

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 and shall be conducted in practice in accordance with the Scrutiny Protocol. The Scrutiny Protocol provides guidance that should be followed unless there is good reason not to and advice has been sought from Scrutiny Officers and / or the Monitoring Officer or their representatives

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) Adults and Health
- (c) Children's; and
- (d) 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, unless otherwise agreed at Annual Council.
- 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.

Substitution

- 2.11 Groups will be permitted up to two named substitutes on each overview and scrutiny committee.

3. Meetings

Meeting schedule

- 3.1 Overview and Scrutiny Committees will meet in six weekly cycles.
- 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 **2.5 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) 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. Requests for attendance require 5 days' notice or a shorter period if agreed with the attendee requested.
- 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.