

Woking Borough Council

# Overview and Scrutiny Procedure Rules

Shaping the *future* of our borough



The role that overview and scrutiny can play in holding an authority's decision-makers to account makes it fundamentally important to the successful functioning of local democracy.

## **1. General Arrangements**

**1.1** The Council will have the Overview and Scrutiny Committee as set out in **Article 6** and will appoint to the Committee at its first ordinary meeting in accordance with **Standing Order 20.**

**1.2** The terms of reference of the Committee will be as provided in Article 6 and in the **Responsibility for Functions in Part 3** of this Constitution and shall include the functions of a crime and disorder committee under Section 19 Police and Justice Act 2006.

## **2. Membership**

**2.1** The membership shall comprise ten elected councillors.

**2.2** All councillors except members of the Executive may be members of the Committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

## **3. Co-optees**

**3.1** The Committee shall be entitled to recommend to Council the appointment of individuals as non-voting co-optees.

## **4. Meetings**

**4.1** There shall be between eight and ten ordinary meetings of the Committee in each year.

**4.2** In addition, extraordinary meetings may be called from time to time as and when appropriate.

**4.3** A meeting of the Committee may be called by the Chairman of the Committee or by the Proper Officer if he/she considers it necessary or appropriate.

## **5. Quorum**

**5.1** The quorum for the Committee shall be as set out in Standing Order 20.10. i.e. one-third of the number of members of the Committee (with such rounding-up as may be necessary to achieve whole numbers).

### **Chairman**

**5.2** The Committee shall normally be chaired by a councillor who is not a member of the largest political party group on the council.

**5.3** The Vice-Chairman shall not be from the same political group as the Chair.

**5.4** The appointment of the Chairman and Vice-Chairman of the Committee shall in accordance with Standing Order 20.9.

## **6. Work Programme**

**6.1** The Overview and Scrutiny Committee shall be responsible for setting its own work programme. and the Committee shall have particular regard to the time and resources (including officer time) needed to deliver the programme. The Committee shall be assisted in its work by sight of the Leader's draft Forward Plan for the whole year.

**6.2** Members wishing to suggest items for the work programme shall complete a Scrutiny Topic Proposal form referencing the Scrutiny Topic Selection Flowchart in the Toolkit. The form must then be submitted to the Proper Officer for consideration to the draft work programme. If the Membership of the Committee agrees, the item shall be added to the work programme.

### **Pre-decision Scrutiny**

**6.3** As part of its ordinary process, the Committee will consider upcoming decisions of the Executive by way of pre-decision scrutiny.

## **7. Agenda Items**

**7.1** The usual method for requesting inclusion of Agenda items for the Committee will be via the Work Programme. However, any member of the Council shall be entitled to give written notice to the Proper Officer 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. The written notice must specify the reasons for the proposed item, reasons why it cannot be progressed as a part of the work programme and the outcome sought by the member from Committee. On receipt of such a valid request the Proper Officer will ensure that it is included on the next available agenda.

## **8. Task and Finish Groups and Standing Working Groups**

**8.1** The Committee work programme and/or the development of a pertinent/relevant theme/topic during the year may require the establishment of a group to undertake detailed work for a specific item. The Committee will determine the membership, terms of reference, timescales and reporting by the Task and Finish Group ("Task Group").

**8.2** A Task and Finish Group shall be established as follows:

- i) The Committee may appoint any Task and Finish Group at its own discretion. The Committee must have regard to the Toolkit when commissioning work for Task and Finish Group.
- ii) The Committee shall define the broad theme for the work of the Task and Finish Group. The Task and Finish Group shall define the detailed focus of the agreed item and create its terms of reference.
- iii) The Committee shall receive draft terms of reference for consideration. These shall be debated and agreed as necessary at the Committee.

### **Membership**

**8.3** The Committee shall consider the number of persons to be appointed to the Task and Finish Group and its political balance; usually the composition of the Task and Finish Group shall take into account proportionality however flexibility needs to be applied as necessary. . Nominations to the Task and Finish Group shall be agreed by the Committee and, if necessary, determined by voting.

**8.4** Subject to approval by the Committee, Task and Finish Groups may co-opt councillors and non-councillors as may assist them in their work. Non-councillors shall be eligible for the reimbursement of their expenses.

#### **Meetings**

**8.5** The recommended number of meetings for a Task and Finish Group is between one and three (inclusive), unless otherwise directed by the Committee.

#### **Reporting**

**8.6** Task and Finish Groups shall submit a report to the Committee .

**8.7** Task and Finish Group members shall be entitled to attend and speak at Committee meetings where the work of their Group is under consideration.

#### **Officer resource**

**8.8** Subject to availability of officer resources, an Officer from within Democratic Services may be made available to assist, support and coordinate the work of the Task and Finish Group set up by the Committee.

#### **Standing Working Groups**

**8.9** A Standing Working Group (“Working Group”) shall consider the financial aspects of the Council’s business.

The establishment of other Working Groups shall be considered by the Committee as necessary.

#### **Terms of Reference**

**8.10** Terms of Reference will be made for any Group that is deemed necessary to be formed.

### **9. Policy Review and Development**

**9.1** The role of the Committee 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.

**9.2** In relation to the development of the Council’s approach to other matters not forming part of its policy and budget framework, the Committee may make proposals to the Leader/Executive for developments in so far as they relate to matters within their terms of reference.

**9.3** The Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist the Members in this process. The Committee may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it

reasonably considers necessary to inform its deliberations. The Committee may ask witnesses to attend to address it on any matter under consideration.

## **10. Reports from Overview and Scrutiny Committee**

**10.1** Once it has formed recommendations on proposals for development, the Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Leader/Executive if the proposals are consistent with the existing budgetary and policy framework, or to the Council as appropriate. The Committee may publish its report or recommendations.

**10.2** If the Committee cannot agree on one single final report to the Council or Leader/Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Leader/Executive with the majority report.

**10.3** The Committee shall by notice in writing require the Council or the Leader/Executive:-

- i) to consider the report or recommendations,
- ii) to respond to the Committee indicating what action (if any) the Council or the Leader/Executive proposes to take,
- iii) if the Committee has published the report or recommendations, to publish a response,
- iv) if the Committee provided a copy of the report or recommendations to a member of the Council under section 21A(8) of the Local Government Act 2000, to provide the member with a copy of the response,

and to do so within two months beginning with the date on which the Council or the Leader/Executive received the report or recommendations or (if later) the notice.

## **11. Overview and Scrutiny Reports: Consideration by the Executive**

**11.1** Once a report of the Committee on any matter which is the responsibility of the Leader/Executive has been completed, it shall be referred to the Leader/included on the agenda of the next available meeting of the Executive unless the matter which is the subject of the report is already scheduled to be considered by the Leader/Executive on an agreed date.

**11.2** The Committee will in any event have access to the forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a Committee meeting following a consideration of possible policy/service developments, the Committee may respond in the course of the Leader/Executive's consultation process in relation to any key decision.

## **12. Rights of Overview and Scrutiny Committee Members to Documents**

**12.1** In addition to their rights as councillors, members of the Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information **Procedure Rules in Part 4** of this Constitution.

12.2 Nothing in this paragraph prevents more detailed liaison between the Leader/Executive and Chairman of the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

### 13. **Members and Officers Giving Account**

13.1 The 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 the Leader, any member of the Executive allocated particular political accountability, or any councillor exercising functions of the Council in relation to their ward, or any senior officer, to attend before it to explain in relation to matters within their remit:

13.2 any particular decision or series of decisions;

- i) the extent to which the actions taken implement Council policy; and/or
- ii) their performance.

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

13.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Committee shall in consultation with the member or officer arrange an alternative date for attendance.

### 14. **Attendance by Others**

14.1 The Committee may invite people other than those referred to in the above section, 'Members and Officers Giving Account', 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.

14.2 The Committee shall have rights under Section 22A Local Government Act 2000 and regulations made thereunder to call for information from partner authorities.

### 15. **Call-In**

15.1 When a decision is made by the Leader, the Executive, or its Committee, an Executive member, a Councillor exercising powers in relation to their ward, or a key decision is made by an Officer with delegated authority from the Leader, the decision shall be published in draft form electronically, and shall otherwise be available at the main offices of the Council, within 24 hours of the decision being made. All members of the Council shall receive electronic notification of such decisions within the same timescale by the person responsible for publishing the decision.

15.2 Non-key decisions and recommendations to Council from the Executive may not be called in.

15.3 That notice will bear the date on which it is published and will specify that the decision will come into force, subject to urgency provisions as detailed in paragraph (15.9), and may then be implemented:

- i) on the expiry of five working days after the publication of the decision in the case of decisions taken by the Leader, individual lead councillors or key

decisions taken by an officer with delegated authority from the Leader or Executive; or

- ii) on the expiry of five working days after the date of the meeting in the case of decisions taken by the Executive collectively

unless the Committee objects to it and calls it in.

**15.4** During the call-in period, as referred in (15.3), the Chairman or any three members of the Committee, may request in writing to the Proper Officer who shall then notify the decision-taker of the call-in.

- i) The notice to the Proper Officer shall state the reasons for the call-in, and these reasons shall be made available to all members of the Council. The call-in must meet one of the following criteria:
  - o that there was insufficient, misleading, or inaccurate information available to the decision-maker;
  - o that all the relevant facts had not been taken into account and/or properly assessed;
  - o that the decision is contrary to the budget and policy framework and is not covered by urgency provisions; or
  - o that the decision is not in accordance with the decision-making principles set out in the Constitution.
- ii) The Proper Officer shall call a meeting of the Committee on such date as may be determined, where possible after consultation with the Chairman of the Overview and Scrutiny Committee, and in any case within five working days of the decision to call-in.

**15.5** If, having considered the decision, the Committee wishes to take action it may refer the decision back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to the next ordinary meeting of Full Council. If referred back to the Executive, it shall be reconsidered at the next ordinary meeting of the Executive's Committee or earlier if the Leader determines. Where the decision was made by an individual, the individual will reconsider within five working days of the request. The decision-making person or body shall reconsider the decision, amending the decision or not as the case may be, before adopting a final decision.

**15.6** If following an objection to the decision, the Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the Committee meeting, or the expiry of the five day period, whichever is the earlier.

**15.7** 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, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, 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 Executive or by its Committee of it, a meeting will be convened to reconsider within five working days of the Council request. Where the decision was made by an individual, the individual will reconsider within five working days of the Council request.

**15.8** 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.

**15.9** The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would be seriously prejudicial to the Council's or the public's interests. The notice by which the decision or proposed decision 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 notice shall state that the decision, if agreed, shall take immediate effect. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

## **16. Questions**

**16.1** Members of the Council may ask questions of the Chairman of the Overview and Scrutiny Committee at meetings of the Committee regarding matters that come within the remit of the Committee.

### **Notice of Questions**

**16.2** Notice of a question must be given by delivering it in writing or by electronic mail to the Chief Executive no later than 5.00pm, five days before the day of the meeting (e.g. 5.00pm Wednesday for a meeting on the following Monday). Each question must give the name of the Councillor.

### **Number of Questions and Length of Question-Time**

**16.3** At any one meeting, no Councillor may submit more than three questions. The total time for question-time shall be 30 minutes or such longer time as the Chairman shall in his/her discretion allow.

### **Scope of Questions**

**16.4** The Chairman may reject a question if it:

- i) is not about a matter for which the Council has a responsibility, or which affects the Borough;
- ii) is defamatory, frivolous, or offensive; or
- iii) requires the disclosure of confidential or exempt information

### **Procedure at the Meeting**

**16.5** Copies of all questions and the draft replies shall be prepared, laid round the table and made available to the public attending the meeting. The Chairman shall ask

the Councillor if he/she is satisfied with the answer. A Councillor who has put a question in person may put one supplementary question without notice. It will be at the Chairman's discretion whether supplementary questions may be put by other members of the Committee or whether a discussion on the topic takes place.

#### **Written Answers**

**16.6** Any question which cannot be dealt with during question-time through lack of time will be dealt with by a written answer.

#### **Reference Elsewhere**

**16.7** Any member may move that a matter raised by a question be referred to another Committee. Once seconded, such a motion shall be voted on without discussion.

### **17. Councillor Call for Action**

**17.1** The Committee will consider a Councillor Call for Action (CCfA) that:

- i) has been submitted in relation to a matter that affects a single Ward;
- ii) has been submitted by a Councillor from the Ward affected;
- iii) is in relation to a Local Government matter (including the "well-being" powers under the Local Government Act 2000);
- iv) demonstrates that all existing avenues have been exhausted and that it is a matter of a "last resort";
- v) has been submitted on the CCfA Request Form; and
- vi) states:
  - the nature of the issue;
  - what action has been taken to resolve the issue;
  - an outline of the resolution to the problem being sought; and
  - an indication of any other organisations involved in the CCfA.

**17.2** The Committee will not consider a CCfA that:

- i) is a vexatious, persistent, unreasonable or discriminatory request, or
- ii) is in relation to a planning, licensing or regulatory application

**17.3** Details of requests for a CCfA which have been rejected by the Chairman will be reported to the Committee. The Committee will consider any representations by the Member responsible for the request and determine whether to uphold the Chairman's decision or agree that the CCfA be taken forward to step 4 – Initial Report to the Committee.

### **18. Crime and Disorder**

**18.1** The Committee shall have power:

- i) to review or scrutinise decisions made, or action taken, in connection with the discharge by the Council, Surrey Police and Surrey County Council (“responsible authorities”) of their crime and disorder functions
- ii) to make reports or recommendations to the Council with respect to the discharge of those functions

**18.2** If the Committee makes a report or recommendations, it shall provide a copy:

- i) to each of the responsible authorities; and
- ii) to each of the persons with whom the responsible authorities have a duty to cooperate under Section 5(2) of the Crime and Disorder Act 1998 (“the cooperating persons”)

**18.3** Where a member of the Council is asked to consider a crime and disorder matter by a person who lives or works in the area that the member represents:

- i) the member shall consider the matter and respond to the person who asked him/her to consider it, indicating what (if any) action he/she proposes to take;
- ii) the member may refer the matter to the Committee

**18.4** Where a member of the Council declines to refer a matter to the Committee the person who asked him/her to consider it may refer the matter to the Leader/Executive.

**18.5** Where a matter is referred to the Leader/Executive under (d) above:

- i) the Leader/Executive shall consider the matter and respond to the person who referred the matter to it, indicating what (if any) action he/she/it proposes to take;
- ii) the Leader/Executive may refer the matter to the Committee

**18.6** The Committee shall consider any crime and disorder matter:

- i) referred to it by a member of the Council (whether under (c) above or not) or
- ii) referred to it by the Leader/Executive under (e) above

and may make a report or recommendations to the Council with respect to it.

**18.7** Where the Committee makes a report or recommendations under (f) above, it shall provide a copy to such of the responsible authorities and to such of the cooperating persons as it thinks appropriate.

**18.8** An authority or person to whom a copy of a report or recommendations is provided under (b) or (g) above shall:

- i) consider the report or recommendations;
- ii) respond to the Committee indicating what (if any) action it proposes to take;
- iii) have regard to the report or recommendations in exercising its functions