



**Overview and  
Scrutiny  
Procedure rules**

## **Overview and Scrutiny Procedure rules**

### **1.0 What will be the number and arrangements for Overview and Scrutiny Committees?**

The Council will establish the Overview and Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time.

The Committee membership is politically proportional and each Committee can consist of eleven members. In addition, substitute members are also nominated and a list of substitute members to be called will be lodged with the Democratic Services Team.

The Chairmen and Vice-Chairmen will be nominated annually at the Council's Annual Meeting or at the Council meeting setting them up. The Chairmen of the four Overview and Scrutiny Committees shall be elected from nominations put forward by the Principal Opposition Group of the Council (this can include non-members of the Principal Opposition Group or members of the administration group(s)), subject to the total number of Opposition members on the Council exceeding 10% of the overall membership (in the current composition of the Council, this would equate to six members). The Vice-Chairman of the Overview and Scrutiny Committee shall usually not be from the same political group as the Chairman. Without consent of the Council, no member can be Chairman or Vice-Chairman of more than one Overview and Scrutiny Committee.

### **2.0 Who may sit on Overview and Scrutiny Committees?**

All councillors except for members of the Executive may be members of an Overview and Scrutiny Committee. The appropriate portfolio holder(s) can attend an Overview and Scrutiny Committee where matters relating to their area are included in the agenda, and shall have a right to address the Committee. A protocol setting out the rights of attendance is attached as Annexe 1 to the Overview and Scrutiny Procedure Rules.

### **3.0 Co-optees**

External representatives may be co-opted by the Council as non-voting members onto Overview and Scrutiny Committees on an ad hoc basis, up to a maximum of two per committee. Although they have no voting rights, they can request that matters of concern to them be placed on the agenda and discussed at the relevant Committee. There will be two Tenants' Panel representatives appointed to the Overview and Scrutiny Committee with Housing within its remit.

### **4.0 Meetings of the Overview and Scrutiny Committees**

There shall be at least five ordinary meetings of each Overview and Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny

Committee meeting may be called by the Chairman and Vice-Chairman together of the relevant Overview and Scrutiny Committee if they consider it necessary or appropriate.

- 4.1** In addition, meetings to consider called-in items will be held as and when is appropriate, to coincide with the timescale for scrutiny.
- 4.2** All meetings will be held in open session with the press and public able to attend, except for the consideration of exempt or confidential information. Minutes will be taken by officers at each meeting of the Committees and published. Procedure Rules will apply to the procedures at meetings and the existing scheme for substitutes will continue.
- 4.3** Any member who has a personal or prejudicial interest in any matter on the agenda must disclose the interest and may be required to withdraw from the meeting when appropriate, in accordance with the Waverley Local Code of Conduct.

## **5.0 Quorum**

The quorum for an Overview and Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

## **6.0 Who chairs Overview and Scrutiny Committee meetings?**

The Chairmen of the four Overview and Scrutiny Committees shall be elected from nominations put forward by the Principal Opposition Group of the Council (this can include non-members of the Principal Opposition Group or members of the administration group(s)), subject to the total number of Opposition members on the Council exceeding 10% of the overall membership (in the current composition of the Council, this would equate to six members). The Vice-Chairman of the Overview and Scrutiny Committee shall usually not be from the same political group as the Chairman. Without consent of the Council, no member can be Chairman or Vice-Chairman of more than one Overview and Scrutiny Committee.

## **7.0 Work programme**

The Overview and Scrutiny Committees will be responsible for setting their own work programme within the overall framework set by the Council 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.

## **8.0 Agenda items**

The Chairman or any member of the relevant Overview and Scrutiny Committee shall be entitled to give notice to the Head of Policy and Governance that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the proper officer will ensure that it is included on the

next available agenda. This does not, however, give any rights to an individual member to commission reports.

- 8.1** If a Chairman, or any other member of an Overview and Scrutiny Committee asks for an item to be included on an agenda, the item will be included as a heading only, and the Committee then has to agree that they would like to see the item added to the work programme. Officers can then proceed with producing a detailed report on the issue for the next appropriate meeting of the Committee or the request can be considered by the Co-ordinating Board.
- 8.2** Any Councillor shall be entitled to give notice to the Head of Policy and Governance of a Councillor Call for Action. The detailed procedures for this are set out in Annexe 2 to the Overview and Scrutiny Procedure rules. The member raising the call for action will have the right to attend the meeting to explain their reasons for the call for action. That item will be the subject of an initial report, if accepted by the Chairman and Vice-Chairman
- 8.3** The Overview and Scrutiny Committees shall also respond, at the earliest occasion consistent with due notice, to requests from the Council and the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Overview and Scrutiny Committee at the earliest opportunity.
- 8.4** It is intended that Overview and Scrutiny Committees will be involved from an early stage in the decision-making process, examining issues before decisions are taken by the Executive, rather than only after a decision is taken by operating the call-in procedure. Accordingly, matters relating to the budget or policy framework will normally be considered by the appropriate Overview and Scrutiny Committee before they are submitted to the Executive. In addition, the Overview and Scrutiny Committees may identify any item from the rolling programme for overview. The comments of the appropriate Committee will be reported to the Executive.

The Chairmen and Vice-Chairmen will hold a briefing meeting with the appropriate officers to finalise the committee agenda.

Overview and Scrutiny Committees will be serviced by the Democratic Services Team. In-depth review, research and work programming of the Committees will be carried out by the Scrutiny Officer.

## **9.0 Policy review and development**

- (a) 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.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Committees may make proposals to the Executive for

developments in so far as they relate to matters within their terms of reference.

- (c) Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **10.0 Working Groups**

Overview and Scrutiny Committees are able to appoint small informal working groups from within their own membership to research subject areas and report back to the main Committee. These working groups will be supported by a member of the Democratic Services Team and officers from the relevant service area will also be involved to provide information and professional advice/expertise. These groups will operate in accordance with the protocol attached as Annexe 3 to the Overview and Scrutiny Procedure Rules.

## **11.0 Reports from Overview and Scrutiny Committee**

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the proper officer for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework) and to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Executive, and if one third of the members present request it, then one minority report may be prepared and submitted for consideration by the Executive with the majority report.
- (c) The Council or Executive shall consider the report of the Overview and Scrutiny Committee as quickly as the rules permit.

## **12.0 Making sure that Overview and Scrutiny reports are considered by the Executive**

All Overview and Scrutiny reports shall be considered by the Executive as expeditiously as possible and at the very maximum, within two months of the work being completed.

## **13.0 Rights of Overview and Scrutiny Committee members to documents**

- (a) 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 Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.
- (c) Overview and Scrutiny Committees shall have access to all relevant background papers and documents. In the case of any dispute, the Monitoring Officer will adjudicate and if the documents are of a confidential nature, members must respect their confidentiality and use them only in relation to the work of that Committee.
- (d) Co-opted members can have access to papers relevant to the work of their Committee, but excluding any matter relating to an individual, either client or tenant or member of staff.

#### **14.0 Members and officers giving account – “Select Committee” mode**

- (a) Any Overview and 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, the Chairman and Vice-Chairman acting jointly may require any member of the Executive, the Chief Executive and/or any senior officer to appear before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performanceand it is the duty of those persons to attend if so required.
- (b) Attendance by a member of the Executive is set out in the attached protocol at Annexe 1 to the Overview and Scrutiny Procedure Rules.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or officer, arrange an alternative date for attendance as soon as possible.

## **15.0 Attendance by others**

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 13 above 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 optional.

## **16.0 Call-in**

Call-in should only be used as a last resort. This can be where members of the appropriate Overview and Scrutiny Committee have evidence which suggests that the Executive did not take the decision in accordance with the principles set out in Article 13 (Decision Making).

- (a) When a decision is made by the Executive, or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published, including by electronic means, and shall be available at the main offices of the Council normally within 1 day of being made. Copies of the decision bulletin will be sent to all members of the Council within the same timescale, by the Head of Policy and Governance.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless five non-Executive members of the council object to it and call it in.
- (c) During that period, the Head of Policy and Governance shall call-in a decision for scrutiny by the committee if so requested by any five non-Executive members of the Council, where reasons as stated in the call-in form attached at Annexe 4 of the Overview and Scrutiny Procedure Rules, are valid in the context of Article 13 of the Constitution. Should any Substitute Member be one of those proposing a call-in, he shall have a right to attend the Committee and speak, but not to vote unless he is substituting at that meeting for another Member. The Head of Policy and Governance shall call a meeting of the relevant Overview and Scrutiny Committee on such date as he/she may determine or as reserved in the calendar of meetings, where possible after consultation with the chair of the committee, and in any case within 5 working days of the decision to call-in.

A call-in can only be withdrawn unanimously by those members who requested it.

- (d) As well as reviewing the report submitted to the Executive in fulfilling the scrutiny role, the Chairman and Vice-Chairman acting jointly may require any member of the Executive, the head of paid service and/or any senior officer to appear before it to explain the particular decision or series of decisions, and it is the duty of those persons to attend if so required.

The Chairman will notify the people required to attend immediately after the expiry of the call-in deadline.

- (e) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the Executive for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council if outside the policy framework. If referred to the decision maker they shall then amend the decision or not, before adopting a final decision.
- (f) If following an objection to the decision, the Overview and Scrutiny Committee does not refer the matter back to the Executive, the decision shall take effect on the date of the Overview and Scrutiny meeting.
- (g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the Executive, together with the Council's views on the decision. The Executive shall choose whether to amend the decision or not before reaching a final decision and implementing it and a meeting will be convened to reconsider the Council request.

## **16.1 "Call-In" Process**

The process is proposed as follows:

**Step 1** A list of Executive decisions will be published and notice given that the decisions will be implemented after five working days from date of publication unless called-in under this procedure.

**Step 2** Within the period of five working days, five non-Executive members of Council may call a meeting of the Committee to review a decision, by notifying the Head of Policy and Governance by telephone, fax, e-mail or letter. The call-in form attached at Annexe 4 of the Overview and Scrutiny Procedure Rules must be completed setting out the reason for the Call-in, Members involved and witnesses to be called and sent to the Head of Policy and Governance.

**Step 3** The Overview and Scrutiny Committee will then meet and may resolve by majority vote to:

- (a) propose an alternative course of action, or
- (b) request that it be considered and debated by the full Council if the Committee is advised by the Monitoring Officer that the decision is contrary to the Council's policy framework or is unlawful.

**Step 4** If the matter is referred back to the Executive, it must reconsider the decision in the light of the reference from the Overview and Scrutiny



Committee's decision and would decide whether to change it before adopting a final decision. The Chairman (or Vice-Chairman in their absence) of the Overview and Scrutiny Committee is able to attend and address the Executive meeting during discussion of the matter.

## **16.2 Exceptions**

In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

- (a) that five non-Executive members of Council are needed for a decision to be called in and the protocol and form attached at Annexe 4 of the Overview and Scrutiny Procedure Rules must be followed and completed; and
- (b) an Executive decision may only be called-in by an Overview and Scrutiny Committee once.

## **16.3 Call-in and Urgency**

The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the Executive, the decision is an urgent one, and therefore not subject to call-in. The Mayor, in conjunction with the Monitoring Officer, must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor's consent shall be required, in conjunction with the Monitoring Officer. In the absence of both, the head of paid service or his/her nominee's consent shall be required, again in conjunction with the Monitoring Officer. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

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

## **17.0 Procedure at Overview and Scrutiny Committee meetings**

- (a) Overview and Scrutiny Committees shall consider the following business:
  - (i) minutes of the last meeting
  - (ii) declarations of interest

- (iii) responses of the Executive to reports of the Overview and Scrutiny Committee
  - (iv) the business otherwise set out on the agenda for the meeting, with overview items identified and taken first, then select committee mode matters
  - (v) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision
  - (vi) questions by the public.
- (b) Where the Overview and Scrutiny Committee conducts investigations in select committee mode (e.g. 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:
- (i) 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
  - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee shall prepare a report, for submission to the Executive and shall make its report and findings public.

## **18.0 Questions by the public**

Unless a special meeting of the Overview and Scrutiny Committee is called, Members of the public can ask formal questions at Overview and Scrutiny Committees in accordance with the provisions in the Procedure Rules. The Chairman and/or the Vice-Chairman should be invited to respond to the question.

## **19.0 Matters within the remit of more than one Overview and Scrutiny Committee**

Where an Overview and Scrutiny Committee wishes to conduct a review or scrutinise a matter which also falls (whether in whole or in part) within the remit of another Overview and Scrutiny Committee, then the Committee Chairmen and Vice-Chairmen will agree the arrangements in advance of the matter being reviewed.