in a decision for scrutiny by the Overview and Scrutiny Committee if so requested by three Members of that Committee or if it is so decided by a simple majority of those Members voting at a meeting of the Committee and shall then notify the decision-taker of the call-in. The proper officer shall call a meeting of the relevant Committee on such date as he/she may determine, after consultation with the Chair of the Committee, and in any case within five working days of the decision to call-in.

d. If, having considered the decision, the Overview and Scrutiny Committee is still concerned, then it may if so decided by a simple majority of those Members voting, 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 Council. The decision shall be referred to Council only if the Committee considers that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget (see Budget and Policy Framework Procedure Rules). If referred to the decision-maker they shall then reconsider within a further ten working days, amending the decision or not, before adopting a final decision.

e. If following an objection to the decision in (c) above, the Overview and Scrutiny Committee does not meet in the five day 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 Committee meeting, or the expiry of that further five working day period (referred to in (c) above), whichever is earlier.

f. If the matter was referred to Council, the Council will meet within 15 working days of the reference. If the Council does not object to a decision which has been made, 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 authority to make decisions in respect of an Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget (in the case of decisions which are or may be contrary to the policy framework or contrary to or not wholly consistent with the budget, refer to Budget and Policy Framework Procedure Rules). 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 taken by the Leader, Cabinet or a Committee of it, a meeting will be convened to reconsider within ten working days of the Council request.

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.

Exceptions

h. In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations beyond those already referred to are to be placed on its use. They are:

(i) That Overview and Scrutiny Committee may only call-in one decision per calendar month.

(ii) Day-to-day management and operational decisions taken by officers are not subject to call-in.

(iii) Decisions on appeals heard by Members.
(iv) Decisions on Local Community Budget spend

Call-in - Urgency

i. The call-in procedure set out above shall not apply where the decision being taken by the Leader, Cabinet, individual Member or officer, is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would prejudice the Council's or the public 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 Chair of the Overview and Scrutiny Committee 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 Chair, the Vice-Chair's consent shall be required. In the absence of both, the Head of Paid Service or her/his 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 the 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.

16. Decisions of the Chair

Any decisions taken by a Chair or Vice-Chair in relation to the process for dealing with urgent matters under these Rules, or any other Rules contained in this Part of the Constitution, should be summarised and reported to the next possible meeting of the relevant Committee.

17. The Group Whip

When considering any matter in respect of which a Member of a Scrutiny committee is subject to a Group 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.

For clarification of this provision 'Group Whip' means 'Any instruction given by or on behalf of a political group to any Councillor who is a Member of that group as to how that Councillor shall speak or note 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 Councillor should he/she speak or vote in any particular manner'.

18. Procedures at Scrutiny Committees

a. The Committees 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 Committee for a decision in relation to call-in of a decision ;

(iv) Responses, where appropriate, of the Cabinet to reports of the Scrutiny Committee;

(v) Reports on scrutiny work undertaken by Members of the Committee;

(vi) A summary of approvals, or otherwise, given by the Chair in cases of urgency (Overview and Scrutiny Committee)

(vii) The business otherwise set out on the agenda for the meeting.

(viii) Items referred to the Committee under the Councillor Call for Action (CCfA) – see section 9 above.

(ix) Local Crime and Disorder matters referred to the Committee under Section 126 of the Local Government and Public Involvement in Health Act 2007 (Community Select Committee)

b. Where a Committee has asked people to attend to give evidence at meetings following principles shall apply:

(i) That the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

(ii) That those assisting the Committee 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, a report shall be prepared, approved by the Committee and submitted to the Leader / Cabinet and/or Council, or an officer as appropriate.