

## CHAPTER 6 – OVERVIEW AND SCRUTINY

### A OVERVIEW AND SCRUTINY COMMITTEES

#### TERMS OF REFERENCE

- 1 The Council will appoint the Overview and Scrutiny Committees set out in Table 1 to discharge the functions conferred by Section 21 of the Local Government Act 2000 (as amended) and Regulations made under Section 32 of that Act:

#### GENERAL ROLE

- 2 Within their terms of reference, Overview and Scrutiny Committees will:
  - a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - b) make reports and/or recommendations to the Cabinet or full Council and/or any policy, joint or area committee in connection with the discharge of any functions;
  - c) consider any matter affecting the area or its inhabitants;
  - d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive and/or any policy or area committees (see Overview and Scrutiny Procedure Rules for further details); and
  - e) to consider councillor calls for action relevant to their terms of reference.

#### SPECIFIC FUNCTIONS

##### POLICY DEVELOPMENT AND REVIEW

- 3 Overview and Scrutiny Committees may:
  - a) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
  - b) conduct research, community and other consultation in the analysis of policy issues and possible options;
  - c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;

- d) question members of the executive and/or Committees and chief officers about their views on issues and proposals affecting the area; and
- e) 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.

#### SCRUTINY

4 Overview and Scrutiny Committees may:

- a) review and scrutinise the decisions made by and performance of the executive and/or Committees and Council officers both in relation to individual decisions and over time;
- b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- c) question members of the executive and/or Committees and chief officers 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;
- d) make recommendations to the executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- e) review and scrutinise the performance of other public bodies and partners in the area and invite reports from them by requesting them to address the Committee and local people about their activities and performance;
- f) question and gather evidence from any person (with their consent); and
- g) review and scrutinise service plans.

#### FINANCE

5 Overview and Scrutiny Committees may exercise overall responsibility for the finance made available to them.

#### ANNUAL REPORT

6 Overview and Scrutiny Committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

#### OFFICERS

- 7 Overview and Scrutiny Committees may exercise overall responsibility for the work programme of the officers employed to support their work.

#### PROCEEDINGS OF OVERVIEW AND SCRUTINY COMMITTEES

- 8 Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in this Constitution.

### B OVERVIEW AND SCRUTINY PROCEDURE RULES

#### NUMBER AND ARRANGEMENTS FOR OVERVIEW AND SCRUTINY COMMITTEES

- 9 The Council will have the four Overview and Scrutiny Committees set out IN Table 1 and will appoint members to them at the annual adjourned meeting; casual or temporary changes of membership may be made at other Council meetings. Such Committees may appoint task groups.

#### MEMBERSHIP OF OVERVIEW AND SCRUTINY COMMITTEES

- 10 All Councillors, except Members of the Cabinet, are eligible to be Members of an Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

#### ADVISORY MEMBERS

- 11 Each Overview and Scrutiny Committee shall be entitled to appoint people as non-voting advisory members.

#### EDUCATION REPRESENTATIVES

- 12 Each relevant Overview and Scrutiny Committee 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) two parent governor representatives; and

- 13 When the Overview and Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

#### MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEES

- 14 Ordinary meetings of each Overview and Scrutiny Committee 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 on the request of its Chair or on the written requisition of two of its Members.

#### QUORUM

- 15 The quorum for an Overview and Scrutiny Committee shall be as set out for Committees in this Constitution.

#### CHAIR OF OVERVIEW AND SCRUTINY COMMITTEES

- 16 Chairs of Overview and Scrutiny Committees will be appointed by the Council and be drawn from among the Councillors sitting on the Committee. The Chair and Vice-Chair will remain in office for the Municipal Year in which they are appointed unless the Council revokes that appointment, they resign from that office or are disqualified from the office of Councillor.

#### WORK PROGRAMME

- 17 The Overview and Scrutiny Committees will be responsible for setting their own work programme (subject to any Service Improvement Review programme agreed by the Cabinet) and in doing so they shall take into account wishes of Members on that Committee.

#### AGENDA ITEMS

- 18 A Member of an Overview and Scrutiny Committee shall be entitled to give notice to the Director of Corporate Commissioning in accordance with this Constitution that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Director of Corporate Commissioning will ensure that it is included on the next available agenda.
- 19 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee within eight weeks of receiving it.

#### POLICY REVIEW AND DEVELOPMENT

- 20 The role of the Overview and Scrutiny Committees in the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- 21 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- 22 Overview and Scrutiny Committees 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. Any costs incurred must be within any budget provided for these purposes by the Council.

#### REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEES

- 23 Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Director of Corporate Commissioning for consideration by the Cabinet (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).
- 24 If an Overview and Scrutiny Committee 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.
- 25 The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee within eight weeks of it being submitted to the Director of Corporate Commissioning.

#### CONSIDERATION OF OVERVIEW AND SCRUTINY REPORTS BY THE CABINET

- 26 Once an Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Director of Corporate Commissioning who will allocate it to either or both the Cabinet 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

Director of Corporate Commissioning 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 have four weeks 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 an Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the scrutiny proposals.

- 27 Where an Overview and Scrutiny Committee prepares a report for consideration by the Cabinet in relation to a matter where the decision making power has been delegated to an individual member of the Cabinet, then the Overview and Scrutiny Committee will submit a copy of their report to him/her for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Director of Corporate Commissioning. The Member with delegated decision making power must consider the report and respond in writing to the Overview and Scrutiny Committee within four weeks of receiving it. A copy of his/her written response to it shall be sent to the Director of Corporate Commissioning and the Leader. The Member will also attend a future meeting of the Overview and Scrutiny Committee to present their response.
- 28 Overview and Scrutiny Committees 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 an Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

#### RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

- 29 In addition to their rights as Councillors, Members of the Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Chapter 12 of this Constitution.
- 30 Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

#### MEMBERS AND OFFICERS GIVING ACCOUNT

- 31 Any Overview and Scrutiny 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 Cabinet, the Chief Executive and/or any chief officer [i.e. Heads of Service] or their respective representatives to attend before it to report on 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

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

- 32 Where any Member or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Director of Corporate Commissioning. The Director of Corporate Commissioning shall inform the Member or officer in writing giving at least five working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow the preparation of that documentation.
- 33 Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance [which will normally be the next ordinary meeting of the Committee].

#### ATTENDANCE BY OTHERS

- 34 Cabinet Members may attend and speak at Overview and Scrutiny Committees when a matter within their responsibility is considered. In addition, an Overview and Scrutiny Committee may invite people other than those people referred to above to address it, discuss issues of local concern and/or answer questions. It may 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.

#### CALL-IN OF DECISIONS

- 35 These are where three or more Members have evidence which suggests that the decision maker(s) did not take the decision in accordance with the principles set out in paragraph 39.

- 36 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, or an Area Committee or under joint arrangements, the decision shall be published normally within five working days of being made.
- 37 The 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.
- 38 Executive decisions may be called in for further consideration upon receipt by the Director of Corporate Commissioning, within five clear days of the publication of a decision, of a requisition:
- a) signed by three Members of the Council who are not Members of the Cabinet;
  - b) in relation to education matters, any one of the added Members (see paragraph 12) may lodge an objection to such a decision; do you mean one of those listed at para 12 – if yes say so – if not I don't know what is meant by added member?
  - c) signed by all the Members representing a ward where the decision affects that ward only (unless a pecuniary or other interest exists in the matter in which case action may be initiated by the remaining ward Member[s]);
  - d) signed by three Members of the Council who are not Members of the Area Committee concerned (including no more than two Cabinet Members) in the case of an Area Committee decision.
- 39 The Director of Corporate Commissioning shall notify the decision-taker of the call-in. The decision will be considered at the next available Overview and Scrutiny Committee.
- 40 All requisitions for call-in shall refer to a specific decision and provide a reason. A decision may only be the subject of one call-in. A decision may only be called-in for the following purposes:
- a) to seek more understanding of the decision and its implications;
  - b) to question the soundness of the decision based on facts taken or not taken into account;
  - c) to identify the need for Council policies to guide decisions;
  - d) to make recommendations to the Cabinet and/or Council;

- e) to question whether the decision conforms with agreed policies.
- 41 Having considered the decision, the Overview and Scrutiny Committee may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 15 working days, amending the decision or not, before adopting a final decision.
- 42 If, following an objection to the decision, the Overview and Scrutiny Committee does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the meeting, or the expiry of that further five working day period referred to in paragraph 36, whichever is the earlier.
- 43 If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider within five working days of the Council request.
- 44 If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- 45 See also Budget and Policy Framework Procedure Rules for call-in of decisions outside the budget or policy framework.

#### CALL-IN AND URGENCY

50. 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 for example seriously prejudice the Council's or the public's interests. 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 relevant Overview and Scrutiny Committee of the Council and the Leader of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of

urgency. In the absence of the Chair, the Vice Chair's consent shall be required. In the absence of both, the Mayor's consent shall be required.

51. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

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

#### THE PARTY WHIP

53 In this context the Party Whip means:

"Any instruction given by or on behalf of a political group to any Councillor who is a Member of that group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner."

54 When considering any matter in respect of which a Member of an Overview and Scrutiny Committee is subject to a Party Whip the Member must declare the existence of the Whip, and the nature of it before the start of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

#### PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS

55 Overview and Scrutiny Committees shall consider the following business:

- a) minutes of the last meeting;
- b) declarations of interest (including whipping declarations);
- c) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
- d) responses of the executive to reports of the Overview and Scrutiny Committee; and
- e) the business otherwise set out on the agenda for the meeting.

56 Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:

- a) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- b) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
- c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

57 Following any investigation or review, the Committee may prepare a report, for submission to the executive and/or Council as appropriate and shall make its report and findings public subject to the usual provisions relating to exempt or confidential information.

#### MATTERS WITHIN THE REMIT OF MORE THAN ONE OVERVIEW AND SCRUTINY COMMITTEE

58 Where a matter for consideration by an Overview and Scrutiny Committee also falls within the remit of one or more other Overview and Scrutiny Committee, the decision as to which Overview and Scrutiny Committee will consider it will be resolved by the Chairs of the Committees concerned, if necessary at a joint meeting. If the matter remains unresolved it shall be determined by the Chief Executive.

#### TABLE 1 – MEMBERSHIP AND TERMS OF REFERENCE FOR OVERVIEW AND SCRUTINY COMMITTEES

##### CHILDREN'S SERVICES

##### MEMBERSHIP

10 Councillors, 4 voting church and parent governor representatives.

##### TERMS OF REFERENCE

To fulfill all the functions of an Overview and Scrutiny Committee as they relate to Children's Services and to review and make recommendations for improvement in relation to the following functions:

- Vulnerable Children and Young People
- Children's Early Intervention and Prevention Strategy, Early Years, Family and Children's Centres, Education Welfare, Parenting Strategy & Youth Services/YSS

- 14-19 Curriculum Early Years Quality and Regulatory Education. Psychology. Governor Services Swimming Team Healthy Schools/PSHE School improvement and School Intervention School Organisation and Planning, Capital and Admissions, Attendance and Enforcement School Traded Services SEN Delivery/SAIS/PRUs Virtual LAC School
- CAMHS, Children’s Trust (CT), Early Years Regulatory Activity and Commissioning, SEN Assessment and Commissioning, Young People's Voice and Information, Advice and Guidance
- School Catering

## PERFORMANCE AND CORPORATE SERVICES

### MEMBERSHIP

10 Councillors

### TERMS OF REFERENCE

To fulfill all the functions of an Overview and Scrutiny Committee as they relate to Performance and Corporate Services and to review and make recommendations for improvement in relation to the following functions:

- Finance & ICT, Legal Services and Personnel
- Neighbourhood Coordination, Vulnerable Victims and Commissioning, Communications and Marketing, Business Intelligence and Performance, Governance, Elections, Scrutiny, Member Services, Mayoral Services, Twinning & Attendants
- Youth Offending Team, Domestic Violence
- Asset Management
- in accordance with Section 19 of Part 3 of the Police and Justice Act 2006, this Committee be designated as the Council’s “Crime and Disorder Committee”;
- in accordance with the Budget and Policy Framework Procedure Rules, to be the relevant Overview and Scrutiny Committee for the purposes of considering budget proposals.

## REGENERATION AND ENVIRONMENTAL SERVICES

### MEMBERSHIP

10 Councillors

TERMS OF REFERENCE

59 To fulfill all the functions of an Overview and Scrutiny Committee as they relate to Regeneration and Environment Services and to review and make recommendations for improvement in relation to the following functions:

- arts & culture, libraries & leisure;
- Coastal Protection, Capita Symonds Client, Highways Maintenance, Network Management, strategic transportation, Local Transport Plan
- Investment Strategy and Programmes, Strategic Housing, homelessness, housing grants, housing enforcement
- Development Management, Building Control, Strategic Planning, Regulatory Support, conservation and MEAS
- Trading Standards, Licensing and Regulation, Public Health, Pest Control, Environmental Enforcement, Food Safety, Pollution / contaminated land, Health and Safety, Sustainability, air quality / climate change, Corporate Energy, Affordable Warmth
- Tourism Projects and Programmes, tourism marketing, events, Environmental and Economic Development Projects and Programmes, business support service, Invest Sefton, Sefton@Work, , employer liaison, environmental regeneration;
- Specialist Transportation, Security, Vehicle Maintenance, School Crossings; and
- Waste disposal, street cleaning, recycling, building cleaning.

HEALTH AND SOCIAL CARE

MEMBERSHIP

10 Councillors

TERMS OF REFERENCE

60 To fulfill all the functions of an Overview and Scrutiny Committee as they relate to Health and Social Care and to review and make recommendations for improvement in relation to the following functions:

- Substance and Alcohol Abuse;
- Adult Preventative Strategy Healthy & Well Managing Health Discharge Partnership Development Personalisation Sustaining People at Home;
- CAMHS, Children and Adult Health and Social Care, GP Consortia links, Health Watch, Supporting People and Re-enablement Team and Development;
- Adult Safeguarding Board, Adult Social Care Assessment, Assistive Technology/Occupational Therapy, Contact Centre, Emergency Duty, DFG Assessment, Hospital Teams Assessment, Lifelong conditions, Mental Health Assessment (Merseycare), Mental Health Capacity
- the Scrutiny of Strategic Health Authorities, Primary Care Trusts and NHS Trusts under powers contained in the Health and Social Care Act 2001 (as amended) and subsequent legislation.

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