

# **APPENDIX E**

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

# Overview and Scrutiny Procedure Rules

## 1. The number and arrangements for Overview and Scrutiny Committee and Panels

- 1.1 The Council will appoint the Overview and Scrutiny Management Committee, including the four scrutiny standing panel Lead Members, to oversee the management, co-ordination and development of the overview and scrutiny function. The Committee will appoint Standing Panels, Ad-Hoc Panels, Councillor Call for Action Scrutiny Panels, and members of Joint Health Scrutiny Committees as set out in Article 6 of the Constitution and will appoint to them as it considers appropriate from time to time. The Overview and Scrutiny Management Committee may appoint further sub-committees as may be required.

## 2. Terms of Reference & Functions of Committee & Panels

### 2.1 The Overview and Scrutiny Management Committee

2.1.1 The Overview and Scrutiny Management Committee will:

- (i) Have overall responsibility for the management, co-ordination and development of the scrutiny function through which the decisions taken by the Cabinet and by committees and officers of the Council are scrutinised and the use of resources/provision of services are reviewed.
- (ii) Have overall responsibility for the work programme and co-ordinate and monitor progress on the work programmes of any Overview and Scrutiny Panel.
- (iii) Exercise the right to submit a “notice of concern“ on proposed decisions and “call-in” and review Executive decisions (see definition at 2.2.3) as set out in the procedures in these rules, particularly on issues that fall between the responsibilities of the separate panels.
- (iv) Agree arrangements for managing overview and scrutiny business (including the call-in of Executive decisions) within the scope of more than one panel.
- (v) Receive requests from members of the public/Councillors/officers of the Council /co-optees/other organisations for particular topics to be scrutinised and determine the appropriate action.
- (vi) Undertake initial explorations on requests/proposals for scrutiny reviews and recommend appropriate action.
- (vii) Receive proposals from the Scrutiny standing panels for planned in-depth scrutiny reviews, investigations and reports on issues relating to the Council’s functions and determine the appropriate action.

- (viii) Appoint task-orientated, ('ad-hoc') overview and scrutiny panels to review in depth, investigate and report on a particular topic with such terms of reference and duration as it considers appropriate to that topic.
- (ix) Agree terms of reference and work plans of ad-hoc review panels and Councillor Call for Action Scrutiny Panels and monitor their progress.
- (x) Advise ad-hoc review panels and Councillor Call for Action Scrutiny Panels on the contents of reports.
- (xi) Consider and formally agree the reports of all ad-hoc Panels, Councillor Call for Action Scrutiny Panels and standing panel review reports and submit them to Cabinet and/or relevant agencies for response and action.
- (xii) Establish and develop effective working relationships between the Overview and Scrutiny Management Committee and Panels, local partnership body structures, the Cabinet and its members, committees and sub-committees of the Council and its officers.
- (xiii) Co-ordinate training and development arrangements for Overview and Scrutiny Management Committee and panel members and co-opted members.
- (xiv) Review experience and develop learning in relation to the overview and scrutiny role.
- (xv) Identify good practice in relation to the overview and scrutiny role and develop common practices for all panels that reflect good practice.
- (xvi) Recommend to the Council the protocols and procedure rules through which the scrutiny function will operate.
- (xvii) Monitor and review the effect of and consequence of the call-in of Executive decisions, including those taken through the scheme of delegation.
- (xviii) Undertake an annual review of the effectiveness of the overview and scrutiny role.
- (xix) Co-ordinate the production of an annual report to Council at the end of each municipal year on the activity of the overview and scrutiny function.
- (xx) Review the constitution relating to overview and scrutiny and make recommendations for modification and improvement.
- (xxi) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies.
- (xxii) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies.

- (xxiii) Have responsibility for progressing and monitoring the overall objectives of the overview and scrutiny function.

## **2.2 Standing Overview and Scrutiny Panels**

### 2.2.1 Any Overview and Scrutiny panels will:

- (i) Be aware of the 'forward plan', the forward work programme and other anticipated executive decisions, including those taken under the Scheme of Delegation.
- (ii) Scrutinise, advise and contribute to the Cabinet/Cabinet Committee and any relevant Council Committees in relation to issues arising from its work programme;
- (iii) Through the use of pre-decision scrutiny to scrutinise and contribute to the development of strategic proposals prior to decisions being taken by the Cabinet / Cabinet Committee
- (iv) Monitor the decisions taken by or on behalf of the Cabinet and the activities of service areas;
- (v) Exercise the right to submit a "notice of concern" on proposed decisions and "call-in" and review decisions taken by or on behalf of the Executive as set out in the Overview & Scrutiny Procedure Rules.
- (vi) Have an overview of the practice and policy of the relevant service areas;
- (vii) Identify areas of service practice and implementation or of policy that cause concern to members of the public and Councillors and report these to the Overview & Scrutiny Management Committee to determine what action should be taken;
- (viii) Receive internal and external inspection reports on the services and challenge the action plans drawn up in response to problems that have been identified; monitor progress in implementing the action plans;
- (ix) Ensure that the communities of Kirklees and specific users of services are able to be involved in and inform the work of the panels;
- (x) Promote the work of the panels, including through the local media.
- (xi) Develop focused programmes of work and identify the most appropriate means of progressing such work.
- (xii) Scrutinise the work of the Partnerships and the council's contribution to them, specifically in relation to shared partnership priorities.
- (xii) To scrutinise the effectiveness of the Council's representatives in regional/sub regional and national forums.

- 2.2.2 NOTE: The role of the Health and Adult Social Care Scrutiny Panel will in addition include the specific responsibilities of the Council for the scrutiny of health. Statutory responsibilities in respect of the Community Safety Partnership will be vested in the Overview and Scrutiny Management Committee.
- 2.2.3 Executive decisions: Executive decisions may be discharged by Cabinet/Cabinet Committees/Cabinet member or an officer of the Council in line with Executive Procedure Rule 1.2.5. Scrutiny powers also apply to those decisions taken by officers that are as a result of further delegation of the Cabinet, a Committee of the Cabinet or a member of the Cabinet.

## **2.3 Ad-hoc Overview & Scrutiny Panels**

- 2.3.1 The Overview and Scrutiny Management Committee will appoint task-orientated, ('ad-hoc') scrutiny panels to review in depth, investigate and report on particular topics related to the functions of the Council, with such terms of reference and duration as it considers appropriate to the relevant topic.

## **2.4 Councillor Call for Action Scrutiny Panel**

- 2.4.1 The Overview and Scrutiny Management Committee will appoint time limited Councillor Call for Action Scrutiny Panels to consider issues arising from a Councillor Call for Action request, where the Committee considers it appropriate. Councillor Call for Action Scrutiny Panels shall include a non-executive Councillor from the affected locality and a scrutiny voluntary co-optee (or statutory education co-optees if the issue includes education matters).

## **2.5 Joint Health Scrutiny Committee**

- 2.5.1 The Overview and Scrutiny Management Committee will make the necessary arrangements to establish any Joint Health Scrutiny Committees which may be required with neighbouring authorities including the appointment of members. Terms of reference and all connected matters may be agreed by the Overview and Scrutiny Management Committee. In arrangements with other West Yorkshire Authorities it is anticipated that this will be done in accordance with the protocol for such matters which has been agreed between all the West Yorkshire District Councils.

## **3. Membership of Overview and Scrutiny**

- 3.1 Subject to Article 6.1, any Councillor, except a member of the Cabinet, may be a member of the Overview and Scrutiny Management Committee or its panel(s) or ad-hocs.

- 3.2 No member, however, may be involved in scrutinising a decision in which s/he has been directly involved. In addition, each member of an Overview and Scrutiny Management Committee/Panel is required to consider whether s/he has a personal interest in an issue to be examined by that Committee/Panel and to declare any such interest. If s/he determines that the interest is prejudicial and financial in nature, s/he must not participate in the debate on the issue and must leave the room during that debate. These requirements are set out in detail in paragraphs 11 and 12 of the council's Code of Conduct for members in Part 5 of the Constitution.
- 3.3 The membership of the Overview and Scrutiny Management Committee will comprise the Chair of Overview and Scrutiny and the Lead Members of the scrutiny standing panels and reflect the political composition of the Council, unless the Council decides otherwise in accordance with the appropriate legal procedures.

#### **4. Co-optees**

The Overview and Scrutiny Management Committee will agree the appointment of non-voting co-optees for Committee or panels.

#### **5. Education representatives**

- 5.1 When the Overview and Scrutiny Management Committee, an ad-hoc panel or a Councillor Call for Action Panel meets to discuss any issue relating to education matters it shall include in its membership the following voting representatives (if appointed by the relevant group):
- (a) 1 Church of England diocese representative;
  - (b) 1 Roman Catholic diocese representative; and
  - (c) 2 parent governor representatives.
- 5.2 The above-mentioned representatives shall have voting rights only in connection with matters relating to education functions and if the Panel deals with other matters, those representatives shall not vote on those other matters, though they may stay in the meeting and speak.

#### **6. Meetings of the Overview and Scrutiny Management Committee and Panels**

- 6.1 The Overview and Scrutiny Management Committee and its Panel(s) will meet as required to conduct the necessary business efficiently and effectively. There shall be at least 6 ordinary meetings of the Management Committee and each Standing Panel each year. The ad-hoc Panels will meet as required to fulfil the task allocated to them.
- 6.2 In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chair of the relevant Overview and Scrutiny Management Committee/Panel, by any 3 members of the body or by the

Service Director Legal, Governance and Commissioning in accordance with Council Procedure rule 40(4) if he/she considers it necessary or appropriate.

## **7. Quorum**

The quorum for overview and scrutiny meetings shall be as set out for committees and sub-committees in the council Procedure Rules in Part 4 of this Constitution.

## **8. Chairs of Overview and Scrutiny Management Committee/Panels**

- 8.1 The council will appoint the Chair of Overview and Scrutiny. The Chair of Overview and Scrutiny shall not be the Lead Member of a Standing Panel.
- 8.2 The Chair of Overview and Scrutiny will be from a different political group to that of the Leader of the council.
- 8.3 The Chair of Overview and Scrutiny will chair the Overview and Scrutiny Management Committee.
- 8.4 The Council will appoint the Lead Members of the Standing Panels who will chair those panels.
- 8.5 The Overview and Scrutiny Management Committee will appoint the Chairs of Ad-Hoc Panels. These may be drawn from the membership of the Overview and Scrutiny Management Committee or from other members of the Council with the necessary expertise . Chairs of Joint Health Overview and Scrutiny Committees may also be drawn from other members of the Council with the necessary expertise.

## **9. Work programme**

- 9.1 The Overview and Scrutiny Management Committee will be responsible for setting its own objectives and work programme and in doing so shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.
- 9.2 The Standing Panels (subject to the agreement and monitoring of the Overview and Scrutiny Management Committee) shall be responsible for setting their own work programme to overview and scrutinise the work of the Cabinet, Cabinet Committees, partnership body structures, relevant Council Committees and services 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.
- 9.3 Ad-hoc Panels will be set up by Overview and Scrutiny Management Committee with specified terms of reference to scrutinise and review in-depth particular issues.

## **10. Agenda items**

- 10.1 Agenda items for the Management Committee and panels shall be set by members identifying issues which they wish to consider in line with the agreed approach to developing scrutiny work programmes, for example through reviewing the Council's priorities, Cabinet's forward work programme of items for consideration or through their overview of service issues and performance, or through calling in particular executive decisions.
- 10.2 Any member of the Overview and Scrutiny Management Committee or panels (including the statutory education representatives) shall be entitled to give notice to Governance and Democratic Services that s/he wishes an item relevant to its functions to be included on the agenda for the next available meeting. On receipt of such a request the Governance Office will ensure that it is included on the next available agenda. The Committee/Panel shall then determine whether it wishes to pursue the item suggested by the member and, if appropriate, whether it should be referred to the Overview & Scrutiny Management Committee.
- 10.3 The Council is keen to encourage members of the public, community and voluntary groups, other agencies, all Councillors, and officers of the Council to suggest issues to be considered by Overview and Scrutiny. All such referrals will usually be considered by the Management Committee who will determine the appropriate action to take.
- 10.4 The Management Committee and Panels shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate, the Cabinet/Cabinet Committee, to review particular areas of Council activity.

## **11. Policy review and development**

- 11.1 The Management Committee and Standing Panels have a function to scrutinise policy outcomes and advise on policy development within their remit. They are key mechanisms for enabling Councillors to represent the views of their constituents and other organisations to the Cabinet, partnership body structures and Council and hence to ensure that these views are taken into account in policy development.
- 11.2 The Cabinet is responsible for the development and implementation of policy, in which role it shall consult and involve Overview and Scrutiny in developing draft policies for adoption or, where required as part of the Budget and Policy Framework, recommendation to Council.
- 11.3 The minimum role of Overview and Scrutiny in relation to the development of the Council's Budget and Policy Framework is set out in Rule 2 of the Budget and Policy Framework Procedure Rules and in Rule 11.2 above.
- 11.4 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 may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.



11.5 If there are concerns about the implementation or subsequent outcomes of an agreed policy the Overview and Scrutiny Management Committee may commission standing panels or appoint Ad-Hoc Panels to hold enquiries and investigate the available options to recommend changes/improvements to the policy to make it more effective.

## **12. Reports from Overview and Scrutiny Management Committee**

12.1 Once an ad-hoc Panel (or in some instances a Standing Panel) has formed recommendations on proposals for development, a report will be prepared for informal consultation with the Overview and Scrutiny Management Committee.

12.2 Once the Overview and Scrutiny Management Committee's comments have been taken into account, the draft report shall be submitted by the Overview and Scrutiny Office, to be considered informally by the relevant officers/Cabinet Member/Cabinet/Cabinet Committee/or partnership body.

12.3 The Cabinet member (portfolio holder)/Cabinet/Cabinet Committee/partnership body/officers shall comment on any issues or factual inaccuracy within the report. Scrutiny shall consider the comments and make changes to the report as it considers appropriate. The Cabinet portfolio holder, in consultation with the relevant Strategic Director/Service Director(s) shall prepare a draft response to the scrutiny recommendations in the form of an action plan. For each recommendation that is accepted they shall state when and how it will be implemented. For those that are not accepted the relevant reasons must be set out.

The draft response to the recommendations, set out in the form of an action plan, should be completed within three weeks of receipt of the Scrutiny report. During that time the portfolio holder, senior officers and the Councillor who chaired the scrutiny investigation, may meet to discuss or clarify any aspects of the report.

12.4 The report, together with the portfolio holder's draft response will be submitted to Cabinet for debate and approval of the action plan response to the recommendations. Once the response to the report is approved, the report is considered final and may be submitted to Council and/or any appropriate Committee or partnership body for information or debate, particularly on issues of difference.

12.5 The reports of Overview and Scrutiny referred to Cabinet shall be given consideration as soon as practicable following the receipt of the draft portfolio response. If the Cabinet does not consider the report and reach a final agreement on the response to the recommendations within one month, the Overview and Scrutiny Management Committee will have the right to refer the report direct to Council without following the procedure set out above.

12.6 If any recommendations would require a departure from or a change to the Budget and Policy Framework these must be considered by Council.

12.6 If a significant minority of a Scrutiny Management Committee/Panel cannot agree on the final recommendations of the report to the Cabinet/Cabinet

Committee/Council as appropriate, then the report will indicate where the major differences lie. Minority reports will not be accepted.

- 12.7 The Cabinet/Cabinet Committee and where appropriate Council shall consider any report of Overview and Scrutiny as soon as practicable following its submission.

### **13. Rights of Overview and Scrutiny Management Committee & Panel members to documents**

- 13.1 In addition to their rights as Councillors, members of Overview and Scrutiny Management Committee/Panels 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.
- 13.2 Nothing in this section prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Management Committee and Panels as appropriate depending on the particular matter under consideration. Indeed this liaison is encouraged to enable members of scrutiny panels to develop an effective overview of services, developments, and issues for consideration.
- 13.3 All members of the Council will have access in accordance with the Access to Information Procedure Rules to agendas, reports in support of decisions to be made and notices of decisions (to be posted within 3 working days) through the Intranet.
- 13.4 Overview and Scrutiny Members will also be informed of decisions made by officers under the scheme of delegation.

### **14. Members and officers giving account**

- 14.1 Overview and Scrutiny Management Committee or any panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service, senior officers, or other officers if necessary to attend before it to explain in relation to matters within their remit:
- a) any particular decision or series of decisions;
  - b) the extent to which the actions taken implement Council policy; and/or
  - c) their performance.
- 14.2 By virtue of the provisions of the Local Government Act 2000 and the Localism Act 2011, the Overview and Scrutiny Management Committee/Panels can require officers and Cabinet Members to respond to their requests and attend their meetings, and (by virtue of the Act) it is the duty of those persons to attend if so required.
- 14.3 Requests for attendance of officers or the provision of information to Overview and Scrutiny shall generally be channelled through the Council's Directors/Heads of

Service who will identify appropriate officers to respond to the requests. Services shall also identify contact officers for each Overview and Scrutiny Management Committee/Panel.

- 14.4 Such requests will be made in writing by or on behalf of the Chair of the relevant Management Committee/Panel and as much notice of the meeting as practicable will be given allowing for the need to gather information and/or prepare a report.
- 14.5 Where, in exceptional circumstances, a Cabinet Member or officer is unable to attend on the required date, then the Chair of the relevant Overview and Scrutiny Management Committee/panel shall, in consultation with the Member or officer, arrange an alternative date for attendance to take place as soon as practicable from the date of the original request.
- 14.6 Where a Cabinet Member in response to a request from the Overview and Scrutiny Management Committee/Panels refuses to attend or fails to confirm that they will be that they will be present, the Leader will attend to explain the reasons for the Cabinet Member's absence.

## **15. Attendance by others**

- 15.1 Once an issue has been agreed for consideration, terms of reference shall be agreed which identify the aims and objectives of the review, the lines of enquiry to be pursued, how the review will be carried out, and who shall be invited to participate in the consideration of the issue.
- 15.2 The Overview and Scrutiny Management Committee/panels shall be expected to seek to consult widely on the issues which they are considering and this would include inviting people other than those people referred to in section 14 above to discuss issues of concern and/or answer questions. This could include District Committees and Parish/Town Councils where appropriate, other public, private and voluntary/community organisations with an interest in the issue, residents and service users and may involve inviting experienced/knowledgeable individuals to attend meetings. On occasions the Overview and Scrutiny Management Committee/panels may seek the views of members of the public through a variety of consultation methods.
- 15.3 External experts and other persons identified as possible contributors shall be invited to attend meetings to give evidence and advice, but the Overview and Scrutiny Management Committee/panels cannot require them to do so and therefore their participation will be on a voluntary basis.

## **16. Decision-Making and Call-in**

- 16.1 A key function of overview and scrutiny is to hold the Cabinet to account for the discharge of its functions. Two of the principal elements of this are:
  - Scrutinising decisions which are proposed to be taken by or on behalf of the Executive, and

- Scrutinising executive decisions before they are implemented (a so-called 'call-in' mechanism)

16.2 One of the basic principles that has been important to the development of scrutiny in Kirklees is that the Council is one body and it is in the interests of all Councillors and the public that the Council makes the right decision first time. This implies a constructive role for Overview and Scrutiny, as it would be perverse to wait until the point of decision-making (or after) to raise concerns.

16.3 The roles of the Overview and Scrutiny Panels and their Chairs make it clear that they should be working with the Cabinet Member, and the Directors/ Heads of Service that report to her/him, to build up an understanding of the work programme in that portfolio, the issues that are around, and the decisions that are on the horizon.

16.4 This will mean that the Overview and Scrutiny Panel Chair and the panel will be aware at an early stage of the issues that the Cabinet/Cabinet Committee will be addressing. They must use this knowledge to identify at an early stage to the Cabinet Member the issues that they are concerned about, particularly if the work is focussed on a particular option and likely decision. Grounds for concern could include that all the options are not being explored adequately, or the proposed action is not in the best interests of the public, or there may not be adequate public consultation, or that independent professional advice is needed.

16.5 Through early involvement it should be possible to take on board the concerns of scrutiny and ensure that the right decision is taken first time. However, there may be times when differences will not be resolved, or when an item surfaces at short notice on an agenda. In these circumstances Overview and Scrutiny and non-executive councillors should follow the procedure set out below. This procedure gives Overview and Scrutiny the opportunity before a decision is taken to issue a formal 'notice of concern' which will be recorded, and after a decision is taken, but before it is implemented, to 'call-in' a decision.

16.6 It is fundamental to remember that:

- the Cabinet Member is responsible for the work programme within her/his portfolio and to determine, in consultation with the Leader of the Council, the items that will be on the Cabinet/Cabinet Committee agenda, and
- the Cabinet/Cabinet Committee has the responsibility to make decisions within its remit, and to oversee and be accountable for the taking of decisions on its behalf by officers, joint committees or area committees.

16.7 The procedure set out in this section is designed to give Overview and Scrutiny a proper role in having an overview of decision-making.

## **17. Notice of Concern - Procedure**

17.1 The Overview and Scrutiny Panel Chair will receive the Forward Plan, information about other decisions to be taken, papers in support of a decision to be considered by the Cabinet Member/Cabinet/Cabinet Committee, including the

reports containing the Cabinet Member's recommendation or details of a delegated Executive decision to be made by an officer.

- 17.2 If the Overview and Scrutiny Panel Chair or Chair of Overview and Scrutiny at this stage feels that scrutiny's concerns have not been adequately addressed or it is an item brought forward late at short notice, and the Scrutiny Panel Chair or Chair of Overview and Scrutiny is unhappy with the Cabinet Member or officer's recommendation, the Scrutiny Panel Chair or Chair of Scrutiny should issue a 'notice of concern'. This must be sent in writing to the Service Director Legal, Governance and Commissioning, the main recipient and also for information to the Cabinet Member and, if appropriate, the Chair of Overview and Scrutiny within 3 working days starting the day after the Cabinet/Cabinet Committee agenda is published and finishing at 5.30 pm on the third day.
- 17.3 If possible, all efforts should be made by a Lead Member to consult with panel members before issuing a 'notice of concern'. If not possible, there must at least be consultation with the Chair of the Overview and Scrutiny Management Committee.
- 17.4 All Councillors who are not in the Cabinet can contribute to Overview and Scrutiny and can request Overview and Scrutiny to issue a 'notice of concern'.
- 17.5 The notice must set out the grounds that cause the concern.
- 17.6 The notice will have more strength if it also indicates a proposed course of action and the further considerations that should be taken into account.
- 17.7 The Cabinet Member in consultation with the relevant member of Executive Team and the Leader of the Council will have full discretion on how to proceed. The item could be deferred for further consideration or continue on the agenda.
- 17.8 If the concerns set out in the notice of concern are adequately addressed prior to the meeting, the Overview and Scrutiny Panel Chair/Chair of Overview and Scrutiny may withdraw the notice of concern.
- 17.9 If the item is kept on the agenda for the Cabinet Member/Cabinet/Cabinet Committee, the 'notice of concern' will be indicated on the agenda. At the meeting, when that item is taken, the Service Director Legal, Governance and Commissioning will formally announce that Overview and Scrutiny had placed a 'notice of concern' on that item and the reasons given. The meeting will consider the item in the light of that knowledge.
- 17.10 Under the delegated authority of the Cabinet/Cabinet Committee the decision that is made at the meeting will be the final recorded decision, subject to the call-in procedures below. The minutes though will record the 'notice of concern'.
- 17.11 However, if the Cabinet/Cabinet Committee at its meeting had agreed an amendment to the Chair's recommendation, the Scrutiny Panel Chair/Chair of Overview and Scrutiny in consultation with panel members may, after the meeting and within 5 working days, withdraw the 'notice of concern', if it is felt that the concerns have been adequately addressed. A note will be added to the minutes to this effect.

17.12 If the decision is a delegated executive decision to be made by an officer on a specified date, then consideration must be given to the issues raised in the notice of concern prior to the decision being made. The consideration procedure set out in 17.9 and 17.10 should also be applied to the delegated executive decision. The delegated executive decision is also subject to the call-in procedures.

## **18. Call-in - procedure**

18.1 The decision summary of Cabinet/Cabinet Committee and any other executive decision will be published within 2 working days of the decision and sent to the members of the appropriate Overview and Scrutiny Panel – e.g. this will be the Friday following a Cabinet Meeting on Wednesday.

18.2 There will be a standard period of 5 full working days (commencing the next working day following the day the decision is taken and ending at 5.30 p.m. on the fifth working day) before decisions can be implemented (eg call in period will end at 5.30 p.m. on Tuesday following a Cabinet/Cabinet Committee meeting the previous Tuesday). A decision can be called-in only during this period.

18.3 To call in an executive or a delegated executive decision, the following will apply:-

- (i) written notice must be given to the Service Director Legal, Governance and Commissioning as the main recipient, with a copy for information to the Chief Executive and the Chair of the Overview and Scrutiny Management Committee. An electronic pro-forma and guidance information will be made available from the Governance Team to make this easier.
- (ii) The notice shall (where possible) include supporting evidence and reasons to illustrate how the decision making principle(s) have been breached
- (iii) the validity of a call in request will be considered and determined by Service Director, Legal Governance and Commissioning in consultation with the Chair of Overview and Scrutiny.

18.4 A decision can be called in by:

- either, 5 non-executive Councillors
- or 2 members of the Overview and Scrutiny Management Committee, one of whom should be the Chair
- or 2 Members of the relevant Overview and Scrutiny Panel, one of whom should be the Chair

All efforts should be made to consult with the Chair of the Overview and Scrutiny Management Committee.

18.5 To be valid a call-in must be submitted in writing (on paper or electronically) on the proforma provided signed by all parties to the call in and must state the reasons for the suspension of the decision and request for a review.

18.6 When a valid written notice is received within the period referred to above, all action to implement the decision must be suspended for 2 weeks from the end of the call-in period, during which time the appropriate Overview and Scrutiny Panel must meet. If the issue that has been called-in falls between or overlaps with the responsibility of more than one panel, the Service Director Legal, Governance and

Commissioning Monitoring will take the advice of the Overview and Scrutiny Management Committee, which will determine which Panel to refer the matter to or indeed whether it should be considered by the Overview and Scrutiny Management Committee.

- 18.7 When a valid written notice is received the Service Director Legal, Governance and Commissioning will notify all Cabinet Members and the Leader of the Council. A meeting of the appropriate Overview and Scrutiny Panel will take place within two weeks of the call-in, giving notice required by Rule 4 of the Access to Information Procedure Rules. If the decision has been called-in by 5 non-executive Members they must attend, if possible, the Overview and Scrutiny Panel Meeting. At least one signatory to the call-in notice is required to be present during the call-in hearing. The Service Director Legal, Governance and Commissioning will also notify all Members that this decision has been called-in.
- 18.8 The Service Director of Legal, Governance and Commissioning, and in his/her absence the Chief Executive - shall have discretion to extend the period during which the appropriate Overview and Scrutiny Panel must meet, where in his/her opinion, exceptional circumstances so require.
- 18.9 Once signed and submitted to the Service Director of Legal, Governance and Commissioning, a Notice of Call In cannot be withdrawn unless all five signatories to the call in submit, in writing, their agreement to withdraw the call-in.
- 18.10 When the Overview and Scrutiny Panel meets it will have access to all papers considered by the decision maker. The Panel can invite witnesses appropriate to the grounds of the call in to assist them in their review of the decision. Decisions as to the individuals to be invited shall be made in consultation with the Service Director of Legal, Governance and Commissioning or in his/her absence the Chief Executive.
- 18.11 In the case of delegated executive decisions, made by an officer, the Leader/Cabinet Member is accountable for the decision (see section 16.6). However the officer who made the decision should also be present at the call-in hearing wherever possible.
- 18.12 Having considered the decision in question, the Overview and Scrutiny Panel must resolve either to
- Free the decision for implementation; or,
  - Refer it back to the Cabinet /Cabinet Committee or decision-maker with a recommendation for amendment; or,
  - In exceptional circumstances, refer the issue to the next Council Meeting if the decision is not consistent with the budget or any policy previously agreed by the council. This can only be done with advice from the relevant senior officers and the Service Director Legal, Governance and Commissioning.

If the Overview and Scrutiny Panel refers the decision back to Cabinet/Cabinet Committee with a recommendation, it will be considered at the next meeting of the Cabinet/Cabinet Committee. The Cabinet/Cabinet Committee may:

- Accept the recommendation in full or in part of the Overview and Scrutiny Panel and amend its decision accordingly;
- Decide that further work needs to be done and defer the item until this is completed. The Overview and Scrutiny Panel/non-executive members should be kept informed of the work as it progresses and be formally notified of when it is to be reconsidered;
- Not accept the view of the Overview and Scrutiny Panel and confirm its original decision;
- Refer the issue for discussion at the next appropriate Council meeting.

18.13 If the Cabinet/Cabinet Committee rejects the recommendation from the Overview and Scrutiny Panel and confirms its decision it can be implemented immediately as there is no scope for further review and challenge. Whilst unable to challenge the final decision, the outcome of called-in decisions will be reported to the next Council meeting and Scrutiny can use its time to explain its views to Council.

18.14 A decision may only be reviewed once.

18.15 Urgent decisions that require quick implementation - The right to suspend and review an executive decision cannot be exercised where the Cabinet/Cabinet Committee or the decision-maker, with the agreement of the Chair of the Overview and Scrutiny Management Committee or his/her nominee, resolves that the decision is urgent for reasons stated in the resolution.

18.16 Once decisions have been taken and recorded, and are being implemented Overview and Scrutiny has the subsequent right to programme reviews on any matters decided by the Executive.

18.17 The Chair of the Overview and Scrutiny Management Committee will be responsible in consultation with the Leader and the Chief Executive for monitoring the use of call-in and reviewing the procedure to ensure that it does not unduly defer or disrupt proper decision-making processes but rather plays its proper role in overseeing and holding to account the Cabinet/Cabinet Committee in a constructive and supportive way.

18.18 Delegated executive decisions taken by officers – If an executive decision is to be taken by an officer under the scheme of delegation, all councillors and Overview and Scrutiny will have the same rights to information and to use the procedures set out above for the call-in of decisions.

## **19. Call-in of decisions outside the budget or policy framework.**

19.1 Where the stated reason for a request for call-in made under Rule 19 is that the decision is contrary to the budget or policy framework, the procedure in Rule 19 will apply, but with the following amendments.



19.2 Before considering a request, the Overview and Scrutiny Panel must seek the advice of the Monitoring Officer and/or the Head of Governance and Democratic Services and any other relevant officer. If that advice is that the decision is not outside the framework, the Panel may either:

- Accept that advice and free the decision for implementation; or
- Decide to follow the procedure set out in Rule 19.3.

19.3 If the advice is that the decision is or may be outside the Budget or Policy Framework, the Overview & Scrutiny Panel must resolve either:

- To refer the decision to the Cabinet/Cabinet Committee, with a recommendation for amendment to comply with the budget and policy framework; or
- Refer the issue to the next Council meeting.

19.4 If the Panel refers the decision back to the Cabinet/Cabinet Committee, it will be considered at the next meeting of the Cabinet/Cabinet Committee. The Cabinet/Cabinet Committee may take any of the actions set out in Rule 18 other than to confirm its original decision.

19.5 If the decision is referred to the Council, it will be considered at the next ordinary Council meeting, or, if urgent, at an additional meeting to be called as early as practicable. The council will receive reports from the Overview & Scrutiny Panel and the Cabinet/Cabinet Committee. The council may either:

- Decide that the decision is within the existing budget and policy framework, in which case it will be freed for implementation;
- Decide that the decision is contrary to the budget and policy framework, but agree to the decision, with immediate effect; or;
- Decide that the decision is contrary to the budget and policy framework; that the council is not prepared to agree to the decision; and require the Cabinet/Cabinet Committee to re-consider the matter in accordance with the advice of the Monitoring Officer and/or Chief Finance Officer.

## **20. The Group Business Manager**

20.1 The Council views whipping as incompatible with overview and scrutiny. Therefore, the political groups shall not give any instruction to any Councillor as to how that Councillor shall speak or vote on any matter before overview and scrutiny, nor apply any sanction in respect of that Councillor should he/she speak or vote in any particular manner.

## **21. Procedure at overview and scrutiny meetings**

21.1 The Overview and Scrutiny Management Committee and its Panels are encouraged to develop less formal approaches to meetings that support the

reflection required by the Overview and Scrutiny role. In doing so the Management Committee and Standing Panels will ensure the inclusion of some basic items, such as minutes of the last meeting; declarations of interest; consideration of any decisions that have been called in; issues from the Cabinet's forward plan and/or of service delivery; responses of the Cabinet to reports of the Overview and Scrutiny Management Committee; and the business otherwise set out on the agenda for the meeting.

21.2 Where ad-hoc Panels or Councillor Call for Action Panels conduct investigations, they or the Overview and Scrutiny Management Committee may also ask people to attend to give evidence at panel meetings which are to be conducted in accordance with the following principles:

- i) that the investigation be conducted fairly and all members of the panel be given the opportunity to ask questions of attendees, and to contribute and speak;
- ii) that those assisting the panel 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.

21.3 Following any investigation or review, the Panel in consultation with the Overview and Scrutiny Management Committee shall prepare a report for submission to the Cabinet/Cabinet Committee and/or Council as appropriate and shall make its report and findings public.

## **22. Matters within the remit of more than one overview and scrutiny panel**

22.1 Where a matter for consideration by overview and scrutiny falls within the remit of one or more overview and scrutiny panels, the decision as to the best approach to take will be resolved by the Overview and Scrutiny Management Committee.

22.2 Once decided, it may be appropriate to draw on the knowledge and expertise of all panels affected by the issue and to report the outcomes to all such panels.