

# **OVERVIEW AND SCRUTINY PROCEDURE RULES**







**APPENDIX 4 – OVERVIEW AND SCRUTINY PROCEDURE RULES**

**INDEX**

<b>SUBJECT</b>	<b>PAGE</b>
Arrangements for Overview and Scrutiny	D1
Terms of Reference	D1
Membership	D1
Non-Councillor Co-optees	D2
Meetings	D2
Quorum	D3
Chairing	D3
Work Programme	D4
Policy review and development	D5
Reports	D6
Making sure that reports are considered by the Cabinet	D7
Health Scrutiny Consultation Exercises	D9
Rights of Scrutiny members to documents	D9
Accountability of Members or Officers	D9
Attendance by others	D10
Key Decisions	D11
Call-in	D11
Call-in of Urgent Decisions	D14
Call-in Decisions Outside the Policy Framework and Budget	D15
The Party Whip	D15
Proceedings	D15
Overview and Scrutiny Guide	D17

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## **APPENDIX 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. Arrangements for Overview and Scrutiny**

1.1 The Council's Overview and Scrutiny arrangements will comprise an Overview and Scrutiny Performance Board, a Health Overview and Scrutiny Committee and four Overview and Scrutiny Panels covering Sustainable Community Strategy themes as set out in Article 8 and Appendix 1 :-

- Adult Care and Well Being Panel;
- Children and Young People Panel;
- Environment and Economy Panel;
- Resources Panel

1.2 Additionally, the Overview and Scrutiny Performance Board may also establish specific Scrutiny Task Groups to conduct scrutinies identified by it or to carry out any other specific role or function within the remit of the Overview and Scrutiny Performance Board

1.3 The Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels and Scrutiny Task Group do not have the power to take any executive decisions on behalf of the Council.

1.4 The Health Overview and Scrutiny Committee will have regard to guidance produced by the Department of Health.

### **2. Terms of Reference**

The scheme of assignment of responsibility for functions (Appendix 1) sets out the scope, role and functions of the Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, Overview and Scrutiny Panels and Scrutiny Task Groups.

### **3. Membership**

3.1 Subject to the following provisions all Councillors, except members of the Cabinet, may be members of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels or a Scrutiny Task Group.

3.2 The Overview and Scrutiny Performance Board will comprise a Chairman together with a Vice-Chairman and 6 other County Councillors who will all be designated as Scrutiny Lead Members appointed by the Council. One of them will be the Chairman of the Health Overview and Scrutiny Committee and four of them will chair and lead the work of the Overview

and Scrutiny Panels. Places on the Board will be allocated in accordance with the political balance of the Council. All members of the Board will therefore be appointed by Council

- 3.3 The Health Overview and Scrutiny Committee will comprise 8 County Councillors and one Councillor from each District Council in Worcestershire, who will be entitled to vote. County Council places on the Committee will be allocated in accordance with the political balance of the Council.
- 3.4 Each of the Overview and Scrutiny Panels will comprise 8 County Councillors and places will be allocated in accordance with the political balance of the Council.
- 3.5 The size of any Scrutiny Task Group will vary according to the purpose for which it is established and its membership shall be agreed by the Overview and Scrutiny Performance Board in consultation with the Leaders of the political groups. Places on scrutiny task groups need not be allocated strictly in accordance with the political balance of the Council. Instead the principle of proportionality will be applied more flexibly to enable members with a particular knowledge or interest or commitment to take part in a particular scrutiny task.
- 3.6 There shall be no substitution on the Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel or any Scrutiny Task Group.
- 3.7 No member may be involved in scrutinising a decision with which he/she has been directly involved or if he/she has a prejudicial interest as defined by the Code of Conduct for members.

#### **4. Non-Councillor Co-optees**

- 4.1 The Overview and Scrutiny Performance Board will co-opt one Church of England and one Roman Catholic Diocese representative and two parent governor voting representatives (as elected) when dealing wholly or in part with an education matter such as a report from an Overview and Scrutiny Panel or Scrutiny Task Group.
- 4.2 An Overview and Scrutiny Panel or Scrutiny Task Group when dealing wholly or in part with educational matters will co-opt those representatives in 4.1 above.
- 4.3 The Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or Scrutiny Task Group may include other non-councillor co-opted persons in a non-voting capacity.

#### **5. Meetings**

- 5.1 The Overview and Scrutiny Performance Board, Health and Overview Scrutiny Committee and Overview and Scrutiny Panels will conduct the

proceedings in accordance with those Procedural Standing Orders (Appendix 2 of this Constitution) as apply to them and in accordance with these Overview and Scrutiny Procedure Rules. They will meet as often as is required to carry out their functions and work programme, but without prejudice to the calling of a meeting in accordance with the provisions of the Procedural Standing Orders, if required.

- 5.2 Scrutiny Task Groups will not be established as Committees of the Council for the purposes for the Council's Procedural Standing Orders or Access to Information Rules but will conduct their proceedings in accordance with those Overview and Scrutiny Procedure Rules as apply to them. They will conduct their business in such ways that are effective, efficient and appropriate to the tasks they are carrying out and will, whenever possible, conduct their business in an open and transparent way and engage the public as fully as may be appropriate.
- 5.3 The Director of Corporate Services is responsible for summoning meetings of Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee and Overview and Scrutiny Panels circulating the Agenda and papers and recording the proceedings of those meetings. The Director of Corporate Services is also responsible for summoning meetings of a Scrutiny Task Group, compiling such papers as are necessary, recording proceedings in the most appropriate manner and preparing any reports from a Scrutiny Task Group

## **6. Quorum**

- 6.1 The quorum for meetings of the Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee and Overview and Scrutiny Panels shall be one quarter of its voting membership, provided that in no case shall the quorum be less than three.

## **7. Chairing**

- 7.1 Subject to 7.3 and 7.4, the Chairmen and Vice-Chairmen of the Overview and Scrutiny Performance Board, the Health and Overview Scrutiny Committee and Overview and Scrutiny Panels will be appointed by the County Council from amongst the Members appointed to serve on the respective bodies.
- 7.2 Other Scrutiny Lead Members serving on the Overview and Scrutiny Performance Board will be similarly appointed by Council.
- 7.3 The Chairman of the Overview and Scrutiny Performance Board will not be a member of a political group forming part of the ruling administration but will not hold the position of Group Leader of any group on the Council.
- 7.4 The position of Vice-Chairman of the Health Overview and Scrutiny Committee will be held by one of the district council representatives serving on the Committee and nominated by those district council representatives and agreed by Council.

**September 2009**

U:\U162 CS\U072 Democratic Services\G3 Mgt & Admin\12 Procedures and Protocols\2009 Constitution\Appendix 7

7.5 Any Scrutiny Task Group established by the Overview and Scrutiny Performance Board will be led by an identified member of the Board and he/she will chair any meetings and lead the work of the Group. The Chairman of the Overview and Scrutiny Performance Board is not expected to lead a Scrutiny Task Group carrying out in-depth scrutinies (but may lead a Scrutiny Task Group carrying any other specific role or function within the remit of the Overview and Scrutiny Performance Board).

## **8. Work programme**

8.1 The Overview and Scrutiny Performance Board will develop a scrutiny programme, the outline of which will be approved by the County Council. In so doing it will take into account views, requests, and referrals from:

- (a) all County Councillors
- (b) An Overview and Scrutiny Panel
- (c) the Cabinet
- (d) officers
- (e) any co-opted members
- (f) any external bodies, partners or stakeholders
- (g) citizens.

8.2 Any member of the Overview and Scrutiny Performance Board can require the Board to place for discussion a relevant matter on the agenda of a meeting of the Board. Any such request will be included on the next available Overview and Scrutiny Performance Board agenda.

8.3 Any member of the Council may request the Board to consider a local government matter relevant to the functions of the Board or consider a Councillor Call for Action. Any such request will be included on the next available Overview and Scrutiny Board agenda.

8.4 In considering a request for a Councillor Call for Action referred to in 8.3 the Board will consider whether:-

- sufficient information has been supplied
- The matter falls under those excluded matters prescribed by legislation
- the Councillor Call for Action is, or has stemmed from a vexatious complaint
- the matter is the subject of an ombudsman complaint or other official complaints procedure
- more could be done to resolve the issue at a local level
- the matter has recently been examined by scrutiny

8.5 If the Overview and Scrutiny Performance Board decides that the Councillor Call for Action request should be progressed it must then be considered in detail within 6 weeks. It is open to the Board to deal with the matter itself or to commission an Overview and Scrutiny Panel or Scrutiny Task Group to investigate the request on its behalf.

- 8.6 The Overview and Scrutiny Performance Board will establish criteria against which it will select the topics to form the scrutiny programme.
- 8.7 The programme will:
- (a) meet the criteria for chosen topics
  - (b) be balanced – in terms of some being of longer duration and some being suitable for shorter study
  - (c) be mixed – in terms of covering different topics/directorates
  - (d) be not so onerous that there is no flexibility and room left for smaller, additional item(s), such as Call-Ins, to be added in at a later time if the Overview and Scrutiny Performance Board regards it as a priority and
  - (e) take into consideration the resources available to support scrutiny.
- 8.8 The Overview and Scrutiny Performance Board will agree the terms of reference of each scrutiny to be carried out by an Overview and Scrutiny Panel or Scrutiny Task Group and will consider the reports of an Overview and Scrutiny Panel or Scrutiny Task Group prior to its formal publication.
- 8.9 The Overview and Scrutiny Performance Board or an Overview and Scrutiny Panel may periodically invite Cabinet Members or Chief Officers to discuss with it any particular issue of concern.
- 8.10 The Overview and Performance Board has been designated by the Council as its statutory Crime and Disorder Scrutiny Committee and will take responsibility for the consideration of Crime and Disorder matters. As part of this responsibility, the Board will meet on an annual basis with a representative of the Police Authority and Crime and Disorder partners to discuss issues of mutual interest.
- 8.11 In terms of considering specific Crime and Disorder issues (including Councillors' Calls for Action) it is open to the Board to deal with the matter itself or to commission an Overview and Scrutiny Panel or Scrutiny Task Group to investigate the request on its behalf.
- 8.12 The Health Overview and Scrutiny Committee will produce an outline annual overview and scrutiny programme that has been discussed and shared with local health bodies, including the patients' forums which relate to those bodies. In developing its annual plan it will build in a capacity to respond to consultation exercises.

## **9. Policy review and development**

- 9.1 The role of the Overview and Scrutiny Performance Board 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 (Appendix 6 of this Constitution).

- 9.2 In relation to the development of the Council's approach to other matters of policy not forming part of its budget and policy framework the Overview and Scrutiny Performance Board (or Overview and Scrutiny Panel expressly authorised by the Board) may make proposals to the Cabinet for the development of policy. Such 'pre-policy' work is an important part of the Overview and Scrutiny function and such proposals will be considered by the Cabinet.
- 9.3 The Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel and a Scrutiny Task Group will have the right to invite a Cabinet Member with Responsibility to attend for discussion of policy development or review of policy within the scope of that Cabinet member.

## **10. Reports**

- 10.1 Once it has formed views or recommendations on matters which it has considered and dealt with itself the Overview and Scrutiny Performance Board will prepare a report and will give the Cabinet Member with Responsibility and the Chief Officer an opportunity to see a draft report, as appropriate, in order to allow them to comment on emerging themes and recommendations. The Cabinet Member with Responsibility and Chief Officer will be entitled to attend the meeting of the Overview and Scrutiny Performance Board at which the final report is considered.
- 10.2 Once it has formed views and recommendations on matters which it has considered an Overview and Scrutiny Panel or Scrutiny Task Group will prepare a report and will give the Cabinet Member with Responsibility and the Chief Officer an opportunity to see a draft report in order to allow them to comment on emerging themes and recommendations. An Overview and Scrutiny Panel or Scrutiny Task Group will submit its report for approval by the Overview and Scrutiny Performance Board unless a Panel has been specially authorised by the Board to report directly to the Cabinet. The Cabinet Member with Responsibility and Chief Officer will be entitled to attend the meeting of the Overview and Scrutiny Performance Board at which the Panel or Group's report is considered.
- 10.3 Such a report shall include:-
- An explanation of the issue addressed;
  - A summary of the evidence considered;
  - Any recommendations on matters considered.
- 10.4 If the Overview and Scrutiny Performance Board or an Overview and Scrutiny Panel cannot agree on a single final report then up to one minority report may be prepared and submitted for consideration with the majority report.
- 10.5 All reports submitted to the Overview and Scrutiny Performance Board or Overview and Scrutiny Panel for approval shall be made public, subject to the provision of the Access to Information Rules.

- 10.6 Once the Overview and Scrutiny Performance Board has approved a final report it will submit it to the Director of Corporate Services for consideration by the Cabinet or the Council as appropriate.
- 10.7 Where appropriate, scrutiny reports reflecting in-depth studies should form the basis of major Council debates before the reports are referred to the Cabinet. As part of its consideration of any report the Overview and Scrutiny Performance Board shall form a view as to whether it would wish to refer a matter for discussion at Council prior to consideration by Cabinet.
- 10.8 The Council or Cabinet shall so far as is reasonably practicable consider the final report of the Overview and Scrutiny Performance Board within two months of it being submitted to the Director of Corporate Services subject to the provisions of paragraph 10.7 above.
- 10.9 The Chairman, Vice-Chairman or other designated member of an Overview and Scrutiny Panel or a Scrutiny lead member of a Scrutiny Task Group will present its report to the Overview and Scrutiny Performance Board. The Chairman or Vice-Chairman of the Board, the relevant Overview and Scrutiny Panel or relevant scrutiny lead member of the Overview and Scrutiny Performance Board will present the final report to the Cabinet and/or Council as appropriate and may be questioned on it.
- 10.10 An Overview and Scrutiny Panel or Scrutiny Task Group may submit interim reports to the Overview and Scrutiny Performance Board and the Board may submit an interim report to the Cabinet.
- 10.11 The Health Overview and Scrutiny Committee may make reports and recommendations to local NHS bodies on any matter reviewed or scrutinised. In doing so, their report shall include:-
- An explanation of the issue addressed;
  - A summary of the evidence considered;
  - Any recommendations on matters considered.
- 10.12 The Overview and Scrutiny Performance Board will submit an annual report to the Council reviewing the work undertaken against the outline programme approved by the Council.
- 11. Making sure that reports are considered by the Cabinet or the appropriate body**
- 11.1 Once the Overview and Scrutiny Performance Board has approved a final report it will forward a copy to the Director of Corporate Services who will allocate it, as appropriate, to the Cabinet and/or the Council.
- 11.2 If the Director of Corporate Services considers that the contents of the report would have implications for the Council's budget and policy framework and refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Cabinet will normally have 2 months in which to respond to the report, and

the Council shall not consider it within that period. When the Council does meet to consider any referral from the Overview and Scrutiny Performance Board on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the Board's proposals.

- 11.3 If in any case the Cabinet does not consider a report normally within two months then the matter will be referred to Council and the Council will consider the report and make a recommendation to the Cabinet, if it is an executive function.
- 11.4 Without prejudice to paragraphs 11.1, 11.2 and 11.3 the Director of Corporate Services may also refer any report of major in-depth studies relating to an executive function to the Council for debate prior to consideration by the Cabinet.
- 11.5 In considering the period within which the Cabinet is expected to consider a report, the Director of Corporate Services shall have regard to giving the Cabinet Member with Responsibility the opportunity to prepare his/her report to the Cabinet advising it on how to respond to the report.
- 11.6 The Overview and Scrutiny Performance Board will in any event have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Performance Board, the Board will nonetheless be able to respond in the course of any Cabinet consultation process in relation to any key decision, and may comment upon the issue.
- 11.7 Reports from the Health Overview and Scrutiny Committee will be submitted to the appropriate body (which may include the Cabinet and/or Council).
- 11.8 Once the Health Overview and Scrutiny Committee has completed a scrutiny exercise and produced its report, and where it has requested a response from the NHS body to which it has reported, the NHS body concerned shall respond to the request within 28 days.
- 11.9 The written response from NHS bodies should set out:-
  - The views of the body on the recommendations;
  - Proposed action in response to the recommendations;
  - Any reasons for inaction to the recommendations made
- 11.10 If the NHS body is unable to provide a comprehensive response to the recommendations made within 28 days, it may negotiate with the Committee to produce an interim response. This interim response should include details of when the final report would be produced.

## **12. Health Scrutiny Consultation Exercises**

- 12.1 Each local NHS Body has a duty to consult the Health Overview and Scrutiny Committee on any proposals it may have under consideration for any substantial development of the health service in the area of the Committee's local authorities, or on any proposal to make a substantial variation in the provision of such service(s).
- 12.2 In instances where the Health Overview and Scrutiny Committee considers that another authority would be better placed to consider a particular local priority it may delegate the function to that authority, provided that authority agrees to exercise the function.
- 12.3 Where delegation takes place, the full powers of overview and scrutiny of health services are given to the delegated committee but only in relation to the specific delegated function and provided the County Council's strategic policies and budget provisions are adhered to.

## **13. Rights of Scrutiny members to documents**

- 13.1 In addition to their rights as councillors, members of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels and any Scrutiny Task Groups have the additional right to documents and to notice of meetings as set out in the Cabinet Procedure Rules (Appendix 3), in these Rules and the Access to Information Rules (Appendix 5) of this Constitution.
- 13.2 Nothing in this paragraph prevents more detailed informal liaison between the Cabinet and the Overview and Scrutiny Performance Board as appropriate depending on the particular matter under consideration.

## **14. Accountability of Members or officers**

- 14.1 Subject to paragraph 14.3 below, the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or a Scrutiny Task Group may scrutinise and review decisions made by the Cabinet or actions taken by/or on behalf of the Cabinet or Council and may scrutinise and review the performance of the Council and Cabinet in relation to policy objectives, performance targets and/or particular service areas. As well as reviewing documentation, in fulfilling the scrutiny role it may require the Leader, any Cabinet member with responsibility or other member of the Cabinet, any member in respect of functions exercisable by that member under section 236 of the Local Government and Public Involvement Health, Act Chief Officers and/or any senior officer to attend before it to explain in relation to matters within their remit:-

(a) any particular decision or series of decisions;

(b) the extent to which the actions taken implement Council policy; and/or

(c) their performance.

It is the duty of those persons to attend if so required. However, in exceptional circumstances, if the member or officer is unable to attend on the required date, then the Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel or Scrutiny Task Group shall in consultation with the member or officer arrange an alternative date for attendance to take place within a reasonable period.

14.2 Where any member or officer is required to attend the Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel or Scrutiny Task Group under paragraph 14.1 the Chairman or Scrutiny Lead Member will arrange for the member or officer to be informed in writing giving notice of the nature of the item (with reasons) on which he/she is required to attend to give account and giving sufficient notice having regard to whether or not the production of any documentation or report is required.

14.3 (a) The Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel or Scrutiny Task Group, may not scrutinise an action taken by a Chief Officer under delegated powers which is in the furtherance of day to day administration of the service for which the Chief Officer is responsible;

(b) For the purposes of paragraph 14.1 above the term 'senior officer' means any officer who is employed upon the Conditions of Service of the JNC for Chief Officers.

14.4 When requiring the attendance of an officer from a local NHS body, the Chairman of the Health Overview and Scrutiny Committee will arrange for such a request to be made in writing to the Chief Executive of the body concerned giving notice of the nature of the item (with reasons) on which attendance is required to give account and giving sufficient notice having regard to whether or not the production of any documentation or report is required.

## **15. Attendance by others**

15.1 A Councillor will be notified of any item of business before Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel or Scrutiny Task Group, which is considered to be of a particular interest to the Councillor representing an electoral division to which that item relates or affects. He/she will be invited to attend any meeting in question, may speak on the item but not vote, and may submit written representations.

15.2 The Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or Scrutiny Task Group may invite staff and people other than those referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer

questions. It may for example wish to hear from residents, partners, stakeholders, members and officers in other parts of the public sector, experts and witnesses and shall invite such people to attend.

- 15.3 When requiring the attendance of an officer from another Public Service Provider, the Chairman of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Panel or Scrutiny Task group, the chairman of the relevant Committee, Panel or Task group will arrange for such a request to be made in writing to the Chief Executive of the body concerned giving notice of the nature of the item (with reason) on which attendance is required to give account and giving sufficient notice having regard to whether or not the production of any documentation or report is required.

## **16. Key Decisions**

- 16.1 The Overview and Scrutiny Performance Board may require the Cabinet in relation to key decisions to submit, in certain circumstances, a report to the Council (as set out in Paragraph 17 of the Access to Information Rules).

## **17. Call-in**

- 17.1 Call-in should only be used in exceptional circumstances and will normally be invoked only when there is evidence to suggest that the Cabinet has departed from the principles for decision making (as set out in Article 7) and a decision has been made and not yet implemented. The operation of call-in will be monitored annually and the Council may change the arrangements if they are being abused.
- 17.2 Any recommendations of the Cabinet to the Council which relate to policy framework and budget matters are not subject to the call-in procedure.
- 17.3 When a decision is made by the Cabinet the decision shall be recorded and published in the Minutes of the Cabinet meeting at which the decision was taken and shall be available at County Hall, Worcester normally within three working days of the decision being made. All Councillors will be sent copies at that time either electronically or in hard copy .
- 17.4 The Minutes of the Cabinet meeting in question will bear the date on which they are published under paragraph 17.3 and will specify whether paragraph 17.16 applies. If not, the decision may then be implemented on the fifth working day after the publication of the decision, unless it is called in under paragraph 17.5.
- 17.5 Subject to paragraph 17.16, before the commencement of the fifth working days after the publication of the decision referred to in 17.4, no fewer than 2 members of the Overview and Scrutiny Performance Board or no fewer than 8 members who are not members of the Cabinet may signify in writing to the Director of Corporate Services their wish for a decision to be called in. Such request must be accompanied by an explanation of

reasons for calling in the decision. If a decision is validly called-in, then it cannot be implemented until the conclusion of the call-in process as set out in these Rules.

- 17.6 The Director of Corporate Services will place decisions called in on the agenda for the next available meeting of the Overview and Scrutiny Performance Board. If necessary, an earlier meeting of the Board can be called by the Director of Corporate Services in consultation with its Chairman and the relevant Cabinet Member with responsibility. Given the potential for delay and consequential disadvantage for the Council or the public, call-ins need to be dealt with promptly.
- 17.7 The Overview and Scrutiny Performance Board will decide on the most appropriate way of dealing with the Call-In. It may deal with it itself, refer it to one of its Overview and Scrutiny Panels or establish a Scrutiny Task Group to do so. At this point it may also conclude that no further action should be taken in respect of the call-in at which point the original decision can be implemented. If it refers the matter to an Overview and Scrutiny Panel or establishes a Scrutiny Task Group, a report containing findings and any recommendations will be submitted to the Overview and Scrutiny Performance Board for approval.
- 17.8 Having considered the decision called-in, the Overview and Scrutiny Performance Board will:
- (a) accept the decision without qualification or comment (in which case it can be implemented immediately without being considered again by the Cabinet); or
  - (b) accept the decision (in which case it can be implemented immediately without being considered again by Cabinet) but with qualification or comment which the relevant Cabinet Member with Responsibility must consider and respond to; or
  - (c) propose modifications to the decision or require a reconsideration of the decision (in which case the implementation of the decision is delayed until the Cabinet has received and considered a report of the Overview and Scrutiny Performance Board); or
  - (d) in exceptional circumstances ask the Council to consider whether option (a) (b) or (c) is appropriate (in which case the implementation is delayed until after the meeting of the Council to which it has been referred and, if Council resolves option (c), the Cabinet has reconsidered the matter having regard to the Council's view).
- (The Council has no power to make final decisions in respect of matters which are the responsibility of the Cabinet).
- 17.9 Such exceptional circumstances (in paragraph 17.8(d)) may be if the decision called-in is one which the Overview and Scrutiny Performance Board believes is one which

- (a) the Cabinet cannot in law take; or
  - (b) is reserved to the Full Council; or
  - (c) raises issues of such exceptional significance and public interest to justify reference to the Full Council, although the final decision will rest with the Cabinet; or
  - (d) is contrary to the policy framework or contrary to or not wholly in accordance with the budget.
- 17.10 The first 3 members exercising the right of call in and who are not either local members or members of the Overview and Scrutiny Performance Board, an Overview and Scrutiny Panel or Scrutiny Task Group established to consider a call-in are entitled to attend any meeting of that Overview and Scrutiny Performance Board, Overview and Scrutiny Panel or Scrutiny Task Group respectively considering the call-in and to speak but not vote.
- 17.11 The Overview and Scrutiny Performance Board, Overview and Scrutiny Panel or Scrutiny Task Group will require the relevant Cabinet member with responsibility or other member of the Cabinet, if appropriate, to attend any meeting and explain the decision taken by the Cabinet.
- 17.12 (a) Any report of the Overview and Scrutiny Performance Board or Council pursuant to paragraph 17.8(c) (containing reasons for its views) will be submitted to the Cabinet, which will consider the views of the Overview and Scrutiny Performance Board or Council and either:
- (i) confirm the decision without modification; or
  - (ii) confirm the decision with modification; or
  - (iii) rescind the decision and (if considered appropriate) take a new one.
- (b) In each case, the reasons must be given, particularly if the action is not as proposed by the Overview and Scrutiny Performance Board or Council.
- (c) The Cabinet's decision taken following consideration of the views of the Overview and Scrutiny Performance Board or Council is final and will be published by the Director of Corporate Services.
- (d) The Chairman or Vice-Chairman of the Overview and Scrutiny Performance Board may attend a meeting of the Cabinet at which the Board's views are being considered and may speak but not vote.
- 17.13 The call-in procedure shall apply only once in relation to a particular decision or series of related decisions on the same matter giving rise to the call-in.

17.14 These call-in provisions are not applicable in respect of decisions taken by local NHS bodies.

17.15 Each local NHS body has a duty to consult the Health Overview and Scrutiny Committee on any proposals it may have under consideration for any substantial development of the health service in the area of the Committee's local authority, or on any proposal to make any substantial variation in the provision of such service(s). This is additional to the discussions that NHS bodies will have with the local authority, as distinct from the Health Overview and Scrutiny Committee, about service developments, especially where they link to services provided or commissioned by the local authority. The Health and Overview Scrutiny Committee may in certain circumstances prescribed by Regulations report to the Secretary of State in writing who may require the local NHS body concerned to carry out such consultation, or such further consultation, with the Committee as he/she considers appropriate.

#### 17.16 **Call- In Of Urgent Decisions**

- (a) On rare occasions, decisions will need to be implemented so urgently that pre-implementation review (call-in) is not appropriate.
- (b) A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interest of the County Council or of the public or the interests of any person (including a corporate entity) to whom the decision relates.
- (c) The record of the decision and notice by which it is made public must contain an explanation as to why the decision needs to be treated with such urgency.
- (d) The Chairman (or Vice-Chairman in his/her absence) of the Overview and Scrutiny Performance Board must agree that the decision is urgent and cannot reasonably be deferred, in which case it can be implemented immediately. If either the Chairman (or in his/her absence, the Vice-Chairman) of the Overview and Scrutiny Performance Board is unwilling or unable to act, then the agreement of the Chairman (or in his/her absence, the Vice-Chairman) of the Council will suffice.
- (e) Where these circumstances arise at least 2 members of the Overview and Scrutiny Performance Board or 8 members who are not members of the Cabinet may signify in writing to the Director of Corporate Services their wish for a post-implementation review of the decision. Reasons must be given.
- (f) In these circumstances, call-in has no effect on the implementation of the urgent decision and relates to reviewing the nature of the decision and the circumstances behind it. The outcome of the Overview and Scrutiny Performance Board's consideration will be reported to the Cabinet.

### **17.17 Call-In of Decisions Outside the Policy Framework and Budget**

These provisions are set out in the Policy Framework and Budget Procedure Rules.

### **18. The Party Whip**

- 18.1 When considering any matter in respect of which a member of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or Scrutiny Task Group is subject to any instruction given by or on behalf of a political group of which he/she is a member as to how he/she shall speak or vote (or refrain from doing so) on that matter (or the application or threat to apply any sanction in respect of him/her should he/she fail to comply with that instruction) (“a party whip”), the member must declare the existence of a party whip, and the nature of it, before the commencement of the Committees’ deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be included in the minutes of the meeting or other appropriate record.

### **19. Proceedings**

- 19.1 The Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee and Overview and Scrutiny Panel will consider any business required to be conducted in pursuance of the Council’s Procedural Standing Orders (Appendix 2), the Access to Information Rules (Appendix 5) and these Overview and Scrutiny Procedure Rules (Appendix 4) and any other business otherwise set out on the agenda.
- 19.2 A Scrutiny Task Group will decide upon the most appropriate means of conducting its business in pursuance of the terms of reference agreed by the Overview and Scrutiny Performance Board but will at all times strive to do so in an open and transparent way.
- 19.3 In conducting their business, the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or a Scrutiny Task Group may:
- (a) carry out in-depth analysis of policy issues;
  - (b) receive briefings and presentations on issues under consideration;
  - (c) conduct research, community and other consultation particularly in the analysis of policy issues and possible options;
  - (d) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - (e) hold enquiries and investigations, hold workshops and undertake site visits, conduct public surveys and hold public meetings;

- (f) invite advisers and assessors to assist them;
- (g) question members of the Cabinet and Chief Officers about their views on issues and proposals affecting the County Council's area; or about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (h) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- (i) as part of any investigation, review and scrutinise the decisions made by, and performance of, the Cabinet and Chief Officers both in relation to individual decisions and over time;
- (j) question and gather evidence from any person (with their consent) and invite witnesses;

19.4 In the conduct of its proceedings, the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel or a Scrutiny Task Group will have regard to the following principles:

- (a) Whilst the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or a Scrutiny Task Group may conduct its business in a tenacious way, it should do so at all times with respect, equity, fairness, dignity and with regard to the principles of natural justice.
- (b) all members of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or a Scrutiny Task Group will be given the opportunity to ask questions of attendees, and to contribute and speak.
- (c) it will strive to conduct its business in a consensual, open, responsible and transparent way across the political divides and will seek to avoid expressing views based purely on political considerations.
- (d) its business is to be conducted so as to maximise its efficiency.
- (e) It will not seek to hold officers and non-councillors accountable for decisions taken as part of member processes;
- (f) It will recognise that should any question of officer discipline arise, this will be dealt with through the existing procedures for the purpose.

## **20. Overview and Scrutiny Guide**

- 20.1 A guide has been produced which contains further advice and guidance as to how the provisions of these Rules and any other relevant constitutional provisions may be applied and implemented.