

# Part 4 E

## Overview and Scrutiny Procedure Rules

## ***Part 4E - Overview and Scrutiny Procedure Rules***

### **Contents**

- 1 The number and arrangements for overview and scrutiny committees
- 2 The Scrutiny Commission
- 2A The Scrutiny Commissioners
- 3 Membership of overview and scrutiny committees
- 4 Co-opted members
- 5 Education representatives
- 6 Chairmanship and meetings of the overview and scrutiny committees
- 7 Work programme
- 8 Policy review and development
- 9 Reports from overview and scrutiny committees dealing with County Council functions on proposals for development
- 10 Reports from overview and scrutiny committees on items scrutinised
- 11 Rights of overview and scrutiny committee members to documents
- 12 Members and officers giving account
- 13 Attendance by others
- 14 Call-in
- 15 Call-in and urgency
- 16 The party whip
- 17 Procedure at overview and scrutiny committee meetings
- 18 Matters within the remit of more than one overview and scrutiny committee

## ***Part 4E - Overview and Scrutiny Procedure Rules***

### **RULE 1**

#### ***The number and arrangements for overview and scrutiny committees***

The Council will have the overview and scrutiny committees and subcommittees set out in Article 6 and will appoint them as it considers appropriate from time to time. In the case of bodies dealing with County Council functions such committees may appoint subcommittees subject to the approval of the Scrutiny Commission. Such references in these rules to an overview and scrutiny committee shall be deemed to include references to subcommittees.

### **RULE 2**

#### ***The Scrutiny Commission***

The Scrutiny Commission will exercise the following responsibilities in relation to the overview and scrutiny of the discharge of County Council functions:

1. to have the powers of an overview and scrutiny committee in relation to Executive decisions made but not implemented as set out in section 21(3) of the Local Government Act 2000, similar to other overview and scrutiny committees;
2. to act as the statutory appeal body where a petitioner has requested a review of the adequacy of the steps taken or which are proposed to be taken in the Authority's response to a petition;
3. to agree job descriptions for the Scrutiny Commissioners and for the Chairmen, Deputy Chairmen and Spokesmen of the overview and scrutiny committees.

### **RULE 2A**

#### ***The Scrutiny Commissioners***

The Scrutiny Commissioners will exercise the following responsibilities in relation to the overview and scrutiny of the discharge of County Council functions, whilst recognising that scrutiny committees are encouraged to set their own relevant agendas:

1. to approve an annual overview and scrutiny work programme for the Scrutiny Commission, to ensure that there is efficient use of the committees' time, and that the potential for duplication of effort is minimised;

2. where matters fall within the remit of more than one overview and scrutiny committee, to determine which of them will assume responsibility for any particular issue, and to resolve any issues of dispute between overview and scrutiny committees;
3. to receive requests from the Executive and/or the full County Council for reports from overview and scrutiny committees and to allocate them if appropriate to one or more overview and scrutiny committees;
4. to put in place and maintain a system to ensure that referrals from Overview and Scrutiny to the Executive, either by way of report or for reconsideration, are managed efficiently;
5. at the request of the Executive, to make decisions about the priority of referrals made if the volume of such referrals creates difficulty for management of Executive business or jeopardises the efficient running of County Council business;

**RULE 3**

***Membership of overview and scrutiny committees***

All County Councillors except members of the Executive and Cabinet Support Members may be members of an overview and scrutiny committee which deals with County Council functions. No member may be involved in scrutinising a decision with which he/she has been directly involved.

**RULE 4**

***Co-opted members***

Each overview and scrutiny committee shall be entitled to recommend to the County Council the appointment of a number of people as co-opted members as set out in the Table below. In the case of voting co-opted members this will be subject to the approval of the necessary scheme under Section 115 of the Local Government Act 2003.

*[Note: the County Council has determined that it is unnecessary to co-opt people who are not County Councillors to be members of an overview and scrutiny committee, save to the extent required by law as described in Rule 5. However an overview and scrutiny committee may, if it wishes, invite individuals to attend to contribute to the discussion of a specific matter at a specific meeting. Such invitations should be regarded as exceptional and should not become a matter of routine.]*

committee/sub-committee	permitted co-options
<i>[not in operation]</i>	

**RULE 5*****Education representatives***

- (a) Each relevant overview and scrutiny committee dealing with education matters shall include in its membership the following education representatives from schools maintained by the local education authority:
- (i) 1 Church of England diocese representative;
  - (ii) 1 Roman Catholic diocese representative; and
  - (iii) 2 parent governor representatives.
- (b) A relevant overview and scrutiny committee in this Rule 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 Executive. The rights of education representatives to participate in and vote on issues related to education functions will be subject to the provisions of any relevant statutory regulations. 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.

*[Note: for the purposes of this Rule the relevant overview and scrutiny committee is the Children and Families Overview and Scrutiny Committee]*

**RULE 6*****Chairmanship and meetings of the overview and scrutiny committees***

- (a) The appointment of the Chairman of the standing overview and scrutiny committees will be made by the Council in determining the membership of the Scrutiny Commission in accordance with Article 6.06 of this Constitution. The appointment of chairmen of review panels will be a matter for the Scrutiny Commission to determine for those relating to County Council functions and for the Health Overview and Scrutiny Committee to determine for those relating to Health Service functions.
- (b) The meetings of the overview and scrutiny committees shall be conducted as set out for committees in the Meeting Procedure Rules (Standing Orders) in Part 4A of this Constitution.

*[Note: the relevant Standing Orders are 33 to 36; Standing Order 34 applies Standing Orders 7, 14 to 19, 21 to 26 and 28 to 31, with any necessary modification.]*

**RULE 7*****Work programme***

The overview and scrutiny committees dealing with County Council functions shall obtain the prior approval of the Scrutiny Commission for their work

programme and in formulating their work programme they shall take into account wishes of members on that committee who are not members of the current political administration of the County Council.

### **RULE 8**

#### ***Policy review and development***

- (a) The role of the overview and scrutiny committees in relation to the development of the County Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules in Part 4C.
- (b) In relation to the development of the County Council's approach to other matters not forming part of its Budget and Policy Framework, overview and scrutiny committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) Overview and scrutiny committees may 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.
- (d) In respect of the examination of County Council functions the Scrutiny Commission shall have power to impose any limitation (general or specific and including a requirement to obtain the prior approval of the Scrutiny Commission) upon an overview and scrutiny committee's use of any of the actions specified in paragraph (c) above, in the interests of avoiding action which might lead to expenditure in excess of any budget provision; or which might duplicate other work already being undertaken or planned; or which might be disproportionate to the significance of the review involved, in terms of the Budget and Plan Framework.

### **RULE 9**

#### ***Reports from overview and scrutiny committees dealing with County Council functions on proposals for development***

- (a) Once it has formed recommendations on proposals for development, the overview and scrutiny committee will submit these for consideration either by the Executive (if the proposals are consistent with the existing Budget and Policy Framework), or to the County Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).

- (b) If an overview and scrutiny committee cannot agree on one single response to the County Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the County Council or Executive alongside the committee's recommendations.
- (c) The basis of any minority report prepared under paragraph (b) above must have been discussed and been the subject of a proposal at the meeting of the committee and must have had the support of more than one member.
- (d) The County Council or Executive shall consider recommendations from the overview and scrutiny committee within two months of them being arrived at.

### **RULE 10**

#### ***Reports from overview and scrutiny committees on items scrutinised***

- (a) The agenda for Executive meetings shall include an item entitled 'Issues arising from overview and scrutiny'. The reports of overview and scrutiny committees referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within two months of the overview and scrutiny committee completing its report/recommendations.
- (b) Where an overview and scrutiny committee prepares a report for consideration by the Executive in relation to a matter where the Leader or County Council has delegated decision making power to another individual member of the Executive, then the overview and scrutiny committee will submit a copy of their report to that individual for consideration. At the time of doing so, the overview and scrutiny committee shall serve a copy on the Chief Executive and the Leader. If the member with delegated decision making power does not accept the recommendations of the overview and scrutiny committee then he/she must then refer the matter to the next available meeting of the Executive for debate before exercising his or her decision making power and responding to the report in writing to the overview and scrutiny committee. The Executive member to whom the decision making power has been delegated will respond to the overview and scrutiny committee within four weeks of receiving it. A copy of his or her written response to it shall be sent to the Chief Executive and he/she will attend a future meeting to respond.

*[Note: The County Council decided, with the concurrence of the Executive, that no individual member of the Executive will be authorised to take an executive decision; such decisions will be taken either by the Executive collectively at a properly convened meeting or by professional officers under the published schemes of delegation.]*

- (c) Overview and scrutiny committees will in any event have access to the Executive'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 be able to respond in the course of the Executive's consultation process in relation to any Key Decision.

#### **RULE 11**

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

- (a) In addition to their rights as County 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 4B of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and an overview and scrutiny committee as appropriate depending on the particular matter under consideration.

#### **RULE 12**

##### ***Members and officers giving account***

- (a) An overview and scrutiny committee may require any member of the Executive, the Head of Paid Service and any senior officer of the Council and in the case of an overview and scrutiny committee dealing with Health Services any member or employee of a relevant NHS body or member or employee of a relevant health service provider, to attend before it to explain in relation to matters within their remit:
  - (i) any particular policy, decision or series of decisions;
  - (ii) the extent to which the actions taken implement the policy of the County Council or relevant health body; and/or
  - (iii) their performance,

and 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 chairman of that committee will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving (where practical) at least seven 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 may in consultation with the member or officer arrange an alternative date for attendance.

### **RULE 13**

#### ***Attendance by others***

An overview and scrutiny committee may invite people other than those people referred to in Rule 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 may invite such people to attend. The people invited may decline to accept the invitation.

### **RULE 14**

#### ***Call-in***

- (a) Call-in should only be used in exceptional circumstances. To ensure that call-in is not abused, nor causes unreasonable delay, it will only apply to Key Decisions and will also be subject to the conditions described in this Rule.
- (b) When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a Key Decision is made by an officer with delegated authority from the Executive or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at County Hall normally within 2 days of being made. Chairmen of all 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.
- (c) That notification of the decisions will bear the date on which it is published and will specify that a Key Decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless it has been called in under this Rule. Those decisions which are Key Decisions but which will require further consideration by the Executive at a later stage prior to implementation, may be proceeded with immediately (as in the case for example of a decision to proceed with consultation on a proposal). Those decisions which are not Key Decisions are not subject to call in under this Rule and may be implemented immediately.

- (d) During that period, the Chief Executive shall call-in a relevant Key Decision for scrutiny by a relevant overview and scrutiny committee only if so requested in writing by any four members of the Council, at least two of which must be members of the Scrutiny Commission. The written request shall include a cogent explanation of the reasons for the call-in.
- (e) The call-in notice can be withdrawn at any time in writing by the four members who originally invoked the call-in procedure.
- (f) The Chief Executive shall notify the decision-taker (where the decision was taken by the Executive, the Leader) of the call-in.
- (g) The Chief Executive shall call a meeting of the relevant overview and scrutiny committee on such date as he/she may determine, where possible after consultations with the chairman of the committee, and in any case the meeting shall be held within 10 working days of the decision to call-in.
- (h) 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 or refer the matter to full County Council. If referred to the decision maker, he/she/it shall then reconsider the decision within a further 10 working days, amending the decision or not, before adopting a final decision.
- (i) If following a call-in, the overview and scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter either back to the decision making person or body, or to the County Council, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of the 10 day period referred to in (g) above, whichever is the earlier.
- (j) If the matter is referred to full County Council and the County Council does not object to the called-in decision, then no further action is necessary and the decision will be effective in accordance with the provisions below.
- (k) The Chief Executive will consult with the Leader to determine whether the nature of the called-in decision requires that an extraordinary meeting of the County Council be convened or whether the next ordinary meeting of the County Council will be appropriate.
- (l) The County Council has no power to make final decisions in respect of an Executive decision, unless that decision is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless that is the case, the County Council can only refer any decision to which it objects back to the decision making person or body, together with the County Council's views on the decision, leaving the final

decision to the decision maker. That decision making body or person will choose whether to amend the decision or not, before reaching a final decision and implementing it.

- (m) Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider within 10 working days of the County Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the County Council request.
- (n) If the County 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 County Council meeting or expiry of the period in which the County Council meeting should have been held, whichever is the earlier.
- (o) Where an Executive 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 a relevant overview and scrutiny committee for consideration in accordance with these provisions. An area committee may only request the Chief Executive to call-in the decision 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 a relevant overview and scrutiny committee.

*[Note: the County Council decided, with the concurrence of the Executive, that no individual member of the Executive will be authorised to take an executive decision; such decisions will be taken either by the Executive collectively at a properly convened meeting or by professional officers under the published schemes of delegation.]*

*The County Council has yet to decide to appoint any area committees. The provisions in this Rule will, therefore, not apply to area committees until such time as they are appointed and, even then, only when they are given any delegated powers]*

#### **RULE 15**

##### ***Call-in and urgency***

- (a) The call-in procedure set out in Rule 14 shall not apply where a decision which would otherwise be subject to the call-in procedure is urgent. A decision will be urgent if any delay likely to be caused by the call-in procedure would seriously prejudice the County Council's or the public's interests.
- (b) 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.

- (c) The Chairman of the County 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. In the absence of both, the Head of Paid Service or his or her nominee's consent shall be required. The Chief Executive will obtain the required consent.
- (d) Decisions taken as a matter of urgency must be reported to the next available meeting of the County Council, together with the reasons for urgency.
- (e) Since the call-in procedure can only apply to Key Decisions which should feature in the Executive's Forward Plan, the need for urgent action should be discussed beforehand by the Leader of the Council and the Chairman of the Scrutiny Commission.

#### **RULE 16**

##### ***The party whip***

- (a) In this Rule, "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 the specific matter before the County Council or any committee or sub-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 the following categories:
  - (i) any matter referred to the overview and scrutiny committee by the Executive; or
  - (ii) the review of any policy or decision; or
  - (iii) the performance of any member of the Executive,

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.

#### **RULE 17**

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

- (a) Overview and scrutiny committees shall consider the following business:

- (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
  - (iv) responses of the Executive or the relevant health body to reports of the overview and scrutiny committee;
  - (v) a referral made to the Committee by a member of the Council which is not an excluded matter; 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 committee shall prepare a report, for submission to the County Council, the Executive and/or the relevant NHS body or relevant health service provider and shall make its report and findings public.

#### **RULE 18**

#### ***Matters within the remit of more than one overview and scrutiny committee***

“Where a matter for consideration by an overview and scrutiny committee also falls within the remit of one or more other overview and scrutiny committees, the decision as to which overview and scrutiny committee will consider it will be resolved by (a) the Scrutiny Commission or where the matter requires urgent consideration, by the four Scrutiny Commissioners in relation to County Council functions and (b) the Health Scrutiny Committee in relation to Health Service functions.”

**[end of Overview and Scrutiny Procedure Rules]**

This page is intentionally left blank