

## **Part 3 – Section 5 – Overview and Scrutiny Procedure Rules**

### **1 ESTABLISHMENT AND MEMBERSHIP**

- 1.1 The Council will establish the Overview & Scrutiny committees set out in Part 2 of this Constitution.

### **2 TERMS OF REFERENCE**

- 2.1 The general and specific role of the Overview & Scrutiny Committees will be as set out in Part 2 of this Constitution.

### **3 MEETINGS OF THE OVERVIEW & SCRUTINY COMMITTEE**

- 3.1 There shall be at least six ordinary meetings of the Overview & Scrutiny Committees every civic year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An extraordinary Overview & Scrutiny Committee meeting shall be called by the Monitoring Officer at the request of the Chair of the Overview & Scrutiny Committee, by any four members of the Committee or the Chief Executive. Where the Monitoring Officer declines to call an extraordinary meeting they shall give reasons for doing so.

### **4 QUORUM**

- 4.1 The quorum for each Overview & Scrutiny Committee shall be in accordance with Part 2 of this Constitution.

### **5 WORK PROGRAMME**

- 5.1 The Overview & Scrutiny Committees will be responsible for setting their own work programme and in doing so they shall take into account the wishes of members on the Committee who are not members of the largest political group on the Council.

- 5.2 The Overview & Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and the Executive, or to Councillor Calls for Action, to review particular areas of Council activity. Where it does, the Overview & Scrutiny Committee shall report its findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Overview & Scrutiny Committee at the next available meeting.

## **6 AGENDA FOR THE OVERVIEW & SCRUTINY COMMITTEE**

- 6.1 Any member of the Overview & Scrutiny Committee shall be entitled to request, in writing, that an item be included on the agenda, provided that the item is within the remit of the Committee in question; the item will then appear on the agenda for the next meeting. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 6.2 Similarly, the Leader of the Council or an Executive Councillor with specific portfolio responsibilities may give notice in writing requiring an item to appear on an agenda of an Overview & Scrutiny Committee, relating to their area of responsibilities. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 6.3 Subject to the Council Procedure Rules, any other Councillor may give notice in writing to the Monitoring Officer, requesting an item to appear on an agenda of an Overview & Scrutiny Committee. The item shall be included after consulting the Chair of the Committee.
- 6.4 On receipt of a notice under Rule 6.1, 6.2 or 6.3, the matter will be included on the agenda for, and discussed at, a meeting of the Committee. Notices under Rule 6.2 must be served no later than 28 days before the meeting at which the matter is to be discussed.
- 6.5 In considering whether or not to exercise any of its powers in relation to the matter referred under Rule 6.3 the Committee may have regard to any representations made by the Councillor as to why it would be appropriate to exercise any of its powers. If the Committee decides not to exercise any of those powers in relation to the matter, it must notify the Councillor of the decision and the reasons for it.
- 6.6 Where the Overview & Scrutiny Committee exercises its power to make a report or recommendation to the Council or the Executive on any matter referred to it by a Councillor under Rule 6.3 the Committee must provide the Councillor with a copy of the report or recommendation (subject to Rule 9).

### **Policy Review and Budget Development**

- 6.7 The Overview & Scrutiny Committee has a key role in budget development. The Budget and Policy Framework Procedure Rules contains details of the process by which the Overview & Scrutiny Committee may perform that role.
- 6.8 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Overview & Scrutiny Committee may make proposals to the Executive for developments insofar as they relate to matters within their terms of reference.
- 6.9 Overview & Scrutiny Committees may hold enquiries in relation to policy review and may appoint specialists to assist them in this process. They may visit sites, conduct public surveys, hold public meetings, commission research and undertake such other things they consider reasonable and necessary to inform

their deliberations. They may call witnesses on any matter under consideration and may pay to any specialists and witnesses a reasonable fee and expenses for doing so within budgetary provision.

## **7 REPORTS AND RECOMMENDATIONS OF OVERVIEW & SCRUTINY COMMITTEE**

7.1 This rule applies where an Overview & Scrutiny committee makes a report or recommendation to the Council or the executive, except in relation to a crime and disorder matter.

7.2 The Overview & Scrutiny Committee may publish the report or recommendations.

7.3 The Overview & Scrutiny committee must by notice in writing require the council or executive:

7.3.1 To consider the report or recommendation;

7.3.2 To respond to the committee indicating what (if any) action the council or executive proposes to take;

7.3.3 if the Committee has published the report or recommendation to publish the response;

7.3.4 if the Committee provided a copy of the report or recommendation to a Councillor under Rule 6.6, to provide the Councillor with the response; and

7.3.5 to do all of the above within two months of receiving the report or recommendations or (if later) the notice.

7.4 It is the duty of the Council or Executive to which a notice is given under Rule 7.3 to comply with the requirements specified in the notice.

## **8 REPORTS AND RECOMMENDATIONS – PARTNER AUTHORITIES**

8.1 This order applies where an Overview & Scrutiny Committee makes a report or recommendation to the Council or the Executive, and the report or any of the recommendations relates to a local improvement target which relates to a relevant partner authority.

8.2 The Overview & Scrutiny Committee may by notice in writing to the relevant partner authority (accompanied by the report/recommendations) require that authority to have regard to the report or recommendation in question in exercising their functions.

8.3 The relevant partner must comply with the requirement in the notice to have regard to the report/recommendations.

### **Publication of Reports, Recommendations and Responses**

- 8.4 Where a report or recommendation of the Overview & Scrutiny Committee or response of the Council or the Executive is published pursuant to Rule 7.2 or 7.3.3), and is provided to a Councillor or partner authority under Rules 6.6 or 8, any confidential information must be excluded and any relevant exempt information may be excluded in line with the provisions of the Access to Information Procedure Rules.

## **9 RIGHTS OF THE OVERVIEW & SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

- 9.1 In addition to their rights as Councillors, members of Overview & 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 3** of this Constitution.
- 9.2 Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview & Scrutiny Committee as appropriate depending on the particular matter under consideration.

## **10 RIGHTS OF EXECUTIVE COUNCILLORS**

- 10.1 Subject to the provisions of the Access to Information Procedure Rules, Executive Councillors may attend meetings of the Overview & Scrutiny Committee including parts of the meeting where exempt items are being discussed and shall be entitled to receive the agenda for the meeting (including exempt matters) and to speak, give evidence and answer questions at the invitation of the Committee.

## **11 COUNCILLORS AND OFFICERS GIVING ACCOUNT**

- 11.1 The Overview & Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any executive function. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Executive Councillor, the Chief Executive and/or any chief officer to attend before it to explain in relation to matters within their remit:

11.1.1 any particular decision or series of decisions;

11.1.2 the extent to which the actions taken implement Council policy; and/or

11.1.3 their performance,

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

- 11.2 Where, in exceptional circumstances, the Councillor or officer is unable to attend on the required date, then Overview & Scrutiny Committee shall in

consultation with the Councillor or officer arrange an alternative date for attendance.

## **12 ATTENDANCE BY OTHERS**

- 12.1 The Overview & Scrutiny Committee may invite people other than those people referred to in Rule 11 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from Members of the Public, stakeholders and Councillors and officers in other parts of the public sector and may invite such people to attend.

## **13 CALL-IN**

- 13.1 When a decision is made by the Executive, an individual Executive Councillor or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the registered Council Offices, normally within two working days of being made. All Councillors will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- 13.2 The record of the decision will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, as from 4.00pm on the fifth working day after the day on which the decision was published, unless within this time it is called in for scrutiny ("the call-in period").
- 13.3 Subject to 13.5 below, a key decision may be called-in for scrutiny by the Overview & Scrutiny Committee if the Chair of the Overview & Scrutiny Committee or any five Councillors submit a notice in writing to the Monitoring Officer within the call-in period giving reasons why the decision should be scrutinised. Key decisions made under joint arrangements may be called-in under the rules set out in those arrangements.
- 13.4 The Monitoring Officer shall then notify the decision-taker of the call-in. A meeting of the relevant Overview and Scrutiny Committee will be called on such date as the Monitoring Officer may determine, where possible after consultation with the Chair of the Committee, and in any case within 10 clear working days of the decision to call in, unless it is agreed by all relevant parties that the decision which has been called in may be scrutinised at the next scheduled meeting of the Overview & Scrutiny Committee. The relevant chief officer and/or Executive Councillor shall have the right to attend the meeting to explain the reasons for the decision and to respond to comments made at the meeting.
- 13.5 A decision may not be called-in if the Committee has already made recommendations to the decision-taker and those recommendations have been accepted by the decision-taker either in whole or without significant addition or modification.

- 13.6 Where a decision has been called-in by five Councillors at least two of the call in Councillors **must** attend the meeting. Where at least two of those Councillors do not attend, the Committee may, at its discretion, determine not to scrutinise the decision.
- 13.7 If, having considered the decision, (which consideration must be completed before the next scheduled meeting of the Executive) the Overview & Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Council. Matters should normally only be referred to Council if Overview & Scrutiny Committee consider the decision to be contrary to the policy framework of the Council or contrary to or not wholly in accordance with the budget.
- 13.8 If the decision is referred back to the decision maker they shall then reconsider the decision. The decision maker may amend the decision or not, before adopting a final decision which will come into force immediately.
- 13.9 If following an objection to the decision, the Overview & Scrutiny Committee does not either refer the matter back to the decision making person or body or refer the matter to Council or determines under 13.6 above not to scrutinise the matter, the decision shall take effect on the date of the Scrutiny meeting.
- 13.10 If the matter was referred to Council and the Council does not object to the 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, it has no power to make decisions in respect of executive functions unless the decision is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- 13.11 If the Council does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.

## **14 CALL-IN AND URGENCY**

- 14.1 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 legal or financial position of the Council or the interests of the Members of the Public of the Cumberland area. The record of the decision, and the notice by which it is made public shall state whether in the opinion of the decision making person or body (having considered the advice of the Chief Executive and/or the Monitoring Officer and/or the Chief Finance Officer), the decision is an urgent one, and therefore not subject to call-in. The Chair of the Overview & Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.

- 14.2 In the absence of the Chair of the Overview & Scrutiny Committee, the Chair of the Council'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.
- 14.3 The operation of the provisions relating to call-in and urgency shall be monitored annually by the Monitoring Officer, and a report submitted to Council with proposals for review if necessary.
- 14.4 Where a decision is exempted from call-in, it will become effective immediately or (if later) as soon as the agreement of the Chair of the Overview & Scrutiny Committee (or the Chair of the Council or the Chief Executive, if appropriate) has been obtained.

## **15 COUNCILLOR CALL FOR ACTION**

- 15.1 Any Councillor may submit a Councillor's Call for Action using the appropriate form. The Councillor Call for Action is intended to be a process of last resort and therefore a councillor must first take reasonable steps to resolve the matter and may be asked to evidence this, for example by producing a response from the Leader or appropriate Executive Councillor and the Head of Paid Service or their nominee. The Councillor Call for Action will be placed on the agenda of the relevant Overview and Scrutiny Committee. It is for the Overview and Scrutiny Committee to determine how it wishes to respond to the Councillor Call for Action and, in the case of refusal to undertake a review, then reasons must be provided.

## **16 PROCEDURE AT OVERVIEW & SCRUTINY COMMITTEE MEETINGS**

- 16.1 The Overview & Scrutiny Committee shall consider the following business:
- 16.1.1 minutes of the last meeting;
  - 16.1.2 declarations of interest (including whipping declarations);
  - 16.1.3 consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
  - 16.1.4 responses of the Executive to reports of the Overview & Scrutiny Committee;
  - 16.1.5 Councillor's Call for Action; and
  - 16.1.6 the business otherwise set out on the agenda for the meeting.
- 16.2 Where the Overview & 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 are to be conducted in accordance with the following principles:

- 16.2.1 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;
  - 16.2.2 that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - 16.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 16.3 Following any investigation or review, the Committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.