

## **C - OVERVIEW AND SCRUTINY AND PROCEDURE RULES**

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## **C. OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **C1. Number and arrangements for overview and scrutiny committees**

The Council will appoint up to three overview and scrutiny committees with such terms of reference as it shall determine. A joint meeting of two or more of the overview and scrutiny committees may be held no more than once per municipal year. Joint meetings of the Committees will be chaired alternately between the committee chairs or as the committee chairs may all agree.

### **C2. Right to sit on overview and scrutiny committees**

Up to four members of the public may be appointed to each Overview and Scrutiny Committee as non-voting co-optees, if they are deemed to have relevant experience of matters falling within the remit of that Overview and Scrutiny Committee. The intention is that such co-optees will be non-political.

- (i) Co-optees may be appointed following nomination by a councillor or following an application received directly from a member of the public.
- (ii) Nominations or applications received will be considered first at the relevant Overview and Scrutiny Committee. The Committee will consider the knowledge and experience of the applicant relevant to the terms of reference or work programme of the Committee. If the majority of the Overview and Scrutiny members support the appointment of the applicant, the proposed appointment will be presented to Council for approval.

### **C3. Frequency of meetings**

Ordinary meetings of the overview and scrutiny committees shall be held no more than once in every committee cycle.

In addition, extraordinary meetings may be called from time to time by:

- (i) the chair of the relevant overview and scrutiny committee,
- (ii) any 5 members of the relevant overview and scrutiny committee
- (iii) the Chief Executive if he/she considers it necessary or appropriate.

### **C4. Quorum**

The quorum of each overview and scrutiny committee shall be one quarter of the members of the committee or 3, whichever is the larger.

### **C5. Chairs of overview and scrutiny committee meetings**

The Chair of each overview and scrutiny committee will be drawn from among the councillors sitting on the committee

## **C6. Work programme**

(a) The chair and vice chair of each overview and scrutiny committee will meet with the Cabinet within four weeks of each Annual Meeting to discuss the Cabinet's policy priorities for the coming year. The chairs and vice chairs will propose a draft work programme for their committee within two weeks of that meeting. The draft work programmes will be submitted to the next following meeting of the Cabinet for comment and the draft work programme for each overview and scrutiny committee will then be submitted to the next following meeting of that committee (together with any comments or recommendations from the Cabinet) for approval.

(b) The overview and scrutiny committees will, subject to the above, be responsible for setting their own work programme and in doing so they shall take into account the wishes of committee members who are not members of the largest political group on the Council.

## **C7. Agenda items**

(a) Any member of an overview and scrutiny committee may give notice to the chair (or vice chair in the chair's absence) that they wish 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 chair or vice chair will ensure that it is included on the next available agenda. A request may be refused if, in the opinion, of the chair or vice chair the item is not relevant to the functions of the committee. Only 6 such items may be placed on the agenda for any particular meeting. If notice is received of more than 6 such items, the chair of the overview and scrutiny committee, (or the vice chair in the chair's absence), shall determine which 6 items to place on the agenda and the remaining items shall be deferred to the next meeting of the relevant committee.

(b) Any 5 members of the Council who are not members of the relevant overview and scrutiny committee may give written notice to the chair (or vice chair in the chair's absence) that they wish an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. If the chair or vice chair receives such a notification, then he/she will include the item on the next available agenda. The request may be refused if, in the opinion of the chair or vice chair, the item is not relevant to the functions of that committee. Only 3 such items may be placed on the agenda for any particular meeting. If notice is received of more than 3 such items, the chair of the overview and scrutiny committee, (or the vice chair in the chair's absence), shall determine which 3 items to place on the agenda and the remaining items shall be deferred to the next meeting of the relevant committee.

(c) The relevant overview and scrutiny committee shall also respond, as soon as their work programme permits, to requests from the Council and the executive to review particular areas of Council activity. Where they do so, the overview and scrutiny committee shall report their findings and any recommendations back to the body which requested the review. That body shall consider the report of the overview and scrutiny committee within one month of receiving it.

(Note: for Councillor Calls For Action, see Rule C18)

(Note: for crime and disorder matters, see Rule C19)

## **C8. Policy review and development**

- (a) The role of the overview and scrutiny committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the overview and scrutiny committees may make proposals to the executive in so far as they relate to matters within their terms of reference.
- (c) The overview and scrutiny committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They 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 ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **C9. Reports from overview and scrutiny committee**

- (a) Once it has formed recommendations or prepared a formal report the overview and scrutiny committee may submit the report or recommendations to the proper officer for consideration by the Cabinet (if the proposals are consistent with the existing budget and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework). Any dispute as to whether a report should be considered by the Council or the Cabinet will be determined by the Chief Executive
- (b) If an overview and scrutiny committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet as appropriate shall consider the report of the overview and scrutiny committee within two months of it being submitted to the proper officer.

## **C10. Consideration of overview and scrutiny reports by the executive**

- (a) The agenda for Cabinet meetings shall include an item entitled 'Issues arising from overview and scrutiny'. Overview and scrutiny committee reports or recommendations referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) of the next meeting of the Cabinet unless this occurs within 5 working days of the relevant meeting of the overview and scrutiny committee, in which case the report will be referred to the next meeting after that, subject to (b) below.
- (b) Reports and recommendations to Council or to Cabinet will be considered by Cabinet or Council (as appropriate) within two months of receipt by the proper officer. If for any reason the Cabinet does not consider the overview and scrutiny report within two months then the matter will be referred to Council for review, and the proper officer will arrange for the report to be included on the agenda for the next Council meeting for consideration.
- (c) The overview and scrutiny committees will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an

item is not the subject of detailed proposals from an overview and scrutiny committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

#### **C11. Rights of overview and scrutiny committee members to documents**

- (a) In addition to their rights as councillors, members of overview and scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the executive and overview and scrutiny committees as appropriate depending on the particular matter under consideration.

#### **C12. Members and officers giving account**

- (a) Each overview and scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions within the overview and scrutiny committee's terms of reference. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the executive, the Chief Executive and/or any chief officer or service head to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performanceand it is the duty of those persons to attend if so required.
- (b) Where any member or officer is required to attend an overview and scrutiny committee under this provision, the chair of that committee will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving at least 5 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview and scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

#### **C13. Attendance by others**

Each overview and scrutiny committee may invite people other than those people referred to in paragraph 12 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

## **C14. Call-in**

This Procedure Rule applies to each overview and scrutiny committee

- (a) When a decision is made by the executive (or an individual member of the executive, a committee of the executive, an area committee or under joint arrangements or a key decision is made by an officer with delegated authority from the executive) the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. Chairs of the overview and scrutiny committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision. If the chair of the overview and scrutiny committee is of the same political party as the executive, copies of all such decisions shall also to be sent to all members of the committee.
- (b) 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 6 working days after the publication of the decision, unless an overview and scrutiny committee objects to it and calls it in.
- (c) During that period, the proper officer shall call-in a decision for scrutiny by the relevant committee upon receipt of the appropriate call-in form signed by the chair (or the vice chair in the chair's absence) or any 2 members of the committee, and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the committee on such date as he/she may determine, where possible after consultation with the chair of the committee, and in any case within 9 working days of the end of the 6 working day call-in period. If there is a dispute over which committee shall consider the call in, the final decision shall lie with the Executive Director (Legal Services).
- (d) If, having considered the decision, the overview and 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. The decision maker shall then reconsider amending the decision or not, before adopting a final decision. If it is a Cabinet decision it will be reconsidered at the next scheduled meeting of the Cabinet. The member who sponsored the call-in may attend the relevant Cabinet meeting to make representations on the item, as may the chair of the relevant overview and scrutiny committee if he/she supported the call-in. If it is an officer decision or a decision by an individual cabinet member it will be reconsidered within 5 working days.
- (e) If following an objection to the decision, the overview and scrutiny 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 the 10 working day call-in period whichever is the earlier.
- (f) Details of all decisions called in by overview and scrutiny committees and the decision makers response to them shall be reported annually to Council for information.

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

- (i) 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 Council's or the public interest. 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 and the reason for that opinion. The mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency prior to the decision being taken. In the absence of the mayor, the deputy mayor's consent shall be required. 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.

- (j) 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.

### **C15. The party whip**

This Procedure Rule applies to the overview and scrutiny committees

(a) "Party whip" means any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner.

(b) When considering any matter in respect of which a member of an overview and scrutiny committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### **C16. Procedure at overview and scrutiny committee meetings**

This Procedure Rule applies to the overview and scrutiny committees

(a) The overview and scrutiny committees shall consider the following business:

- (i) apologies
- (ii) declarations of interest (including whipping declarations);
- (iii) minutes of the last meeting;
- (iv) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
- (v) responses of the executive to reports of the overview and scrutiny committee; and
- (vi) the business otherwise set out on the agenda for the meeting.

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

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

- (i) 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;
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the committees shall prepare a report, for submission to the executive and/or Council as appropriate and shall make its report and findings public.

## **C17 Panels**

Each Overview & Scrutiny committee may appoint up to one panel at any time and may determine the Panel's terms of reference, size, membership and duration.

## **C18 Councillor Call For Action**

- (a) Subject to this Rule C18 any councillor may instigate a Councillor Call For Action in respect of issues of concern affecting all or part of the wards they represent.
- (b) In order to qualify as a Councillor Call for Action the issue of concern must:
- (i) be within the functions of the overview and scrutiny committee concerned
  - (i) affect all or part of the ward the member represents or people who live and work there;
  - (iii) not be a local crime and disorder matter within s19 Police and Justice Act 2006;
  - (iv) not relate to a decision in respect of an application for an agreement, approval or permission under planning legislation
  - (v) not relate to an enforcement decision under planning legislation
  - (vi) not relate to a decision in respect of an application for a premises licence, a club premises certificate or a temporary event notice or a request for a review of such a decision
  - (vii) not relate to any enforcement decision made under the Licensing Act 2003
  - (viii) not relate to a matter in respect of which there is a statutory right of appeal or review (but the item is not excluded just because there is a right to pursue it with the Local Government Ombudsman)
- (c) The councillor shall complete the Councillor Call for Action form (available from Democratic Services) which must state the reason for the referral to the committee and demonstrate that other appropriate methods of resolving the issue have been tried and exhausted
- (d) The Councillor Call for Action form must be delivered to the Chief Executive.
- (e) The Councillor Call for Action will be considered by the chair of the relevant committee (or vice chair in the chair's absence) within 6 working days of its receipt (not counting the day of receipt) and the Call for Action may be refused if in the opinion of the chair (or vice chair in the chair's absence):
- the issue of concern does not meet the criteria referred to in (b) above; or



- it is vexatious or discriminatory; or
  - the chair (or vice chair in the chair's absence) is not satisfied that reasonable steps have been taken to resolve the issue of concern in other ways
- (f) If the chair (or vice chair) receives a notification which satisfies the criteria referred to in (b) and (e) above then s/he will include the Councillor Call for Action on the agenda for the next available meeting of the committee. Only 3 such items may be placed on the agenda of any particular meeting. If valid notice is received of more than 3 Councillor Call for Action, the chair of the overview and scrutiny committee (or the vice chair in the chair's absence) shall determine which 3 items to place on the agenda and the remaining items shall be deferred to the next meeting of the relevant committee.
- (g) The overview and scrutiny committee may permit the councillor who made the Call for Action to make representations in respect of the issue of concern, including the reason for the Call for Action and the steps already taken to resolve the same.
- (h) If the overview and scrutiny committee decides to take no action in respect of a Councillor Call for Action it must inform the councillor who instigated it accordingly and give reasons for its decision. If the overview and scrutiny committee decides to take action in respect of the item it must inform the councillor who instigated the Call for Action accordingly and give him / her a copy of any report or recommendations it makes to Council or to Cabinet

## **C19 Crime and Disorder Matters**

- (a) This Rule applies to the overview and scrutiny committee with responsibility for crime and disorder matters
- (b) In this Rule the following expressions have the meaning shown:

local crime and disorder matter	<p>(i) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or</p> <p>(ii) misuse of drugs, alcohol or other substances which affects all or part of ward the councillor making the referral represents, or people who live or work there</p>
responsible authorities	<p>Chief Officer of Lancashire Police</p> <p>Lancashire County Council</p> <p>Lancashire Police Authority</p> <p>Lancashire Fire and Rescue Service</p> <p>East Lancashire NHS Teaching Primary Care Trust</p>
co-operating bodies	<p>the local Probation Board</p> <p>providers of probation services in Hyndburn pursuant</p>

	<p>to section 3 Offender Management Act 2007</p> <p>Altham Parish Council</p> <p>governing bodies of schools maintained by the local education authority</p> <p>governing body of Accrington &amp; Rossendale College</p> <p>East Lancashire Hospitals NHS Trust</p> <p>Lancashire Care NHS Foundation Trust</p> <p>Proprietors of Independent Schools – Heathland Private School, “Broad Oak”, Sandy Lane, Accrington</p>
relevant committee	the overview and scrutiny committee with responsibility for crime and disorder matters
written information	<p>Information relating to:</p> <ul style="list-style-type: none"> <li>(i) the discharge or decisions of, or other action taken by, the responsible authorities in connection with their crime and disorder functions</li> <li>(ii) local crime and disorder matters</li> </ul> <p>the information will be depersonalised unless the identification of an individual is necessary or appropriate to enable the relevant committee to properly exercise its powers</p> <p>the information will not include information that would be reasonably likely to prejudice legal proceedings or current or future operations by the responsible authorities or the co-operating bodies</p>

- (c) The relevant committee will meet at least once in each municipal year to review the exercise by the responsible authorities of their crime and disorder functions under section 6 Crime And Disorder Act 1998. Where the relevant committee makes a report or recommendations either to Cabinet or to Council in respect of such matters it shall provide a copy of the report or recommendation to each of the responsible authorities and each of the co-operating bodies.
- (d) The relevant committee may request written information from the responsible authorities and the co-operating bodies and may specify a date by which the written information should be provided
- (e) The relevant committee may require the attendance before it of an officer or employee of a responsible authority or a co-operating body to answer questions but must give reasonable notice of the date and time of the meeting at which attendance is required

#### **Member referrals of local crime and disorder matters**

- (f) Any councillor may refer a local crime and disorder matter to the relevant committee. The referral must be made in writing, giving full details of the local crime and disorder matter and the reason for the referral. The referral must be delivered to the Chief Executive.
- (g) Valid referrals will be placed on the agenda for the next available meeting of the relevant committee. Only 3 such items may be placed on the agenda for any particular meeting. If valid referrals are received in respect of more than 3 local crime and disorder matters the chair of the relevant committee (or the vice chair in the chair's absence) shall determine which 3 items to place on the agenda and the remaining items shall be deferred to the next meeting of the relevant committee.
- (h) The relevant committee must consider whether to make a report or recommendations to either the Council or the Cabinet in respect of the local crime and disorder matter, having regard to any representations made by the councillor who made the referral. If the relevant committee decides to take no action it must notify the councillor who made the referral of its decision and reason for it. If the relevant committee decides to make a report or recommendations either to the Cabinet or to Council it must provide a copy of the report or recommendations to:
  - (i) the councillor who made the referral
  - (ii) such of the responsible bodies as it thinks it appropriate
  - (iii) such of the co-operating bodies as it thinks it appropriate.
- (i) Where the relevant committee makes a report or recommendations to Council or Cabinet and provides a copy of the same to any responsible authority or co-operating body the relevant committee must inform each of them of their obligations under section 19(8B)(b) Police and Justice Act 2006, namely:
  - (i) to consider the report or recommendations
  - (ii) to respond to the relevant committee in writing to say what action (if any) it proposes to take, such response to be made within 28 days of receipt of the report or recommendations (or, if this is not reasonably possible, as soon as reasonably possible thereafter)
  - (iii) to have regard to the report or recommendations in exercising its functions

## **C20 Exempt and Confidential Information**

(a) Where an overview and scrutiny committee intends to

- (i) publish a report or recommendations; or
- (ii) submit a report or recommendations to another organisation

it must first do the following:

- request the proper officer to exclude any confidential information (i.e. any information the Council is legally prevented from disclosing pursuant to s100A(3) Local Government Act 1972); and
- consider whether any exempt information should be excluded (i.e. any information covered by s100I Local Government Act 1972 and / or s246 National Health Service Act 2006) and, if it decides that it should, request the proper officer to remove any such information prior to disclosure.

- (b) Where an overview and scrutiny committee intends to supply a copy of a report or recommendations to a member of the Council it must first consider whether any confidential or exempt information should be excluded and, if it decides that it should, request the proper officer to remove any such information prior to disclosure
- (c) Where any exempt or confidential information is removed from a report or recommendations the proper officer shall provide sufficient non-exempt and non-confidential information to the recipient to enable the report or recommendations to be properly understood.