

# **PART 4 - OVERVIEW AND SCRUTINY**

## **A - Purpose and Procedure Rules for Overview and Scrutiny**

## Contents

<b>Rule</b>		<b>Page</b>
A1	Arrangements for the Overview and Scrutiny Panel	4-3
A2	Who may sit on the Overview and Scrutiny Panels?	4-4
A3	Co-optees	4-4
A4	Meetings of the Overview and Scrutiny Panels	4-6
A5	Quorum	4-6
A6	Chairing the Overview and Scrutiny Panels Meetings	4-7
A7	Work Programme and Budget	4-7
A8	Requests for further work to Overview & Scrutiny	4-8
A9	Agenda Items for Overview and Scrutiny Panels	4-8
A10	Policy Review and Development	4-11
A11	Reports from the Overview and Scrutiny Panels	4-12
A12	Making sure that Overview and Scrutiny Panels Reports are considered by Cabinet	4-12
A13	Rights of Overview and Scrutiny Panel Members to Documents	4-13
A14	Councillors and Officers Giving Account	4-14
A15	Attendance by Others	4-16
A16	Call-in	4-16
A17	The Party Whip	4-19
A18	Procedure at Overview and Scrutiny Panel Meetings	4-19
A19	Appropriate Panel	4-20
A20	Reports to the Council when Key Decision procedure is not followed	4-20

## **A1 ARRANGEMENTS FOR OVERVIEW AND SCRUTINY**

In accordance with the Local Government Act 2000 the Council must have at least one Overview and Scrutiny Committee.

The Council has established three Overview and Scrutiny Panels. The Terms of Reference for all Panels are specified in Part 4B.

Any Overview and Scrutiny Panel may appoint such sub-Panels as it considers necessary or appropriate to carry out, effectively, its functions. Each sub-Panel will be politically balanced, will produce Terms of Reference for agreement by the relevant Overview and Scrutiny Panel, including the period during which the sub-Panel shall meet, its membership and its proposals for investigation and reporting.

Any reference to an Overview and Scrutiny Panel in this Part shall mean any single Panel or a sub-Panel as appropriate. A reference to a Chair shall mean any Vice-Chair when the Chair is unavailable.

The three Overview and Scrutiny Panels meet in public, subject to the Access to Information rules, to discuss and make recommendations on the development of the Council's various plans and strategies, and on reports going to Cabinet and holds the Cabinet to account for its actions.

The Overview and Scrutiny Panels also have a key role in considering other matters of local concern not necessarily just within the Council's areas of responsibility but affecting the Royal Borough and its communities. Where included in the terms of reference the Overview and Scrutiny Panels also hold partner organisations to account.

In undertaking their role, the Overview and Scrutiny Panels will have the power to 'call-in' decisions of the Cabinet or any body or individual exercising executive powers.

The Corporate Overview and Scrutiny Panel will have responsibility for monitoring the budget allocated to Overview and Scrutiny each year.

Any Member of the Council (Councillor) may attend meetings of the Overview and Scrutiny Panels. Cabinet Members and Executive Directors will be expected to attend when their Cabinet reports/proposals are being considered and will be entitled to participate (in a non-voting capacity) at the invitation of the Chair.

At other times Cabinet Members will only be required to answer questions put by the Panel or to respond to call-in of a decision within their area of responsibility.

## **A2 WHO MAY SIT ON THE OVERVIEW AND SCRUTINY PANELS?**

Any Councillor, except Members of the Cabinet and the Mayor, may be a member of the Overview and Scrutiny Panels. However, no Councillor may be involved in scrutinising a decision in which he/she has been directly involved.

A Councillor can only hold the position of Chair or Vice-Chair of one Panel.

### **A3 CO-OPTEEES**

a) General

The Overview and Scrutiny Panels shall be entitled to appoint a number of people as non-voting co-optees.

b) Education Representatives

The People Overview and Scrutiny Panel, when dealing with education matters, shall include in its membership the following voting representatives:

- a) one Church of England diocese representative;
- b) one Roman Catholic diocese representative;
- c) two parent governor representatives (One to represent the primary phase and one to represent the secondary phase).
- d) one representative from the Regional Schools Commissioner

This will apply when the People Overview and Scrutiny Panel or a sub-Panel of it, being part of the local education authority, and where the Panel's functions relate wholly or in part to any education functions which are the responsibility of the Cabinet. If the Panel deals with other matters, these representatives shall not speak or vote on those other matters, except so far as the Protocol on public speaking may apply to them.

Each education representative may appoint a substitute equivalent to their qualification criteria, who may attend meetings in that capacity only:

- i) To take the place of the ordinary co-opted representative;
- ii) Where the ordinary education representative will be absent for the whole of the meeting; if the ordinary education representative arrives after the meeting has started, the appointed substitute representative shall continue and the ordinary education representative shall be present as a non-member of that body.

iii) After notifying Democratic Services by 12.00 noon on the day of the meeting of the intended substitution.

c) Crime and Disorder

The Place Overview and Scrutiny Panel may, in accordance with The Crime and Disorder (Overview and Scrutiny) regulations 2009 co-opt additional members to serve on the Panel subject to:-

- i) the person co-opted to serve shall not be entitled to vote on any particular matter, unless the Panel so determines.
- ii) the co-opted person's membership may be limited to the exercise of the Panel's powers in relation to Crime & Disorder.

The co-opted person shall not be a member of the Cabinet of the Council.

d) Parish Council representation on Place Overview & Scrutiny

The Place Overview and Scrutiny Panel shall include two further co-opted members when considering a matters of Crime and Disorder. These shall be one parish councillor representing each of the northern and southern parishes.

Co-optees and substitutes for either the northern or southern Parish Councils shall be appointed as follows:

- i. Vacancies are notified to each Parish Council by the Council
- ii. Parish Councils must submit in writing their nominations within 28 days of notification. Each Parish Council can only nominate one co-optee.
- iii. Each nomination shall include details of the proposed co-optee with a maximum 100 word supporting statement
- iv. Where more than one nomination is received then each Parish Council (in either the northern or southern Parishes) is then entitled to vote on the nominated candidates. The votes must be received within 28 days of notification.
- v. The nominee with the greatest number of votes shall be elected to the Panel as the co-optee. The nominee with the next highest number of votes shall be the substitute. In the event of a tie for either position the Chair of the Panel shall select the nominee to be appointed as co-optee to the Panel.
- vi. If only one nomination is received for either the northern or the southern parishes, the nominee will automatically be appointed as co-optee

The Panel shall be permitted to change the process of appointment as it see fits and decide the exact methodology.

Each co-optee and substitute shall remain on the Panel for a maximum period of 4 years (providing Council re-appoints at each Annual Council meeting). In the event the co-optee is absent from 2 or more meetings in any one year then the Panel may pass a resolution to remove the co-optee from the Panel.

Where a co-optee resigns then the substitute shall take the place as the co-optee on the Panel for the remainder of the term if the Panel resolves to accept the substitute. Where the substitute elects not to take up the position on the Panel, then the Panel shall seek further nominations from the Parish Councils and steps a. to f. above shall be followed. Where a substitute position is vacant then the Parish Councils shall be requested to nominate further substitutes and the process in points i to vi shall be followed.

The parish council representatives to be required to liaise with relevant parishes on a regular basis.

#### **A4 MEETINGS OF THE OVERVIEW AND SCRUTINY PANELS**

- A4.1 Each Overview and Scrutiny Panel shall ordinarily meet four times a year and the first meeting being held within 30 days of Annual Council meeting. Further meetings will be called as determined in the Work Programme. In addition, extraordinary meetings may be called from time to time as and when appropriate.
- A4.2 Further meetings of an Overview and Scrutiny Panel may be called by the Chair of the relevant Overview and Scrutiny Panel, or by agreement of the Panel following consideration of the requirements of the Work Programme.

#### **A5 QUORUM**

The quorum for an Overview and Scrutiny Panel or sub-panel shall be one quarter of the total membership of the Panel (excluding co-optees) or 3, whichever is the larger.

#### **A6 CHAIRING THE OVERVIEW AND SCRUTINY PANEL MEETINGS**

- A6.1 The Chair of each Overview and Scrutiny Panel shall be appointed by that Overview and Scrutiny Panel.
- A6.2 At the first meeting of each Panel in each year, the first order of business will be to elect a Chair and Vice-Chair.
- A6.3 In the absence of a Chair the Vice-Chair can exercise the powers of the Chair.

#### **A7 WORK PROGRAMME AND BUDGET**

- A7.1 The Overview and Scrutiny Panels will be responsible for setting the work programme ('the Work Programme').
- A7.2 In setting the Work Programme the Overview and Scrutiny Panels shall take into account the wishes of:
- A7.2.1 Members on the relevant Panel;
  - A7.2.2 Members of the Council (including those not in the largest political group);
  - A7.2.3 the Cabinet; and
  - A7.2.4 residents.
- A7.3 The Chairs of the Overview and Scrutiny Panels shall invite representations for inclusion within the Work Programme from the groups in A7.2 within 60 days of Annual Council.
- A7.4 The Chairs of the Overview and Scrutiny Panels must ensure that the Work Programme can be resourced within the budget and allocation of officer time to it. Accordingly, they shall submit the Work Programme for comment to Cabinet (in relation to executive functions) and Council (relating to Council functions) as part of its Annual Report for approval.
- A7.5 The Overview and Scrutiny Panels will have to give regard to the following when considering any requests for work to be included on the Work Programme:
- i) The appropriateness and relevance of the subject matter of any request to the functions of the Council or matters impacting on the Borough;
  - ii) The possible implications on services and available budgets;
  - iii) Whether the matter could be incorporated with any other reviews currently being undertaken or proposed to be undertaken to avoid any duplication or conflicting outcomes;
  - iv) The priority of the request for inclusion in the Work Programme and the effect the initiating of a review would have on the Panel's overall work programme.
- A7.6 A matter for inclusion in the Work Programme can include issues such as:
- i) The decision-making process has not been correctly adhered to;
  - ii) The Council's policy on a particular matter is not being achieved effectively or implemented effectively; or
  - iii) There is a genuine concern about the performance of a particular service (whether a Council provided service or that provided by a third party); or
  - iv) It is justified on the basis of Best Value; or

- v) It raises questions of significant executive matters appropriate to the Panel's terms of reference, and;
- vi) Also can include matters which affect the Council's area or residents.

- A7.7 The Overview and Scrutiny Panel will not consider:
- i) Matters not relevant to Council business or to the Royal Borough.
  - ii) Employee Industrial Relations, disciplinary or grievance matters.
  - iii) Matters which are subject to formal or statutory appeal processes or are subjudice.
  - iv) Individual cases, applications etc. such as in planning, licensing, housing, education etc.
  - v) Matters which have been subject to a decision following a formal review within the previous 6 months.
  - vi) Matters which have been considered and determined by the Overview and Scrutiny Panel or one of their sub-panels or the Council within the preceding 6 months.
  - vii) Matters which are the subject of a current review by the Council.

## **A8 Requests for further work to Overview & Scrutiny**

A8.1 Any Councillor may refer a "local government matter" to the relevant Overview and Scrutiny Panel to consider any matter relevant to the function of Overview and Scrutiny.

A8.2 Any "local government matter" referred to the Overview and Scrutiny Panel by a Member of the Council (Councillor 'Call for Action') must relate to the discharge of any function of the authority, or functions/services provided by partner organisations, affect all or part of the electoral area for which the Councillor is elected or any person who lives or works in that area, and

A8.3 The Call for Action should be an option of "last resort". In considering whether to refer to a matter in accordance with these provisions, Councillors must have regard to relevant guidance issued by the Secretary of State. A Call for Action will only be included on an Overview and Scrutiny Panel agenda if the Chair of the relevant Panel, in consultation with the Monitoring Officer, is satisfied that:

- (i) the Councillor has made all reasonable efforts to resolve the matter via direct liaison with council officers and/or relevant partners; and
- (ii) the issue of concern is a matter in respect of which the Council has a statutory power or duty and is not precluded by adopted Council policy or legislation; and
- (iii) the issue of concern has a demonstrable impact on a part or the whole of the Councillor's ward

and accordingly information to support the above matters should accompany the Call for Action request.

A8.4 The Call for Action cannot be:

- a) any matter which is a local crime and disorder matter (within the meaning of section 19 of the Police and Criminal Justice Act 2006 (c.48)); or
- b) any matter relating to a planning decision; or
- c) any matter relating to a licensing decision; or
- d) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment; or
- e) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of an Overview and Scrutiny Panel.

A8.3 An excluded matter does not fall within the description of (b) to (d) above if it consists of an allegation that a function for which the Council is responsible has not been discharged at all or that its discharge has failed or is failing on a systematic basis, notwithstanding the fact that the allegation specifies or refers to a planning decision, a licensing decision or a matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to review or right of appeal conferred by or under any enactment.

A8.4 If the Chair, on advice from with the Monitoring Officer, rejects the Call for Action the Councillor who made the request shall be provided with reasons for the decision.

A8.5 A valid Call for Action will be considered at the next ordinary meeting of the relevant Overview and Scrutiny Panel or at a special meeting of that Panel within 28 days of validation whichever is the sooner.

A8.6 The subject matter of the Call for Action will be the subject of a report from the relevant Director, with such supporting information and evidence as is reasonably available. If the matter also or exclusively entails consideration of information held by another public body or partner, an appropriate representative shall be invited to the Overview and Scrutiny Panel meeting to provide that information, make representations and answer questions.

A8.7 The Call for Action will be considered by the Overview and Scrutiny Panel in public session unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Access to Information Procedure Rules of the Constitution.

A8.8 The Councillor who referred the matter under A8.1 above may address the Overview and Scrutiny Panel in respect of the Call for Action for up to **10 minutes**.

- A8.9 The relevant Overview and Scrutiny Panel may also consider representations from any residents of the ward affected by the Call for Action, subject to the discretion of the Chair.
- A8.10 If the Call for Action concerns issues that fall within the remit of the Cabinet, the relevant Cabinet Member shall also attend the Overview and Scrutiny Panel to answer questions and make any representations.
- A8.11 The Overview and Scrutiny Panels shall also respond, as soon as its Work Programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet, to review particular areas of Council or any activity of any third party who provides services to or on behalf of the Council.
- A8.12 When the matter has been considered, the relevant Overview and Scrutiny Panel shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Panel in accordance with the provisions of Rule 4 A11.

#### **A9 Agenda Items for Overview & Scrutiny Panel.**

- A9.1 Any Member of an Overview and Scrutiny Panel shall be entitled to give notice to the Scrutiny Officer that he/she wishes an item relevant to the functions of that Panel or a subpanel to be included on the agenda for the next available meeting of the Panel or sub-panel. On receipt of such a request the Scrutiny Officer will ensure that it is compliant with the requirements of rule A7.3- A7.7 and within the terms of reference for the Panel.
- A9.2 Any member of the Council shall be entitled to give notice to Democratic Services that they wish for an item relating to a Councillor Call for Action to be included on the agenda for discussions at a meeting of the relevant Overview and Scrutiny Panel. All such requests must relate to a "local government matter" and should not be an "excluded matter" as outlined in A7.5 above.
- A9.3 Any such request must be in writing and signed by the Councillor and be submitted to the Scrutiny Officer. It must give details as to the reason(s) why the request to have the matter considered has been made.
- A9.4 The Scrutiny officer shall consult the Chair of the relevant Overview and Scrutiny Panel and the Monitoring Officer to determine whether the request for the Councillor Call for Action is valid under A7.3-A7.7.
- A9.5 Where a meeting of the relevant Overview and Scrutiny Panel is already scheduled and the request has been received no later than 15 clear working days before the date of the relevant Overview and

Scrutiny Panel (other than in cases of urgency and as agreed by the Chair, on advice from the Monitoring Officer) then the item will be added to the agenda. At the meeting the Overview and Scrutiny Panel will consider whether and how to take the item forward in light of the Panel's Work Programme, including whether a review should be undertaken by it or by a sub-panel, including a panel established specifically to consider the matter referred to the Overview and Scrutiny Panel.

A9.6 Where no Panel is scheduled then the Scrutiny Officer will call a meeting of the relevant Panel within 28 days of receipt of the request.

## **A10 POLICY REVIEW AND DEVELOPMENT**

- a) The role of the Overview and Scrutiny Panels in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, an Overview and Scrutiny Panel may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- c) The Overview and Scrutiny Panels may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so within the budget allocated to the Panels.

## **A11 REPORTS FROM OVERVIEW AND SCRUTINY PANELS**

- a) All formal reports from subpanels of the Overview and Scrutiny Panels will be reported to the Overview and Scrutiny Panel before submission to the Cabinet or the Council except in special circumstances with the agreement of the Chair or Vice-Chair of the relevant Overview and Scrutiny Panel.
- b) Once the Panels have formed recommendations on proposals for development (or received recommendations from its subpanel), the relevant Overview and Scrutiny Panel will prepare a formal report and submit it to the Scrutiny Officer for consideration by Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or by Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

- c) If any of the Overview and Scrutiny Panels cannot agree on one single final report to the Council or Cabinet as appropriate, then this fact will be noted on the report, with a brief description of the areas of difference, and submitted for consideration by the Council or Cabinet.
- d) The Cabinet shall initially consider the report of any Overview and Scrutiny Panel within **one** month of it being submitted to the Scrutiny Officer. Council shall consider it at the next programmed ordinary meeting.

**A12 MAKING SURE THAT OVERVIEW AND SCRUTINY PANELS REPORTS ARE CONSIDERED BY CABINET**

- a) The agenda for Executive meetings shall include as an item any issues or reports received from Overview and Scrutiny Panels when required.
- b) Once Overview and Scrutiny has completed its deliberations on any matter, it will forward a copy of its final report to Democratic Services who, in accordance with the Constitution, will forward it to either or both the Cabinet and the Council for consideration, according to whether or not the report would have implications for the Council's Budget and Policy Framework. If the report is referred to the Council, a copy will also be sent to the Leader. The Cabinet will have **eight** weeks from the date it is copied to the Leader, in which to respond to the Overview and Scrutiny Panel's report and the Council shall not consider it within that period. The Cabinet's consideration shall be at a public Cabinet meeting where either the report is considered or if the Cabinet had already scheduled a report on the matter itself, the two can be considered together.
- c) When the Council meets to consider any referral from the Overview and Scrutiny Panel on a matter that would impact on the Budget and Policy Framework, it shall also consider the response of the Cabinet to the Overview and Scrutiny Panel.
- d) If the Cabinet, for whatever reason, fails to consider the Overview and Scrutiny Panel's report within eight weeks, it will be referred to Council for review and to make a recommendation to Cabinet.
- e) The Overview and Scrutiny Panels will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Panel following a consideration of possible policy/service developments, the Panel will be able to respond in the course of the Cabinet's consultation process in relation to any decision.

- f) Where the Cabinet has delegated decision-making power to a subcommittee of Cabinet, another individual Member of the Cabinet or an officer then the Overview and Scrutiny Panel will submit a copy of their report to him for consideration. The individual(s) with delegated decision-making power must consider the report and respond in writing to the Overview and Scrutiny Panel within four weeks of receiving it. A copy of the written response to it shall be sent to the Monitoring Officer and the Leader. The individual may also be requested to attend a future meeting of the relevant Overview and Scrutiny Panel to present their response.

### **A13 RIGHTS OF OVERVIEW AND SCRUTINY PANEL MEMBERS TO DOCUMENTS**

- a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 8 of this Constitution.
- b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Panel as appropriate depending on the particular matter under consideration.

### **A14 MEMBERS AND OFFICERS GIVING ACCOUNT**

- a) The Overview and Scrutiny Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions relevant to the individual Panel's terms of reference. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Cabinet, the Head of Paid Service, Chief Officer and/or Deputy Chief Officer to attend before it to explain in relation to matters within their remit:
  - i) any particular decision or series of decisions;
  - ii) the extent to which the actions taken implement Council policy; and/or
  - iii) the delivery of services within their areas of responsibility in accordance with the Policy and Budget Framework.

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

- b) Where any Councillor or Officer is required to attend an Overview and Scrutiny Panel under this provision, the Chair of the Panel will inform the Monitoring Officer. The Monitoring Officer shall inform the Councillor or Officer in writing giving at least ten working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she

is required to attend to give account and whether any papers are required to be produced for the Panel. Where the account to be given to the Panel will require the production of a report, then the Councillor or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

- c) Where, in exceptional circumstances, the Councillor or Officer is unable to attend on the required date, then the Overview and Scrutiny Panel shall, in consultation with the Councillor or Officer, arrange an alternative date for attendance to take place within a maximum of ten working days from the date of the original request.
- d) Councillors and Officers are required to assist the Panel's fully and should answer questions openly and honestly. However, questions should not be asked, or answers given about matters that are exempt from the scrutiny request procedure. They may decline to answer only where they feel that a reply would be inappropriate or injurious for legal or confidentiality reasons. The Councillor or Officer should give a reason if they do decline to reply.
- e) Subject to the rules in respect of confidential or exempt information, all questions will be put and answered in public. However, it is presumed that a matter is not confidential unless there are demonstrable and justifiable reasons for it being so.
- f) Although a full account of their actions should be given, Officers' comments should be consistent with the principles of officer professionalism and political neutrality. Officers should not give their individual views or judgements on matters of political controversy or policy. In those instances, the questions should be referred to the appropriate Cabinet Member to answer. However, Officers will be required to give their expert views on an issue under consideration if it is based on their qualifications, expertise or experience.
- g) The question process is an opportunity for Members of the Overview and Scrutiny Panel to obtain information or explanation about executive decisions on proposals and not to criticise or comment on judgement exercised or the conduct of the Councillor or Officer. The Scrutiny question must be confined to a question and should not include unnecessary or extraneous comment.
- h) The Overview and Scrutiny Panels cannot and should not act as a disciplinary tribunal and questions should not be directed to the conduct of individual Councillors/Officers. Questions should be asked in a manner that avoids negative or detrimental interrogation. There are other procedures in place for undertaking

formal investigations of improper conduct by Councillors and officers. (See also the Councillor/Officer Protocol, Part 7D).

- i) All questions asked by a Member of a Panel must be directly relevant to the subject matter under consideration at that meeting and as outlined in the notice given to the Councillor or officer.
- j) The Councillor or officer must be allowed to reply without interruption and to submit any information they consider necessary, whether oral or written, in order to adequately respond to any questions.
- k) Supplementary questions may be asked but a question shall not be pursued once the Councillor/officer has indicated that they consider they have given a full and final reply and the Chair is satisfied that they have done so.
- l) Questions and replies shall be recorded by the clerk at the meeting and, where considered appropriate, will be included within the formal minute or record of the meeting. The Chair, a Questioner or the Councillor/officer may ask for confirmation of the note taken of any question or reply at the time the question is asked or the answer given or immediately afterwards.
- m) The Chair of the Panel will decide at which point the asking of questions has been completed and will advise the Councillor/Officer that they are free to leave should they wish to do so. No debate will take place on any question or reply until all questions have been put and answered.
- n) Nothing in this protocol will prevent the normal attendance at the Overview and Scrutiny Panels of Councillors or officers to give advice, information or views as they would usually do, or prevent the Panel from inviting such attendance.

## **A15 ATTENDANCE BY OTHERS**

A15.1 The Overview and Scrutiny Panel may invite people other than those people referred to in Rule A14 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Councillors and officers in other parts of the public sector and shall invite such people to attend.

A15.2 Arrangements have been made to facilitate the scrutiny of matters relating to health and health services in accordance with the Health and Social Care Act 2001 and the attendance at meetings of appropriate health services' staff.

A15.3 Arrangements with significant partner organisations who deliver services to residents on behalf of or at the request of the Council may

include provisions requiring senior officers of the partner organisation to appear before an Overview and Scrutiny Panel. The provisions of Rule A14 apply to such attendance.

## **A16 CALL-IN**

- a) When a decision is made by the Cabinet, an individual member of the Cabinet, a committee of the Cabinet, or a Key Decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. Members of the Overview and Scrutiny Panel will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of **5** clear working days after the publication of the decision, unless decision is called in under the provisions below. If a call-in is received within the 5 day period, implementation is deferred until the executive decision-taker has had the opportunity to re-consider the decision.
- c) During that period:
  - (i) Any 3 Members of the Council (one of whom must be a voting member of the relevant Overview and Scrutiny Panel within whose remit the decision falls); or
  - (ii) Any 5 Members of the Council

may sign a notice requesting that the decision is called in and submit the notice to Democratic Services to call-in the decision for scrutiny. Democratic Services shall then notify the decision-taker of the call-in. They shall call a meeting of the relevant Panel on such date after consultation with the Chair of the relevant Panel, and in any case within 10 clear working days of receipt of the decision to call-in.

- d) Those Councillors requesting call-in should specify the reason for the call-in when making the request. Call-in should only be used in exceptional circumstances. These are where non-Executive Councillors have evidence that suggests that the Executive did not take the decision in accordance with the principles set out in Article 12.2:

These are:

- proportionately (the action must be proportionate to the desired outcome);

- due consultation and the taking of professional advice from Officers;
- consideration of the legal and financial implications
- respect for human rights and consideration of all other relevant duties, e.g. equalities;
- a presumption to favour of openness and inclusive decision-making;
- clarity of aims and desired outcomes in compliance with the Council's adopted Plans and Strategies;
- the giving of reasons for the decision and the proper recording of those reasons

Where appropriate, the call-in should specify if the decision is considered to be:

- i. contrary to the Policy Framework; or
- ii. not consistent with the authorised Budget.

Councillors should specify in the call-in the relevant part of the Policy Framework or Budget which the decision is considered to be inconsistent.

- e) At the meeting that the Call-in is considered, the relevant Panel will make one of the following decision:
  - i. to take no further action, in which case the decision will take effect immediately;
  - ii. to refer the decision back to the decision-maker for re-consideration, setting out the nature of the Panel's concerns. The decision-maker must then re-consider the matter, taking into account the concerns of the Overview and Scrutiny Panel, before making a final decision. In the case of Cabinet as the decision maker, the Leader can call a Cabinet meeting within 5 working days to expedite the process or refer the item to the next appropriate scheduled meeting. In the case of any decision maker, consideration must take place within a maximum of 28 days;
  - iii. if the decision is considered to be outside of the budget or policy framework, to refer the matter to next scheduled ordinary full Council or an extraordinary full Council meeting within 28 days if appropriate., in which case paragraph (g) below will apply;
- f) If, following a call-in, the Overview and Scrutiny Panel does not meet within 10 clear working days of receipt of the decision to call-in, or does meet but does not refer the matter back to the decision making person or body, or Full Council under iii above, the decision shall take effect immediately.

- g) If the matter was referred to Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's view on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider within 5 clear working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 clear working days of the Council request.
- h) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- i) **Exceptions to this procedure:-**  
In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
- i) That each Overview and Scrutiny Panel may only consider two call-in requests per Cabinet meeting and only in relation to the remit or service areas that the Panel is responsible for;
  - ii) That Call-in can be invoked in respect to a decision only once;
  - iii) For the purposes of calculating how many 'call-ins' have been made by any one Panel, the call-in under Part 3B7 and Part 4 A16 will be taken together so that, for example, a call-in under either Part 3B7 or Part 4 A16 counts towards the two permitted under Part 4 A16 i)
  - iv) Where a matter has been referred to more than one Panel or where the matter may fall under the remit of more Panel, then it shall be considered by a single Panel as determined under rule A19;
  - v) No decision due to be referred to Council for final approval e.g. the Budget may be called in.

j) **Call-in and Urgency**

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 likely to be caused by the call-in process would seriously prejudice the Council's or the public interest. The record of the decision, and the notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the relevant Overview and Scrutiny Panel must agree that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Mayor's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required.

Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- k) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

**A17 THE PARTY WHIP**

When considering any matter in respect of which a Member of any of the Overview and Scrutiny Panels or one of its subpanels is subject to a Group instruction as to how to vote on the matter, the Member must declare the existence of the instruction and the nature of it before the commencement of the Panel's deliberations on the matter. The declaration, and the detail of the instruction shall be recorded in the minutes of the meeting.

**A18 PROCEDURE AT OVERVIEW AND SCRUTINY PANEL MEETINGS**

- a) Overview and Scrutiny Panels shall consider the following business:
- i) Minutes of the last meeting.
  - ii) Declarations of interest (including whipping declarations).
  - ii) Consideration of any matter referred to the Panel for a decision in relation to call in of a decision.
  - iv) Receive reports from relevant Overview and Scrutiny Panels (or sub-panels)
  - v) Responses of the Cabinet to reports of the Overview and Scrutiny Panel.
  - vi) The business otherwise set out on the agenda for the meeting.

- b) Where a relevant Overview and Scrutiny Panel conducts investigations and detailed work (e.g. with a view to policy decisions), the Panel may also ask people to attend to give evidence at the 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.
- c) Following any investigation or review, the Panel shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.
- d) Where the relevant Overview and Scrutiny Panel considers a call-in request, the format of the meeting will be as follows:
  - i. After the Chair opens the meeting the Councillors who asked for the decision to be called in will be asked to explain their reasons for the request and what they feel should be reviewed;
  - ii. on matters of particular relevance to a particular ward, ward division Councillors who are not signatories to a call-in have the opportunity to make comments on the call-in at the meeting, such speeches not to exceed five minutes each. Ward Councillors will take no further part in the discussion or vote. Ward Councillors must register their request to speak by contacting Democratic Services by 12 noon on the day prior to the relevant hearing;
  - iii. the relevant Cabinet Member for the portfolio (or holders if more than one is relevant) will then be invited to make any comments;
  - iv. the relevant Executive Director or their representative will advise the Panel on the background and context of the decision and its importance to achieving Service priorities;
  - v. Panel Members will ask questions of Councillors and officers in attendance; and
  - vi. the Cabinet Member(s) will be invited to make any final comments on the matterbefore the Panel votes on a decision.

## **A19 APPROPRIATE PANEL**

Where a matter for consideration by an Overview and Scrutiny Panel also falls within the remit of one or more other Overview and Scrutiny Panels, the decision as to which Overview and Scrutiny Panel will consider it will be resolved by the Chair of the Corporate Overview and Scrutiny Panel on advice from the Monitoring Officer.

## **A20 REPORTS TO THE COUNCIL WHERE THE KEY DECISION PROCEDURE IS NOT FOLLOWED**

A20.1 Where an executive decision has been made and

(a) was not treated as being a key decision; and

(b) the relevant Overview and Scrutiny Panel are of the opinion that the decision should have been treated as a key decision,

the Overview and Scrutiny Panel may require the decision maker which was responsible for the decision to submit a report to full Council within such reasonable period as the Panel may specify.

A20.2 A report under paragraph A20.1 must include details of:-

- (a) the decision and the reasons for the decision;
- (b) the decision maker by which the decision was made; and
- (c) if the Cabinet are of the opinion that the decision was not a key decision, the reasons for that opinion.

# **PART 4 - OVERVIEW AND SCRUTINY**

## **B - Terms of Reference for Overview and Scrutiny**

## **B. Terms of Reference for Overview and Scrutiny Panels**

### **B1 Terms of Reference**

The Council will appoint three Overview and Scrutiny Panels which will together and singly discharge the functions conferred by Section 21 of the Local Government Act 2000, regulations under Section 32 of the Local Government Act 2000 and subsequent amendments, Section 244 of the NHS Act 2006 the Police and Justices Act 2006, Local Government and Public Involvement in Health Act 2007 and the Local Democracy, Economic Development and Construction Act 2009.

Each Panel and any sub-panels shall be politically balanced in accordance with section 15 of the Local Government Act 2000.

### **B2 General role**

The Overview and Scrutiny Panels may:

- i) Review and/or scrutinise decisions to be made by Cabinet and made by it or actions taken in connection with the discharge of any of the Council's functions.
- ii) Make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions.
- iii) Consider any matter affecting the area or its inhabitants that falls within the remit of the council.
- iv) Exercise the right to call-in, for reconsideration, executive decisions made in respect of which no steps have been taken to implement the decision.
- v) Assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of the draft plans and policy issues to be submitted to Council.
- vi) Conduct such necessary research and investigation in the analysis of the policy issues and the possible options for the plans to be submitted to Council as above.
- vii) Question relevant Members of Cabinet and the relevant Chief Officers about issues and proposals affecting the area.
- viii) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interest of local people are enhanced by collaborative working.
- ix) Review and scrutinise the decisions to be made by Cabinet and which have been made by the Cabinet and Council officers both in relation to individual decisions and over time.
- x) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- xi) Question Members of the Cabinet and Directors about their decisions, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
- xii) Make recommendations to the Cabinet and/or Council arising from the outcome of the Scrutiny process.

- xiii) Review and scrutinise the performance of the relevant bodies in the area and invite reports from them to address an Overview and Scrutiny Panel and local people about their activities and performance.
- xiv) Question and gather evidence from any person or organisation (with that person/organisation's consent).
- xv) Consider any petitions referred to the Panel in accordance with the Council Petitions Protocol.
- xvi) Work to ensure that communities are engaged in the scrutiny process; and consider and implement mechanisms to encourage and enhance community participation in the development of policy options.

### **B3. Finance.**

In carrying out its activities, the Overview and Scrutiny Panels will operate within such budget and allocation of officer time as the Council shall provide.

### **B4. Annual report.**

The Overview and Scrutiny Panels will report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

### **B5 Proceedings of the Panels**

The Overview and Scrutiny Panels will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4A of this Constitution.

### **B6. Membership & Roles of Responsibility**

The membership of the Panels is as set out in the following table. The Role and Scope of each Overview and Scrutiny Panel is set out in general terms within Article 10 of this Constitution. The specific role of scope for each relevant panel is as follows:

<b>Panel and Membership</b>	<b>Role and Scope</b>
People O&S Panel (11 members) Co-Optees - 2 voting church and parent governor representatives for education matters only	The Panel will consider the following service areas: <ul style="list-style-type: none"> <li>• Adult Services</li> <li>• Children's Services</li> <li>• Environmental Health</li> <li>• Housing</li> <li>• Public Health</li> </ul> The People Overview & Scrutiny Panel shall have powers to deal with routine matters within the functions relating to Adult Social Care, Adult Services general and Public Health Services. The Panel shall have the enhanced review and scrutiny powers in line with provisions in

<b>Panel and Membership</b>	<b>Role and Scope</b>
	<p>Health and Social Care Act 2012, including power of referral to the Secretary of State for Health. In the event of a proposed referral to the Secretary of State for Health, a report shall be submitted to Council for information, prior to submission.</p> <p>All matters relating to Children's Services, Schools and Education generally.</p> <p>In addition to the Panel's broad terms of reference, the Panel will be responsible for ensuring the local authority fulfils its safeguarding responsibilities, including child sexual exploitation. This needs to include children's social care and education provision.</p> <p>The Panel will be responsible for the overview and scrutiny of the following within the remit of the Panel:</p> <ol style="list-style-type: none"> <li>1 To consider the Council Plan and Key Decisions and to monitor performance against these plans</li> <li>2 To deal with petitions when referred to Overview &amp; Scrutiny in accordance with the Council's Petition Protocol</li> <li>3 To consider the Council's annual budget</li> <li>4 To assist the Cabinet in the development of the Council's annual budget and to review and scrutinise budgetary management</li> <li>5 To prepare the annual report to Council.</li> <li>6 To issue the invite for scrutiny suggestions to the residents, members and the Cabinet.</li> <li>7 To determine the Overview and Scrutiny Work Programme</li> <li>8 The effective reporting and control of Council activities</li> </ol>
Place O&S Panel (11 members)	<p>The Panel will consider the following service areas:</p> <ul style="list-style-type: none"> <li>• Planning</li> </ul>

<b>Panel and Membership</b>	<b>Role and Scope</b>
<p>Co-Optees – 2 non-voting representatives from the north and south parishes for Crime and Disorder matters only</p>	<ul style="list-style-type: none"> <li>• Neighbourhoods</li> <li>• Infrastructure, Sustainability and Economic Growth</li> <li>• Health Partnerships and Community Development</li> </ul> <p>In addition, when considering matters of crime and disorder the Panel's main objective is to ensure that the Community Safety Partnership is held accountable for the discharge of its executive functions, to enable the voice and concerns of the public and its communities to be heard and drive improvement in public services. In addition to the Panel's broad terms of reference as detailed above, the Panel will be responsible for the overview and scrutiny of the following:</p> <ul style="list-style-type: none"> <li>• to consider the effectiveness of actions undertaken by the responsible authorities on the Community Safety Partnership ('CSP');</li> <li>• make reports or recommendations to Cabinet/Council with regard to those policies developed by the CSP and the effectiveness of the functions managed through the CSP.</li> <li>• to consider a number of issues in consultation with the relevant partners on the CSP which reflect local community need and make recommendations to Cabinet</li> </ul> <p>The Panel will be responsible for the overview and scrutiny of the following within the remit of the Panel:</p> <ol style="list-style-type: none"> <li>1 To consider the Council Plan and Key Decisions and to monitor performance against these plans</li> <li>2 To deal with petitions when referred to Overview &amp; Scrutiny in accordance with the Council's Petition Protocol</li> <li>3 To consider the Council's annual budget</li> <li>4 To assist the Cabinet in the development of the Council's annual budget and to review and scrutinise budgetary management</li> <li>5 To prepare the annual report to Council.</li> <li>6 To issue the invite for scrutiny suggestions to the residents, members and the Cabinet.</li> <li>7 To determine the Overview and Scrutiny Work</li> </ol>

<b>Panel and Membership</b>	<b>Role and Scope</b>
	<p>Programme</p> <p>8 The effective reporting and control of Council activities</p>
<p>Corporate O&amp;S Panel (11 members)</p>	<p>The Panel will consider the following service areas:</p> <ul style="list-style-type: none"> <li>• Finance</li> <li>• Revenues and Benefits</li> <li>• Library and Resident Services</li> <li>• Human Resources</li> <li>• Information Technology</li> <li>• Legal Services</li> <li>• Governance</li> <li>• Strategy</li> <li>• Communications</li> <li>• Transformation</li> <li>• Commissioning and Procurement</li> </ul> <p><u>Corporate Overview</u></p> <p>The Panel will be responsible for the overall corporate overview and scrutiny of the following:</p> <ol style="list-style-type: none"> <li>1 To consider the Council Plan and Key Decisions and to monitor performance against these plans</li> <li>2 To deal with petitions when referred to Overview &amp; Scrutiny in accordance with the Council's Petition Protocol</li> <li>3 To consider the Council's annual budget</li> <li>4 To assist the Cabinet in the development of the Council's annual budget and to review and scrutinise budgetary management</li> <li>5 To prepare the Panel's annual report to Council.</li> <li>6 To issue the Panel's invite for scrutiny suggestions to the residents, members and the Cabinet.</li> <li>7 To determine the Panel's Overview and Scrutiny Work Programme</li> </ol>

<b>Panel and Membership</b>	<b>Role and Scope</b>
	<p>8 The effective reporting and control of Council activities</p> <p>9 Key projects and their planning, implementation and delivery (where such projects do not relate to the remit of another Overview and Scrutiny Panel)</p> <p><u>Performance Overview</u></p> <p>(a) To monitor the performance of the Council as a whole and in respect of particular services as the Panel or Cabinet may from time to time identify for service improvement.</p> <p>(b) To monitor the Council's performance in respect of</p> <ul style="list-style-type: none"> <li>(i) such national and local performance indicators as the Panel considers appropriate</li> <li>(ii) delivery of outcome improvement plans in respect of reviews undertaken and make recommendations on areas requiring service improvement and on setting targets to deliver such improvements</li> <li>(iii) the effectiveness of performance reporting to enable the Directors and Heads of Service, the Cabinet and the Overview and Scrutiny Panels to perform their management, governance and overview and scrutiny roles respectively</li> </ul> <p>and make recommendations on areas requiring service improvement and on setting targets to deliver such improvements.</p> <p>(c) To consider and make recommendations in respect of external reviews and inspections of Council Services.</p> <p>(d) To monitor the partnership arrangements in which the Council is involved including but not restricted to:</p> <ul style="list-style-type: none"> <li>- Governance arrangements</li> <li>- any inspections or reviews undertaken in respect of partnership arrangements</li> </ul> <p>e) To receive and consider reports on the Council's negotiations to agree Local Area Agreements (LAA) and to monitor performance towards achieving the agreed targets.</p>

## **B7 Responsibilities of Councillors in Overview and Scrutiny**

### **B7.1 Chairs of Relevant Scrutiny Panels**

Chairs of Overview and Scrutiny Panels will:

1. Chair meetings of the relevant Overview and Scrutiny Panel;
2. provide strong, fair leadership and clear guidance to Councillors and officers in relation to Scrutiny functions;
3. have overall responsibility for the direction of scrutiny in the Council in their area of responsibility, and for ensuring that an appropriate annual scrutiny Work Programme is set;
4. continuously monitor and evaluate the relevance of the annual Scrutiny Work Programme;
5. review, challenge and question the implementation of agreed policy and service delivery, and make recommendations to the Cabinet and Council to improve policy, performance and service delivery;
6. develop a clear understanding of the terms of reference of their Panel, the scope and range of the areas for which it is responsible, and the Council policies in respect of those areas;
7. ensure the work of their panel contributes to the delivery of continuous improvement in services and implementation of best practice;
8. review all agendas for scrutiny panel meetings, to take a lead in developing a forward agenda, and to ensuring it is adhered to;
9. meet on a regular basis and consult with relevant Councillor to advise them of progress in the work of their Overview and Scrutiny Panel, discuss issues arising from the scrutiny process, and note action being taken by the relevant Cabinet Members to address the concerns of their Overview and Scrutiny Panel;
10. seek to involve all Overview and Scrutiny Panel Members in the work of their Panel;
11. lead on the preparation of the Panel's annual report and present the Panel's final report to full Council, and if required the Cabinet.
12. ensure that Scrutiny fulfils its review function;
13. ensure that Cabinet Members are briefed at the appropriate time on significant issues, that is those that may
  - (a) impact on established policy.
  - (b) have major resource implications

- (c) be contentious

### **B7.3 Overview and Scrutiny Panel Members**

All Members of the Overview and Scrutiny Panels will:

14. regularly attend meetings of the Overview and Scrutiny Panel or its Sub-Panels as appropriate;
15. play a major role in policy development and review;
16. hold the Cabinet to account as appropriate, to ensure continuous improvement in services by:
  - (i) reviewing and scrutinising the decisions made by and performance of the Cabinet and/or committees and Council Officers;
  - (ii) reviewing and scrutinising the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas; monitoring performance against strategy;
17. scrutinise the effectiveness and performance of partnerships;
18. scrutinise the performance as appropriate of the third sector (voluntary and community) as a service provider;
19. respond to community calls for action where required;
20. contribute to regional scrutiny arrangements as appropriate, such as NHS, regional agencies;
21. to evaluate whether the policies, strategies and plans the Council has adopted are, over time, actually delivering the outcomes intended for local people;
22. to actively engage with the community and local organisations to obtain their views on issues or proposals affecting the area, and if appropriate encourage their attendance at Overview and Scrutiny meetings;
23. to ensure that the Scrutiny process contributes to the promotion of community well-being and that public services are responsive to the needs of the people;
24. to review and scrutinise the performance of external agencies, by developing a partnership approach through collaborative scrutiny methods;
25. to identify areas of policy or under-performance in need of improvement, seek expert support, and provide evidence, advice, recommendations and proposals for consideration by the Council or Cabinet;

26. any other related duties, as assigned by the Chair of the Overview and Scrutiny Panel.