

## **Part 4**

### **Section 7**

# **Overview and Scrutiny Procedure Rules**

## 1. **Overview and Scrutiny**

- 1.1 Every year at its Annual Meeting the Council shall appoint an Overview and Scrutiny Committee.
- 1.2 Neither the Leader of the Council nor any member of the Executive may be appointed to the Overview and Scrutiny Committee.
- 1.3 The Terms of Reference of the Overview and Scrutiny Committee are as set out in Part 3 of this Constitution.

## 2. **Meaning of Scrutiny**

### 2.1 Scrutiny includes:

- examining the effects any policy has had, how effectively the policy has achieved its aims, and how effectively it has been implemented;
- monitoring the performance of services provided by or to the Council;
- scrutinising Executive decisions after they have been implemented, whether shortly afterwards or as part of a wider review of policy, to measure their effect; and
- reviewing the performance of the Executive, its members and the Council's senior officers.

## 3. **Meetings of the Overview and Scrutiny Committee**

- 3.1 At each meeting the Overview and Scrutiny Committee will consider all decisions on Executive functions that have, since the last meeting, been referred by members to the Overview and Scrutiny Committee in accordance with the Call-in Procedure.
- 3.2 In carrying out its functions, the Overview and Scrutiny Committee (and any sub committees which it establishes) may:
  - 3.2.1 establish sub committees to carry out specific tasks or scrutinise specific areas;
  - 3.2.2 instruct any member of the Executive or the Chairman of any committee to attend a meeting of the Committee and if they do so it is the duty of that Councillor to attend;
  - 3.2.3 instruct any officer of the Council to attend a meeting of the Committee and if they do so it is the duty of that officer to attend;

- 3.2.4 ask to see any documents belonging to the Council which Overview and Scrutiny Committee has a need to know about for the purpose of carrying out its functions (such requests for information shall be directed in the first instance to the relevant Head of Service with a right of appeal to the Chief Executive and then to the Executive);
- 3.2.5 publish reports relating to any of its functions but not normally without first asking for the comments of the Executive.
- 3.3 As soon as is reasonably possible after the start of each Council year, the Committee shall prepare a work programme showing the matters they propose to scrutinise during that year. A copy of the approved programme shall be sent to the full Council for information. The Overview and Scrutiny Committee need not keep to the approved work programme.
- 3.4 The Committee may, by resolution, co-opt a non Councillor onto the Committee or onto any of its sub committees or panels. Anyone so co-opted may not vote. Vacancies for co-optees to the Committee must be advertised. Co-optees must be selected in accordance with the Council's recruitment procedure as if they were employees. Vacancies for co-optees to sub committees may be appointed in whatever way the sub committee decides.
- 3.5 Any member of the Overview and Scrutiny Committee has the right to require that any item relevant to the remit of Overview and Scrutiny Committee is placed on the agenda and discussed at the meeting of that Committee.
- 3.6 The Overview and Scrutiny Committee may in connection with:
- a requirement made under paragraph 3.5;
  - any other matter which is to be discussed at a meeting of the Overview and Scrutiny Committee;

require any member of the Executive to attend Overview and Scrutiny Committee.

#### 4. **Call-in**

- 4.1 Any Key Decision or any decision by the Executive is subject to the Call-in Procedure set out below.
- 4.2 A Key Decision made by an Officer with delegated authority is subject to the Call-in Procedure set out below.
- 4.3 Every decision which is subject to call-in is subject to a restriction that it may not be implemented until 5pm on the fifth working day after the

day that the call-in period starts.

4.4 The call-in period starts:

- (a) on the day on which the decision was taken, if the decision was taken by the Executive or a Committee of the Executive or an Officer; or
- (b) on the day on which the decision is emailed to Councillors in any other case.

("emailed to Councillors" means emailed to all Councillors who have notified the Monitoring Officer that they wish to receive decisions by email. The email need not contain the decision if it contains a link to a document available on the internet and the published or emailed version of the decision need not be signed).

4.5 Where a decision is subject to call-in and is not taken at a formal meeting, the decision must be published as soon as possible on the Council's website unless the Monitoring Officer considers that, in his/her legal opinion without influence from the decision takers, the public interest in not publishing the decision on the website outweighs the public interest in publishing the decision.

4.6 Every substantive decision taken with respect to Executive functions is subject to call-in apart from a decision falling within one or more of the following categories:

- a decision which is not a Key Decision and which has been taken by an officer under delegated powers
- a decision which the decision taker has certified as urgent (giving reasons)
- a decision by the Council
- a decision to make a proposal, recommendation or request to Council or a committee or working group of the Council
- any decision if, at the time when the decision has been taken, 20 call-in notices have already been served during that Council year. The Council may decide to increase this number at any time and if they do then, until the end of the Council year in which their decision was taken, this paragraph has effect as if the new figure was substituted for "20"
- a decision taken at Stage 4 of this Call-in Procedure

## STAGE 1

- a. An Executive or Officer decision which is subject to call-in may be implemented at the end of the call-in period unless a decision is validly called-in before the end of the call-in period which relates to that decision.
- b. A decision is validly called in when, before the end of the call-in period, the Monitoring Officer has received written notice from the minimum number of Councillors requiring the decision to be called-in. All Councillors must specify the decision being called in and at least one Councillor must give brief reasons as to why the decision is being called in. The call-in notice will identify the 'lead signatory'.

The minimum number of Councillors referred to above is:

- any two members of the Strategic Overview and Scrutiny Committee; or
- any five members of the Council.

## STAGE 2

- a. When the Monitoring Officer receives a valid call-in notice with respect to a decision then that decision may not be implemented until that decision has completed the call-in procedure.
- b. The Monitoring Officer will call a meeting of the Strategic Overview and Scrutiny Committee within seven working days of the end of the call-in period for that decision.
- c. A copy of the call-in notice will immediately be given to the Chairman of the Strategic Overview and Scrutiny Committee who may *request* that particular Councillors or officers attend the meeting.

## STAGE 3

- a. The Strategic Overview and Scrutiny Committee will consider the called-in decision. The protocol before and during the Committee's meeting will be as follows:
  - (i) The Chairman will speak with the lead signatory before the Committee convenes to determine if the scope for the call-in can be agreed. If so, the scope is signed by the Chairman and the lead signatory and legally cleared by the Monitoring Officer. If not, the Committee will be asked by the Chairman to determine the scope at the start of the call-in meeting. In either event the scope is put to the Committee on each occasion as a procedural

motion at the start of the call-in meeting. It will be in writing, will be introduced by the Chairman and will act as a guide throughout the debate.

- (ii) The Chairman will then ask the lead signatory to present the case for the call-in on and why the Committee should scrutinise the decision. The allotted time the lead signatory will have to present the case should not be greater than 10 minutes.
  - (iii) The Chairman will then ask:-
    - the appropriate Portfolio Holder to present the reason(s) on why the decision was made by the Executive. The allotted time the Portfolio Holder will have to present this should not be greater than 10 minutes; or
    - in circumstances where an Officer's Key Decision has been called-in, the Officer will be asked to present the reason(s) on why the decision was made by the Officer, and the allotted time the Officer will have to present this should not be greater than 10 minutes.
  - (iv) The Committee will then be given the opportunity to question the lead signatory and the Portfolio Holder or Officer or ask them to provide further information.
  - (v) The Committee will then be able to ask officers, other members of the Executive, Councillors and members of the public (if the public is allowed to be present) to provide further information and/or answer questions.
  - (vi) In light of new or additional information gathered during points iv) and v), further questions may be asked of the lead signatory or the Portfolio Holder(s) or Officer.
  - (vii) The Portfolio Holder or Officer followed by the lead signatory will be asked to summarise their respective cases. The allotted time for each summary will not be greater than 5 minutes.
- b. The Strategic Overview and Scrutiny Committee will then decide to take one of the following courses of action (the Committee's decision should not be adjourned or delayed without an exceptional reason):
- (1) to refer the decision to a meeting of the Executive together with observations of the Strategic Overview and Scrutiny Committee. (The Executive will then take the final decision, and that decision may not be called in);

- (2) to refer the decision to the Council.

The Committee only has the above two options available to it. If the Committee decides not to refer the decision back to Executive or to Council then all the options available to the Committee will have been exhausted and the decision taken by the Portfolio Holder or Executive or the Officer will be implemented without further delay.

- c. To avoid doubt, the Committee may look at any aspect of the decision, but should remember that the decision is ultimately one which will have to be taken by or on behalf of the Executive. If no Councillor who signed the call-in notice attends the meeting to give further details about the call-in then the Committee may decide not to consider the matter further.
- d. Members of Executive will not participate in the debate on any call-in at the meeting of the Strategic Overview and Scrutiny Committee but they may be called to the table by the Chairman to answer questions or provide information.
- e. If Overview and Scrutiny Committee decides to refer the matter to the full Council then the Council may take any of the decisions which the Overview and Scrutiny Committee could have taken (apart from deciding to refer the question to the Full Council).
- f. If the Council decides that the decision is one which the Executive or Officer did not have power to take and is one which the Council does have power to take then the Council shall make the decision.

#### **STAGE 4**

- a. Where the Strategic Overview and Scrutiny Committee or the Council decides to refer the decision back to a meeting of the Executive then the Executive must consider (or reconsider) the decision in the light of any observations of the Strategic Overview and Scrutiny Committee and/or the Council. The following procedure must be followed:
  - (i) the Chairman, or an Strategic Overview and Scrutiny Committee member appointed for this purpose at the call-in meeting, will present at the meeting of the next Executive the Committee's or the Council's observations on the called-in decision as agreed at the Strategic Overview and Scrutiny Committee or Council;
  - (ii) the Executive must consider (or reconsider) the decision in the light of any observations of the Strategic Overview and Scrutiny Committee or the Council;

- (iii) the Executive's response to the observations of the Strategic Overview and Scrutiny Committee or Council should be recorded and reported to the Strategic Overview and Scrutiny Committee or Council by the appropriate Portfolio Holder in person at the next available meeting.