

Scrutiny Procedure Rules

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These Rules apply to the Overview and Scrutiny Committee and Scrutiny Panels (see also Article 6 of Part 2 of the Constitution)

1. Number and arrangements for overview and scrutiny

The Council will have the Overview and Scrutiny Committee and the Scrutiny Panels set out in Article 6. Council will appoint members to them at the annual meeting; casual or temporary changes of membership may be made through the substitutions process.

2. Membership of Overview and Scrutiny Committee and Scrutiny Panels

All councillors, except members of the cabinet, are eligible to be members of the Overview and Scrutiny Committee and other Scrutiny Panels. However, no member may be involved in scrutinising a decision in which they have been directly involved.

3. Advisory members

The Overview and Scrutiny Committee and other Scrutiny Panels shall be entitled to appoint people as non-voting advisory members.

4. Education representatives

Any Scrutiny Panel dealing with education matters shall include in its membership the following voting representatives:

- (a) one Church of England diocese representative;
- (b) one Roman Catholic diocese representative;
- (c) three parent governor representatives; and

When the Overview and Scrutiny Committee or other Scrutiny Panel deal 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 and Other Scrutiny Panels

Ordinary meetings of the Overview and Scrutiny Committee and other Panels shall take place in accordance with the agreed meetings programme. In addition, special meetings may be called from time to time as and when appropriate in accordance with paragraph 23 of the Council & Committee Procedure Rules.

6. Quorum

The quorum for the Overview and Scrutiny Committee and other Scrutiny Panels shall be as set out for committees in paragraph 23 of the Council & Committee Procedure Rules. [note: when education matters are being discussed the quorum will be five members; for other matters three members]

7. Chair of Overview and Scrutiny Committee and Scrutiny Panels

Chairs and vice-chairs of the Overview and Scrutiny Committee and of the Scrutiny Panels will be appointed by full Council from among the councillors sitting on the committee or Panel (as the case may be). Chairs and vice chairs of Scrutiny Panels must be members of the Overview and Scrutiny Committee. If for any reason this does not happen, then a Chair will be appointed in accordance with paragraph 23 of the Council & Committee Procedure Rules in Part 4 of this Constitution.

8. Agenda items

- (a) With the exception of the Health and Adults Social Care Scrutiny Panel, the terms of reference of each of the Scrutiny Panels shall be determined from time to time by the Overview and Scrutiny Committee.
- (b) A member of the Overview and Scrutiny Committee or of a Scrutiny Panel (as the case may be) shall be entitled to give notice to the proper officer in accordance with paragraph 23 of the Council & Committee Procedure Rules in Part 4 of this Constitution that they wish an item relevant to the functions of the committee or panel (as the case may be) to be included on the agenda for the next available meeting of the committee or panel.
- (c) Any member who is not a member of Overview & Scrutiny Committee shall be entitled to give notice to the proper officer in accordance with paragraph 23 of the Council & Committee Procedure Rules in Part 4 of this Constitution that they wish the committee to consider any 'local government matter as defined in paragraph (e) below which is relevant to the functions of the Overview and Scrutiny Committee
- (d) Any member who is not a member of the Overview & Scrutiny Committee shall be entitled to give notice to the proper officer in accordance with paragraph 23 of the Council & Committee Procedure Rules in Part 4 of this Constitution that they wish any 'local crime and disorder matter' as defined by paragraph (h) below
- (e) The Overview and Scrutiny Committee and Scrutiny Panels shall also respond, as soon as its work programme permits, to requests from the Council and the cabinet to review particular areas of council activity. Where it does so, the Overview and Scrutiny Committee or Scrutiny Panel shall report its findings and any recommendations back to the cabinet and/or Council. The Council and/or the cabinet shall consider the scrutiny report within eight weeks of receiving it.
- (f) On receipt of notice under paragraphs (a), (b) and (c) above the proper officer will ensure that it is included on the next available agenda
- (g) When considering requests pursuant to matters referred to in paragraphs (a) to (d) above, the Overview and Scrutiny Committee shall review the area itself or request a Scrutiny Panel to review it.
- (h) Under paragraph (b) above a 'local government matter' means a matter which relates to the discharge of any function of the Council and affects all

or part of the ward for which the member is elected or any person who lives or works in the ward, but excludes

- (i) A local crime and disorder matter as defined in paragraph (h) below
 - (ii) Any matter relating to a planning decision
 - (iii) Any matter relating to a licensing decision under the Licensing Act 2003
 - (iv) Any matter relating to an individual or entity where that person or entity has a statutory right to review or right of appeal (other than a right to complain to the Ombudsman)
 - (v) Any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for or discussed at a meeting of the Overview & Scrutiny committee
 - (vi) Any matter specified in an order made by the Secretary of State provided that a matter is not excluded for being a local government matter, notwithstanding that it would otherwise fall within (ii) (iii) or (iv) above if it consists of an allegation that a function for which the Council is responsible has not been discharged at all or that its discharge has failed or is failing on a systematic basis.
- (i) Under paragraph (c) above a 'local crime and disorder matter' in relation to a member means a matter concerning crime and disorder (including particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) in the ward for which the member is elected or the misuse of drugs alcohol and other substances in that ward.

9. Policy review and development

- (a) The role of the Overview and Scrutiny Committee and Scrutiny Panels in 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 Committee and Scrutiny Panels may make proposals to the cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) The Overview and Scrutiny Committee and Scrutiny Panels 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.

10. Reports from Overview and Scrutiny Committee and Scrutiny Panels

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee or Scrutiny Panel will prepare a formal report and submit it to the proper officer for consideration by the cabinet or an individual cabinet portfolio holder (if the proposals are consistent with the existing budgetary 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).
- (b) If the Overview and Scrutiny Committee or Scrutiny Panel cannot agree on one single final report to the Council or cabinet as appropriate, then a minority report may be prepared and submitted for consideration by the Council or cabinet with the majority report.
- (c) The Council, cabinet, or individual cabinet portfolio holder shall consider the scrutiny report within eight weeks of it being submitted to the proper officer.

11. Consideration of scrutiny reports by the cabinet

- (a) Once the Overview and Scrutiny Committee or Scrutiny Panel has completed its deliberations on any matter it will forward a copy of its final report to the proper officer who will allocate it the cabinet, individual cabinet portfolio holder, or the Council for dealing, or more than one of them if appropriate. Where the report is allocated to the cabinet, the Leader will decide whether or not the report will be considered at full cabinet or by the individual cabinet member. If the contents of the report would have implications for the council's budget and policy framework then it should be allocated to the council in any event. However, this will not preclude it being allocated to the cabinet or relevant cabinet member also. If the proper officer refers the matter to council, they will also send a copy to the Leader with notice that the matter is to be referred to council. The cabinet or cabinet member (as the case may be) must respond in writing to the scrutiny report within four weeks, and the council shall not consider it within that period. The cabinet member will attend the meeting of the Overview and Scrutiny Committee or Scrutiny Panel to present their response. When the council does meet to consider any referral from Overview and Scrutiny Committee or a Scrutiny Panel on a matter which would impact on the budget and policy framework, it shall also consider the response of the cabinet or cabinet member (as the case may be) to the scrutiny proposals.
- (b) The Overview and Scrutiny Committee and Scrutiny Panels will in any event have access to the forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee or a Scrutiny Panel following a consideration of possible policy/service developments, the committee or panel will at least be able to respond in the course of the cabinet's consultation process in relation to any key decision.

12. Rights of the Overview and Scrutiny Committee and Scrutiny Panel members to documents

- (a) In addition to their rights as councillors, members of the Overview and Scrutiny Committee and Scrutiny Panels 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 cabinet and Overview and Scrutiny Committee or Scrutiny Panels as appropriate depending on the particular matter under consideration.

13. Members and officers giving account

- (a) The Overview and Scrutiny Committee or Scrutiny Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the cabinet, the head of paid service and/or any senior officer [i.e. strategic directors/service directors/assistant directors] to attend before it to report on 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 performance.

and it is the duty of those persons to attend if so required.

- (b) Where any member or officer is required to attend the Overview and Scrutiny Committee or a Scrutiny Panel under this provision, the chair of that committee or panel will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least five working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are 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 or panel will require the production of a report, then the member or officer concerned will be given sufficient notice to allow the 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 or Scrutiny Panel (as the case may be) may in consultation with the member or officer arrange an alternative date for attendance [which will normally be the next ordinary meeting of the committee or panel].
- (d) Where the committee or a panel requires the attendance of any officer other than the service director with responsibility for the service, the relevant service director will always be permitted to attend, or to send a representative, if they wish to respond personally to the enquiries of the Committee in addition to any officer summoned. No officer below principal

officer grade will normally be required to attend the committee or a panel unless agreed by the strategic director.

14. Attendance by others

Cabinet members may attend and speak at Overview and Scrutiny Committee or any Scrutiny Panel when a matter within their responsibility is considered. In addition, the Overview and Scrutiny Committee or any Scrutiny Panel may invite people other than those people referred to in paragraph 13 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. Attendance by such people is entirely optional except in some specified circumstances when attendance by NHS officials may not be optional.

15. Call-in of decisions

- (a) Calling in a decision is an important check and balance on executive power, and an important tool for Scrutiny to hold the Executive to account. However, a call-in should only be made in exceptional circumstances, after all other attempts to resolve issues with a decision have failed.
- (b) 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 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 *five* working days of being made. Chairs of the Overview and Scrutiny Committee and Scrutiny Panels 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 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 it is called-in under paragraph (c) below.
- (d) Cabinet decisions may be called in for further consideration upon receipt by the proper officer, within *five* clear days of the publication of a decision, of a requisition:
 - (i) signed by five members of the council, from more than one political group*, who are not members of the cabinet;
 - (ii) signed by all the members representing a ward where the decision affects that ward only (unless a pecuniary interest exists in the matter in which case action may be initiated by the remaining ward member{s}), or
 - (iii) Signed by the chair of the Overview and Scrutiny Committee

*A member sitting independently from political group arrangements being included on a call-in would also satisfy this requirement.

- (e) Cabinet decisions may also be called in by Overview and Scrutiny Committee or by any Scrutiny Panel, in accordance with Article 6 of this constitution.
- (f) A decision may only be the subject of one call-in.
- (g) All requisitions for call in shall refer to a specific decision (or decisions) within a report and provide a detailed reason. A decision may only be called in if, when taking the decision, the decision maker didn't follow the principles of decision making as outlined below. The signatories to the call-in must give a clear explanation as to how these principles were not followed when the decision was taken:
 - i) Proportionality (ie. the action must be proportionate to the desired outcome)
 - ii) Due consultation and the taking of professional advice from officers
 - iii) Respect for human rights and equalities
 - iv) A presumption in favour of openness
 - v) Clarity of aims and desired outcomes (ie. Link between corporate strategy and implementation)
 - vi) Consistency with the council's Budget and Policy Framework, Contract, Financial and other Procedure Rules, legislative requirements, and other requirements set out in this constitution.
- (h) Subject to the exceptions below all decisions called in shall normally be referred to the next scheduled meeting of the Overview and Scrutiny Committee which will decide whether to uphold the decision or refer it back to the decision-making body or person:
 - (i) matters required to be dealt with within a specified timescale (i.e.: an external deadline) or life and limb; and
 - (ii) cabinet proposals to the Council which are not subject to the call-in procedure.
- (i) If, the Overview and Scrutiny Committee having considered the decision 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. If referred to the decision maker they shall then reconsider within a further fifteen working days, amending the decision or not, before adopting a final decision.

16. Call-in and urgency

- (a) The call-in procedure set out above shall not apply where the decision being taken by the cabinet is urgent. A decision will be urgent if it falls into any of the categories set out in paragraph 15 (f) above. 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. The Leader of the Opposition (or in their absence the deputy leader of the Opposition) and the chair of the

Overview and Scrutiny Committee (or in their absence the vice chair of the Overview and Scrutiny Committee) must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to the Council with proposals for review if necessary.

17. The party whip

When considering any matter in respect of which a member of the Overview and Scrutiny Committee or Scrutiny Panel 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 or panel's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting. Ealing Council does not approve of the use or apparent use of whipping in scrutiny committees.

18. Procedure at meetings of the Overview and Scrutiny Committee or Scrutiny Panels

(a) The following business shall be considered:

- (i) minutes of the last meeting;
- (ii) declarations of interest (including whipping declarations);
- (iii) consideration of any matter referred to the committee or panel for a decision in relation to call in of a decision;
- (iv) responses of Overview and Scrutiny Committee and/or the cabinet and/or the Council to scrutiny reports; and
- (v) the business otherwise set out on the agenda for the meeting.

(b) Where Overview and Scrutiny Committee or a Scrutiny Panel 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 or panel be given the opportunity to ask questions of attendees, and to contribute and speak;
- (ii) that those assisting the committee or panel 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) Where the response to any questions in the opinion of the Chair or on the advice of the Monitoring Officer would be likely to disclose confidential or exempt information within the meaning of Schedule 12A to the Local Government Act 1972, the Chair shall move that the answer is taken in private, and the question shall be put without debate. No person giving evidence to the Overview and Scrutiny Committee or a Scrutiny Panel shall be under any obligation to disclose publicly personal information about an employee, child in care or at school or any recipient of council services.

19. Matters within the remit of more than one Scrutiny Panel

Where a Scrutiny Panel conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Scrutiny Panel, then the Panel conducting the review shall invite the chair and vice-chair of the other Panel (or his/her nominees) to attend its meetings when the matter is being reviewed.

20. Human Rights Act

Reflecting Article 6 of the Human Rights Act 1998, where:

- (a) a member, in responding to a question, might be required to admit to conduct which constitutes a breach of the local code of conduct, the member may decline to answer the question and the issue shall then be reported to the Standards Committee by the Monitoring Officer for consideration and investigation if deemed necessary; and,
- (b) an officer, in responding to a question, might be required to admit to conduct which constitutes a breach of the officer code of conduct or other grounds for disciplinary action, the officer may decline to answer the question and the issue shall be reported by the Monitoring Officer to the Chief Executive for consideration and investigation if deemed necessary, and
- (c) an officer, in responding to a question, might be required to admit to conduct which constitutes a breach of the officer code of conduct or other grounds for disciplinary action, the officer may decline to answer the question and the issue shall be reported by the Monitoring Officer to the Chief Executive for consideration and investigation if deemed necessary.