

Section 7 Overview and Scrutiny Committee Procedure Rules

1. INTRODUCTION

- 1.1 This Protocol applies to all Members of the Overview and Scrutiny Committee (OSC), any Member who may sit on a scrutiny task and finish panel and all Members of the Executive (comprising the Leader and Cabinet Members). It provides guidance on the way in which Members of Scrutiny and the Executive interact to enable the Authority to carry out the Overview and Scrutiny function. The Protocol also outlines the framework and procedures underpinning the operation of scrutiny and provides guidance on role of officers who support this process.
- 1.2 Unless otherwise stated, references to the OSC, should also apply to scrutiny task and finish panels.

2. OBJECTIVES

- 2.1 To enable Scrutiny Members, Officers and Cabinet Members to fully understand their powers, roles and responsibilities in relation to the Overview and Scrutiny function, so as to maximise their personal effectiveness.
- 2.2 To establish a positive framework and the necessary procedures to enable scrutiny to work productively and effectively.
- 2.3 To promote an ethos of mutual respect, trust and courtesy between Scrutiny Members and Cabinet Members and to foster a climate of openness leading to constructive debate.
- 2.4 To create a culture of holding the Executive to Account on behalf of the electorate, by monitoring the effectiveness of the Council's policies and through the regular review of its performance.
- 2.5 To define the role of the Executive as an integral component of the scrutiny process.
- 2.6 To make reports or recommendations to the Council or Executive on matters that affect the council's area or the inhabitants of its area.
- 2.7 To scrutinise crime and disorder and health in the council's area

3. HOLDING THE EXECUTIVE TO ACCOUNT

- 3.1 One of the underpinning principles of Overview and Scrutiny is the ability of non- Executive Members to hold the Executive to account. A key method of ensuring accountability is through critically and routinely considering the performance and decisions taken by the Executive.

- 3.2 To facilitate this approach, the OSC may challenge the Executive about decisions, which it has taken either collectively, or by way of Cabinet Member Decisions, or Officer Key Decisions. The OSC may also consider any relevant performance information in respect of the delivery of services and decide to commission task and finish panels on specific areas or issues. In addition, the Committee may examine or make recommendations in relation to decisions which the Executive is proposing to take, as set out in the Forward Plan.
- 3.3 The Executive will be required to consider any recommendations or views expressed by the OSC and to take such action it sees fit. Where any decision taken by the Executive is not in accordance with advice provided by the Committee, the relevant Cabinet Member may be asked to provide an explanation of the reasons for that decision to the Committee.

4. POWERS OF THE OVERVIEW AND SCRUTINY COMMITTEE

- 4.1 The relevant powers of the OSC include:
- The power to review or scrutinise decisions made, or other actions taken, in connection with the discharge of Executive functions;
 - The power to make reports or recommendations to the Executive with respect to the discharge of any Executive functions;
 - The power to assist the Council and the Executive in the development of the policy framework and budget;
 - The power to require Members of the Executive to attend before it to answer questions;
 - The power to request other relevant members, officers or external parties to attend and provide evidence;
 - The power to consider and require information on any matters as set out within its terms of reference;
 - The power to commission scrutiny task and finish panels to consider any matter within its remit requiring a more in-depth scrutiny and to receive task and finish panel reports accordingly and;
 - The power to oversee and scrutinise matters which the committee has statutory powers for, including health and crime and disorder.

5. OVERVIEW AND SCRUTINY COMMITTEE AGENDAS

- 5.1 The agendas of the OSC will normally contain an item listing all relevant decisions taken by the Executive, the relevant Cabinet Member and relevant Key Decisions taken by an Officer, since the last meeting. The purpose of this item is to provide an opportunity for Scrutiny Members to ask questions of the Cabinet Members about decisions taken, thereby ensuring that decisions fit within the budget and policy framework of the Council and that all relevant issues and information available have been taken into account.

- 5.2 The agenda of each OSC meeting will include an item on the Committee's Work Plan to enable the Committee's priorities for scrutiny for the remainder of the Municipal Year to be included and prioritised. The relevant Cabinet Member may be invited to comment on the Committee's proposed priorities within the Work Plan to inform the selection process and to undertake a co-ordinating role by providing views to the Committee about any potential conflict between proposed scrutiny topics and areas of planned policy development. The Cabinet Member may also provide views to the Committee about instances where it may be requested by the Executive to assist in policy development. Scrutiny Members may at any time propose items for inclusion in the Committee's Work Plan. Such topics may include not only Council Services, but also any relevant item, which affects the Council or its residents.
- 5.3 The agenda of the OSC will normally include, at such regular intervals as the Committee may determine, any relevant performance management information it wishes to consider. The purpose of this item is to assist Members to monitor the performance of any council services against key targets and to make recommendations or to implement a more detailed scrutiny review in relation to those areas of identified weakness. A suite of performance management information will be published and made available to all Members, in accordance with the corporate reporting cycles.

6. ATTENDANCE BY EXECUTIVE MEMBERS AT OVERVIEW AND SCRUTINY COMMITTEES (INCLUDING 'CALL-IN' MEETINGS)

- 6.1 Cabinet Members will be expected to attend meetings of the OSC when topics on the agenda fall within their portfolio such topic having been called in or separately selected by OSC for scrutiny. The presence of Executive Members at the meetings also enables the Members of the Committee to hold the Executive to account in relation to decisions taken and to answer questions in relation to proposed decisions that have been included within the Forward Plan. Cabinet Members are encouraged to seek the views of non-Executive Members on any issues falling within their remit. A close working relationship and an open exchange of views will be of particular importance to the Cabinet Members and Scrutiny Members, where consideration is being given to the development of the Council's budget or policy framework.

Call-In meetings

- 6.2 The relevant Cabinet Member will normally be expected to attend any meeting of the Scrutiny which is considering a 'called-in' decision in relation to their area of responsibility.
- 6.3 When the Executive take a decision, this will be notified by e-mail to all Members of the Council within 3 working days of the decision being taken. Only Key Decisions of the Executive (that are not Urgent Decisions) can be called-in by the OSC.
- 6.4 At least a quarter of the members of the OSC must e-mail the Governance Services Manager within 4 working days of the publication of the decision, to

call it in.

- 6.5 The Governance Services Manager will, within 3 working days, convene a special call-in meeting of the OSC or place it on the agenda for the next available meeting of the OSC, whichever can take place the earliest.
- 6.6 The decision will not take effect until the OSC has considered the matter.
- 6.7 OSC may decide:
 - not to take any action in relation to the called-in decision; or
 - to make a report on the matter to council;
 - or to refer the matter back to the Executive/decision-maker for further consideration.
- 6.8 If the OSC decides to refer the matter back to the Executive, the Executive will have to re-consider its decision, taking into account any appropriate recommendations of the OSC and the decision will not take effect until after that process has been completed.
- 6.9 At Call-In meetings, the purpose of the relevant Cabinet Member's attendance is purely to answer questions of fact and not to present the item. Cabinet Members should ensure they are not drawn into the debate, so as to avoid any possible allegations of becoming involved in the scrutiny of their own decisions, which may bring them into conflict with the Code of Conduct for Members. It is therefore important to draw the distinction between answering questions of fact and becoming involved in the Committee debate into the decision that is being scrutinised.
- 6.10 Unless there are extenuating circumstances, the decision maker (or the relevant Cabinet Member if the decision maker is the Executive) should always attend a Call-In meeting. It is accepted however that Officers may provide information to assist although it should always be the decision maker that is held to account.
- 6.11 The following procedure should take place at Call-In meetings:
 - The Member of the OSC who called in the decision should speak first.
 - The Chairman would then invite the relevant Cabinet Member (decision maker) to respond.
 - The Committee can then ask questions of the decision maker who may ask a relevant officer to supply further information if necessary.
 - The Committee debates the issue, considers any appropriate recommendations and votes on the outcome.
- 6.12 As indicated above, the decision maker should always attend the Call-In meeting unless extenuating circumstances prevent the decision maker from doing so. However, in the event that the decision maker cannot attend a Call-

In meeting, another Cabinet Member, the Leader of the Council or Deputy Leader should attend in their absence and be accountable for the decision.

7. ETHOS OF THE OVERVIEW AND SCRUTINY COMMITTEE MEETING

- 7.1 All Members should promote an atmosphere of openness at OSC meetings and should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust between OSC Members, the Cabinet Member, Officers and other participants.
- 7.2 OSC Members should be prepared to ask searching questions of Cabinet Members, who in turn should be willing to respond to any question put. OSC Members should bear in mind that Cabinet Members may not be in a position to answer every question immediately or in detail. OSC Members may find that it may assist the OSC, to give advanced notice to the Cabinet Member of any questions that do require a factual or detailed response, so that the Cabinet Member may come to the meeting prepared with the answer.
- 7.3 Cabinet Members should, in so far as possible, anticipate and be prepared to answer questions on decisions taken, or proposed to be taken, which fall within their remit.
- 7.4 Cabinet Members should normally be authorised by the Committee to speak upon any item on the agenda and may at any time offer to assist the OSC by the provision of factual information or views in relation to the matters under discussion.
- 7.5 The Chairman (and Vice Chairmen when presiding) of the OSC meeting shall at all times ensure that the meeting is conducted fairly and that all participants invited to the meeting are treated courteously.
- 7.6 The Chairman and Vice Chairmen, supported by the appropriate officers, should provide leadership and guidance to the Committee on all scrutiny matters and should promote the Committee's role to improve services and monitor the effectiveness of Council policies.

8. FORMAT FOR ITEMS REQUIRING CABINET MEMBERS RESPONSE

- 8.1 In respect of the agenda items referred to at Paragraphs 5.1 and 5.2, at the OSC meeting, the relevant Cabinet Member can be requested in advance of the meeting, to either provide a brief outline of the decisions taken, or proposed to be taken, including brief reasons for the decision or proposed decision within his/her area of responsibility. Any Member of the OSC may also raise a question with the relevant Cabinet Member, in advance of the meeting, as soon as the individual decisions are reported. The relevant Cabinet Member will provide an answer to any questions raised with them, at the meeting.
- 8.2 Although no time limits will ordinarily apply to any questions put or responses

given, the OSC meeting should seek to be targeted and focussed in its business. The Chairman (and Vice Chairmen when presiding) shall be responsible for the effective conduct and management of the business of the meeting and depending on the volume of business at the meeting, can decide to allocate time limits if deemed necessary.

9. RESPONSE OF THE CABINET MEMBERS

9.1 The Cabinet Member may give an answer:-

- By way of a direct oral answer;
- Where the information is in a publication of the Council or other published work, by reference to that publication;
- Where an officer is in attendance at the meeting, who can reasonably be expected to be in a position to give a reply, by referring the matter to the officer concerned;
- Where the reply cannot conveniently be given orally by either the Cabinet Member or Officer, by way of a written answer circulated to the questioner within five working days, or to the whole Committee, if the Committee so request immediately after consideration of the matter; and
- Where the reply cannot be given within the above timescale, a brief explanation for the delay and the likely timescale for response should be provided to the questioner (or the whole Committee, if requested).

10. SCRUTINY TASK & FINISH PANELS (T&F PANELS)

The roles of key participants within the scrutiny process are defined as follows:

- 10.1 The Scrutiny T&F Panel is the body with responsibility for the compilation of a scrutiny report that is submitted to the OSC.
- 10.2 The Scrutiny T&F Panel is accountable to the OSC for the timely delivery of the report in accordance with the content of the scrutiny scoping document
- 10.3 The scrutiny scoping document must be finalised and agreed by OSC before the scrutiny is commenced. The scrutiny scoping document must include a timetable for the activities planned by the T&F Panel, with a target date for completion of the scrutiny and reporting back to the OSC with recommendations.
- 10.4 The target date should be in line with the time limit set by the OSC when the T&FP is commissioned. This will normally be time limited to a maximum of two months but depending on the matter to be reviewed, the time limit may be set for a longer period.
- 10.5 Generally, in order to facilitate the speed and timeliness of a T&F Panel review, the use of electronic means to progress the review should be used

and maximised wherever possible. This includes the use of electronic desktop exercises and virtual or telephone interviews and meetings.

- 10.6 During the course of the review, the Scrutiny T&F Panel should consider all relevant evidence and ensure that any recommendations are fact based and robust. It is not however the role of the Panel to obtain detailed costings around any recommendations that it makes.
- 10.7 Officers will assist the committee in preparing a draft report, which will be submitted in draft form, to the Senior Leadership Team for any comments to be provided regarding the legal and financial implications of any recommendations contained in the report, as well as any other comments from a corporate perspective. Comments should be provided within no longer than 10 working days in total.
- 10.8 The comments provided by those officers should be considered by the Scrutiny T&F Panel who will decide whether to make any changes to the report as a result before submission to the OSC.
- 10.9 In any event, comments provided by those officers should also form part of the report for subsequent consideration by the Executive.
- 10.10 Each Scrutiny T&F Panel -must:
 - (a) have a minimum of 5 Members
 - (b) be politically proportionate and
 - ~~(c)~~ (c) have an Opposition Chairman.—Appointed by the OSC nominated by the Leader of the Opposition.
 - ~~(e)~~(d) Whilst not necessary, it is helpful for the T&F Panel chair to be a member of OSC.
- 10.11 Membership of T&FPs can include any non-executive member of the council. Selection of Members will be by way of nominations from the Group Leaders. Only the Chair of the Panel is required to be a member of OSC.
- 10.12 It is the responsibility of the Scrutiny T&F Panel Chairman to ensure that the objectives of the review have been achieved in accordance with what had been agreed in the scoping document. The Scrutiny T&F Chairman must ensure that the draft scrutiny report, once completed, has considered evidence from all angles and is well balanced in terms of objectivity and fairness.
- 10.13 The Scrutiny T&F Panel Chairman and Members of the Scrutiny T&F Panel will be provided with all necessary administrative support by the Governance Services.

11. THE OVERVIEW AND SCRUTINY COMMITTEE:

- 11.1 Following a scrutiny report being approved by the Scrutiny T&F Panel Chairman, it should then be forwarded to the OSC for consideration and

approval. The OSC should then forward the report to the Executive for consideration.

- 11.2 The OSC's consideration of a Scrutiny T&F Panel's report extend to its commenting on the procedural aspects of a scrutiny review, i.e. has the report been completed within agreed timescales and checking if the scrutiny protocol and agreed timescales have been adhered to. Given that a report will have received detailed input from Legal, Financial and the Senior Leadership Team, the OSC should not be able to comment on the factual content of a report, including the recommendations and should not be able to refer a report back to the Scrutiny T&F Panel for additional work to be carried out.
- 11.3 The OSC should receive progress reports as to the timeliness of a review where appropriate. This will enable the OSC to monitor the progress of scrutiny reviews it has commissioned, from an overarching perspective.

12. OFFICERS

- 12.1 It is recognised that Officers have a valuable role to play in the scrutiny process in terms of the provision of factual evidence for a review. At the commencement of a scrutiny review, the Lead Member will notify the relevant Chief Officer (Chief Executive or Director) who will then assign an Assistant Director to assist with contributing to the review in terms of supplying information and helping to identify suitable witnesses. The Chief Officer and Assistant Director will support the committee in drafting the report, to ensure there are no factual errors.
- 12.2 The responsibility for the implementation of scrutiny recommendations that have been approved by the Executive will rest with the relevant Director who will also be responsible for providing any necessary updates on progress to the OSC.

13. THE EXECUTIVE:

- 13.1 A completed scrutiny report, together with any officer comments will be forwarded to the Executive for consideration. The Executive will consider whether or not to implement the recommendations contained within the report. In the event of a decision not to implement any of the recommendations, the relevant Cabinet Member must report the reasons for this by e-mail to all the Members of the OSC as soon as possible. In certain cases, the Executive might agree to implement a recommendation in part, in which case any such variations to an original recommendation must also be reported by e-mail to all the Members of the OSC as soon as possible. The outcome must also be reported back formally to the next meeting of the OSC.

- 13.2 Prior to a completed report being formally considered by the Executive, the relevant Cabinet Member will have the opportunity to meet informally with the Scrutiny T&F Panel Chairman in order to discuss the report's findings in detail. This meeting will also afford the opportunity for the rationale behind the recommendations to be discussed in more detail and for any issues or concerns to be clarified and explained with a view to agreement being reached wherever possible. The meeting should take place within 10 working days of the report having been considered by the OSC and the report should then go forward to the next meeting of the Executive.
- 13.3 If the content of a report, including any recommendations, is likely to impact upon any external organisation, the Executive will have the opportunity to pass comment, including whether or not it endorses the recommendations, before the report is passed to the external body.

14. ATTENDANCE BY OFFICERS AT OVERVIEW AND SCRUTINY COMMITTEE AND SCRUTINY T&F PANEL MEETINGS

- 14.1 Meetings of the OSC will normally be attended by the Director with responsibility for any agenda item under discussion. The role of the Director will be to assist the Committee through the provision of professional advice and to ensure access to relevant information and personnel.
- 14.2 The attendance of other relevant officers at either OSC or Scrutiny T&F Panel meetings will be at the request of the Chairman, Scrutiny T&F Panel or Director, who will have regard to the appropriate level of seniority of attendees.
- 14.3 An Officer in receipt of a request to attend a Scrutiny meeting should make all reasonable efforts to do so. Where an Officer is unable to attend on a particular date, they should notify the Governance Services Manager as soon as possible, in order to agree the most appropriate course of action, which may include the attendance of an alternative representative.
- 14.4 Officers in attendance at OSC meetings should be prepared to assist the Cabinet Member in the provision of information to the Committee in response to any question raised.
- 14.5 Relevant Officers will normally be expected to attend any meeting of the OSC at which it is intended to consider a Call-In request in relation to his/her service.

15. COUNCILLOR CALL FOR ACTION

- 15.1 Overview and Scrutiny Committees will receive any request from a Councillor for a discussion on behalf of residents on an issue affecting a single Council Ward where local problems have arisen and other methods of resolution have been exhausted. The request must be made to Governance

Services by 2.00pm at least three clear working days before the date of the relevant Overview and Scrutiny Committee meeting.