

## PART 4.5

### OVERVIEW AND SCRUTINY

### PROCEDURE RULES

Note: Please refer to the Practice Note containing the current list of the persons referred to below as “Designated Officer”

## **CONTENTS**

<b>4.5.0</b>	<b>Introduction</b>	Page 3
<b>4.5.1</b>	<b>Meetings of the Committee</b>	Page 3
	- Rules relating to its meetings	
	- Programme of meetings	
	- Conduct of meetings	
<b>4.5.2</b>	<b>Membership</b>	Page 3
<b>4.5.3</b>	<b>Chair and Vice Chair</b>	Page 4
<b>4.5.4</b>	<b>Attendance of Officers and Members</b>	Page 4
<b>4.5.5</b>	<b>Attendance of Contributors</b>	Page 4
<b>4.5.6</b>	<b>Work Programme</b>	Page 5
<b>4.5.7</b>	<b>Relationship with the Executive</b>	Page 5
	- References to the Executive	
	- Reports and recommendations to the Executive	
	- Executive decisions contrary to policy/budget	
	- Urgent decisions contrary to policy or budget	
	- Private Meetings	
<b>4.5.8</b>	<b>Direct Reports to Full Council</b>	Page 6
<b>4.5.9</b>	<b>Rights of Councillors to put items on the agenda of the Overview and Scrutiny Committee</b>	Page 7
<b>4.5.10</b>	<b>Task and Finish Groups</b>	Page 7
<b>4.5.11</b>	<b>Call-in Arrangements</b>	Page 8
	- Procedure for scrutinising executive decisions	
	- Period within which decisions must be scrutinised	
	- Advance notification of arrangements	
	- Advance notification of information	
	- Call-in procedure at committee meeting	
	- Options for decisions	
<b>4.5.12</b>	<b>Petitions</b>	Page 11
<b>4.5.13</b>	<b>Rights of O&amp;S to documents</b>	Page 11

Part 4.5

**4.5.0 INTRODUCTION**

- 4.5.0.1 These Rules apply to the Council's exercise of overview and scrutiny functions, and meetings of the Overview and Scrutiny Committee. They do not apply to the Overview and Scrutiny Committee's Task and Finish Groups. The rules for Task and Finish Groups are contained in the Task and Finish Groups' Protocol.
- 4.5.0.2 The role of the Committee is as described in Article 2.8 and the Terms of Reference for discharging Overview and Scrutiny functions are set out in Part 3.2.3.
- 4.5.0.3 These Rules should be read specifically in conjunction with the following Procedure Rules : -
- i. Part 4.2 (Common to Cabinet and committees);
  - ii. Part 4.3 (Petitions);
  - iii. Part 4.4 (Executive Procedure Rules); and
  - iv. Part 4.6 (Access to Information Procedure Rules).
- 4.5.0.4 The "Committee" in these Rules means the Overview and Scrutiny Committee.

**4.5.1 MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEE**

**Rules Relating to its Meetings**

- 4.5.1.1 The relevant Rules Common to Cabinet and all Committees in Part 4.2 of the Constitution shall apply to the Overview and Scrutiny Committee, but not to the Task and Finish Groups.

**Programme of Meetings**

- 4.5.1.2 The Committee shall meet a minimum of four times a year in accordance with the agreed programme of meetings.

**Conduct of meetings**

- 4.5.1.3 All members of the Committee shall have the opportunity to speak and to question those required or requested to attend its meetings.
- 4.5.1.4 The Committee shall endeavour to reach consensus on the business before it and, as far as possible, shall conduct its proceedings openly and apolitically.

**4.5.2 MEMBERSHIP**

- 4.5.2.1 No member of the Cabinet may be a member of the Committee. The Committee's membership shall meet the requirements for political balance.

Part 4.5

4.5.2.2 The political groups on the Council shall endeavour, when nominating councillors to serve on the Committee, to give as many councillors as possible over a period of years the opportunity to widen their experience and learning by being appointed to the Committee.

4.5.2.3 With the exception of decisions taken by the Full Council as a whole, no councillor may be involved in scrutinising a decision which he has been directly involved in making.

4.5.2.4 The Committee may co-opt persons from outside the Council to assist it with a particular review. Those persons shall be appointed only for the duration of the review and will not have the right to vote.

**4.5.3 CHAIR AND VICE CHAIR**

4.5.3.1 The Committee's chair will normally be a member of the Opposition of the Council. The vice chair will normally be a member of the majority group.

**4.5.4 ATTENDANCE OF OFFICERS AND MEMBERS**

4.5.4.1 In carrying out its functions, the Committee may require the attendance of any councillor or senior officer to explain or discuss matters for which they are responsible or with which they are directly involved.

4.5.4.2 Cabinet Members may attend meetings as observers but may only contribute to discussions at the invitation of the chair.

4.5.4.3 Any person required to attend a meeting shall be notified by the Designated Officer at least ten working days before the meeting. The notice will state the nature of the matter on which they are required to attend and whether they need to produce any specific information. Where written material is required, reasonable time will be allowed for its preparation.

4.5.4.4 a) Where a person is unable to attend on the required date, either:  
b) an alternative date will be arranged with that person; or  
the officer or councillor will arrange for a substitute to attend in their place, if the chair of the Committee thinks it appropriate.

**4.5.5 ATTENDANCE OF CONTRIBUTORS**

4.5.5.1 Legal and Democratic Services will be responsible for inviting persons from outside the Council ("contributors") to attend meetings of the Committee, where either it or the chair (or in his absence the vice chair) has decided that their advice and experience would be of benefit to the Committee.

Part 4.5

Such persons may include experts in a particular field, representatives of local organisations and bodies, residents and stakeholders.

**4.5.6 WORK PROGRAMME**

4.5.6.1 The Committee will produce and publish a programme of work, which it will keep under review.

4.5.6.2 Suggestions for the inclusion of items in the work programme will be sought from councillors at the beginning of each municipal year. Officers, external bodies and Citizens may also put forward items for consideration for inclusion.

4.5.6.3 Suggestions for further items may be made to the Designated Officer at any time during the year. They shall be examined by the chair and vice chair in the first instance, who will decide whether they should be put to the Committee for inclusion in the work programme.

**4.5.7 RELATIONSHIP WITH THE EXECUTIVE**

**Note:** In the following Rules the applicability of the references to the Executive, Leader, the Cabinet or Cabinet Member(s) will depend on the extent of the delegation of executive powers under the Leader's Scheme of Executive Delegation Part 3.2.3 and the Officer Scheme of Delegation in Part 3.2.4.

**References to the Executive**

4.5.7.1 Depending on the extent of the Leader's Scheme of Executive Delegation, the Committee may bring to the attention of the Leader and/or the Cabinet matters (whether they be policy, procedural or organisational) which it considers need to be scrutinised or reviewed by the Committee.

4.5.7.2 If the Leader or Cabinet, as appropriate, fails within six months to take a decision on whether or not to carry out that work, the Committee may carry out the work and report its findings to the Cabinet.

**Reports and recommendations to the Executive**

4.5.7.3 Reports and recommendations from the Committee shall be considered by the Cabinet, as appropriate, within two months of the report or recommendation being adopted by the Committee. If the Cabinet fails to consider a report or recommendation within that period, it shall stand referred to the next practicable meeting of the Full Council. Interim reports may be prepared for the Cabinet if the Committee considers it to be appropriate.

4.5.7.4 Reports from the Committee will be presented to the Cabinet by or in the

Part 4.5

name of the Committee's chair or vice chair or, if the report originated from a Task and Finish Group, the chair of that Group if the Committee so decides.

**Cabinet decisions contrary to policy or budget**

4.5.7.5 Executive Procedure Rule 4.4.7.3 applies where it appears to the Committee that the Cabinet has made, or is about to make, a decision which is contrary to a policy or budget agreed by the Council (a "contrary decision").

**Urgent decisions contrary to policy or budget**

4.5.7.6 Executive Procedure Rule 4.4.7.5 applies where an urgent decision needs to be taken by the Cabinet which is not in accordance with existing policy or an approved budget, and it is not possible to convene a quorate meeting of the Full Council before the decision needs to be taken.

**Scrutiny of Executive Decisions**

4.5.7.7 Rule 4.5.11.10 below sets out the arrangements for scrutinising Executive decisions (referred to as "Call-in").

**Private Meetings of the Executive**

4.5.7.8 Where the date by which a private meeting of the Executive must be held makes compliance with the statutory requirements impracticable, the meeting may only be held in private where the decision-making body has obtained agreement that the meeting is urgent and cannot reasonably be deferred from either: -

- a) the chair of the Overview and Scrutiny Committee; or
- b) the Mayor, if there is no chair of the Overview and Scrutiny Committee or if they are unable to act; or
- c) the Deputy Mayor (as vice-chair of the Council), where there is no chair of the Overview and Scrutiny Committee or the Mayor is unable to act.

**4.5.8 DIRECT REPORTS TO FULL COUNCIL**

4.5.8.1 The Committee shall report to the Cabinet in the first instance on any matter which requires the attention of or a decision by the Full Council. Should the Cabinet fail to refer the matter to the Full Council within two months of the Committee's decision to refer the matter to it, the Committee shall be entitled to submit its own report directly to the Full Council.

4.5.8.2 Where the Committee makes a report or recommendations to Full Council or the Leader or Cabinet, (apart from scrutiny of crime and disorder matters): -

- a) The Committee may publish the report or recommendations;

Part 4.5

- b) The Committee must by notice given by the chair or, in his absence, the vice Chair, in writing to the Designated Officer require Full Council or the Executive to:
- i. consider the report or recommendations;
  - ii. respond to the Overview and Scrutiny Committee indicating what (if any) action the authority, or the Executive, proposes to take;
  - iii. if the Overview and Scrutiny Committee has published the report or recommendations under Rule 4.5.8.2, to publish the response; and
  - iv. if the Overview and Scrutiny Committee provided a copy of the report or recommendations to a member of the authority under Rule 4.5.8.2 to provide the member with a copy of the response.

4.5.8.3 The notice served must require the Full Council or Leader or Cabinet to comply with it within two months beginning with the date on which the Full Council or Leader or Cabinet received the report or recommendations or (if later) the notice.

4.5.8.4 Full Council or the Leader or Cabinet must comply with any notice served in accordance with Rule 4.5.8.2 above.

**4.5.9 RIGHTS OF COUNCILLORS TO PUT ITEMS ON THE AGENDA OF THE OVERVIEW AND SCRUTINY COMMITTEE**

4.5.9.1 Any councillor, including members of the Overview and Scrutiny Committee, may give written notice to the Designated Officer that they wish an item within the Committee's Terms of Reference to be included on the agenda. If the Designated Officer receives such a notification, then they will include the item on the first available agenda of the Overview and Scrutiny Committee for consideration by the Committee.

**4.5.10 TASK AND FINISH GROUPS**

4.5.10.1 The Committee may establish Task and Finish Groups to look into any matter within the Committee's Terms of Reference in detail. The Committee will specify the purpose of each Task and Finish Group and define its terms of reference in Part 3.2.3(e).<sup>1</sup>

4.5.10.2 Once it has completed the purpose for which it was established each Task and Finish Group shall cease to exist.

4.5.10.3 Task and Finish Groups will normally comprise up to nine councillors and shall, as far as practicable, be politically balanced.

4.5.10.4 Each Task and Finish Group may co-opt non-voting persons from outside

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<sup>1</sup> See also: Task & Finish Groups Protocol, available on the Council's website.

Part 4.5

the Council who have a particular knowledge of or interest in the subject matter for which the Task and Finish Group is responsible.

- 4.5.10.5 If not already appointed by the Committee on the setting up of the Task and Finish Group, each Group shall elect a chair or vice chair from among its councillor membership.
- 4.5.10.6 Task and Finish Groups are not sub-committees and have no power to make decisions and their meetings will not be regarded as meetings of the Council for the purposes of Sections 100 and 101 of the Local Government Act 1972. The provisions of that Act and the Rules in Parts 4.1 and 4.2, other than the procedures described in this Rule, will not therefore apply to them.
- 4.5.10.7 The Task and Finish Group shall decide the dates and times of its meetings.
- 4.5.10.8 A Task and Finish Group final report will be presented to the Committee by its chair or, if unable to do so, its vice chair or another councillor agreed by the Task and Finish Group. The Committee may decide which, if any of the recommendations to accept.

**4.5.11. CALL-IN ARRANGEMENTS**

**Procedure for scrutinising executive decisions**

- 4.5.11.1 A summary of any executive decision (i.e. a decision taken by the Cabinet, a Cabinet committee or a Cabinet Member or officer under delegation) shall be notified to all councillors within two days of being taken. An executive decision that constitutes a recommendation to the Council shall not be subject to call in.
- 4.5.11.2 Executive decisions may be called-in by members of the Overview and Scrutiny Committee. The call-in will only be valid if:
- a) it is requested by at least five members of the Overview and Scrutiny Committee;
  - b) the request is in writing or by email and includes the names of all the councillors requesting the call-in;
  - c) the request sets out the reason for the call-in; and
  - d) it is received by the Designated Officer by the expiry of the call-in period, i.e. 5pm on the fourth working day after the decision has been taken.
- 4.5.11.3 No decision may be called-in more than once.
- 4.5.11.4 On being informed of a call-in, the Designated Officer shall notify all members of the Council and relevant officers. No decision that has been called-in, with the exception of an urgent decision, shall be implemented before the Overview and Scrutiny Committee has considered it.



Part 4.5

4.5.11.5 **Period within which decision must be scrutinised**

Where an executive decision has been called-in, the meeting of the Committee to scrutinise it will be held as soon as practicable after the decision to do so was taken. This will normally be within 15 working days after receipt by the Designated Officer of the request to call it in.

4.5.11.6 **Advance notification of arrangements**

In advance of a meeting of the Committee at which an executive decision is due to be scrutinised, the chair of the Committee may:

- a) require from Cabinet Members and/or officers further written information on the decision to be scrutinised;
- b) invite persons from outside the Council (“contributors”) who have a particular knowledge of or expertise in the subject matter of the decision to be scrutinised to attend the meeting. Contributors may be reimbursed for travelling and subsistence costs reasonably incurred by them in attending the meeting;
- c) require the attendance at the meeting of the Cabinet member with responsibility for the matter to be scrutinised (or another Cabinet Member agreed by the Leader if they are unable to attend) to explain the decision. In the case of an executive decision taken by the Leader, Cabinet, committee or an officer, the Cabinet member with responsibility for the function shall be required to attend, even though they may not have actually taken the decision; and
- d) require the attendance at the meeting of such officers (or their substitutes if they are unable to attend) as the Chair thinks appropriate to provide information on the decision to be scrutinised.

4.5.11.7 The Designated Officer will make the necessary arrangements on behalf of the Chair no later than five days before the meeting.

4.5.11.8 The Cabinet member(s) will also have the opportunity to call up to two contributors or officers to present information in support of the decision. The names and, if appropriate, the positions of those persons will be notified to the Designated Officer at least two days before the meeting, who will in turn notify the chair.

**Advance notification of information**

4.5.11.9 At least five working days before the meeting of the Committee the Designated Officer will give to the Cabinet Member(s) invited to attend, in writing:

- a) the specified reasons for the call-in;

Part 4.5

- b) the names and, if appropriate, the positions held by any contributors who have been invited by the Chair to attend the meeting in connection with the matter to be scrutinised and the purpose for which they have been invited; and
- c) the subject matter of any additional written information requested by the chair.

**Call-in procedure at the Overview and Scrutiny Committee meeting**

4.5.11.10 Unless the chair decides otherwise, the following order of business (insofar as it is applicable) will generally be observed in the Committee's scrutiny of an executive decision:

- a) an explanation by the chair of the reasons for the call-in;
- b) an explanation by the Cabinet member with responsibility for the matter called-in of the reasons behind the decision;
- c) an invitation to contributors called by the Chair to comment on the decision; questions to the chair's contributors by the Cabinet Member(s);
- d) an invitation to contributors and/or officers called by the Cabinet Member to
- e) present information in support of the decision;
- f) questions to the Cabinet's contributors and/or officers by Committee members;
- g) questions to the Cabinet Member(s) by the Committee;
- h) general discussion by the Committee;
- i) the decision.

**Options for decisions**

4.5.11.11 The Committee may:

- a) conclude that it supports the executive decision and does not wish it to be amended (in which case the decision may be implemented immediately);
- b) decide that the decision or part of it was
  - i. unreasonable, or
  - ii. based on incorrect information or did not take into account information which should have been considered, or
  - iii. faulty in some other way,and refer the decision to the Cabinet for reconsideration; or
- c) come to the view that the decision is contrary to or not wholly consistent with a budget or a policy agreed by the Council. In coming to any such view the Committee will take into account the advice of the Director of Financial Services and/or the Monitoring Officer, as appropriate.

4.5.11.12 If the Committee conclude that the decision is contrary to a budget or a policy agreed by the Council, it must in the first instance refer the decision to the Cabinet. The Cabinet must decide whether to amend the called-in

Part 4.5

decision to satisfy the concerns of the Overview and Scrutiny Committee or, if it does not wish to do so, refer the matter to the Full Council. If the latter course is chosen, the Full Council may either confirm or amend the decision.

**4.5.12 PETITIONS**

**Review of responses to petitions**

4.5.12.1 Where a petition organiser is dissatisfied with the way in which their petition was handled or with the adequacy of the Council's response, they may request that the handling of and response to the petition be reviewed by the Overview and Scrutiny Committee.

4.5.12.2 The Committee shall normally meet within 30 days of the receipt of the request for a review. The petition organiser may:

- a) submit written representations in respect of their request, which must be received by the Designated Officer no later than five working days before the meeting at which it is considered; and
- b) address the Committee for up to five minutes to explain the grounds for requesting the review.

4.5.12.3 Having reviewed the way in which a petition has been dealt with, the Committee may:

- a) decide that no further action should be taken by the Council;
- b) order an investigation and report back to the Committee on any aspect of the handling of the petition; or
- c) refer the matter to the Cabinet or Full Council, with or without recommendations or comments.

4.5.12.4 The petition organiser shall be informed in writing within five working days of the Committee's decision on their review. The decision will also be published on the Council's website.

**4.5.13 RIGHTS OF SCRUTINY MEMBERS TO DOCUMENTS**

4.5.13.1 In addition to their rights as councillors, members of the Overview and Scrutiny Committee also have the right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4.6.