

**Wiltshire Council
Constitution
Part 8
Overview and Scrutiny
Procedure Rules**

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Commented [KE1]: Items will be re-ordered based on other changes in the document, once it is approved

PART 8

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Numbers of and arrangements for Overview and Scrutiny Committees

- 1.1 ~~The Full~~ Council will appoint such numbers of Overview and Scrutiny Committees in accordance with Article 6(4) of Part 2 of this Constitution.
- 1.2 The Terms of Reference and arrangements of the Overview and Scrutiny Committees are ~~as also~~ set out in Article 6 of Part 2 of this Constitution.

2. Limitations on Membership of Overview and Scrutiny Committees

- 2.1 ~~No member of the Cabinet may be appointed as a member of an Overview and Scrutiny Committee, Task Group, Rapid Scrutiny Exercise, or other scrutiny activity.~~
- 2.2 ~~As members of the Executive administration supporting the Cabinet in formulating and developing policy, Paragraph 2.1 shall also apply to Portfolio Holders as defined at Article 7(9) of Part 2 of the Constitution.~~

~~2.2.3~~ No Member may take part in scrutinise a decision in which ~~he/she has they have~~ been directly involved.

3. Co-Optees

3.1 ~~The All~~ Overview and Scrutiny Committees shall be entitled to appoint ~~people as~~ non-voting Co-Optees subject to ratification by Full Council.

~~3.1.2~~ They may also select key partners or stakeholders as informal non-voting members of their committee.

Education representatives

~~3.2.3~~ The Overview and Scrutiny Committee dealing with education matters shall additionally include in its membership the following voting representatives:

~~3.2.3.1~~ One Church of England diocese representative

~~3.2.3.2~~ One Roman Catholic diocese representative

~~3.2.3.3~~ Three Parent Governor representatives from local authority maintained schools

~~3.3.4~~ The representatives above may participate fully in any matter but may only vote where the relevant committee's functions relate wholly or in part to any education functions which are the responsibility of the Cabinet, such as any scrutiny of the council in its role as a local education authority. The Overview and Scrutiny Committee in this paragraph is an Overview and Scrutiny Committee of a local education authority, where the committee's functions relate wholly or in part to any education functions which are the responsibility of the authority's cabinet. If the Overview and Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

Commented [EK2]: Adapted from Part 3C relating to Portfolio Holders for greater clarity

Commented [PH3]: Also...

Paragraph 7 of Schedule A1, of the Local Government Act 2000 makes provision for overview and scrutiny committees to have church representatives. The Council must have a Church of England co-opted member on its overview and scrutiny committee whose functions relate wholly or partly to education if the Council maintains one or more Church of England Schools. Similarly, the Council must have a Roman Catholic representative on its Overview and Scrutiny Committee if the same conditions apply in relation to Roman Catholic Schools.

4. Role of Overview and Scrutiny Committees

Scrutiny Role

4.1 The Overview and Scrutiny Committees may:

- 4.1.1 Review and scrutinise the decisions made by, and the performance of, the cabinet and officers both in relation to individual decisions and over time;
- 4.1.2 Review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas;
- 4.1.3 Question members of the Cabinet and first and second tier officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- 4.1.4 Make recommendations to the Cabinet and/or Full Council arising from the outcome of the scrutiny process;
- 4.1.5 For the avoidance of doubt, the scrutiny role does not extend to individual regulatory decisions such as development control and licensing, although reviews of general regulatory policy and service performance can be undertaken if felt necessary or invited to do so;
- 4.1.6 Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the relevant overview and scrutiny body and local people about their activities and performance.

Policy review and development role

4.2 The Overview and Scrutiny Committees may:

- 4.2.1 assist Full Council and the Cabinet in the development of the council's budget and policy framework by in-depth analysis of policy issues;
- 4.2.2 hold enquiries, conduct research, undertake consultation and encourage community participation in the development options;
- 4.2.3 liaise with other external organisations operating in the County to ensure that the interests of local people are enhanced by collaborative working;
- 4.2.4 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 Cabinet for developments in so far as they relate to matters within their terms of reference as set out in Article 6 of this Constitution.
- 4.2.5 Access such documents and receive notice of such meetings as set out in Part 5 of the Constitution, Access to Information Procedure Rules.

4.5. Meetings of the Overview and Scrutiny Committees

Frequency

- 5.1 The frequency and timing of meetings should reflect the demands placed on the committees from the overall work programme agreed by the Overview and Scrutiny Management Committee ("The Management Committee").

Commented [EK4]: Unchanged apart from 4.2.5 - rest is just moved from further down

Commented [EK5]: To emphasise access rights of scrutiny members as set out in Part 5

Commented [EK6]: Moved from below

5.2 ~~However, there shall be at least six ordinary meetings of each of the Overview and Scrutiny Committees scheduled in the Council's diary in each year.~~

5.3 ~~In addition, additional extraordinary meetings may be called scheduled from time to time as and when appropriate where considered appropriate by the Proper Officer, as defined at Article 12 Para 3.3 of Part 2 of the Constitution.~~

5.4 An extraordinary Overview and Scrutiny Committee meeting may also be called by:

5.4.1 the ~~chair~~ Chairman of the relevant Overview and Scrutiny Committee;

5.4.2 ~~by any two three~~ members of that committee

4.1.1 ~~or by the Director of Legal and Governance~~ Proper Officer, if ~~he/she/they~~ considers it necessary or appropriate.

4.25.5 ~~However, the frequency and timing of meetings should reflect the demands placed on the committees from the overall work programme agreed by the management committee. The notice for any extraordinary meeting must specify the business proposed to be transacted at the meeting, with no consideration of previous minutes or reports from Committees.~~

Quorum

5.6 The quorum for a meeting of an Overview and Scrutiny Committee shall be one quarter of the ~~whole~~ number of voting members of that committee, subject to a minimum of three.

4.35.7 ~~Non-voting Members shall count towards that quorum, subject to a minimum of two voting members being present.~~

Agenda Items

5.8 Overview and Scrutiny Committees shall consider the following business:

5.8.1 Minutes of the last meeting

5.8.2 Declarations of interest

5.8.3 Chairman's Announcements

5.8.4 Consideration of any matter referred to the Committee for a review in relation to call in of a decision

5.8.5 Responses of the Cabinet to reports of the Overview and Scrutiny Committee

5.8.6 The Forward Work Plan for the committee; and

5.8.7 Such business otherwise set out on the agenda for the meeting.

5.6. Chairmen of Overview and Scrutiny Committees

5.1 ~~Each Overview and Scrutiny Committee will be responsible for electing its Chairman at their first meeting following the annual meeting of Full Council. Chairs of Overview and Scrutiny Committees will be drawn from among the Members sitting on the committee, and subject to this requirement the committee may appoint such a person as it considers appropriate as chair.~~

Commented [EK7]: Para 9.1 of Part 4 of the Constitution sets out the time and place of meetings is responsibility of the Proper Officer.

Article 12 Para 3.3 defines the Proper Officer as the Chief Executive

Commented [EK8]: To reflect that when this was first written the committee sizes were smaller, at 11 and 13 as opposed to 13 and 15

Commented [EK9]: This mirrors wording for the calling of extraordinary meetings in Part 4 (Full Council only) - simply meaning the meeting must be called for a purpose and agenda must include details of the items of business.

Commented [EK10]: That is, you could in theory have two voting members and one non-voting member as a minimum quorum.

Commented [EK11]: Moved from end of section as more relevant here
Added announcements and forward work programme renamed as agenda items rather than procedure

Commented [EK12]: Move to after Section 3

Commented [EK13]: "Will" rather than "may" to make stronger

6.1 ~~The Overview and Scrutiny Committees shall use the same procedure as that used to elect Chairmen of Area Boards as set out at Paragraphs 4.9-4.15 of Part 3B of the Constitution~~

6.2 ~~Chairmen and Vice-Chairmen must be drawn from the voting members of a Committee.~~

~~6-7. Work Programme~~

7.1 ~~The Overview and Scrutiny Management Committee will be responsible for setting approving the overall work programme in order to ensure the most effective allocation of resources across all the Overview and Scrutiny Committees.~~

7.2 ~~The Management Committee will work co-operatively with all other Overview and Scrutiny Committees, also known as Select Committees, and with all political groups, in preparing its overall work programme, and in doing so it shall take into account wishes of members on that committee who are not members of the largest political group on the council.~~

7.3 ~~However, the committee~~The Management Committee will be mindful of the council's priorities set out in the ~~Council's~~ Business Plan and the benefit of establishing an effective working relationship with the Cabinet, ~~also known as the Executive,~~ and ~~Council's~~ the Audit & Governance Committee in setting its work programme. ~~The Overview and Scrutiny Management Committee~~It will also ~~wil~~ have regard to the Protocol ~~10 of the Constitution on~~ Governance Reporting Arrangements.

~~6-7.4~~ The Management Committee and other Overview and Scrutiny Committees may also ~~liaise on~~ as appropriate with the Cabinet, Chief Executive, Corporate Directors, and Directors, as part of determining ~~its~~the work programme.

~~7-8. Referral of Agenda items~~

~~Referrals by an Individual Member~~

8.1 ~~Any member of an Overview and Scrutiny Committee shall be entitled to give notice to the designated scrutiny officer that he/she wishes an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. On receipt of such a request the designated scrutiny officer will ensure that it is included on the next available agenda, subject to agreement by the Overview and Scrutiny Management Committee. Any Member of the Council may inform the Designated Scrutiny Officer (as defined at Article 12 Para 4 of Part 2 of the Constitution) that they wish to refer to an Overview and Scrutiny Committee any matter which is relevant to the functions of that committee and is not an excluded matter (Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012).~~

~~7-48.2~~ Following such notice, the item will be listed on the agenda at the next ordinary meeting of the appropriate committee as a referred matter. The Member referring the matter will be invited to attend the meeting and set out what Overview and Scrutiny activity or action they consider would be appropriate. The Committee will then determine what if any action should be taken in response to the discussion. ~~If the Committee considers that no further work or action is appropriate~~ the matter should not be debated further, and they will provide reasons to the requesting Member.

Commented [EK14]: To formalise the procedures currently used already.

Referencing in this way reduces duplication - covers off details like must be present unless providing written consent to be elected chair in absence, how to break ties etc.

Commented [EK15]: Move above to section about meetings as a subheading, under title 'Reference of matters to overview and scrutiny committee'

Commented [EK16]: LGA 2000 enables any member to 'refer' a matter'

Commented [MJ17R16]: Reference to refer any matter which is not an "excluded matter".

(5) In subsection (1)(c) "excluded matter" means any matter which is—

(a) a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or

(b) a matter of any description specified in an order made by the Secretary of State for the purposes of this section.

Commented [HP18R16]: The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012:

Excluded matters

3. Subject to article 4, the descriptions of matters specified as excluded matters for the purposes of section 9FC of the Local Government Act 2000 are—

(a) any matter relating to a planning decision;

(b) any matter relating to a licensing decision;

(c) any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal conferred by or under any enactment;

(d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee.

Commented [EK19]: This means any member has a process to refer a matter of concern to the relevant committee

LGA Act 2000

(2) For the purposes of subsection (1), provision enables a person to refer a matter to a committee or sub-committee if it enables him to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee or sub-committee.

Inclusion in the agenda could be read to be under another item, but a more ordinary use of words would be that it means as an agenda item

~~7.2 The leader of the opposition may on up to four occasions per year require the designated scrutiny officer to include an item on the agenda of the Overview and Scrutiny Management Committee for consideration. The designated scrutiny officer shall inform the chair of the Overview and Scrutiny Management Committee of the request at the earliest opportunity, and make arrangements for the matter to be included on the agenda at the next available meeting of the Overview and Scrutiny Management Committee.~~

Commented [EK20]: Unnecessary, given procedure for any member to refer a matter

~~7.3 Any Five Members of the Council may give written notice to the Designated Scrutiny Officer that they wish an item to be included on the agenda of the Overview and Scrutiny Management Committee. If the designated scrutiny officer receives such a notification, then he/she will include the item on the first available agenda of the Overview and Scrutiny Management Committee for consideration by the committee.~~

Commented [EK21]: Revisions make unnecessary as any member may refer a matter

Referrals by Area Boards or through Member Call for Action

~~7.48.3 The Overview and Scrutiny Management Committee shall include on its agenda any referral from an Area Board and/or formal Member Call for Action which has followed the proper processes set out at sections xx and xy below.~~

Commented [KE22]: Insert for final version, once approved, once all sections in their proper place

Referrals by Full Council or Cabinet

~~8.4 The Overview and Scrutiny Management Committee shall also respond, as soon as its work programme permits, to requests-referrals from the Full Council and, if it considers it appropriate, the Cabinet, to review particular areas of council activity.~~

~~7.58.5 -Where it does so, the Overview and Scrutiny Management Committee shall report its findings and any recommendations back to the Full Council and/or Cabinet.~~

8.9. Member Call for Action (MCfA)

~~9.1 MCfA is a process that enables Members to deal with issues of concern in their local communities. When concerns arise — either as a result of information from individuals, community groups, or the Member's own observations — they are able to trigger a response from service providers and ensure the concerns are dealt with. What makes the MCfA different from a more general request for scrutiny is the focus of the MCfA is on neighbourhood or locality issues, and specifically the quality of public service provision at a local level.~~

~~8.19.2 Any elected memberMember may submit a MCfA using the appropriate form-available from the Designated Scrutiny Officer. The MCfA is intended to be a process of last resort and therefore a memberMember must demonstrate that reasonable steps have been taken to resolve the matter including a response from the relevant Cabinet Member and Director.~~

~~8.29.3 In the first instance the relevant Area Board will consider the MCfA and will then be placed on the agenda of the Overview and Scrutiny Management Committee should the Mmember remain dissatisfied.~~

~~8.39.4 It is for the Overview and Scrutiny Management Committee to determine how it wishes to respond to the MCfA and in the case of refusal to undertake a review then reasons must be provided. (Further guidance on the operation of MCfA is available on the intranet and from the designated scrutiny officer.)~~

Commented [EK23]: Redundant

9-10. Area Boards

10.1 The Overview and Scrutiny Management Committee will consider referrals from Area Boards on issues which have been the subject of local review ~~or and~~ are multi-boundary, or have budget, policy or contractual implications for the council which have first been debated at an ~~area~~ Area board ~~Board~~.

~~9-10.2~~ The Overview and Scrutiny Management Committee will have full discretion in how it wishes to respond to such referrals. ~~Further information on local challenge referrals is contained in the area boards' handbook.~~ This does not preclude ~~overview~~ Overview and ~~scrutiny~~ Scrutiny initiating its own review of a local issue, however in general reviews will focus on broader strategic and policy matters.

10-11. Scrutiny of crime and disorder reduction partnerships

~~10-11.1~~ The Overview and Scrutiny Management Committee will ~~facilitate~~ be the responsible committee for scrutiny of performance of the partnerships under the provisions of the Police and Criminal Justice Act 2006.

11-12. Reports from Overview and Scrutiny Committees

12.1 Once recommendations have been formed on a matter, ~~the an~~ Overview and Scrutiny Committee ~~will~~ may submit a formal report for consideration as appropriate by:

~~15.1.1~~ ~~the cabinet~~ Cabinet as a whole, or

~~or cabinet~~ 15.1.2 a Cabinet member ~~Member~~, (if the proposals relate to an executive function and are consistent with the existing budgetary and policy framework); or

~~or 15.1.3 to the council~~ Full Council as appropriate (if the recommendation would require a departure from or a change to the agreed budget and policy framework).

~~11-12.2~~ If an Overview and Scrutiny Committee cannot agree on one single final report to the ~~council~~ Full Council or ~~cabinet~~ Cabinet as appropriate, ~~one~~ minority report(s) may be prepared and submitted for consideration by ~~the~~ Full Council or Cabinet with alongside the majority report.

~~11-12.3~~ ~~The~~ Full Council, ~~or~~ Cabinet, or a Cabinet Member, shall consider ~~the a~~ report ~~of submitted by the an~~ Overview and Scrutiny Committee within two months (or next available meeting in the case of Full Council) of it being submitted.

~~11-12.4~~ Where ~~the an~~ Overview and Scrutiny Committee submits a report for consideration by the ~~cabinet~~ Cabinet in relation to a matter where the Leader has delegated decision-making power to another individual member of the Cabinet, the report will be submitted to him/her/them for consideration. The ~~member~~ Member with delegated decision-making power must consider the report and respond in writing to the ~~Overview and Scrutiny Management Committee~~ the relevant Overview and Scrutiny committee within two months of receiving it. The Cabinet Member will also attend a future meeting of the relevant Overview and Scrutiny Committee to present their response.

~~12. Rights of Overview and Scrutiny Committee members to documents~~

~~12.1 In addition to their rights as Members, members performing overview and scrutiny duties have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 5 of this Constitution.~~

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Last Updated 4 February 2014 21 May 2024

Commented [EK24]: 19Local authority scrutiny of crime and disorder matters

(1) Every local authority shall ensure that it has a committee (the "crime and disorder committee") with power—
(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
(b) to make reports or recommendations to the local authority with respect to the discharge of those functions.
"The responsible authorities" means the bodies and persons who are responsible authorities within the meaning given by section 5 of the Crime and Disorder Act 1998 (c. 37) (authorities responsible for crime and disorder strategies) in relation to the local authority's area.

~~12.2~~12.5 Nothing in this paragraph prevents more detailed liaison between the cabinet and Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

Commented [EK25]: Reference included elsewhere

13. Members and officers giving account

13.1 Overview and Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. A standing invitation exists for Cabinet Members and officers to attend Overview and Scrutiny Committees to give account for any decision, action, or proposed action.

Commented [EK26]: Moved from below, and added officers - sets out the more collegial expectations and practice at Wiltshire

~~13.1~~13.2 As well as reviewing documentation Overview and Scrutiny Committees they may require any cabinet member, the Head of Paid Service or any Director, the Chief Executive, or any Corporate Director, or Director to attend a meeting to explain in relation to any decision or answer questions about a matter within their remit, including proposed actions.

Commented [EK27]: The LG Act 2000 says:
(8) An overview and scrutiny committee of a local authority or a sub-committee of such a committee—
(a) may require members of the executive, and officers of the authority, to attend before it to answer questions,

~~13.2~~13.3 Where ~~a specific request has been made~~ Where an Overview and Scrutiny committee makes a resolution requiring the attendance of any Cabinet Member or Officer detailed above at a meeting, it is the duty of those persons to attend if so required. This requirement extends to Task Groups and Rapid Scrutiny Exercises established by an Overview and Scrutiny Committee. In addition, a standing invitation exists for cabinet members to attend Overview and Scrutiny Committees.

Not just about decisions

Commented [EK28]: At present the requirement says it is to explain decisions, but the statute is broader.

It also says the 'committee' may require it. A resolution, to indicate formal view of the committee

13.4 Where any Cabinet Member or officer is required to attend an Overview and Scrutiny body ~~under this provision~~, the Designated Scrutiny Officer shall inform the Member or officer in writing giving at least 10 working days' notice.

Commented [EK29]: That is, a committee can require a senior officer/Member attend a Task Group.

~~13.3~~13.5 The notice will state the nature of the topic on which ~~he/she/they are~~ is required to give an account and whether any written evidence needs to be produced for the meeting. Sufficient notice should be given to allow reasonable time to produce the written evidence.

~~13.4~~13.6 The Chairman of the relevant Overview and Scrutiny Committee shall determine the reasonableness of the notice to produce any written evidence if this is disputed, or whether it is appropriate for another Member or Officer of equivalent or greater seniority to attend in place of the requested person(s), or rearrange the attendance date.

Commented [EK30]: To clarify attending is a requirement not to be disputed, but if more time is needed for material to be produced the Chairman will determine if they accept that explanation.

Commented [EK31]: To provide flexibility - people on holiday etc - but ensure senior people still attend

14. Attendance by others and evidence gathering

14.1 Overview and Scrutiny Committees 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.

14.2 They may appoint advisers to assist them in this process and ask witnesses to attend to address them on any matter under consideration and may pay a reasonable fee and expenses for doing so subject to agreement of the Designated Scrutiny Officer in consultation with the Chairman of the relevant committee and the Management Committee that it is reasonable and proportionate.

Commented [EK32]: Simply to clarify the procedural step to agree payment of expenses or fee for such advisers/witnesses

~~14.1~~14.3 They may invite any person to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders ~~and members~~ Members and officers in other parts of the public sector ~~and shall invite such people to attend.~~

~~14.2~~14.4 Where witnesses have been called then the meeting should be conducted in accordance with the following principles:

~~14.2.1~~14.4.1 The investigation be conducted fairly and all ~~members~~Members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;

~~14.2.2~~14.4.2 Those assisting the committee by giving evidence to be treated with respect and courtesy;

~~14.2.3~~14.4.3 The investigation be conducted ~~so as~~ to maximise the efficiency of the investigation or analysis; and

~~14.2.4~~14.4.4 The committee to make its report and findings public, subject to the requirements of confidentiality and exempt information provisions.

15. Call-in

Purpose of Call-in

15.1 Call-in should only be used in exceptional circumstances. This is where members of the Overview and Scrutiny Management Committee have are provided evidence which suggests that a decision maker as set out in Paragraph 18.2 the Cabinet did not take the a decision in accordance with the principles of decision making in the Constitution as set out in Article 13(2) of Part 2 and Paragraph 2.2 of Part 3D(1) of the Constitution.

Commented [EK33]: Eg. Can be a delegated decision

Which decisions can be called -in

15.2 When an Executive decision is made by:

Commented [EK34]: Includes ABs below, but this is just when using the executive authority

~~15.2.1~~ -the Cabinet

~~15.2.2~~ ,an individual Member of the Cabinet

~~15.2.3~~ a committee of the Cabinet

~~15.2.4~~ ,or a Key decision is made by an officer with delegated authority from the Cabinet in respect of a Key decision

~~15.2.5~~ ,or an area committee, when making a decision with delegated authority from the Cabinet

~~15.2.6~~ or under joint arrangements

~~,~~the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the normally within ~~two~~three days of being made. The ~~chair~~Chairman of the ~~Overview and Scrutiny~~ Management Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

Commented [KE35]: Suggested due to turnaround for Cabinet meetings

Call-in runs from the day of publication of the decision, so making this three instead of two would not reduce call-in time.

Notice of Decision

~~14.3~~15.3 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 clear working days after the publication of the decision, unless the Overview and Scrutiny Management Committee objects to it and calls it in in the decision is called in to the Management Committee.

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Last Updated ~~4 February 2014~~21 May 2024

15.4 During that five clear working day period, the ~~designated~~ Designated scrutiny ~~Scrutiny officer~~ Officer shall call in a decision for scrutiny by the management ~~committee~~ to the Management Committee where if so requested a request is ~~by~~ received from any ten non-executive members of the council, setting forth the grounds by which they believe the decision has not been taken in accordance with the principles of decision making. ~~---~~

15.5 If a request is received by the requisite number of Members and setting forth the grounds for their request, the Designated Scrutiny Officer and shall then notify the decision-maker of the call-in.

15.6 If there is an ordinary Management Committee meeting scheduled within that period, the call-in may be considered at that meeting, if the Chairman of the Management Committee agrees there is sufficient notice to consider the call-in appropriately. ~~He/she shall~~ Otherwise, the Proper Officer will then call an extraordinary meeting of the Management Committee ~~on such date as he/she may determine~~ in consultation with the Designated Scrutiny Officer, ~~where possible after consultation with and the chair~~ Chairman of the Management Committee, and in any case within ~~five seven working~~ days of the decision to call-in.

Committee procedure to consider call-in request

15.7 The Designated Scrutiny Officer shall prepare a report for the Management Committee, listing the reasons those requesting call-in consider the decision does not accord with the principles of decision-making, and any other relevant facts or details.

15.8 A representative from those submitting the call-in request will be invited to present their request in full. This may be followed by officers and Members involved in the decision as appropriate, or contributions by other non-committee Members. All parties may be questioned for further detail by Members of the Management Committee.

15.9 Following final summation from the lead representative of those requesting call-in and then the decision maker, the Committee will debate whether to confirm the request.

Committee decision on call-in

15.10 ~~If, the having considered the decision, the Overview and Scrutiny Management Committee is still concerned about it, resolves that they have concerns the decision was not carried out fully in accordance with the principles of decision making~~ then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns, ~~of~~.

15.11 Alternatively, they may refer the matter to Full Council for consideration. In that circumstance the Proper Officer in consultation with the Chairman of Council will determine whether to call an extraordinary meeting.

15.12 Matters should only be referred to Full Council if the Management Committee considers that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget.

Commented [EK36]: That is, ensuring they have included at least one grounds - not that the Designated Scrutiny Officer will assess whether that ground is reasonable, which will be for committee to assess

Commented [EK37]: To ensure agendas for the extraordinary meeting are able to be published in line with legal requirements of 5 clear working days, with some time to arrange the meeting before publication

Commented [EK38]: So if there is a scheduled meeting in a week and a day when the call-in comes in, the call-in could go to that not an extraordinary meeting, but if comes in with only 2 days to the meeting the Chairman may say no, and an extraordinary meeting is arranged to give appropriate time to prepare

Commented [EK39]: Presently nothing about whether requesters get to speak, who responds etc

Commented [EK40]: So that whatever questioning and contributions have taken place, the lead requester and then the decision maker will have final say before debate

Commented [EK41]: S21(3)(b) LGA 2000 provides for a scrutiny committee to be able to arrange for its function to be exercised by the authority, ie Council

Guidance is that clear timescales should be set out in the constitution for the debate to avoid decisions being unnecessarily delayed.

So if a meeting is coming up it may go to that, but if a delay would cause significant issues and a meeting is not scheduled for some time, an extraordinary meeting may be necessary

Commented [KE42]: To give proper officer authority to determine if referral to next meeting or an extraordinary meeting, depending on impact of a delay - eg if a delay of 1-2 months would be problematic or harmful

Commented [KE43]: Add that they do not have to do so even then? A referral would pause the decision potentially for months, or see extraordinary meetings of full council to determine the matter.

Commented [EK44]: This is from guidance from the then Department for Environment, Transport, and the Regions, and still in effect.

Current procedure mentions the same restriction, but further down.

~~14.4~~15.13 If referred to the decision-maker ~~they that person or body~~ shall then reconsider the decision within a further five-seven working days, amending the decision or not, before adopting a final decision. The decision-maker must set out the reasons for their decision with reference to the reasoning and resolution of the Management Committee.

Commented [EK45]: As above, to enable compliance with regular committee publication requirements

Commented [EK46]: To ensure any concerns are addressed even if not agreed with

15.14 If, following ~~an objection to the decision~~ a call in, the ~~Overview and Scrutiny~~ Management Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting, or the expiry of that further five-seven clear working day period, whichever is the earlier.

Committee referral to Full Council

15.15 If the matter was referred to Full Council and ~~the council does not object to a decision which has been made~~ it considers that the principles of decision making were followed and/or that the decision was made in accordance with the policy framework and the budget, then no further action is necessary and the decision will be effective in accordance with the provisions below.

~~15.16 The council will refer any decision to which it objects~~ Where Full Council considers that the decision was contrary to the policy framework or contrary to or not wholly in accordance with the budget, or otherwise not in accordance with the principles of decision making, it will refer the decision back to the decision-making person or body, together with ~~the council's views~~ its 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. The decision-maker must set out the reasons for their decision with reference to the reasoning and resolution of Full Council.

Commented [EK47]: To ensure any concerns are addressed even if not agreed with

15.17 Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider the decision within five-seven working days of the Full Council request decision.

~~14.5~~15.18 Where the decision was made by an individual Member of Cabinet or officer taking a Key decision delegated from Cabinet, the individual will reconsider the decision within five-seven working days of the Full Council request decision, using the procedure for individual decisions as set out in Protocol 5 of the Constitution or for an officer in accordance with the Scheme of Delegation, Part 3D of the Constitution. ~~The Council cannot make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget.~~

Commented [EK48]: An intention period, then confirmation

Commented [EK49]: Point covered here now made further up

~~14.6~~15.19 If ~~the council~~ Full Council does not meet to consider a referral, or if it does, but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the ~~council~~ Full Council meeting or ~~expiry of the period in which the council meeting should have been held, whichever is the earlier.~~

Commented [EK50]: Per 15.11 a referral will be taken to full council on a scheduled meeting, or as an extraordinary one. So no set expiry period, it will always take effect from the meeting of full council, but that may for example be 1 week or 3 months etc

~~14.7~~ Where a cabinet decision has been taken by an area committee then the right of call in shall extend to any other area committee which resolves to refer a decision which has been made but not implemented to the Overview and Scrutiny Management Committee for consideration in accordance with these provisions.

Commented [EK51]: This implies an area committee (the smallest is 4 members) can call in a decision made by another area board. It also is not practical in any case, since it says a decision not implemented, which would be within 5 days of the decision, but another AB would not be able to meet in that time unless already scheduled to be within it.

~~14.8 An area committee may request the designated scrutiny officer to call in the decision only if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call in shall apply as if the call in had been exercised by members of the Overview and Scrutiny Management Committee.~~

15.16. Call-in and urgency

~~15.16.1~~ The call-in procedure set out above shall not apply where the decision being taken ~~by Cabinet~~ 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.

Commented [EK52]: As above can include Cabinet Member decisions

~~15.2~~16.2 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.

~~15.3~~16.3 The Chairman of the Council 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 Chair~~man~~, the ~~vice chair's~~Vice-Chairman's consent shall be required.

~~15.4~~16.4 In the absence of both, the ~~head of paid service or his/her nominee's~~Proper Officer's consent shall be required following consultation 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.~~

~~16.5~~ ~~submitted~~Any such urgent decisions taken -shall be reported at the next available meeting of Full Council together with the reasons for the urgency, and also reported annually.~~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.~~

~~15.5~~16.6 The call-in procedure shall also not apply where a decision maker has responded to an existing call-in request and reconsidered their decision accordingly.

Commented [EK53]: To be clear that a decision to proceed after a call-in is not itself call-in able.

16. Procedure at Overview and Scrutiny Committee meetings

~~16.1 Overview and Scrutiny Committees shall consider the following business:~~

~~16.1.1 Minutes of the last meeting~~

~~16.1.2 Declarations of interest~~

~~16.1.3 Consideration of any matter referred to the Committee for a review in relation to call in of a decision~~

~~16.1.4 Responses of the cabinet to reports of the Overview and Scrutiny Committee and~~

~~16.1.5 The business otherwise set out on the agenda for the meeting.~~

Commented [EK54]: Move to info about meetings