

Overview and Scrutiny Procedure Rules

1 Agenda for overview and scrutiny committees

- 1.1 Any Member of an overview and scrutiny committee shall be entitled to require, in writing, that an item be included on the agenda, provided that the item is within the remit of the Committee in question; the item will then appear on the agenda for the next meeting. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 1.2 Similarly, the Leader of the Council or a Cabinet Member with specific portfolio responsibilities may give notice in writing requiring an item to appear on an agenda of an overview and scrutiny committee, relating to their area of responsibilities. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 1.3 Subject to Council Procedure Rule 34 and Appendix 6 of the Council Procedure Rules, any other Member may give notice in writing to the Monitoring Officer, requesting an item to appear on an agenda of an overview and scrutiny committee. The item shall be included after consulting the Chairman of the Committee.
- 1.4 Any Member raising an item under 1.2, 1.3 and 1.4 above shall be precluded from raising the matter again for a period of six months from the date it is considered by the Committee in question.

2 Policy review and budget development

- 2.1 The overview and scrutiny committees have a key role in budget development.
- 2.2 The [Budget and Policy Planning Framework](#) contains details of the process by which the overview and scrutiny committees may perform that role.
- 2.3 In relation to the development of the Council's approach to other matters not forming part of its Policy and Planning and Budget Framework, the overview and scrutiny committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- 2.4 Overview and Scrutiny Committees may hold enquiries in relation to policy review and may appoint specialists to assist them in this process. They may visit sites, conduct public surveys, hold public meetings, commission research and undertake such other things they consider reasonable and necessary to inform their deliberations. They may call witnesses on any matter under consideration and may pay to any specialists and witnesses a reasonable fee and expenses for doing so within budgetary provision.

3 Reports from the overview and scrutiny committees

- 3.1 The Council or Cabinet (as appropriate) shall consider any report from the Committees at its next programmed meeting.

4 Co-option

- 4.1 There are four statutory co-optees in respect of the Council's Education function as follows:

- A Church of England Diocese representative A Roman Catholic Diocese representative
- Two parent governor representatives

- 4.2 In respect of education matters only, as defined in the relevant guidance, the statutory co-optees will be voting members of the Children and Families Scrutiny Committee. They will be only invited to attend the Corporate Overview and Scrutiny Committee or any other overview and scrutiny committee meetings (excluding Full Council) where Children's Services matters are under consideration, subject to any exclusions in law or statutory guidance.

- 4.3 At those other bodies to which they have not been appointed, they shall be entitled only to speak on matters relating to Children's Services issues. They may speak on other issues only with the consent of the Chairman.

- 4.4 The overview and scrutiny committees shall be entitled to appoint persons to be non-voting co-optees taking into account any advice or guidelines issued from time to time by the Council. Such co-options may relate to a prescribed period of office or to specific issues under consideration. Any person co-opted under these arrangements will be entitled to participate fully in the work of the Committees subject to any conflicts of interests.

5 Rights of scrutiny members to documents

- 5.1 In addition to their rights as Councillors, Members of overview and scrutiny committees have the additional right of access to documents, and to notice of meetings as set out in the *Access to Information Procedure Rules* in Part B of this section of the Constitution.

- 5.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and the overview and scrutiny committees, depending on the particular matter under consideration.

6 Members and officers giving account

6.1 The overview and scrutiny committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. As well as reviewing the documentation, in fulfilling its scrutiny role, it may require any Member of the Cabinet, to attend before it to explain in relation to matters within their remit:

- any particular decision or series of decisions;
- the extent to which the actions taken implement Council policy; and/or
- their performance.

and it is the duty of those persons to attend if so required.

6.2 Where any overview and scrutiny committee requires an officer to attend to answer questions or discuss issues, this will be agreed with the Chief Executive.

6.3 Where it is agreed that an officer should appear to answer questions, their evidence should, as far as possible, be confined to questions of fact and explanation relating to policies and decisions. Officers may explain:-

- what the policies are;
- the justification and objectives of those policies as the Cabinet sees them;
- the extent to which those objectives have been met; and
- how administrative factors may have affected both the choice of policy measures and the manner of their implementation.

6.4 Officers may be asked to explain and justify advice they have given prior to executive decisions being taken. They may also be asked to explain and justify executive decisions they have taken under delegated powers.

6.5 Officers should not be expected and should avoid being drawn into discussions of politically contentious matters and any officer input should be consistent with the requirements for political impartiality.

6.6 The requirements of any [protocols on Member/Officer relationships](#) and the [Officer Code of Conduct](#) must be adhered to where an officer is attending a meeting of an overview and scrutiny committee.

6.7 Where any Member or Officer (with the Chief Executive's agreement) is required to attend an overview and scrutiny committee under this provision, the Chairman of that Committee will inform the Monitoring Officer, who will inform the Member or Officer in writing, giving at least ten clear working days' notice of the meeting. 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 Committee. 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 reasonable and sufficient notice to allow for its preparation.

- 6.8 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.

7 Attendance by others

- 7.1 The overview and scrutiny committees may invite individuals other than those referred to in paragraph 6.1 and 6.2 above to address it, discuss issues of local concern and/or answer questions.

8 Call-in

- 8.1 When a decision is made by the Cabinet, or a Committee or Sub-Committee of the Cabinet, by an individual Cabinet Member, or when a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published, by electronic means, and shall be available at the main offices of the Council normally by no later than 5.00 pm on the second full working day following the day on which the decision was made. All Members of the Council will be sent an electronic record of all such decisions within the same timescale.
- 8.2 Subject to paragraphs 8.3 and 8.4 below a decision taken and to which paragraph 8.1 above refers will not come into force, and may not be implemented, until the expiry of 5 clear working days after the decision was made and recorded.
- 8.3 Where a decision referred to in paragraph 8.1 has been made, any 6 or more Members of the Council may submit a call-in notice, in writing, within the period specified in paragraph 8.2 above, to the Monitoring Officer. Where the notice is valid, the decision cannot be implemented until the procedures in this section have been followed. Where a valid notice is received the decision shall stand referred to the appropriate overview and scrutiny committee for advice.
- 8.4 Requests to call-in decisions should be made on a standard form obtained from the Scrutiny Team and Members must give reasons for the request. The form will include guidance to assist Members to establish and set out the grounds for call-in, as follows:
- i. decision is outside the policy/budgetary framework
 - ii. inadequate consultation relating to the decision
 - iii. relevant information not considered
 - iv. viable alternatives not considered
 - v. justification for the decision open to challenge on the basis of the evidence considered

- 8.5 In the event that reasons for the request for call-in are disputed, the Director of Legal Services shall assess whether the call-in request is justified on any of the grounds above and may accept or reject the call-in.
- 8.6 The lead Member of the “call-in” group should send an email enclosing the call-in form, to all Members of the call-in group, Director of Legal Services, and Scrutiny Team and request that all signatories confirm their consent to the “call-in” by email to the appropriate Scrutiny officer.
- 8.7 Where a corporate electronic system failure, or planned shutdown, prevents the issuing of or access to Cabinet decisions or the submission of a call-in notice by electronic means in accordance with the Council’s call-in provisions, the periods for notification or submission shall be extended by the period of delay, provided that period is in excess of four hours. When, in the opinion of the Monitoring Officer, the period of delay is likely to extend beyond two clear working days, he/she shall agree with the Chairman of the appropriate overview and scrutiny committee, alternative arrangements to avoid any delay in implementing Cabinet decisions not subject to “call-in”.
- 8.8 The decision will be referred to the first available meeting of the appropriate overview and scrutiny committee, subject to the Access to Information Procedure Rules.
- 8.9 The Committee may decide to offer no advice, in which case the decision may be implemented. Alternatively, the Committee may decide to offer advice and to recommend that the original decision-maker, whether full Cabinet, a Cabinet sub-committee acting under delegated powers or a portfolio holder, reconsider the decision in the light of that advice. The decision-maker will then reconsider the decision as set out in paragraph 7.10 below. The Committee may, instead, resolve to recommend full Council to review the decision and decide whether or not to offer advice.
- 8.10 Once the overview and scrutiny committee has decided whether or not to offer advice, no further call-in notices may be served in respect of the subject matter of the decision. This does not prevent the matter being scrutinised further by the appropriate Committee after the decision has been implemented in accordance with these rules.
- 8.11 Where a matter is considered and advice is offered by an overview and scrutiny committee, its advice will be submitted to the decision-maker for a decision to be made on the matter. The decision-maker shall consider the advice but shall not be bound to accept it in whole or in part. The decision-maker shall have sole discretion to decide on any further action to be taken in relation to the decisions in question, including confirming the original decision, with or without amendment, or deferment pending further consideration, or making a different decision. There are no further rights to enable a Member of the Council to submit a call-in notice. The decision may then be implemented.

- 8.12 If, under this procedure, the overview and scrutiny committee, having considered the matter, indicates that it does not wish to offer any advice to the decision-maker, then the decision can be implemented immediately.
- 8.13 A submitted call-in notice can only be withdrawn with the written consent of all of its signatories.
- 8.14 The “call-in” facility does not apply to the determination of a [Motion under Procedure Rules \(Notices of Motion\) – Appendix 2](#).

9 Call-in and urgency

- 9.1 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, caused by the call-in process, would be likely to seriously prejudice the Councils or the public's interests. The Chairman of the appropriate overview and scrutiny committee or, in his/her absence, the Mayor must agree that the decision should be treated as urgent, and that the call-in procedure should not apply. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Chief Executive or her nominee's consent shall be required. Where such agreement is reached, all Members of the Council shall be notified by electronic means.

10 The party whip

- 10.1 It is generally accepted that the Party Whip should be suspended in respect of Scrutiny matters. However, when considering any matter in respect of which a Member of an overview and scrutiny committee is subject to a formal 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.

11 Procedure at overview and scrutiny committee meetings

- 11.1 Overview and Scrutiny Committees shall consider the following business:
- record of the last meeting;
 - consideration of any matter referred to the Committee by the Council or by the Cabinet;
 - consideration of any matter referred to the Committees for advice in relation to call-in or a decision;
 - responses of the Cabinet on reports of the overview and scrutiny committees; and
 - the business otherwise set out on the agenda for the meeting.

- 11.2 Where an overview and scrutiny committee conducts investigations (e.g. with a view to policy review), it may also ask people to attend to give evidence at its meetings, which are to be conducted in accordance with the following principles:
- the investigation is to be conducted fairly and all Members of the Committees are to be given the opportunity to ask questions of attendees, and to contribute and speak;
 - those assisting the Committees by giving evidence are to be treated with respect and courtesy; and
 - the investigation to be conducted so as to maximise the efficiency of the investigation or analysis.
- 11.3 Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall, unless there are exceptional reasons, make its report and findings public.
- 11.4 There is no facility to allow questions by members of the public at meetings of overview and scrutiny committees. However, a period of 15 minutes will be provided at the beginning of such meetings to allow members of the public to make a statement on any matter that falls within the remit of the committee, subject to individual speakers being restricted to five minutes.
- 12 Matters within the remit of more than one overview and scrutiny committee**
- 12.1 Where a matter before an overview and scrutiny committee also falls within the remit of one or more other overview and scrutiny committees, the decision as to which body will consider it, including any arrangements for joint working or sharing information, will be resolved by the Corporate Overview and Scrutiny Committee.
- 13 Joint scrutiny protocol**
- 13.1 The Council has approved a [joint scrutiny protocol](#) for Cheshire, Merseyside and Wirral to consider consultations by NHS bodies or service providers in connection with substantial developments or variations in service. Nominations to any joint scrutiny committee established under the protocol will be made by the Chairman of the Health and Wellbeing Overview and Scrutiny Committee (or any successor body).