

Wiltshire Council Constitution

Part 8

Overview and Scrutiny Procedure Rules

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PART 8

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Numbers of and arrangements for Overview and Scrutiny Committees

- 1.1 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 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.
- 2.3 No Member may take part in scrutinising a decision in which they have been directly involved.

3. Co-Optees

- 3.1 All Overview and Scrutiny Committees shall be entitled to appoint non-voting Co-Optees, subject to ratification by Full Council.
- 3.2 They may also select key partners or stakeholders as informal non-voting members of their committee.

Education representatives

- 3.3 The Overview and Scrutiny Committee dealing with education matters shall additionally include in its membership the following voting representatives:
 - 3.3.1 One Church of England diocese representative
 - 3.3.2 One Roman Catholic diocese representative
 - 3.3.3 Three Parent Governor representatives from local authority maintained schools
- 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.

4. Chairmen of Overview and Scrutiny Committees

- 4.1 Each Overview and Scrutiny Committee will be responsible for electing its Chairman at their first meeting following the annual meeting of Full Council.

4.2 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.

4.3 Chairmen and Vice-Chairmen must be drawn from the voting members of a committee.

5. Role of Overview and Scrutiny Committees

Scrutiny Role

5.1 The Overview and Scrutiny Committees may:

5.1.1 Review and scrutinise the decisions made by, and the performance of, the cabinet and officers both in relation to individual decisions and over time;

5.1.2 Review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas;

5.1.3 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;

5.1.4 Make recommendations to the Cabinet and/or Full Council arising from the outcome of the scrutiny process;

5.1.5 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;

5.1.6 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

5.2 The Overview and Scrutiny Committees may:

5.2.1 assist Full Council and the Cabinet in the development of the council's budget and policy framework by in-depth analysis of policy issues;

5.2.2 hold enquiries, conduct research, undertake consultation and encourage community participation in the development options;

5.2.3 liaise with other external organisations operating in the County to ensure that the interests of local people are enhanced by collaborative working;

5.2.4 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.

5.2.5 Access such documents and receive notice of such meetings as set out in Part 5 of the Constitution, Access to Information Procedure Rules.

6. Meetings

Frequency

- 6.1 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”).
- 6.2 However, there shall be at least six ordinary meetings of each Overview and Scrutiny Committee scheduled each year.
- 6.3 Additional meetings may be scheduled from time to time where considered appropriate by the Proper Officer, as defined at Article 12 Para 3.3 of Part 2 of the Constitution.
- 6.4 An extraordinary Overview and Scrutiny Committee meeting may also be called by:
 - 6.4.1 the Chairman of the relevant Overview and Scrutiny Committee;
 - 6.4.2 any three members of that committee
- 6.5 The Proper Officer, if they consider it necessary or appropriate. 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

- 6.6 The quorum for a meeting of an Overview and Scrutiny Committee shall be one quarter of the number of voting members of that committee, subject to a minimum of three.
- 6.7 Non-voting Members shall count towards that quorum, subject to a minimum of two voting members being present.

Agenda Items

- 6.8 Overview and Scrutiny Committees shall consider the following business:
 - 6.8.1 Minutes of the last meeting
 - 6.8.2 Declarations of interest
 - 6.8.3 Chairman’s Announcements
 - 6.8.4 Consideration of any matter referred to the Committee for a review in relation to call in of a decision
 - 6.8.5 Responses of the Cabinet to reports of the Overview and Scrutiny Committee
 - 6.8.6 The Forward Work Plan for the committee; and
 - 6.8.7 Such business otherwise set out on the agenda for the meeting.

Work Programme

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

- 6.10 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.
- 6.11 The Management Committee will be mindful of the council's priorities set out in the Business Plan and the benefit of establishing an effective working relationship with the Cabinet, also known as the Executive, and the Audit & Governance Committee in setting its work programme. It will also have regard to Protocol 10 of the Constitution, Governance Reporting Arrangements.
- 6.12 The Management Committee and other Overview and Scrutiny Committees may also liaise as appropriate with the Cabinet, Chief Executive, Corporate Directors, and Directors, as part of determining the work programme.

Reference of matters to overview and scrutiny committee

Referrals by an Individual Member

- 6.13 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).
- 6.14 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.

Referrals by Area Boards or through Member Call for Action

- 6.15 The Management Committee shall include on its agenda any referral from a Member Call for Action or an Area Board which has followed the proper processes set out at sections 7 and 8 below.

Referrals by Full Council or Cabinet

- 6.16 The Management Committee shall also respond, as soon as its work programme permits, to referrals from Full Council and, if it considers it appropriate, the Cabinet, to review particular areas of council activity.
- 6.17 Where it does so, the Management Committee shall report its findings and any recommendations back to Full Council and/or Cabinet.

7. Member Call for Action (MCfA)

- 7.1 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.

- 7.2 Any Member 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 Member must demonstrate that reasonable steps have been taken to resolve the matter including a response from the relevant Cabinet Member and Director.
- 7.3 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 Member remain dissatisfied.
- 7.4 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.

8. Area Boards

- 8.1 The Overview and Scrutiny Management Committee will consider referrals from Area Boards on issues which have been the subject of local review and are multi-boundary, or have budget, policy or contractual implications for the council which have first been debated at an Area Board.
- 8.2 The Overview and Scrutiny Management Committee will have full discretion in how it wishes to respond to such referrals. This does not preclude Overview and Scrutiny initiating its own review of a local issue, however in general reviews will focus on broader strategic and policy matters.

9. Scrutiny of crime and disorder reduction partnerships

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

10. Reports from Overview and Scrutiny Committees

- 10.1 Once recommendations have been formed on a matter, an Overview and Scrutiny Committee may submit a formal report for consideration as appropriate by:
- 15.1.1 the Cabinet as a whole, or
 - 15.1.2 a Cabinet Member, if the proposals relate to an executive function and are consistent with the existing budgetary and policy framework or
 - 15.1.3 to Full Council if the recommendation would require a departure from or a change to the agreed budget and policy framework,.
- 10.2 If an Overview and Scrutiny Committee cannot agree on one single final report to the Full Council or Cabinet as appropriate, minority report(s) may be prepared and submitted for consideration by Full Council or Cabinet alongside the majority report.
- 10.3 Full Council, Cabinet, or a Cabinet Member, shall consider a report submitted by an Overview and Scrutiny Committee within two months (or next available meeting in the case of Full Council) of it being submitted.
- 10.4 Where an Overview and Scrutiny Committee submits a report for consideration by the 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 them for consideration. The Member with delegated decision-making power must

consider the report and respond in writing to 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.

11. Members and officers giving account

- 11.1 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.
- 11.2 As well as reviewing documentation Overview and Scrutiny Committees may require any Cabinet Member, the Chief Executive, or any Corporate Director or Director, to attend a meeting to explain any decision or answer questions about a matter within their remit, including proposed actions.
- 11.3 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. This requirement extends to Task Groups and Rapid Scrutiny Exercises established by an Overview and Scrutiny Committee.
- 11.4 Where any Cabinet Member or officer is required to attend an Overview and Scrutiny body, the Designated Scrutiny Officer shall inform the Member or officer in writing giving at least 10 working days' notice.
- 11.5 The notice will state the nature of the topic on which they are 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.
- 11.6 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.

12. Attendance by others and evidence gathering

- 12.1 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.
- 12.2 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.
- 12.3 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. Members and officers in other parts of the public sector
- 12.4 Where witnesses have been called then the meeting should be conducted in accordance with the following principles:

- 12.4.1 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;
- 12.4.2 Those assisting the committee by giving evidence to be treated with respect and courtesy;
- 12.4.3 The investigation be conducted to maximise the efficiency of the investigation or analysis; and
- 12.4.4 The committee to make its report and findings public, subject to the requirements of confidentiality and exempt information provisions.

13. Call-in

Purpose of Call-in

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

Which decisions can be called in

- 13.2 When an Executive decision is made by:

- 13.2.1 the Cabinet

- 13.2.2 an individual Member of the Cabinet

- 13.2.3 a committee of the Cabinet

- 13.2.4 an officer with delegated authority from the Cabinet in respect of a Key decision

- 13.2.5 an area committee, when making a decision with delegated authority from the Cabinet

- 13.2.6 or under joint arrangements

- 13.3 the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the normally within three days of being made. The Chairman of the 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.

Notice of Decision

- 13.4 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 in the decision is called in to the Management Committee.
- 13.5 During that five clear working day period, the Designated Scrutiny Officer shall call in a decision to the Management Committee where a request is 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.

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

13.7 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. Otherwise, the Proper Officer will then call an extraordinary meeting of the Management Committee in consultation with the Designated Scrutiny Officer, and the Chairman of the Management Committee, within seven working days of the call-in.

Committee procedure to consider call-in request

13.8 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.

13.9 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.

13.10 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

13.11 If the Management Committee 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.

13.12 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.

13.13 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.

13.14 If referred to the decision-maker that person or body shall then reconsider the decision within a further 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.

13.15 If, following a call in, the 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 seven clear working day period, whichever is the earlier.

Committee referral to Full Council

- 13.16 If the matter was referred to Full Council and 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.
- 13.17 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 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.
- 13.18 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 seven working days of the Full Council decision.
- 13.19 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 seven working days of the Full Council 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.
- 13.20 If 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 Full Council meeting

14. Call-in and urgency

- 14.1 The call-in procedure set out above shall not apply where the decision being taken 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.
- 14.2 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.
- 14.3 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 Chairman, the Vice-Chairman's consent shall be required.
- 14.4 In the absence of both, the Proper Officer's consent shall be required following consultation with the Monitoring Officer.
- 14.5 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..
- 14.6 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.

