

## **5.11 Overview and Scrutiny Procedure Rules**

- 5.11.1 The Council is required by law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. A Scrutiny Committee can contribute to the development of Council policies and also hold the Executive to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.
- 5.11.2 Scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants and service users. A Scrutiny Committee should not shy away from the need to challenge and question decisions and make constructive criticism.
- 5.11.3 The Council has one Scrutiny Committee, the Overview and Scrutiny Committee and it is required by statute to abide by any statutory limitations placed upon it.

## **5.12 Composition and arrangements**

- 5.12.1 The Committee will consist of a maximum of 14 Members of the Council
- 5.12.2 All Councillors except Members of the Executive may be members of the Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

## **5.13 Appointment of Members and substitutes**

- 5.13.1 Members and Substitutes shall be appointed by Annual Council in accordance with the wishes of the political group to whom the seats have been allocated.

## **5.14 Co-optees**

- 5.14.1 The Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people

as non-voting co-optees.

## **5.15 Meetings of the Overview and Scrutiny Committee**

5.15.1 Meetings of the Overview and Scrutiny Committee shall be programmed in each year. There will normally be between four and six meetings of the Committee annually.

5.15.2 In addition, Extraordinary Meetings may be called from time to time as and when appropriate. An Extraordinary Meeting may be called by the Chair of the Committee, by any four Members of the Committee or by the Scrutiny Officer if they consider it necessary or appropriate.

## **5.16 Quorum**

5.16.1 The quorum for the Overview and Scrutiny Committee shall be five voting members of the Committee.

## **5.17 Procedure at Overview and Scrutiny Committee meetings**

5.17.1 Meetings of the Overview and Scrutiny Committee and Sub-Committees shall consider the following business:

- (a) minutes of the last meeting;
- (b) declarations of interest;
- (c) public participation
- (d) consideration of any matter referred to the Committee for a decision in relation to call- in of a decision;
- (e) responses of the Executive to reports of the Committee;
- (f) consideration of the forward plan; and
- (g) the business otherwise set out on the agenda for the meeting, including the Committee's work programme.

5.17.2 Executive Members will be invited by the Committee in relation to items of business specific to their portfolio.

- 5.17.3 Where the Committee conducts inquiries (for example, with a view to policy options), it may also ask people to attend committee meetings to assist Members which are to be conducted in accordance with the following principles:
- (a) that the inquiry be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (b) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (c) that the inquiry be conducted so as to maximise the efficiency of the investigation or analysis.
- 5.17.4 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.

## **5.18 Public Participation**

- 5.18.1 In the event that a member of the public has proposed a topic for the Overview and Scrutiny Committee to scrutinise which has been accepted by the Chair, the member of the public will have the opportunity to address the Committee at the meeting that the item appears on the agenda.
- 5.18.2 Each member of the public addressing the Overview and Scrutiny Committee is allowed a maximum of three minutes in which to address the Committee, up to a maximum of 15 minutes in total from members of the public.
- 5.18.3 Every person wishing to address the Committee should contact Democratic Services ([democratic.services@eastherts.gov.uk](mailto:democratic.services@eastherts.gov.uk)) by 12 noon, three working days before the meeting. This must be submitted in writing.
- 5.18.4 The Monitoring Officer reserves the right to omit or refuse a request which includes any matter which appears to be defamatory, frivolous, offensive or for any other legitimate

reason.

## **5.19 Overview and Scrutiny Committee Chair**

5.19.1 The Chair of the Overview and Scrutiny Committee will be appointed by Council at its annual meeting. The Vice-Chair will be appointed by the Committee at its first meeting of the Civic Year.

5.19.2 In the event that there is more than one political group within the Council, it will be desirable for:

- (a) the Overview and Scrutiny Committee to be chaired by a Member who is not a Member of the majority group; and
- (b) the Vice-Chair of the Overview and Scrutiny Committee to be a Member of the majority group.

5.19.3 The Chair and Vice-Chair will hold office until:

- (a) they resign from the office of Chair or Vice-Chair;
- (b) they are no longer a Councillor; or
- (c) they are removed by a resolution of the Council.

5.19.4 Upon the occurrence of a vacancy in the office of Chair or Vice-Chair, the Committee shall fill the vacancy at its next ordinary meeting

## **5.20 Work programme**

5.20.1 The Overview and Scrutiny Committee will be responsible for setting their own Work Programme and in doing so they shall take into account wishes of Members of that Committee who are not Members of the largest political group on the Council. The Work Programme should retain flexibility to deal with urgent issues.

5.20.2 In setting its work programme, the Overview and Scrutiny Committee shall take into account;

- (a) the council's corporate and strategic priorities;
- (b) significant policies in the forward plan;
- (c) submissions from members of the public;
- (d) submissions from Members/Executive; and
- (e) should have a clear rationale for including items for consideration and with regard to the forward plan, ensuring that the largest, strategic items are given precedence.

5.20.3 The Committee will be 'forward-looking', shaping new policies at an early stage of their development, and undertaking reviews of existing policies or service delivery models in order to look to make future improvements.

## **5.21 Terms of Reference**

5.21.1 The Overview and Scrutiny Committee has the following functions:

- (a) Discharge the statutory functions granted to the Committee by Section 21 of the Local Government Act 2000, as amended, plus consideration of any matter referred to it under Section 21A, plus any powers and functions conferred under Sections 21A, 21B and 21D of the Local Government Act 2000;
- (b) To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive.
- (c) To make reports or recommendations to the authority or the Executive with respect to the discharge of any functions which are the responsibility of the Executive;
- (d) Pursuant to the requirements of the Police and Justice Act 2006 (as amended) review or scrutinise decisions made, or other action taken, in connection with the

discharge by the Council and other bodies and persons responsible for crime and disorder strategies for the area or in relation to a local crime and disorder matter, and to make reports or recommendations to the Council for the discharge of those functions, and arrange for copies of any report to be sent to those bodies and persons responsible for crime and disorder strategies for the area (and such other co-operating persons and bodies as it thinks appropriate);

- (e) To consider a local crime and disorder matter, (including in particular forms of crime and disorder that involve anti-social behaviour or adversely affecting the local environment, or the misuse of drugs, alcohol and other substances), referred to it by any member of the Council or by Executive pursuant to the requirements of the Police and Justice Act 2006 (as amended);
- (f) Question members of the Executive and/or Committees and/or officers about their views on issues and proposals affecting the area and to make reports or recommendations to the authority or the Executive on matters which affect the authority's area or the inhabitants of that area;
- (g) Liaise with external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative partnership working;
- (h) Conduct research, community and other consultation in the analysis of policy issues and possible options;
- (i) Consider mechanisms to encourage and enhance community participation in the development of policy options;
- (j) Consider the impact of policies to assess if they have made a difference;
- (k) To consider the Forward Plan and comment as appropriate prior to any decision being made;

- (l) Consider reports relating to the authority's use of the Regulation of Investigatory Powers Act (2000) (RIPA);
- (m) To review performance against the Council's agreed objectives / priorities and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or service areas. To consider risk to the achievement of those objectives/ priorities. To make recommendations to the Executive;
- (n) Receive a referral from any member of the Committee, relevant to the functions of the Committee;
- (o) To appoint time limited Rapid Reviews and/or Task and Finish Groups to undertake detailed scrutiny work report back to the Overview and Scrutiny Committee to make recommendations to the Executive;
- (p) To scrutinise decisions prior to implementation in accordance with the Council's adopted call-in procedure (as detailed below)
- (q) Consider reports relating to the authority's safeguarding responsibilities

## **5.22 Agenda items**

- 5.22.1 Any Member of the Overview and Scrutiny Committee or of its Sub-Committees shall be entitled to give notice to the Scrutiny Officer that they wish for an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee, following such procedures as are established at the time. Ten working days' notice of the item should be given to the Scrutiny Officer together with sufficient information to enable the Officer to advise about the nature and purpose of the item.
- 5.22.2 On receipt of such a request, so long as it is within the relevant terms of reference, the Scrutiny Officer will ensure that it is included on the next available agenda, subject to having scoped out the work required to deliver the item and considered the feasibility of this work in terms of officer/other

resources.

- 5.22.3 The Committee or Sub-Committees 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 Committee or Sub-Committees shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report at its next meeting.

## **5.23 Limitations of Scrutiny**

- 5.23.1 The Overview and Scrutiny Committee shall have the power to receive a Call-In made in accordance with the rules at paragraph 5.31 below, relevant to any of the functions of the Committee, other than:
- (a) A planning or licensing decision;
  - (b) Any matter relating to an individual or entity where there is already a statutory right to review or appeal (but not including the right to complain to the ombudsman);
  - (c) Any matter which is vexatious is substantially the same as a call in previously reviewed by a meeting of the Committee in the last six months, discriminatory or otherwise unreasonable;
- 5.23.2 The decision as to whether the call-in is valid or falls within (a)-(c) above rests with the Scrutiny Officer in consultation with the Monitoring Officer.

## **5.24 Reports from Overview and Scrutiny Committee**

- 5.24.1 Once it has formed recommendations on proposals the Committee (with support from Officers) will prepare a formal report and submit it via the Scrutiny Officer for consideration by the Executive (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).



5.24.2 The Chair, or in their absence, the Vice-Chair of the Overview and Scrutiny Committee and will normally be responsible for presenting the report to the Executive or the Council as appropriate. However, in the case of the report of a Rapid Review and/or Task and Finish group, the report to the Executive and/or Council can also be made by the Chair or Vice-Chair of that Rapid Review and/or the Task and Finish Group.

5.24.3 If the Committee cannot agree on one single final report to the Council or Executive as appropriate, then a minority report may be prepared and submitted for consideration by the Council or Executive with the majority report with the agreement of the Committee.

5.24.4 The Council or Executive shall consider the report of the Overview and Scrutiny Committee at its next meeting.

## **5.25 Making sure that scrutiny reports are considered by the Executive**

5.25.1 Once the Committee has completed its deliberations on any matter it will forward a copy of its final report to the Scrutiny Officer who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the Scrutiny Officer refers the matter to Council, they will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive must be given the opportunity to respond to the Scrutiny report before the Council meets to consider it. When the Council does meet to consider any referral from the Scrutiny Committee on a matter which would impact on the Budget and Policy Framework, it shall also consider any response of the Executive to the scrutiny proposals.

5.25.2 The agenda for Executive meetings shall include an item entitled 'Issues arising from Overview and Scrutiny' and the Chair will have a standing invitation to present this item should they wish to. Any reports referred to the Executive shall normally 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).

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

5.26.1 Any Scrutiny Committee or Sub-Committee 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 Executive, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit such as:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement council policy; and/or
- (c) their performance;

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

5.26.2 Where any Member or officer is required to attend a Scrutiny Committee or Sub-Committee under this provision, the Chair of that Committee or Sub-Committee will inform the Scrutiny Officer. The Scrutiny Officer shall inform the Member or officer in writing giving at least 10 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 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.

5.26.3 Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Committee or Sub-Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.

## **5.27 Attendance by others**

5.27.1 The Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 5.26 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 from other parts of the public sector and shall invite such people to address it.

## **5.28 Forms of Scrutiny**

5.28.1 Scrutiny should not be limited to meetings of the Overview and Scrutiny Committee. Members will contact Executive Members and Officers to gather information to facilitate informed and focused discussion at Committee. These informal enquiries may assure Members at an early stage and allow the Committee's limited time to be used more appropriately.

5.28.2 The Overview and Scrutiny Committee have the following tools to utilise when scrutinising a topic and should be considered in the following order;

- (a) A report via the Overview and Scrutiny Committee
- (b) Rapid Review
- (c) Task and Finish Group
- (d) Call-in

## **5.29 Rapid Reviews**

5.29.1 Rapid reviews can be set up by the Overview and Scrutiny Committee to work on a short, highly focused piece of work which cannot be completed in Committee.

5.29.2 Only one Rapid Review should be set up at one time and they should generally be limited to one meeting, which may be supported by Officers.

5.29.3 Rapid Reviews are informal bodies and shall have no decision making powers.

5.29.4 The Rapid Review will produce a report for consideration by the Overview and Scrutiny Committee at the end of the review.

## **5.30 Task and finish groups**

- 5.30.1 Task and Finish Groups will be set up by the Overview and Scrutiny Committee to carry out detailed work in relation to specific topics or issues. The Overview and Scrutiny Committee will decide what Task and Finish Groups are set up and what their terms of reference will be. These will include the membership of the group and the proposed dates of reporting to the Overview and Scrutiny Committee.
- 5.30.2 Only one Task and Finish Group should be set up at one time and they should be time limited and have duration of no more than eight weeks.
- 5.30.3 Task and Finish Groups are informal bodies and shall have no decision making powers.
- 5.30.4 Task and Finish Groups will keep the Overview and Scrutiny Committee informed of their progress. They will produce a report for consideration by the Overview and Scrutiny Committee at the end of the review.

## **5.31 Call-in**

- 5.31.1 A key element of the scrutiny role concerns the arrangements for the “Call-in” of a decision taken by or on behalf of the Executive. Key or non-key decisions by the Executive, a Committee of the Executive or an individual Executive Member and key decisions made by an officer with delegated authority from the Executive, may be “called in” by four Members of the Council submitting a request in writing on the call in request form to the Chief Executive within five working days of the publication of that decision. No action can be taken on an item called in for scrutiny.
- 5.31.2 Call-in should only be used in exceptional circumstances. These are where Members have evidence which suggests that the Executive decision was not taken in accordance with the principles set out in Section 3b (Decision Making). In order to ensure that Call-in is not abused; nor causes unreasonable delay, certain limitations are to be placed on its use. These

are:

- (a) a decision must be called in by at least four Members of the Council; and
- (b) a decision on the same item may only be called in for scrutiny by the Committee on one occasion within a six month period. The six month period is to commence from the date the Call-in request is received by the Chief Executive;
- (c) Members who have called in a decision may withdraw their Call-in at any time prior to the meeting taking place to hear the Call-in, by giving notice in writing to the Scrutiny Officer.

5.31.3 The following arrangements for a Call-in will apply:

- (a) when a key or non-key decision is made by the Executive (or by any Committee or Members of the Executive with a delegated authority contained in Section 3b of this Constitution) or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published electronically. Notification of all such decisions will also be issued to all members by the person responsible for publishing the decision;
- (b) the relevant 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;
- (c) during that period, the Chief Executive shall call in a decision for scrutiny by the Committee if so requested by Members (in accordance with paragraph 5.31.2 above), and shall notify the decision-taker of the Call-in. An item called in for scrutiny will normally be considered by the Overview and Scrutiny Committee at its next scheduled meeting. However, in consultation with the Chair of the Committee, they may call an Extraordinary Meeting of the Committee on such date as they may determine (in

accordance with the Access to Information Procedure Rules in Section 12 of this Constitution);

- (d) any Member considering calling in a decision must first make every effort to discuss the issue with the relevant Executive Member or the Leader of the Council;
- (e) Members using the Call-in arrangements have the right to address the Committee when it deals with the issue;
- (f) normally, the Committee will complete its scrutiny of the issue at that meeting and report the outcome to the next meeting of the Executive. However, the Committee may consider that further time is required to consider the issue and would therefore need to recommend to the Executive that further work be carried out and that the Overview and Scrutiny Committee makes recommendations at a later date. In these circumstances, the Executive will decide whether or not the decision should be implemented, having regard to the urgency, if any, of the matter and the provisions of the Budget and Policy Framework Rules (see (i) below);
- (g) if the Overview and Scrutiny Committee agrees with a called- in decision, the decision may be implemented immediately following the Overview and Scrutiny Committee meeting;
- (h) if, through the scrutiny process and/or in pursuance of the Budget and Policy Framework Procedure Rules set out in Section 13 of this Constitution, a called in decision is deemed to be contrary to the Policy Framework, and/or contrary to or not wholly consistent with the Budget, it may have to be referred to the Council for a final decision and the action cannot be acted upon until this decision is made;
- (i) if the called in decision does not contradict the Policy Framework and/or Budget but the Committee decides to make an alternative recommendation, this will be considered by the Executive at its next meeting and no action should be taken until a final decision has been made by the Executive.

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

- 5.32.1 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's 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. The Chair of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable and that there are reasonable grounds for treating the decision as a matter of urgency. In the absence of the Chair, the Vice Chair of the Overview and Scrutiny Committee's consent shall be required. In the absence of both, the Head of Paid Service or their 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.

## **5.33 The party whip**

- 5.33.1 As part of the scrutiny function, the imposition of the party whip is regarded by the Council as incompatible with the Overview and Scrutiny Committee's terms of reference. The party whip should not therefore be imposed on any member of the Overview and Scrutiny Committee while engaged in that Committee's work.

## **5.34 Councillor Call for Action (CCfA)**

- 5.34.1 Any Councillor may request that the Overview and Scrutiny Committee consider the inclusion of a Councillor Call for Action (CCfA) on its work programme, under the terms of the CCfA Protocol set out below. The operation of CCfA will be in full compliance with the Protocol and, as for Call-in, will be used only in exceptional circumstances where all other possible avenues for resolution of the issue have been followed by the referring Councillor, and yet a problem still exists.





## **Councillor Call for Action (CCfA) Protocol**

Under section 119 of the Local Government and Public Involvement in Health Act 2007, a Member may call for debate and discussion at a committee meeting, on a topic of neighbourhood concern. These powers are limited to an issue which affects a single council ward. CCfA will be considered by the Overview and Scrutiny Committee, whose terms of reference include within its remit, the subject of the CCfA. In order to initiate the CCfA process, the Chair of the Committee, in conjunction with the Monitoring Officer, will need to be satisfied that the following criteria have been met:

### **Criteria**

Statutory Regulations specify matters that are excluded from CCfA:

1. any matter which is vexatious, discriminatory or not reasonable;
2. any matter which is the subject of an individual complaint;
3. any matter relating to a planning appeal, licensing appeal or other issue where there is an alternative avenue available; and
4. the matter must be one where all other attempts at resolution have been exhausted.

The following process will need to be followed:

### **Process**

1. A Member should direct a CCfA request in writing to the Chair of the Overview and Scrutiny Committee and the Monitoring Officer who will, if the above criteria are met, allow the issue to be placed on the agenda for a subsequent meeting. The request should specify:
  - the ward concerned and how the issue relates only to that ward;
  - the views and concerns of local residents;
  - how existing mechanisms for resolution have been tried and exhausted; and
  - the desired outcomes for resolving the issue.
2. The Committee Chair, in conjunction with the Monitoring Officer, may determine whether the next scheduled meeting of the Committee is appropriate or if an additional meeting needs

to be convened.

3. The Committee, subject to the necessary notice being given, will be able to request attendance from the relevant Executive Member and/or representatives of partner organisations, and/or to request information.
4. The Committee should discuss how to achieve the desired outcomes that the Member bringing the CCfA has specified and should conclude its consideration with a recommendation that certain action(s) should take place. The Committee may decide to challenge whether the desired outcome is reasonable.
5. Whilst there will be no specified procedure for the discussions, the Chair, in consultation with Officers, may determine an informal structure that will enable all parties to contribute.
6. All CCfA requests, whether pursued or not, should be reported to the next relevant meeting of the Committee for information. This will enable the Committees to take account of all requests in determining work programmes.