

**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 The Council will appoint such overview and scrutiny committees in accordance with Article 6 of Part 2 of this constitution.
- 1.2 The terms of reference of the overview and scrutiny committees are as set out in Article 6 of this constitution.

2. Limit on membership of overview and scrutiny committees

- 2.1 No member may scrutinise a decision in which he/she has been directly involved.

3. Co-optees

- 3.1 The overview and scrutiny committees shall be entitled to appoint people as non-voting co-optees.

4. Education representatives

- 4.1 The overview and scrutiny committee dealing with education matters shall include in its membership the following voting representatives:
 - one Church of England diocese representative
 - one Roman Catholic diocese representative
 - three parent governor representatives
- 4.2 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.

5. Meetings of the overview and scrutiny committees

- 5.1 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. In addition, extraordinary meetings may be called from time to time as and when appropriate. An overview and scrutiny committee meeting may be called by the chair of the relevant overview and scrutiny committee, by any two members of that committee or by the Director of Legal and Governance, if he/she considers it necessary or appropriate.

5.2 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.

6. Quorum

6.1 The quorum for a meeting of an overview and scrutiny committee shall be one quarter of the whole number of members of that committee.

7. Chair of overview and scrutiny committees

7.1 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.

8. Work programme

8.1 The overview and scrutiny management committee will be responsible for setting the 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. However, the 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 and Council's Audit Committee. The overview and scrutiny management committee will have regard to the Protocol on Governance Reporting Arrangements.

9. Scrutiny role

9.1 The overview and scrutiny committees may:

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

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

9.1.3 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;

9.1.4 make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process;

9.1.5 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;

9.1.6 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.

10. Policy review and development role

10.1 The overview and scrutiny committees may:

- 10.1.1 assist the Council and the Cabinet in the development of the Council's budget and policy framework by in-depth analysis of policy issues;
- 10.1.2 hold enquiries, conduct research, undertake consultation and encourage community participation in the development options;
- 10.1.3 liaise with other external organisations operating in the County to ensure that the interests of local people are enhanced by collaborative working;
- 10.1.4 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.

11. Agenda items

- 11.1 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.
- 11.2 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.
- 11.3 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.
- 11.4 The overview and scrutiny management committee shall include on its agenda any referral from an area board and a formal Member call for action which has followed the proper process.
- 11.5 The overview and scrutiny management committee shall also respond, as soon as its 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 management committee shall report its findings and any recommendations back to the Council and/or Cabinet.

12. Member Call for Action (MCfA)

- 12.1 Any elected member may submit a MCfA using the appropriate form. 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.

12.2 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.

12.3 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.)

13. Area boards

13.1 The overview and scrutiny management committee will consider referrals from area boards on issues which have been the subject of local review or are multi-boundary or have budget, policy or contractual implications for the council which have first been debated at an area board. 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 and scrutiny initiating its own review of a local issue.

14. Scrutiny of crime and disorder reduction partnerships

14.1 The overview and scrutiny management committee will facilitate scrutiny of performance of the partnerships under the provisions of the Police and Criminal Justice Act 2006.

15. Reports from overview and scrutiny committees

15.1 Once recommendations have been formed, the overview and scrutiny committee will submit a formal report for consideration by the cabinet or cabinet member (if the proposals relate to an executive function and are consistent with the existing budgetary and policy framework), or to the council as appropriate (if the recommendation would require a departure from or a change to the agreed budget and policy framework).

15.2 If an overview and scrutiny committee cannot agree on one single final report to the council or cabinet as appropriate, one minority report may be prepared and submitted for consideration by the council or cabinet with the majority report.

15.3 The council or cabinet shall consider the report of the overview and scrutiny committee within two months (or next available meeting in the case of council) of it being submitted.

15.4 Where the overview and scrutiny committee submit 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 him/her for consideration. The member with delegated decision-making power must consider the report and respond in writing to the overview and scrutiny management 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.

16. Rights of overview and scrutiny committee members to documents

- 16.1 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.
- 16.2 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.

17. Members and officers giving account

- 17.1 Overview and scrutiny committees may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. As well as reviewing documentation they may require any cabinet member, the Head of Paid Service or any Director to attend a meeting to explain in relation to any decision in their remit.
- 17.2 Where a specific request has been made 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.
- 17.3 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. The notice will state the nature of the topic on which he/she 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.
- 17.4 The Chairman of the relevant overview and scrutiny committee shall determine the reasonableness of the notice if disputed.

18. Attendance by others and evidence gathering

- 18.1 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. 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. 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 and officers in other parts of the public sector and shall invite such people to attend.
- 18.2 Where witnesses have been called then the meeting should be conducted in accordance with the following principles:
- 18.2.1 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;
- 18.2.2 those assisting the committee by giving evidence be treated with respect and courtesy;

18.2.3 the investigation be conducted so as to maximise the efficiency of the investigation or analysis; and

18.2.4 the committee to make its report and findings public, subject to the requirements of confidentiality and exempt information provisions.

19. Call-in

19.1 Call-in should only be used in exceptional circumstances. This is where members of the overview and scrutiny management committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles of decision making in the constitution.

19.2 When a decision is made by the cabinet, an individual member of the cabinet or a committee of the cabinet, or a key decision is made by an officer with delegated authority from the cabinet, or an area committee 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 Council normally within two days of being made. The chair 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.

19.3 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 working days after the publication of the decision, unless the overview and scrutiny management committee objects to it and calls it in.

19.4 During that period, the designated scrutiny officer shall call-in a decision for scrutiny by the management committee if so requested by any ten non-executive members of the council, and shall then notify the decision-maker of the call-in. He/she shall call a meeting of the management committee on such date as he/she may determine, where possible after consultation with the chair of the management committee, and in any case within five days of the decision to call-in.

19.5 If, having considered the decision, the overview and scrutiny management 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 Full Council. If referred to the decision-maker they shall then reconsider within a further five working days, amending the decision or not, before adopting a final decision.

19.6 If, following an objection to the decision, 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 working day period, whichever is the earlier.

19.7 If the matter was referred to Full Council and the council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. 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. Where the decision was taken by the cabinet as a whole or a

committee of it, a meeting will be convened to reconsider within five working days of the council request. Where the decision was made by an individual, the individual will reconsider within five working days of the council request. 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.

- 19.8 If the council does not meet, 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 meeting or expiry of the period in which the council meeting should have been held, whichever is the earlier.
- 19.9 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.
- 19.10 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.

20. Call-in and urgency

- 20.1 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.
- 20.2 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.
- 20.3 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, the vice-chair's consent shall be required.
- 20.4 In the absence of both, the head of paid service or his/her 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.
- 20.5 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.

21. Procedure at overview and scrutiny committee meetings

- 21.1 Overview and scrutiny committees shall consider the following business:
- 21.1.1 minutes of the last meeting
 - 21.1.2 declarations of interest
 - 21.1.3 consideration of any matter referred to the Committee for a review in relation to call in of a decision
 - 21.1.4 responses of the cabinet to reports of the overview and scrutiny committee and
 - 21.1.5 the business otherwise set out on the agenda for the meeting.