

## **Part D6: Overview and Scrutiny Procedure Rules**

### **4.1 Who may sit on the Overview and Scrutiny Committee**

All Councillors except Members of the Cabinet and the Chair of the Council may be Members of the Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision which they have been directly involved.

### **4.2 Meetings of the Overview and Scrutiny Committee**

The Committee will meet in accordance with the approved schedule of meetings. The Chair may call additional Committee meetings as appropriate, in which event the Proper Officer will make the necessary arrangements. Subject to the provisions of Council Procedure Rule 1, the Chair may also cancel meetings where there is insufficient business to be transacted.

An Overview and Scrutiny Committee meeting may also be called by any five Members of the Committee, or by the Chief Executive if they considers it necessary or appropriate.

### **4.3 Quorum**

The quorum for the Overview and Scrutiny Committee shall be one quarter of the total number of members of the Committee (rounded up if necessary), but not less than three.

### **4.4 Chairs of Overview and Scrutiny Committee Meetings**

The election of a Chair and Vice - Chair of the Committee will be determined by Full Council at the Annual Meeting.

The Chair shall, wherever possible, be a member of the opposition.

### **4.5 Work Programme**

The Overview and Scrutiny Committee will be responsible for setting its own work programme and, in doing so, it shall take into account the wishes of all Members of the Committee.

### **4.6 Agenda Items**

Any five Members of the Council who are not Members of the Overview and Scrutiny Committee may give written notice to the Chief Executive that they wish an item to be included on the agenda of the Overview and Scrutiny Committee. If the Chief Executive receives such notification, then they will include the item on the first available agenda of the Overview and Scrutiny Committee for consideration by the Committee.

The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the

Cabinet to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee within one month of receiving it.

#### **4.7 Policy Review and Development**

The role of the Overview and Scrutiny Committee 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.

In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within its terms of reference.

The Overview and Scrutiny Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. It 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. It may ask witnesses to attend to address them on any matter under consideration and may pay to any advisors, assessors and witnesses a reasonable fee and expenses for doing so.

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

Once it has formed recommendations on proposals for development of the Council's Budget and Policy Framework, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Chief Executive for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or 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).

- a) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or the Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or the Cabinet with the majority report.
- b) The procedure for preparing a minority report is as follows:
  - i. one or more members of the meeting propose a minority report setting out the key principles and recommendation of that report;
  - ii. the Committee may discuss and ask questions about the proposed report;
  - iii. the Committee notes the report (no vote is required) and the Chair confirms that the minority report will be sent to Cabinet or Council alongside the main report;
  - iv. the Member who proposed the report shall take responsibility for writing it up following the meeting and in doing so shall take the advice of officers as to formatting and implications arising.

- c) The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee within one month of it being submitted to it.

#### **4.9 Making sure that Overview and Scrutiny Reports are considered by Cabinet**

- 4.9.1 Once an audit and scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of four weeks from the date the report was adopted by the Overview and Scrutiny Committee. In such cases, the report of the Overview and Scrutiny Committee shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the audit and scrutiny report within ten weeks then the matter will be referred to Council for review, and the Chief Executive will call a Council meeting to consider the report and make a recommendation to the Cabinet.
- 4.9.2 The Overview and Scrutiny Committee will in any event have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service development, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.
- 4.9.3 When the Overview and Scrutiny Committee makes a report to the Cabinet or the Council it may require the Proper Officer to publish the report and any recommendations arising from it. In that case, the Committee must by notice in writing require the Cabinet or the Council as appropriate within two months of the date on which it receives the report or recommendation or (if later) the notice to:
- (a) consider the report and recommendations;
  - (b) respond to the Overview and Scrutiny Committee indicating what (if any) action the Cabinet or Council proposes to take;
  - (c) where the Overview and Scrutiny Committee has published the report or recommendations, publish the response;
  - (d) where the Overview and Scrutiny Committee provide a copy of the report or recommendation to a Member, provide a copy of the response to the Member.
- 4.9.4 The publication of reports and recommendations and any responses to them are subject to the exclusion of any Confidential and Exempt Information as defined by the [Access to Information Rules](#).
- 4.9.5 Having considered a report made pursuant to this Rule, the Cabinet or the Council may send a report or make recommendations back to the Overview and Scrutiny Committee, in which case the Committee will consider such report or recommendations at its next available meeting.

4.9.6 Where the Overview and Scrutiny Committee makes a report or recommendations on a local improvement target or equivalent pursuant to a joint arrangement with a partner authority, it may by written notice require the relevant partner authority to have regard to the report or recommendations in exercising its functions.

4.9.7 When the Overview and Scrutiny Committee makes a report or recommendations on a local crime and disorder matter within its terms of referral, it will copy the report to the relevant Gloucestershire County Council Overview and Scrutiny Committee, notifying it of its duty under Section 19 of the Police & Justice Act 2006 to :-

- (i) consider the report or recommendations
- (ii) respond to the Committee within 28 days indicating what, if any, action it proposes to take; and
- (iii) to have regard to the report or recommendations in exercising its functions.

#### **4.10 Rights of Overview and Scrutiny Committee Members to Documents**

In addition to their rights as Councillors, Members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the [Access to Information Procedure Rules](#) in Part D of this Constitution.

Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

#### **4.11 Members and Officers Giving Account**

The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any executive or non-executive functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Cabinet, the Chief Executive and/or any senior officer to attend 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) the Council's or the Officer's performance;
- (iv) and it is the duty of those persons to attend if so required.

Where any Member or officer is required to attend the Overview and Scrutiny Committee under this provision, the Chair of that committee will inform the Chief Executive. The Chief Executive shall inform the Member or Officer in writing, giving at least five working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the Committee will require the production of a report, or documentation, then the

Member or officer concerned will be given sufficient notice to allow for preparation of that report or documentation.

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.

#### **4.12 Attendance by Others**

The Overview and Scrutiny Committee may invite (but cannot require) other than those referred to in Rule 4.11 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 be able to invite such people to attend.

#### **4.13 Call-In**

Call-in is the exercise of the power of the Overview and Scrutiny Committee to review a decision in respect of any executive function that has been made but not yet implemented. Once called-in, the decision cannot be implemented other than in accordance with these call-in procedures.

The following types of decisions can be called-in:-

- (i) Cabinet decisions;
- (ii) Cabinet Member decisions;
- (iii) Other Key decisions;
- (iv) Decisions made under Joint Arrangements.

HOWEVER, a decision to recommend to Council cannot be called-in.

Call-in should only be used in exceptional circumstances, such as where Members have evidence which suggests that the Cabinet or other decision-maker did not take the decision in accordance with the principles set out in Article 12 (Decision Making).

Where a decision is made by the Cabinet or an individual Member of the Cabinet, or a Cabinet decision is made by an Officer with delegated authority from the Cabinet, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two days of being made. All Members of the Overview and Scrutiny Committee will be sent a Notification of Decisions Sheet detailing all such decisions, within the same timescale, by a representative of the Committee Services team.

The Notification of Decisions Sheet will indicate whether matters are subject to delegated action by Officers (and if so whom) or for decision by the Council. Where it is considered that the proposed action is contrary to, or not in accordance with, the Council's policy, or the Cabinet, individual Member of the Cabinet or an Officer acting under Delegated Authority from the Cabinet did not take the decision in accordance

with the principles set out in Article 12 (Decision Making) or was contrary to Officer advice, then the following call in arrangements will apply:-

- The Chief Executive, in consultation with the Monitoring Officer, must agree that the call-in complies with the criteria set out in the Constitution in order that it can proceed.
- Within five working days of the publication of an executive decision any three Members of the Committee (who must be from either (i) two political groups; or (ii) two from a political group and the non-aligned (independent) Committee Member; or (iii) one from each political group and the non-aligned (independent) Committee Member) may request reference of the item to the Overview and Scrutiny Committee for consideration.
- The request shall be communicated to the Chief Executive in writing and signed by at least three Members, or by separate communication in the same terms by three Members. As an alternative, the request may be communicated separately in electronic form provided that the Chief Executive is satisfied with proof of identity of each individual Member.
- The Chief Executive will, as soon as practicable, communicate the request to:-
  - the relevant Officer identified in the Minute
  - the Chair of the Overview and Scrutiny Committee
  - the Leader of the Council.
- Upon receipt of notification the Chair shall convene a special meeting of the Overview and Scrutiny Committee within ten working days of the date of notification by the Chief Executive unless there is a meeting of the committee already programmed within twenty-one days of the notification, in which case the matter shall be referred to that programmed meeting.
- When the executive decision comes before the Overview and Scrutiny Committee, the following persons shall have a right to attend and to speak at the Committee:-
  - any one or all of the Members having requested the call-in
  - the Leader and/or the relevant Cabinet Member having portfolio responsibility for the matter under consideration
- The Overview and Scrutiny Committee shall be entitled to receive copies of any reports as set out in the [Access to Information Procedure Rules](#) in Part D of the Constitution.
- In the event of a call-in of a Cabinet Minute, the relevant Officer shall not exercise their delegated powers on the matter before it has been considered by the Overview and Scrutiny Committee and re-considered by the Cabinet or the Council in light of the Overview and Scrutiny Committee's conclusions and any recommendations.
- No matter which has been the subject of a call-in may be subject to a second call-in.

On receiving a report from the Overview and Scrutiny Committee or the Council, the decision maker shall consider the report and any recommendations and report to the next available meeting of the Overview and Scrutiny Committee the outcome of that consideration.

Where the Overview and Scrutiny Committee or the Council proposes modifications to or as alternative to the decision that was called-in, the decision maker shall either:

- a) confirm the called-in decision without modification; or
- b) confirm the called-in decision with modification; or
- c) rescind the called-in decision, taken the alternative decision, proposal or propose a new decision.

#### **4.14 Call-In and Urgency**

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or the public's interests.

In order to rely on Rule 4.14, the decision maker must:

- (i) obtain the prior consent of the Chair of the Overview and Scrutiny Committee to treat the decision as urgent. In the absence of the Chair, consent may be given, in order, by the Group Leaders acting collectively; and
- (ii) the record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Leader 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 Leader, the relevant Portfolio Holder's consent shall be required. In the absence of both, the Chief Executive or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

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.

#### **4.15 Councillor Call for Action**

The 'Councillor Call for Action' is a method of dispute resolution, introduced by the Local Government and Public Involvement in Health Act 2007. Councillors are able to bring matters forward for investigation by a specially-convened meeting of the Overview and Scrutiny Committee, provided the following terms are met:

- (i) all other means of resolving the dispute have been explored and exhausted;
- (ii) the matter in question applies to a specific locality;
- (iii) the involvement of scrutiny has a demonstrable potential impact on the matter;
- (iv) the complaint is not ruled to be vexatious, discriminatory or unreasonable by the Overview and Scrutiny Committee.

Should this be the case, then an investigation will be conducted, involving input from as many sources affected by the issues as possible. Once the hearings have been completed, the Committee will consider its ruling, and publish a report detailing its findings on the matter. Whilst this may detail the recommended actions to be taken by Council, it may also decide to refer the matter to another body, or indeed not to issue a report (although these last two options must be justified in full).

#### **4.16 Procedure at Overview and Scrutiny Committee Meetings**

The Overview and Scrutiny Committee shall consider the following business:

- a) minutes of the last meeting;
- b) declarations of interest;
- c) consideration of any matter referred to the committee for a decision in relation to call-in of a decision;
- d) responses of the Cabinet and/or the Council to any report(s) of the Overview and Scrutiny Committee; and
- e) the business otherwise set out on the agenda for the meeting.

Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at

committee meetings which will be conducted in accordance with the following principles:

- a) the investigation be conducted fairly and all Members of the committee will be given the opportunity to ask questions of attendees, and to contribute and speak;
  - i. those assisting the committee by giving evidence be treated with respect and courtesy; and
  - ii. the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- b) Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

#### **4.17 Terms of Reference for Overview and Scrutiny Committee**

The terms of reference for the Overview and Scrutiny Committee are contained in Article 7 - Overview and Scrutiny Committee.



#### **4.18 Overview and Scrutiny Budget**

The Overview and Scrutiny Committee will be provided with sufficient budget resource in order to carry out its functions and to pay any reasonable fee or expense in respect of the Overview and Scrutiny process. The Chief Executive will act as the Cost Centre Manager for that budget.