

D2 OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Meetings of the Overview and Scrutiny Committees

- 1.1 Overview and scrutiny committee meetings shall be scheduled at the same frequency as ordinary meetings of the Executive. Subject to 1.4 below, the time and place of meetings shall be as set out in Calendar of Meetings approved by the Council annually although the chairman and Monitoring Officer or a committee by resolution, may determine that an ordinary meeting shall be held at such other place as they consider appropriate. The chairman and/or Monitoring Officer may determine, having regard to special circumstances, that a particular ordinary meeting be held at such other time as they consider appropriate.
- 1.2 The Monitoring Officer, after consultation with the chairman of the relevant committee (or in his/her absence, the vice chairman), shall be authorised to cancel an ordinary meeting where there is insufficient business.
- 1.3 In addition, an extraordinary meeting of an overview and scrutiny committee may be called by either:-
 - 1.3.1 The chairman of the relevant committee, or in the chairman's absence the vice-chairman; or
 - 1.3.2 A quorum of the members of the committee; or
 - 1.3.3 The Monitoring Officer if he/she considers it necessary or appropriate.
- 1.4 The chairman, or in the chairman's absence the vice-chairman, may from time to time agree to cancel meetings if there is insufficient business to transact at that time.
- 1.5 Meetings shall be held in a location suited to the topic under consideration, at the discretion of the committee chairman, or in the chairman's absence, the vice-chairman.

2. Work Programme

- 2.1 Each overview and scrutiny committee will be responsible for setting its own work programme, taking into account the wishes and preferences of the members of that committee, including members who are not members of the largest political group on the Council or of any political group.
- 2.2 Each overview and scrutiny committee may receive requests from the Executive and suggestions from officers of the council and co-optees for particular topics to be scrutinised.
- 2.3 The work programme shall be reported to Council annually.

3. Agenda Items

- 3.1 Any member of the Council may, with 7 clear working days notice, request the Monitoring Officer to include an item on the agenda of a relevant overview and scrutiny committee. Upon receipt of such a request the Monitoring Officer shall ensure that the item is included on the next available agenda for consideration by the relevant committee, and advise the chairman accordingly.
- 3.2 There will be a standing item on the agenda of all ordinary meetings of overview and scrutiny committees to allow such requests to be considered.
- 3.3 Any member who submits a request will have the right to attend the meeting at which the item is to be considered, to explain the reasons for the request and to have the item discussed. The committee will decide either:-
 - 3.3.1 If the matter is a simple one, to resolve it forthwith; or
 - 3.3.2 To request the officers to prepare a report for the next meeting; or
 - 3.3.3 To set up a task and finish group to investigate and report back to the committee; or
 - 3.3.4 To make recommendations to the Executive or Council, as appropriate; or
 - 3.3.5 To decide to take no further action upon the request, for stated reasons.
- 3.4 The overview and scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council and, if they consider it appropriate, the Executive, to review particular areas of Council activity. Where they do so, the overview and scrutiny committees shall report their findings and any recommendations back to the Executive or Council, as appropriate. The Council and/or the Executive shall consider and respond to reports of overview and scrutiny committees within two months of receiving it unless otherwise agreed by the chairman of the relevant committee.

4. Policy Review and Development

- 4.1 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 at Part B3 of the constitution.
- 4.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, an overview and scrutiny committee may:-
 - 4.2.1 Consider and make recommendations to the Executive on any matters that are consistent with its terms of reference;

- 4.2.2 Hold enquiries and investigate the available options for future direction in policy development and appoint advisers and assessors to assist in this process;
 - 4.2.3 Do anything which is reasonable to assist or inform its deliberations, including a general call for evidence, site visits, public surveys, public meetings and commissioning research; or
 - 4.2.4 Ask witnesses to attend to address it on any matter under consideration and pay to any advisers, assessors or witnesses a reasonable fee and expenses for doing so.
- 4.3 The overview and scrutiny committees may also exercise the above tasks through task groups.

5. Procedure At Overview & Scrutiny Committee Meetings

- 5.1 Overview and scrutiny committees shall consider the following business:-
- 5.1.1 Minutes of the last meeting;
 - 5.1.2 Declarations of interest (including whipping declarations);
 - 5.1.3 Chairman's announcements and communications;
 - 5.1.4 The receipt of petitions from members of the public (in accordance with the Public Participation Procedure as set out in A4 of the constitution);
 - 5.1.5 Public questions, statements or depositions (in accordance with the Public Participation Procedure as set out in A4 of the constitution);
 - 5.1.6 consideration of any matter referred to the committee for a decision in relation to call-in of a decision;
 - 5.1.7 responses of the Council or the Executive to the committee's reports or recommendations;
 - 5.1.8 Review of the adequacy of responses of the Council or the Executive to petitions (if any);
 - 5.1.9 Members' items under Procedure Rule 3.1;
 - 5.1.10 Members' items under Procedure Rule 11.1;**
 - 5.1.11 Any other business specified in the agenda for the meeting, and
 - 5.1.12 The Forward Plan and its work programme.

- 5.2 The provisions of the Committee Procedure Rules set out in Part E3 of the constitution (except paragraphs 1, 2, 4, 5, 7, 8 and 10) may be applied to meetings of the overview and scrutiny committees in the extent the chairman considers appropriate.
- 5.3 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:-
- 5.3.1 That the investigation is conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - 5.3.2 That those assisting the committee by giving evidence be treated with respect and courtesy; and
 - 5.3.3 That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 5.4 Within those principles the Council expects the overview and scrutiny committees to be effective, thorough and incisive and to consider all relevant evidence in their work. It also expects the committees to strive for continuous improvement in the overview and scrutiny function and to develop further opportunities for public engagement.
- 5.5 Following any investigation or review, the committee shall prepare a report for submission to the Executive and/or Council as appropriate and shall make its report and findings public subject to the Access to Information Rules and provisions relating to confidential and exempt reports.
- 5.5 The Protocol for Member/Officer Relations contained in Part F4 the constitution shall apply to the attendance of officers giving evidence.

6. Reports From Overview And Scrutiny Committees

- 6.1 An overview and scrutiny committee may prepare a formal report, with recommendations, and submit it to the Monitoring Officer with a notice requiring it to be considered by the Executive or the Council as appropriate, depending on which body is responsible for the function concerned and whether the proposals are consistent with the Council's budget and policy framework. Where a report is to be made to the Council, the Monitoring Officer shall refer a copy to the Leader with notice that the matter is to be referred to the Council.
- 6.2 If an overview and scrutiny committee cannot agree on one single final report to the Executive or Council as appropriate, then one or more minority reports may be prepared and submitted for consideration by the Executive or Council at the same time as the majority report. Officers shall support the preparation of any such minority reports.

- 6.3 The Executive or Council as appropriate, in compliance with its legal duty to comply with any notice given by an overview and scrutiny committee under Rule 6.1, shall:-
- 6.3.1 Consider the report and recommendations of the overview and scrutiny committee at its next available meeting and
 - 6.3.2 Respond to any such report within two months of its receipt indicating what action, if any, the authority or the Executive proposes to take, and if it decides to take no action, the reasons for that decision; and a pro forma response form will be used for this purpose.
- 6.4 The agenda for Executive meetings shall include a standard item entitled 'Overview and Scrutiny Committee Matters' to facilitate the Executive's early consideration of scrutiny reports and recommendations, which shall be included at this point on the agenda unless they have been reported as part of a substantive item elsewhere on the agenda.
- 6.5 Reports and recommendations of overview and scrutiny committees will normally be presented at Executive and Council meetings by the relevant overview and scrutiny committee chairman or vice-chairman, or by another non-executive member nominated by that committee. The member concerned will be invited to participate in discussion of the report.
- 6.6 **Reports on Local Improvement Targets**
- 6.6.1 Where an overview and scrutiny committee makes a report or recommendations on a local improvement target specified in the Local Area Agreement that relates to a relevant partner authority, it may by written notice require the relevant partner authority to have regard to the report or recommendation in question in exercising its functions. This power will be exercised in accordance with such government regulations and statutory guidance as may be issued under Section 21C of the Local Government Act 2000 (inserted by Section 122 of the Local Government and Public Involvement in Health Act 2007).
- 6.7 **Reports on Local Crime and Disorder Matters**
- 6.7.1 Where the Sustainable Communities Overview and Scrutiny Committee makes a report or recommendations on a local crime and disorder matter, it will copy the report to the responsible authorities, notifying them of their duty under Section 19 of the Police and Justice Act 2006 (as amended by Section 126 of the Local Government and Public Involvement in Health Act 2007) (a) to consider the report or recommendations; (b) to respond to the committee **in writing within 28 days** indicating what (if any) action it proposes to take; and (c) to have regard to the report or recommendations in exercising its functions. This power will be exercised in accordance with **the Crime and Disorder (Overview and Scrutiny) Regulations 2009**.

6.8 Reports on Local Health Service Matters

- 6.8.1 Where the Social Care, Health and Housing Overview and Scrutiny Committee makes a report or recommendations on a local health service matter, it will copy the report to the relevant NHS bodies and request a response in writing within two calendar months.
- 6.8.2 Where the committee (including any joint health overview and scrutiny committee to which the committee has appointed one or more members) has been consulted by a local NHS body on any proposal for a substantial variation or development in local NHS services, and the committee (having considered the evidence) is not satisfied that consultation has been adequate, or considers that the proposal would not be in the interests of the health service in the area, then it may report in writing to the Secretary of State in pursuit of its powers under Sections 7 and 8 of the Health and Social Care Act 2001.

7. Rights of Overview and Scrutiny Committee Members to Documents

- 7.1 Overview and scrutiny committees will have access to the Executive's forward plan and timetable for decisions and intentions for consultation.
- 7.2 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 set out at Part G2 of the constitution.
- 7.3 Nothing in this paragraph shall prevent more detailed liaison between the Executive and overview and scrutiny committees as appropriate depending on the particular matter under consideration.

8. Members and Officers giving Account

- 8.1 An overview and scrutiny committee (**or task group**) may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function or other matter that is within its terms of reference. As well as reviewing documentation an overview and scrutiny committee (including any task group) may, in fulfilling the scrutiny role, require any member of the Executive, the Head of Paid Service and/or any Director to attend before it to explain, in relation to matters within their remit:-
 - 8.1.1 Any particular decision or series of decisions;
 - 8.1.2 The extent to which the actions taken implement Council policy; and/or
 - 8.1.3 Their performance.

- 8.2 An overview and scrutiny committee may also require any Council member who has been granted local ward member powers (for instance a delegated budget) under Section 236 of the Local Government and Public Involvement in Health Act 2007 to attend before it to answer questions on any function which the member has power to exercise.
- 8.3 It is the duty of those persons described in Rules 8.1 and 8.2 to attend if so required.
- 8.4 Where any member or officer is required to attend an overview and scrutiny committee or a task group under this provision, the committee administrator will inform that member or officer in writing, giving at least 5 clear working days notice of a meeting of the overview and scrutiny committee 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.
- 8.5 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 at least 7 clear working days notice to allow for preparation of that documentation.
- 8.6 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, which shall be no later than the next scheduled meeting.

9. Attendance by others

- 9.1 An overview and scrutiny committee may invite people other than those people referred to above to address it, discuss issues of local concern and/or answer questions. It may wish to hear for example from residents, representatives from the local NHS Trust, stakeholders, members and officers in other parts of the public sector and experts and shall invite such people to attend.
- 9.2 Public participation in meetings of the overview and scrutiny committees shall be governed by the Public Participation Scheme as set out at Part A4 (Citizens and the Council) of the constitution.
- 9.3 Any member of the Council shall be entitled to attend meetings of the overview and scrutiny committees and to speak once on any agenda item, with further speaking being at the discretion of the chairman.
- 9.4 Rule 9.3 is subject to the rules on personal and prejudicial interests in the Members' Code of Conduct set out at Part F2 of the constitution; and in particular paragraph 13 of that Code, which permits a member with a personal and prejudicial interest to attend an overview and scrutiny committee meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business under discussion; the member must then withdraw from the meeting.

- 9.5 Rule 9.4 does not prevent an overview and scrutiny committee from requiring Executive members or inviting other persons (including Council members) to attend before it to answer questions.

10. Call-in

- 10.1 Call-in is the exercise of the overview and scrutiny committees' statutory power in section 21(3) of the Local Government Act 2000 to review an Executive decision that has been made but not yet implemented. Where a decision is called in and the overview and scrutiny committee decides to refer it back to the Executive for reconsideration, it cannot be implemented until the call-in procedure is complete.
- 10.2 Any decision of the Executive, an individual member of the Executive or a committee of the Executive, or a Key Decision made by an officer under authority delegated by the Executive, is subject to call-in. A decision may be called in only once. An Executive recommendation to full Council may not be called in.
- 10.3 The call-in procedure and the powers to refer a decision back for reconsideration may be exercised by any of the overview and scrutiny committees, within the remit of their respective terms of reference.
- 10.4 Call-in of decisions which may be contrary to the budget and policy framework shall be governed by the provisions of Rule No 7 of the Budget and Policy Framework Procedure Rules at Part B3 of the constitution.

The Call-In Procedure

- 10.5 Once made, an Executive decision shall be published, in the form of a decisions digest, within two working days at the Council's main offices and on its public website. The decisions digest will be sent to all members of the Council within the same timescale.
- 10.6 The decisions digest will bear the date on which it is published and will specify that the decision will be effective on the expiry of 5 clear working days after the publication of the decision and may then be implemented, unless called in under this provision within that 5 clear working day period. The deadline for a call-in request will be specified in the decisions digest.
- 10.7 Requests for call-in may be made by either:-
- 10.7.1 An individual member where a decision has particular significance for that member's ward; or
 - 10.7.2 The chairman of the relevant overview and scrutiny committee; or
 - 10.7.3 Any two members of the relevant overview and scrutiny committee; or
 - 10.7.4 Any three non-executive members of the Council.

- 10.8 A call-in request must be in the form of a written notice submitted to the Monitoring Officer and received before the published deadline. Either one notice containing all required signatures or up to three separate e-mails (as appropriate) will be acceptable.
- 10.9 The notice must set out (a) the resolution or resolutions that the member(s) wish to call in; (b) the reasons why they wish the overview and scrutiny committee to consider referring it back to the Executive; and (c) the alternative course of action or recommendations that they wish to propose.
- 10.10 The call-in request will be deemed valid unless either:-
- 10.10.1 The procedures set out in Rules 10.7 to 10.9 have not been properly followed;
 - 10.10.2 A similar decision has been called in to the committee previously;
 - 10.10.3 The Executive decision has been recorded as urgent in accordance with Rules 10.13 to 10.15 below; or
 - 10.10.4 The Monitoring Officer, in consultation with the chairman of the relevant overview and scrutiny committee, considers the call-in to be frivolous, vexatious or clearly outside the call-in provisions;

in which case the Monitoring Officer may reject the call-in request.

- 10.11 Before deciding on its validity, the Monitoring Officer may seek clarification of the call-in request from the member(s) concerned. In the absence of the Monitoring Officer, the Deputy Monitoring Officer(s) shall exercise the Monitoring Officer's functions in this respect.
- 10.12 Upon deciding on its validity, the Monitoring Officer shall forthwith notify the member(s) concerned, the Leader and portfolio holder, the chairman and vice-chairman of the overview and scrutiny committee, the Chief Executive, the relevant director/head of service and officer responsible for overview and scrutiny.

Call-In and Urgency

- 10.13 The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision is urgent if:-
- 10.13.1 A call-in would prevent the Council reaching a decision that is required by statute within a specified timescale; or
 - 10.13.2 Any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests and the reasons for urgency are reported to the decision making body or person before the decision is taken.

- 10.14 The decisions digest shall state whether the decision is an urgent one, and therefore not subject to call-in.
- 10.15 The chairman of the relevant overview and scrutiny committee must agree to the decision being treated as a matter of urgency. In the absence of the chairman, the vice-chairman of the relevant overview and scrutiny committee's consent shall be required. In the absence of that person, the Chairman of the Council's consent shall be required. In the absence of the Chairman of the Council, the Vice-Chairman of the Council's consent shall be required.
- 10.16 Where the Executive has recorded a decision as urgent, an overview and scrutiny committee may retrospectively review actions arising from that decision but cannot delay its implementation.

Consideration by the Overview and Scrutiny Committee

- 10.17 The Monitoring Officer will ensure that any valid call-in is reported to the next available meeting of the relevant overview and scrutiny committee, or will convene a special meeting if so agreed by the chairman of the overview and scrutiny committee and the decision taker.
- 10.18 The member(s) submitting the request for call-in will be expected to attend the meeting of the relevant overview and scrutiny committee to explain their reasons for the call-in and the alternative course of action or recommendations they wish to propose.
- 10.19 Having considered the call-in and the reasons given, the relevant overview and scrutiny committee may either:-
- 10.19.1 Refer it back to the decision making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations;
 - 10.19.2 If it considers that the decision is outside the Council's budget and policy framework, refer the matter to full Council after seeking the advice of the Monitoring Officer and/or Chief Finance Officer in accordance with Rule 7 of the Budget and Policy Framework Procedure Rules in Part B3 of the constitution; or
 - 10.19.3 Decide to take no further action, in which case the original Executive decision will be effective immediately.

Decisions Referred Back to the Decision-Maker

- 10.20 If a decision is referred back to the original decision maker, that person or body shall then reconsider the matter, taking into account any concerns and recommendations of the overview and scrutiny committee, and make a final decision, amending the decision or not, and give reasons for the decision.
- 10.21 If a decision relates to an Executive function, only the Executive can ultimately decide the matter, provided that it is in accordance with the Council's budget and policy framework.

11. Councillor Call For Action

- 11.1 **Any member of the Council may, with 7 clear working days notice, request the Monitoring Officer to include a Councillor Call for Action on the agenda of a relevant overview and scrutiny committee. Upon receipt of such a Call for Action the Monitoring Officer shall ensure that the item is included on the next available agenda for consideration by the relevant committee, and advise the chairman accordingly**
- 11.2 **A Councillor Call for Action must be in the form of a written application (the appropriate form is available from the Overview & Scrutiny Manager) submitted to the Monitoring Officer and received within the timescale outlined in 11.1 above.**
- 11.3 **There will be a standing item on the agenda of all ordinary meetings of overview and scrutiny committees to allow such Calls for Action to be considered.**
- 11.4 **Any member who submits a Call for Action will have the right to attend the meeting at which the item is to be considered, to explain the reasons for the Call for Action and to have the item discussed. The committee will decide either:-**
- 11.4.1 **If the matter is a simple one, to resolve it forthwith; or**
 - 11.4.2 **To request the officers to prepare a report for the next meeting; or**
 - 11.4.3 **To request the member submitting the Call for Action to provide further evidence or information to a future meeting:
or**
 - 11.4.4 **To set up a task and finish group to investigate and report back to the committee; or**
 - 11.4.5 **To make recommendations to the Executive or Council, as appropriate; or**

11.4.6 To decide to take no further action upon the request, for stated reasons.

11.5 The Councillor Call for Action will be deemed valid unless either:-

11.5.1 The procedures set out in Rules 11.1 and 11.2 have not been properly followed;

11.5.2 It does not relate to a local government matter (i.e. it does not relate to the functions of Central Bedfordshire Council nor its partners, in line with the area focus of Comprehensive Area Assessment)

11.5.3 It does not relate to a local crime and disorder matter (including anti-social behaviour, behaviour adversely affecting the local environment and misuse of drugs, alcohol or other substances)

11.5.4 It does not affect all or part of the ward for which the referring member is elected, or any person who lives or works in that ward

11.5.5 It is a matter that has been excluded by Order of the Secretary of State (e.g. planning or licensing appeals and other quasi-judicial matters), or

11.5.6 The Monitoring Officer, in consultation with the chairman of the relevant overview and scrutiny committee, considers the Call for Action to be frivolous, vexatious or clearly outside the Councillor Call for Action provisions;

in which case the Monitoring Officer may reject the Call for Action request.

11.6 Before deciding on its validity, the Monitoring Officer may seek clarification of the Call for Action from the member concerned. In the absence of the Monitoring Officer, the Deputy Monitoring Officer(s) shall exercise the Monitoring Officer's functions in this respect.

11.7 Upon deciding on its validity, the Monitoring Officer shall forthwith notify the member concerned, the Leader and portfolio holder, the chairman and vice-chairman of the relevant overview and scrutiny committee, the Chief Executive, the relevant director/assistant director and officer responsible for overview and scrutiny.

12. The Party Whip

- 12.1 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 and nature of the whip before the committee's deliberations on the matter commence.
- 12.2 The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

13. Matters Within The Remit Of More Than One Overview And Scrutiny Committee

- 13.1 Where a matter falls within the remit of more than one overview and scrutiny committee, and cannot be satisfactorily resolved by the chairmen of those committees, the Overview and Scrutiny **Co-ordination** Panel will decide which committee should consider it.
- 13.2 Where an overview and scrutiny committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another overview and scrutiny committee, then the committee conducting the review shall normally either
 - 13.2.1 invite the chairman of the other committee (or his/her nominee) to attend its meetings when the matter is being reviewed; and/or
 - 13.2.2 consult the other committee on its findings and recommendations, and include that committee's comments in its own report to the Executive and/or Council.