

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

1. Number and Arrangements for Overview and Scrutiny Committees
  - 1.1 The Council will have the overview and scrutiny committees as set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub-committees, provided no objection is raised by Cabinet – in the case of objection the matter will be determined by full Council. Overview and scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.
  - 1.2 The general role for overview and scrutiny committees is set out S 21 Local Government Act 2000 together with in Article 6 of the Constitution and should be read in conjunction with these Rules.
2. The Overview and Scrutiny Committee – The Council's Principal Standing Committee under S21 Local Government Act 2000
  - 2.1 In summary, this Committee is required to maintain an overview of the discharge of the Council's executive function and has the right to scrutinise any executive decision made by Cabinet, individual Portfolio Holders or by Council Officers, or to review the Council's policy-making or decision-making processes.
  - 2.2 The Overview and Scrutiny Committee can also review any matter after the event or ask any other relevant overview and scrutiny committee to do so.
3. Overview and Scrutiny Committees
  - 3.1 The Council may establish such additional overview and scrutiny committees that it thinks appropriate to undertake the review of existing practices and the development of new policies in particular service areas. They may be established as standing committees or for a fixed period ('task and finish' Committees).
  - 3.2 In summary, these committees can examine policy issues referred to them by Council, Cabinet or The Overview and Scrutiny Committee.
  - 3.3 Although these Procedure Rules allow the Council to appoint additional overview and scrutiny committees for specific purposes, Article 6 of the Constitution envisages that if additional bodies are required for member involvement then these will normally be sub-committees appointed by and reporting to The Overview and Scrutiny Committee as the Council's principal standing committee under S21 Local Government Act 2000.
  - 3.4 Executive decisions which do not require overview and scrutiny but need member involvement are submitted direct to Cabinet.

- 3.5 The terms of reference of each of the overview and scrutiny committees or sub-committees are set out as an Appendix to these rules.
- 3.6 The following matters are excluded from being considered by an overview and scrutiny committee:
- (a) any matter relating to a planning decision;
  - (b) any matter relating to a licensing decision;
  - (c) 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;

A matter does not fall within (a) to (c) above if it relates to an allegation that the function has not been discharged at all or is failing on a systematic basis.

#### 4. Membership of Overview and Scrutiny Committees

- 4.1 All councillors (except members of Cabinet) may be members of an overview or scrutiny committee or sub-committee. However, no member may be involved in scrutinising a decision with which he/she has been directly involved. Membership of sub-committees is not limited to members of the appointing committee.

#### 5. Co-optees

- 5.1 Each overview and scrutiny committee shall be entitled to recommend to Council the appointment of a co-optee although, in most circumstances, the Council would expect such committees to make use of the contributions by non-members through the use of Procedure Rule 35(4) set out in the Council Procedure Rules.

#### 6. Meetings of Overview and Scrutiny Committees

- 6.1 Meetings of the overview and scrutiny committees shall be held in accordance with the approved timetable of meetings. In addition, extraordinary meetings may be called from time to time as and when appropriate. Such extraordinary meetings shall be convened by the Chief Operating Officer, following consultation with Chairman of the relevant committee concerned.

#### 7. Quorum

- 7.1 The quorum for an overview or scrutiny committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution (for ease of reference the quorum for a committee shall be four and a sub-committee three).

8. Chairmanship of Overview and Scrutiny Committee meetings

8.1 Chairmen of overview and scrutiny committees shall be appointed by the Council.

9. Portfolio Holders

9.1 A Portfolio Holder will have the right to attend and address the overview and scrutiny committee which covers his/her area of responsibility. That right will not apply when the overview and scrutiny committees are operating in scrutiny mode examining the potential failings of past decisions where the Portfolio Holder may have been involved.

10. Work Programme

10.1 The overview and scrutiny committees will be responsible for setting their own work programme within the scope of their terms of reference and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.

11. Agenda Items

11.1 Any Member of the Council may request that an item is placed on the agenda at the next available meeting for consideration, provided that at least 14 working days notice prior to the date of the meeting is given to the Chief Operating Officer. No Member (other than the Chairman) may give notice of more than one item of business at any one meeting. The Chairman shall determine whether to take the item on the agenda. The agenda for the meeting will give the name of the Member who asked for the item to be considered.

11.2 A Member may also request that an item be placed on the agenda of a future meeting when an overview and scrutiny committee considers an item on its future work programme or during a debate on a related item.

12. The Council's Petition Scheme

12.1 The Chief Operating Officer may refer matters to an overview and scrutiny committee under the provisions of the Council's Petition Scheme set out in Part 8 of the Constitution. Such referrals can include:

- (a) undertaking research, consultation, an inquiry or hearing evidence on a matter and making recommendations;
- (b) a senior officer giving evidence following a public request under the Petition Scheme procedures;
- (c) consideration of a request by a petition organiser for a review when he/she is not satisfied with the Council's response to a petition.

13. Councillor Call for Action (CCfA)

13.1 Any Member shall have the right to refer to an overview and scrutiny committee any “local government matter” relevant to that committee’s terms of reference. A “local government matter” is one which

(a) relates to the discharge of any functions of the authority or

(b) affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area and

is not an excluded matter.

The Member should, where possible, seek to resolve the matter by other means before using the “Call for Action” provisions.

13.2 The following matters are excluded from being referred by a Member:

(a) any matter relating to a planning decision;

(b) any matter relating to a licensing decision;

(c) 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;

A matter does not fall within (a) to (c) above if it relates to an allegation that the function has not been discharged at all or is failing on a systematic basis.

(d) any matter which is vexatious, discriminatory or not reasonable in the view of the chairman to be included in the agenda for, or in the view of the body concerned, to be discussed at a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee. The advice of the Chief Operating Officer shall be considered before a decision is made to exclude a referral under this provision. Reasons for the decision will be given to the councillor who made the referral.

13.3 Referrals related to a community safety matter(s) should be considered by The Overview and Scrutiny Committee, as the Council’s designated “Crime and Disorder Committee” for the purposes of Section 19 of the Police and Justice Act 2006 and the Crime and Disorder (Overview and Scrutiny) Regulations 2009.’

13.4 Other referrals will be referred to the appropriate overview and scrutiny committee as determined by the Chief Operating Officer, following consultation with the appropriate Chairman.

13.5 That should the Chairman of a scrutiny body refuse to place a Councillor Call for Action (CCfA) on the agenda of that body, brief details of the CCfA and the reason for refusal be set out in the agenda of its next meeting.

14. Policy Review and Development

14.1 The role of the overview and scrutiny committees 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.

14.2 In relation to the development of the Council's approach to other matters not forming part of the Policy and Budget Framework, overview and scrutiny committees may make proposals to Cabinet for developments insofar as they relate to matters within their terms of reference.

14.3 Overview and scrutiny committees may hold enquiries and investigate the available options for future direction in policy development within the scope of their terms of reference and may appoint advisors and assessors to assist them in this process with the approval of The Overview and Scrutiny Committee. 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 perform their deliberations. They may ask witnesses to attend to address them on any matter under consideration (under Procedure Rule 35(4)) and may pay to any advisor, assessors and witnesses a reasonable fee and expenses for so doing.

15. Reports from Overview and Scrutiny Committees

15.1 Once it has formed recommendations on policy proposals or a scrutiny matter, the minute recommending the appropriate action will be submitted, together with the supporting report, to the next available meeting of Cabinet. However, if a request has been made by The Overview Scrutiny Committee, then the report will be considered by that Committee with its comments being forward to Cabinet.

16. Reports from The Overview and Scrutiny Committee – Executive Matters

16.1 Where The Overview and Scrutiny Committee has undertaken an investigation of a particular matter, the minute arising from its deliberations, together with the supporting report, will be submitted to the next available meeting of Cabinet.

17. Consideration of Overview and Scrutiny Reports by Cabinet or Council

17.1 The report of the relevant overview or scrutiny committee will be allocated by the Monitoring Officer to either or both of the Cabinet and Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. When the matter is considered by Council, the Cabinet shall make its responses to the report available to Council.

18. Reports of The Overview and Scrutiny Committee – Non Executive Matters

18.1 If the scrutiny report relates to a non-executive function, then the Monitoring Officer will refer the report to the relevant committee and Council for consideration. Where the matter is considered by Council, the relevant committee shall make its response to the report available to Council.

19. Reports of Overview and Scrutiny Committees – District Council Matters

19.1 The Cabinet or relevant portfolio holder (in respect of Executive matters) or Council or Committee (in respect of Non-executive matters) should make a response to recommendations in an overview and scrutiny report within 2 months.

19.2 The response may be:

- (a) within the minute of the relevant body when it considers the report;
- (b) by a decision notice under the portfolio holder decision making scheme;
- (c) by a report by the portfolio holder to the relevant overview and scrutiny committee.

19.3 The Chairman of the relevant overview and scrutiny committee will determine whether the response needs to be considered on the agenda of a future meeting of the committee.

20. Reports of Overview and Scrutiny Committees – County Council Local Area Agreement Matters

20.1 If the matter is related to a local improvement target for a service undertaken in partnership under the Local Area Agreement (LAA) and the overview and scrutiny committee makes a report and recommendations, the County Council, as lead authority to the LAA, is required to respond within 2 months to, and its Partner authorities (other than NHS bodies) to have regard to, reports and recommendations of the committee.

21. Rights of Overview and Scrutiny Committee Members to Documents

21.1 In addition to their rights as councillors, members of the 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 Part 4 of this Constitution.

21.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and overview or scrutiny committees as appropriate, depending on the particular matter under consideration.

22. Members and Officers Giving Account

22.1 Within the scope of their terms of reference, any overview or scrutiny committee, may scrutinise and review decisions made or actions taken in

connection with the discharge of any council functions. As well as reviewing documentation, in fulfilling the scrutiny role it may require any other member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:-

- a) any particular decision or series of decisions
- b) the extent to which the actions taken implement Council policy
- c) their performance

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

22.2 Where any member or officer is required to attend an overview or scrutiny committee under this provision, the Chairman of that committee will inform the Chief Operating Officer. The Chief Operating Officer shall inform the member or officer in writing giving at least seven 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 give account and whether any papers are required to be produced for the committee. Where the account to be given to committee will require the production of a report, then a member or officer concerned will be given 14 working days notice to allow for preparation of that documentation.

22.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview or scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

### 23. Attendance by Others

23.1 An overview or scrutiny committee may invite people other than those people referred to in the above paragraph to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance is, of course, entirely optional.

### 24. Call-in

24.1 Call-ins should only be used in exceptional circumstances. The Council has therefore limited the extent of when this can happen.

24.2 The Overview and Scrutiny Committee shall not have a general right of call-in (by which Cabinet decisions may not be implemented without first giving The Overview and Scrutiny Committee the right to scrutinise and review the decisions) but, except in relation to approvals made under delegated emergency powers, any decision by the Cabinet to incur expenditure which would involve a supplementary estimate whether by way of virement or use of reserves, including a prior commitment with regard to future budgets, of

more than £100,000 shall not be implemented until The Overview and Scrutiny Committee has had an opportunity to call in the decision for review. In addition, any decision by the Cabinet to dispose of land at an under value of over £50,000 shall not be implemented until The Overview and Scrutiny Committee has had an opportunity to call in the decision for review.

24.3 The only other rights of call-in are contained in Budget and Policy Framework Procedure Rule 7 – Decisions outside the Budget or Policy Framework.

25. Whipping

25.1 Applying the party whip can be defined as any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council, or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner.

26. The Party Whip

26.1 When considering any matter in the following categories:-

- a) scrutiny of a past decision by the Cabinet, a committee or individual
- b) the performance of any member of Cabinet

a member of an overview or scrutiny committee who is subject to a party whip, must declare the existence of the whip, and the nature of it, before commencement of the committee's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes.

27. Procedure of Overview and Scrutiny Committee Meetings

27.1 Overview and scrutiny committees shall consider the following business:

- a) the need to establish any sub-committees;
- b) declarations of interest (including whipping declarations);
- c) the response of Cabinet or other committees to scrutiny reports of past decisions, if the Monitoring Officer is of the opinion that the report's recommendations have not been substantially accepted;
- d) the business otherwise set out on the agenda for the meeting.

27.2 Where the overview or scrutiny committees conduct investigations (eg. with a view to policy development), the committee may also ask people to attend

to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- a) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- b) that those assisting the committee by giving evidence be treated with respect and courtesy;
- c) that the investigation be conducted both to maximise the efficiency of the investigation or analysis.

27.3 Following any investigation or review, the committee shall help prepare a report for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

28. Matters within the remit of more than one Overview or Scrutiny Committee

28.1 Where an overview or scrutiny committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another overview and scrutiny committee, then the committee conducting the review shall invite the Chairman of the other committee (or his/her nominee) to attend this meeting when the matter is being reviewed.

## **TERMS OF REFERENCE OF OVERVIEW AND SCRUTINY COMMITTEES**

- A) The Overview and Scrutiny Committee – The Council’s Principal Standing Committee under S21 Local Government Act 2000
1. To have a general remit to maintain an overview of the discharge of the Council’s executive functions, and to have the right to scrutinise any executive decision made by the Cabinet, Portfolio Holders or Council officers, or to review the Council’s policy making or decision making processes.
  2. To have the right to review Council policies insofar as the policy concerned does not fall within the remit of any other overview and scrutiny committee of the Council or where the policy concerned relates to the remit of more than one overview and scrutiny committee.
  3. To have authority to require any member of the Council or any Officer of the Council to assist in its work by attending at a meeting of the Committee, by supplying information or by other means.
  4. To have an overview of performance and use of resources in respect of the Council’s functions including but not restricted to, the implementation of change plans, work programmes, performance against national and local performance indicators, identification of risks and monitoring action taken to mitigate those risks and responsibility for the monitoring and implementation of action plans arising from best value and key strategy reviews.
  5. To consider the overall benefit to the public from services provided by the City Council and other organisations that impact on the District, including monitoring and scrutinising the work of any relevant partnership.
  6. To hold Portfolio Holders to account for the services within their areas of responsibility.
  7. To consider all reports on maladministration issues.
  8. The Committee shall not have a general right of call-in (by which Cabinet decisions may not be implemented without first giving the Committee the right to scrutinise and review the decisions) but, except in relation to approvals made under delegated emergency powers, any decision by the Cabinet to incur expenditure which would involve a supplementary estimate, whether by way of virement or the use of reserves, including a prior commitment with regard to future budgets, of more than £100,000 shall not be implemented until the Committee has had an opportunity to call-in

the decision for review. In addition, any decision by the Cabinet to dispose of land at an under value of over £50,000 shall not be implemented until The Overview and Scrutiny Committee has had an opportunity to call in the decision for review.

9. The following matters are excluded from being considered by an overview and scrutiny committee:
- (a) any matter relating to a planning decision;
  - (b) any matter relating to a licensing decision;
  - (c) 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;

A matter does not fall within (a) to (c) above if it relates to an allegation that the function has not been discharged at all or is failing on a systematic basis.

10. To act as the Crime and Disorder Committee for the purposes of Section 19 of the Police and Justice Act 2006 and associated regulations and accordingly:-
- a. to review or scrutinise the decisions made, or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions; and
  - b. to make reports or recommendations to the Council with respect to the discharge of those functions.
11. To consider any referrals under the Councillor Call for Action provisions in the Overview and Scrutiny Procedure Rules.
12. To consider any referrals under the Council's Petitions Scheme in the Overview and Scrutiny Procedure Rules and Part 8 of the Constitution.

B) Any Sub-Committees appointed by The Overview and Scrutiny Committee

None at present.

C) Any additional overview and scrutiny committees appointed by Council

None at present.

D) Any joint overview and scrutiny committees appointed by Council

Winchester City Council/East Hampshire District Council  
Environmental Services Joint Scrutiny Committee

Terms of reference for Environmental Services Joint Scrutiny  
Committee (ESJSC)

1. The following principles will apply to the work of the ESJSC:-
  - a) The ESJSC may raise any issues directly with the Joint Environmental Services Committee.
  - b) The ESJSC may also raise any issues with the parent Councils. Each Council will determine its own procedures as to whether the report back will go to the Council's appropriate parent scrutiny committee or direct to their respective Cabinets or portfolio holders.
  - c) An annual report will be produced by the ESJSC and reported to the parent scrutiny committees of each Council.
  - d) Any matters of concern will be referred to the parent Councils if requested by resolution of the Committee or at least 2 or more Members from either authority.
  
2. The role of the ESJSC will be as follows:
  - a) To have a general remit to scrutinise any executive decision made by the Joint Environmental Services Committee.
  - b) To have the right to review Joint Environmental Services Committee policies insofar as the policy concerned relates to the delivery of Environmental Services.
  - c) To have authority to require any member of the Joint Environmental Services Committee or any Officer of the Joint Client Team to assist in its work by attending at a meeting of the Committee, by supplying information or by other means.
  - d) To have an overview of performance and use of resources in respect of the services within the responsibility of the Joint Environmental Services Committee including but not restricted to
    - The Joint Client Team;
    - The Contractors;
    - Implementation of work programmes;
    - Performance against national and local performance indicators;

- Identification of risks and monitoring action taken to mitigate those risks and responsibility for the monitoring and implementation of action plans.
- e) To monitor developments within the Project Integra Partnership and scrutinise its performance and policy development in terms of the impact upon the work of the ESJSC.
- f) To hold the Joint Environmental Services Committee and relevant Portfolio Holders at each authority to account for the services within their areas of responsibility.