

Chapter 4 – Overview and Scrutiny

Part 1 – Overview and Scrutiny Procedure Rules

Local authorities must make decisions in an open and transparent way. The Council has Overview and Scrutiny Committees in place to review decisions made by the Leader and Cabinet and to contribute to policy development. In this way, Overview and Scrutiny provides checks and balances on the Council's decision-making.

This Chapter sets out the framework for Overview and Scrutiny and the details of the areas covered by the Council's Overview and Scrutiny Committees.

This Chapter 4 should be read in conjunction with the Council's Scrutiny Protocol.

1. Overview and Scrutiny Committee functions

Appointment of Overview and Scrutiny Committees

- 1.1 The Council must appoint one or more Overview and Scrutiny Committees to discharge its duty to scrutinise Executive decision-making. It may appoint as many committees as it thinks fit to discharge this function.

Terms of Reference

- 1.2 The Council will determine the terms of reference for each Overview and Scrutiny Committee and may amend them from time to time as it sees fit. The Council has resolved to establish the following Overview and Scrutiny Committees:

- (a) Corporate;
- (b) People; and
- (c) Place.

The terms of reference for each Overview and Scrutiny Committee are set out in Part 3 of this Chapter 4.

Overview and Scrutiny Committee functions

- 1.3 Each Overview and Scrutiny Committee will, in accordance with its terms of reference:
- (a) review and scrutinise decisions made, or other actions taken, in connection with the discharge of Executive Functions;
 - (b) make reports or recommendations to the Council or Cabinet with respect to the discharge of Executive Functions; and
 - (c) make reports or recommendations to the Council or Cabinet on matters affecting the Council's area or residents of that area.

Sub-Committees

- 1.4 An Overview and Scrutiny Committee may establish one or more Sub-Committees to discharge any of its functions.

2. Membership

- 2.1 The Membership of each Overview and Scrutiny Committee shall be determined by the Council.

- 2.2 Any Member, other than the Leader or a Cabinet Member, may be appointed to an Overview and Scrutiny Committee or its Sub-Committee(s).

- 2.3 The Council may determine that certain Overview and Scrutiny Committees or Sub-Committees shall be chaired by a Minority Party Member.

- 2.4 Membership of Overview and Scrutiny Committees must maintain political balance.

2.5 Number of members

- 2.6 Each Overview and Scrutiny Committee shall have **10** members, including a Chair and a Vice Chair.

- 2.7 Where an Overview and Scrutiny Committee has members who are not Councillors, the membership will be **10** Councillors plus any other members required to be appointed. This does not apply to any joint arrangements entered into by the Council.

Participation by persons who are not Councillors

- 2.8 Subject, where appropriate, to relevant provisions set out in a scheme made by the Council for such purposes and to any other relevant legislative limitations, an Overview and Scrutiny Committee may include persons who are not Councillors to act as advisers or non-voting contributors.

Education scrutiny: statutory co-opted members

- 2.9 The Overview and Scrutiny Committee responsible for education must include in its membership the following voting representatives:

- (a) 1 Church of England diocese representative;
- (b) 1 Roman Catholic diocese representative; and
- (c) 2 parent governors from maintained schools within the Council's area.

- 2.10 These representatives will be entitled to vote where the Overview and Scrutiny Committee is considering matters related to the Council's education functions. They shall not be entitled to vote on any other matter but may speak on any matter discussed by the Committee.

No substitution

- 2.11 Members of Overview and Scrutiny Committees and Sub-Committees may not appoint substitutes.

3. Meetings

Meeting schedule

- 3.1 Overview and Scrutiny Committees will meet monthly (except in August).
- 3.2 The time and place of meetings shall be as set out in the calendar of meetings approved at the Annual Meeting.
- 3.3 In addition, the Chair of each Overview and Scrutiny Committee shall have the power to call one or more special meeting(s) of the Committee of which they are the Chair.

Quorum

- 3.4 The quorum for an Overview and Scrutiny Committee meeting is **4** members who are Councillors.

Chair and Vice Chair

- 3.5 Full Council will appoint a Chair and Vice Chair to each Overview and Scrutiny Committee at its Annual Meeting.
- 3.6 Where there is a vacancy in the position of Chair, the Vice Chair shall undertake the role and responsibilities of the Chair until a new Chair is appointed by Full Council.
- 3.7 In the absence of the Chair at a meeting, the Vice Chair shall preside at the meeting.

Cancelling and postponing meetings

- 4. The Chair, or in the Chair's absence the Vice-Chair, may from time to time agree to cancel or postpone meetings if there is insufficient business to transact at that time.

5. Overview and Scrutiny Committee functions

- 5.1 Overview and Scrutiny Committees will:
 - (a) Undertake 'pre-decision scrutiny' in areas which will assist the Council and Cabinet in key areas of policy or corporate improvement. This will normally be with the agreement of the Cabinet. In extraordinary circumstances, where such agreement is either not appropriate or possible, the agreement of Cabinet will not be required.
 - (b) Investigate areas and issues of emerging concern in the Borough with a view to making recommendations to Cabinet.
 - (c) Review and scrutinise decisions made by Cabinet and/or Officers, and the impact of these decisions, both in relation to individual decisions as well as the aggregated impact of multiple decisions.
 - (d) Take a strategic approach to reviewing organisational performance against Council improvement.

6. Work programme

- 6.1 Each Overview and Scrutiny Committee will develop a work programme at the start of each municipal year, in accordance with the Scrutiny Protocol.
- 6.2 Each Overview and Scrutiny Committee work programme will include a delivery plan and timetable. The work programme must have regard to the Council's and the Committee's resources to deliver the plan and any provision for unplanned scrutiny items.
- 6.3 Work programmes must be submitted to the next available Full Council meeting for endorsement.
- 6.4 Overview and Scrutiny Committee Chairs will report progress against their work programme to Full Council every 6 months.

7. Agenda Items

- 7.1 The agenda for each Overview and Scrutiny Committee meeting will be set in accordance with the Scrutiny Protocol.
- 7.2 The order for consideration of agenda items during a meeting will be:
- (a) approval of the minutes of the previous meeting;
 - (b) declarations of interest;
 - (c) work programme action tracker;
 - (d) scrutiny work programme actions;
 - (e) reports relating to Cabinet decisions to be made (pre-decision scrutiny);
 - (f) call-in of Cabinet decisions made but not implemented; and
 - (g) unplanned scrutiny items and Member references.

8. Unplanned scrutiny business

- 8.1 Unplanned scrutiny business is an item of business that falls outside an Overview and Scrutiny Committee's work programme but which the Committee agrees to consider. This may not include items that could be considered through:
- (a) pre-decision scrutiny of Cabinet decisions; or
 - (b) call-in of a Cabinet decision made but not implemented.
- 8.2 An Overview and Scrutiny Committee member may request that an item of unplanned scrutiny business be considered by the Committee by giving notice in writing to the Scrutiny Officer not less than **7 Clear Days** before the date of the next meeting, stating the reasons for the request and the proposed outcome.
- 8.3 The Scrutiny Officer will add the request to the Committee agenda and the Committee will determine whether the item will be considered, either at:

- (a) the Committee meeting;
- (b) the next scheduled Committee meeting; or
- (c) an additional meeting held for the purpose of considering that item.

9. Matters within the remit of more than one Overview and Scrutiny Committee

Where a matter falls within the remit of more than one Overview and Scrutiny Committee, the matter will be considered by the Corporate Overview and Scrutiny Committee unless the relevant Chairs agree otherwise, in consultation with the Monitoring Officer.

10. Duration of meetings

10.1 Overview and Scrutiny Committee meetings shall have a maximum duration of **2 hours**.

10.2 At the end of the meeting, the Chair shall dispose of the remaining business as follows:

- (a) the agenda item under consideration shall conclude within **10 minutes** followed by a vote;
- (b) any remaining business shall be voted on immediately without debate; and
- (c) items not yet considered may be deferred to a future meeting.

11. Members' right of reference to an Overview and Scrutiny Committee

11.1 Any Member of the Council may, with **7 Clear Days'** notice to the Scrutiny Officer, request that an Overview and Scrutiny Committee consider a matter that is relevant to its functions, stating the reasons for the request and the proposed outcome.

11.2 There will be a standing item on the agenda of all ordinary meetings of Overview and Scrutiny Committees to allow such requests to be considered.

11.3 Any Member who submits a request will have the right to attend the meeting at which the item is to be considered to explain the reasons for the request and to have the item discussed.

12. Additional rights of access to information for Overview and Scrutiny Committee Members

12.1 Overview and Scrutiny Committees will have access to the Forward Plan of Key Decisions of the Cabinet and the timetable for decisions and intentions for consultation.

12.2 In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings, as set out in the Access to Information Procedure Rules in Chapter 8 of the Constitution.

12.3 Nothing in this paragraph shall prevent more detailed liaison between the Cabinet and Overview and Scrutiny Committees as appropriate to the matter under consideration.

13. Policy Review and Development

- 13.1 The role of Overview and Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in the Budget and Policy Framework Procedure Rules in Part 3 of Chapter 3 of the Constitution.
- 13.2 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework Budget, an Overview and Scrutiny Committee may:
- (a) consider and make recommendations to the Cabinet on any matters that are consistent with its terms of reference;
 - (b) hold enquiries and investigate the available options for future direction in policy development and appoint advisers and assessors to assist in this process, within available budgets;
 - (c) do anything which is reasonable to assist or inform its deliberations, including a general call for evidence, site visits, public surveys, public meetings and commissioning research; and
 - (d) ask witnesses to attend to address it on any matter under consideration and pay to any advisers, assessors or witnesses a reasonable fee and expenses for doing so.

14. Power to require attendance of Members and Officers to answer questions

- 14.1 An Overview and Scrutiny Committee or Sub-Committee may require Members and Officers to attend before it to answer questions. It is the duty of Members and Officers to comply with a request to attend a meeting.
- 14.2 Overview and Scrutiny Committees will seek to request the attendance of the most relevant Member or Officer, for example, the Cabinet Member or Executive Director with responsibility for the matter to be considered.
- 14.3 Attendance shall be prioritised as follows:
- (a) the Leader and/or the relevant Cabinet Member(s);
 - (b) the Chief Executive and/or the relevant Executive Director(s); and
 - (c) the relevant professional specialist(s), Assistant Director(s) or Head(s) of Service.
- 14.4 The Chief Executive will seek to ensure that the most appropriate Officer(s) attend the meeting and may suggest alternative attendees where appropriate.
- 14.5 Requests for attendance should be proportionate and should respect Members' and Officers' time and other commitments.
- 14.6 All requests for attendance at a meeting will be made through the Scrutiny Officer and will provide reasons for the request and details of the matters on which the Member or Officer will be questioned.

- 14.7 A Member or Officer is not required to respond to any question:
- (a) that falls outside the Committee's remit;
 - (b) which may be relevant to any disciplinary or other action that may be taken against them by the Council; or
 - (c) which they would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.

14.8 The Protocol for Member/Officer Relations (contained in Chapter 7 of the Constitution) and the Scrutiny Protocol shall apply to the attendance of Officers at an Overview and Scrutiny Committee or Sub-Committee meeting.

15. Attendance by others

An Overview and Scrutiny Committee or Sub-Committee may invite people other than Members and Officers (including members of the public and expert witnesses) to address them, to discuss issues of local concern, and/or to answer questions.

16. Councillor Call for Action

16.1 Councillor Calls for Action (CCfA) allow Members to refer an issue affecting their Ward to the relevant Overview and Scrutiny Committee.

16.2 Any Member may, by giving notice to the Head of Democratic and Member Services, request that such a matter is included on the agenda for, and discussed at, a meeting of the relevant Overview and Scrutiny Committee.

16.3 Members may also request that a local crime and disorder matter (as defined by the Police and Justice Act 2006) be included on the agenda for, and discussed at, a meeting of the relevant Overview and Scrutiny Committee.

16.4 Before making a CCfA, Members should refer to the Council's CCfA Protocol.

17. Annual Report

Each Overview and Scrutiny Committee will report annually to Council on the workings of the overall scrutiny function and may make recommendations for future work programmes and amended working methods if appropriate.

18. Overview and Scrutiny Committee Task and Finish Groups

18.1 An Overview and Scrutiny Committee may, in accordance with the Scrutiny Protocol, establish Task and Finish Groups to facilitate delivery of its work programme.

18.2 The rules relating to proceedings of Overview and Scrutiny Committees will apply to Task and Finish Groups.

19. The Party Whip

19.1 It is best practice not to apply a party whip to ensure that Overview and Scrutiny is an effective check and balance on Executive decision making.

19.2 All Members must declare where they are subject to the party whip when considering a matter in an Overview and Scrutiny Committee.

19.3 The declaration should be recorded in the minutes of the meeting.

20. Overview and Scrutiny planning

20.1 The Chairs and Vice Chairs of Overview and Scrutiny Committees may meet with the Cabinet and senior Officers to ensure the effective administration of Overview and Scrutiny and its work programme, and to facilitate pre-decision scrutiny.

20.2 Relevant Overview and Scrutiny Committees should also meet with NHS and Essex Police stakeholders to ensure coordination of priorities.

20.3 These meetings are not formal and have no decision-making powers.

21. The Scrutiny Officer

The Scrutiny Officer has the following statutory duties:

- (a) to promote the role of the Overview and Scrutiny Committees;
- (b) to provide support to the Overview and Scrutiny Committees and their members; and
- (c) to provide support and guidance to Members, the Leader, Cabinet and Officers in relation to Overview and Scrutiny functions.

22. Record of proceedings at Overview and Scrutiny Committee meetings

After each meeting of an Overview and Scrutiny Committee, its minutes will be published on the Council's website.

23. Attendance by the public at Overview and Scrutiny Committee meetings

Public participation in Overview and Scrutiny

23.1 Residents of the Borough and those working, studying or with a business interest in the area may participate in the Overview and Scrutiny process by:

- (a) attending meetings;
- (b) presenting petitions;
- (c) asking a question;
- (d) making a statement; or
- (e) being involved in a scrutiny investigation.

23.2 When there is a scrutiny investigation that would benefit from public participation, the Officer supporting such investigation will ensure such participation is facilitated.

Admission to and reporting of meetings

- 23.3 The rules relating to admission to and reporting of meetings in **Rule 28** of the Council Procedure Rules in Chapter 2 of this Constitution shall apply to meetings of Overview and Scrutiny Committees.

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Part 2 – Call-in

The “call-in” process allows Overview and Scrutiny Committees to scrutinise Executive decisions that have been made but not yet implemented by the Council. Decision makers must consider any recommendations made by the Overview and Scrutiny Committee before the decision is implemented.

1. Notice of Cabinet and Key Decisions

- 1.1 Notice of an Executive decision shall be published on the Council’s website within **2 Clear Working Days** of the decision being made. Members will be sent links to any published decision.
- 1.2 Any such notice shall include the date of publication and that the decision will be implemented **5 Clear Working Days** after that date, unless the decision is called in.

2. Calling in a decision

Submitting a valid call-in request

- 2.1 Any request to call in an Executive decision must:
 - (a) be submitted in writing (including by email) to the Scrutiny Officer before **5pm on the fourth Clear Working Day** after publication of notice of the relevant decision;
 - (b) be supported by any **four** Members and must cite a lead Member;
 - (c) give reasons for the call-in request and outline the alternative course of action, or recommendations, proposed; and
 - (d) not be excluded from call-in as set out in this Constitution.
- 2.2 Before deciding on the validity of a call-in request, the Scrutiny Officer may seek clarification from the lead Member cited in the call-in request. The Scrutiny Officer is not obliged to assist Members in ensuring that a call-in request is valid.

Decisions not subject to call-in

- 2.3 A decision is not subject to call-in where:
 - (a) the urgency procedures below have been followed;
 - (b) the decision has already been considered by an Overview and Scrutiny Committee before it was made (pre-decision scrutiny) and there has been no substantive change to the decision (except to accept the recommendation of an Overview and Scrutiny Committee);
 - (c) the alternative course of action and/or recommendations proposed in the call-in have already been considered and rejected;
 - (d) the Cabinet or other decision maker has given notice that it will reconsider its decision without the need for call-in (so long as the decision maker has given written notice to the Chair of the relevant Overview and Scrutiny Committee and the Scrutiny Officer); or

- (e) the call-in:
 - (i) relates to a Cabinet decision to refer a matter to Full Council;
 - (ii) relates to an operational management decision taken by Officers; or
 - (iii) is considered by the Chief Executive to be frivolous, vexatious or outside the scope of the call-in provisions.

Decisions outside the Budget and Policy Framework

2.4 Any call-in of a decision on the grounds that it is outside the Budget and Policy Framework will be dealt with under the Budget and Policy Framework Procedure Rules.

Implementation of decisions

2.5 Any decision that is not validly called in will become effective **5 Clear Working Days** after it is made.

3. Urgent decisions and waiver of call-in

3.1 The call-In procedure shall not apply where the decision being taken is urgent.

3.2 A decision is urgent if:

- (a) it is made under the urgency procedures in the Access to Information Procedure Rules;
- (b) in the opinion of the Monitoring Officer, any delay likely to be caused by the call-In process would be likely to expose the Council, the public, or other stakeholders, to a significant level of risk, loss, damage, or disadvantage; or
- (c) the Chair of the relevant Overview and Scrutiny Committee has consented to the waiver of call-in.

3.3 Where a decision is urgent, the relevant notice of publication shall state that the decision is not subject to call-in.

3.4 Where the Cabinet has recorded a decision as urgent, an Overview and Scrutiny Committee may retrospectively review actions arising from that decision but cannot delay its implementation.

4. Call-in procedure

Reference of call-in to relevant meeting

4.1 Where a valid call-in is made, the Scrutiny Officer will:

- (a) notify the decision maker and the Chief Executive that a call-in request has been made; and
- (b) determine the relevant Overview and Scrutiny Committee to consider the call-in.

4.2 The Scrutiny Officer will then, in consultation with the Chief Executive, take one of the following actions:

- (a) refer the call-in to the next relevant Overview and Scrutiny Committee meeting if it is due to take place within **7 Clear Working Days** of receipt of the call-in request; or
- (b) if (a) does not apply:
 - (i) convene an extraordinary meeting of the relevant Overview and Scrutiny Committee as soon as practicable; or
 - (ii) with the consent of the decision maker and in consultation with the Members requesting the call-in, refer the call-in for consideration at the next available scheduled meeting of the relevant Overview and Scrutiny Committee.

Members to attend meeting

- 4.3 The Members requesting call-in of a decision should attend the meeting of the relevant Overview and Scrutiny Committee to explain their reasons for the call-in and the alternative course of action or recommendations they propose.

Consideration of call-in

- 4.4 The purpose of call-in is to allow non-Executive Members to examine and consider how an Executive decision has been made and for members of the relevant Overview and Overview and Scrutiny Committee to make suggestions and recommendations to the decision maker. Overview and Scrutiny meetings provide a forum for Members to seek clarification of the decision-making process and to explore the work undertaken by Officers to support the decision.
- 4.5 Overview and Scrutiny Committee Chairs should manage their meetings effectively in line with the Scrutiny Protocol, applying Constitutional provisions, maintaining good discipline and fostering a culture of respect.
- 4.6 A representative of the Members who requested the call-in will be invited to set out the reasons for the call-in. The matter will then be discussed by the meeting, including any contributions from members of the public.

Actions after consideration

Having considered the call-in and the reasons given, the relevant Overview and Scrutiny Committee may either:

- (a) confirm the original decision, in which case, the decision will be effective from the date of confirmation;
- (b) refer the decision back to the decision maker for reconsideration, setting out in writing any recommendations, in which case, the decision maker will reconsider the decision as soon as practicable; or
- (c) refer the decision to Full Council as set out below.

5. Reference to Full Council

- 5.1 An Overview and Scrutiny Committee may refer a matter to Full Council if, in its opinion:
- (a) it is contrary to the Policy Framework;
 - (b) it is contrary to, or not wholly in accordance with, the Budget; or
 - (c) the Overview and Scrutiny Committee disagrees with the Monitoring Officer and/or the Section 151 Officers' view that the decision is legally and/or financially compliant.
- 5.2 Full Council will consider any such decision in accordance with the Budget and Policy Framework Procedure Rules.

Part 3 – Terms of Reference of Overview and Scrutiny Committees

6. Corporate Overview and Scrutiny Committee

6.1 The Corporate Overview and Scrutiny Committee will consider and hold to account the Leader, the Cabinet Member for Finance, the Chief Executive and the Section 151 Officer for the delivery of the Council improvement and recovery plans and financial strategy.

6.2 This Committee will focus on:

- (a) Council budget, Medium Term Financial Plan, Capital Programme and Budget monitoring.
- (b) Scrutiny oversight of transformation plans, assets disposal and disinvestments.
- (c) Constructive challenge to Cabinet on organisational change and development of Council policy, Corporate Plan and improvement plans to add value, through early pre-decision scrutiny and shaping, including consideration of the community impact of corporate and financial plans.

7. Matters that are considered cross-cutting and which may affect more than one Overview and Scrutiny Committee will ordinarily, and by agreement of Committee Chairs (in consultation with the Monitoring Officer, as appropriate), be referred to the Corporate Overview and Scrutiny Committee, to avoid duplication or the issue being overlooked.

8. People Overview and Scrutiny Committee

9.1 The People Overview and Scrutiny Committee will consider and hold to account the relevant Cabinet Member(s) and Director(s) for the delivery of the Council's plans and financial strategy as they relate to children and adult social care, health, education and wellbeing.

9.2 This Committee will focus on:

- (a) Children's Social Care & wellbeing, including; safeguarding, children in care, early years, childcare, learning and school effectiveness, special educational needs, and disability (SEND), school admissions, organisation and place planning and transport.
- (b) Adult Social Care, including commissioning and delivery of social care services for adults and older people, support for carers, safeguarding vulnerable adults, public health.
- (c) Health, including review and scrutiny of matters relating to the planning, provision and operation of health services in the Borough through exercising the powers under Section 244 of the National Health Service Act 2006 as amended by the Health and Social Care Act 2012, Protocol for Health Overview.

10. Place Overview and Scrutiny Committee

11.1 The Place Overview and Scrutiny Committee will consider and hold to account the relevant Cabinet Member(s) and Director(s) for the delivery of the Council's plans and financial strategy as they relate and impact on the Borough's amenities, infrastructure, local

economy, development, and community-based services, such as libraries and leisure facilities.

11.2 This Committee will focus on:

- (a) Improvement in these areas to support the Council's recovery plans, including service transformation, financial and savings targets and asset management or disposal.
- (b) Oversight and scrutiny of policy as it relates to local services, development and community well-being, prioritising overall financial recovery in these areas.
- (c) Challenge, through constructive scrutiny, of Cabinet's proposals and plans and the impact and effectiveness of proposed improvements or changes on communities and individuals.