

Overview and Scrutiny Procedure Rules

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Overview and Scrutiny Panel Procedure Rules

Rule No. 1 - The Number of and Arrangements for Overview and Scrutiny Panels & Committees

- 1.1 The Council will have the Overview and Scrutiny Panels and Standing Committees as set out in Article 6 of the Constitution and may add to or subtract from them as it considers appropriate from time to time.
- 1.2 The Council will have Overview and Scrutiny Panels and each will have a Standing Committee, which will perform all overview and scrutiny functions on behalf of the Council. The number of Members and membership shall be determined by the Council. General Terms of Reference are set out in Appendix 1 of these procedure rules. Specific Terms of Reference and scope for each Overview and Scrutiny Panel and Committee are set out in Article 6 of the Constitution.

Rule No. 2 - Membership Of Overview and Scrutiny Panels/Committees

- 2.1 All Councillors (except members of the Cabinet) may be members of an Overview and Scrutiny Panel. Standing Committee members are not required to be members of the parent panel. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.
- 2.2 Substitute Members may be appointed to any of the Overview and Scrutiny Panels/Standing Committees providing he/she has confirmed his/her attendance with the Chair of the Overview and Scrutiny Panel/Committee at the commencement of the meeting.

Rule No. 3 - Sub-Panels and Working Groups

- 3.1 Overview and Scrutiny Panels may appoint Sub-Panels. Overview and Scrutiny Sub-Panels may be appointed for a fixed period, on the expiry of which they shall cease to exist.
- 3.2 Such Sub-Panels shall only consider functions as specified and shall report to its parent Overview and Scrutiny Panel.
- 3.3 The Chair of the Sub-Panel shall be elected from its membership at its first meeting.
- 3.4 Sub-Overview and Scrutiny Panels should always be politically balanced.
- 3.5 In addition, each Overview and Scrutiny Panel may appoint Task and Finish Working Groups, not politically balanced, from amongst its membership. *The Task and Finish Working Groups are required to report on their work to each relevant Panel meeting.*
- 3.6 Members on Task and Finish Working Groups do not need to be only from the Members of the Scrutiny Panel that set it up. Any Member who is not on the Cabinet may be asked to sit on a Task and Finish Working Group. In many cases, joint Task Groups with other Scrutiny Panels may be more productive.
- 3.7 Portfolio Holders may attend and speak at meetings of Task and Finish Working Groups, upon the invitation of the Chair of the relevant Overview and Scrutiny Panel in the first instance, and subsequently the Chair of the Working Group.

Rule No. 4 - Co-Optees

- 4.1 Each Overview and Scrutiny Panel or Sub-Panel/Working Group shall be entitled to appoint a number of people as non-voting co-optees, if appropriate.

Rule No. 5 - Meetings Of The Overview and Scrutiny Panels and Committees

- 5.1 There shall be sufficient meetings of each Overview and Scrutiny Panel/Committee in each year to meet the demands of each work programme. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chair of the relevant Overview and Scrutiny Panel/Committee, by any 3 members of the Panel/Committee or by the Proper Officer if he/she considers it necessary or appropriate.
- 5.2 Where appropriate, a more informal style of meetings may be adopted for a particular meeting to suit the subject matter of the meeting.

Rule No. 6 - Quorum

The quorum for Overview and Scrutiny Panels and Standing Committees shall be at least one quarter of the membership of the relevant Panel provided that the quorum shall not be less than three members except where the membership is not more than three when the quorum shall be two.

Rule No.7 - Chairing Meetings

Chairs and Vice-Chairs of Overview and Scrutiny Panels or Committees will be drawn from among the members sitting on the Panel/Committee and will normally be appointed at the annual meeting of the Council.

Rule No. 8 - Work Programme

- 8.1 Each Panel/Committee will agree, allocate and oversee the major project items of business and work programmes undertaken by that Panel/Committee. Scrutiny items should be identified following consultation with Members, external partners and public consultation on areas of scrutiny and application of the PAPER Analysis. The Overview and Scrutiny Programming Group monitors activity against the work programme and considers the appropriateness of changes and prioritise topics for consideration as necessary.
- 8.2 The Overview and Scrutiny Panels/Committees may suggest items for inclusion in their work programme and in doing so they shall take into account wishes of members on that Panel/Committee who are not members of the controlling Political groups on the Council.
- 8.3 Overview and Scrutiny Panels may establish sub-panels to consider specific issues. Once the issue has been considered the sub-panel will report to its main Overview and Scrutiny Panel and will then cease to exist unless the main Overview and Scrutiny Panel determines otherwise.
- 8.4 The Council will allocate and make available to each Overview and Scrutiny Panel/Committee a budget for reasonable expenses to be incurred in the discharge of its work programme. Such budget shall not be exceeded.

Rule No. 9 - Agenda Items

- 9.1 Any member of an Overview and Scrutiny Panel or Committee shall be entitled to give 10 working days notice to the Proper Officer that he/she wishes an item relevant to the functions of the panel to be included on the agenda for the next available meeting of the panel/committee, subject to the application of the PAPER Analysis model. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

- 9.2 Any member of the Council who is not a member of the Overview and Scrutiny Panel/committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of a relevant Overview and Scrutiny Panel/committee, subject to the application of the PAPER Analysis model. If the Proper Officer receives such a notification, then he/she will include the item on the first available agenda of the relevant panel for consideration.
- 9.3 The Overview and Scrutiny Panels/committees shall also respond, as soon as their work programme permits, to requests from the Cabinet or Council to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Panel/Committee shall report their findings and any recommendations back to the Cabinet or Council as appropriate. The Council and/or Cabinet shall consider a report of the Overview and Scrutiny Panel/committee within two months of receiving it.

Rule No. 10 - Policy Review And Development

- 10.1 The role of the Overview and Scrutiny Panel/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.
- 10.2 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 Panels/Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- 10.3 Overview and Scrutiny Panels/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 subject to the Overview and Scrutiny Panel/Committee not exceeding its allocated budget.

Rule No. 11 - Reports From Overview and Scrutiny Panels/Committees

- 11.1 Once it has formed recommendations on proposals for development, the Overview and Scrutiny Panel/Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Cabinet.
- 11.2 If an Overview and Scrutiny Panel cannot agree on one single final report to the Cabinet then up to one minority report may be prepared and submitted for consideration by the Cabinet with the majority report.
- 11.3 The Cabinet shall consider the report of the Overview and Scrutiny Panel/Committee within two months of it being submitted to the Proper Officer.

Rule No. 12 - Making Sure That Overview and Scrutiny Panel Reports Are Considered By The Cabinet

- 12.1 Once an Overview and Scrutiny Panel/Committee report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of two months from the date the report was adopted by the Overview and Scrutiny Panel. In such cases, the report of the Overview and Scrutiny Panel shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the Overview and Scrutiny Panel/Committee's report within two months then the matter will be referred to Council for review, and the Proper Officer will call a Council/Assembly meeting to consider the report and make a recommendation to the Cabinet.
- 12.2 Where an Overview and Scrutiny Panel/Committee or Sub-Panel/Working Group prepares a report for consideration by the Cabinet in relation to a matter where the Leader or Council has delegated decision making power to another individual member of the Cabinet, then the Overview and Scrutiny Panel/Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Overview and Scrutiny Panel/Committee shall serve a copy on the Proper Officer and the Leader. If the member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Panel/Committee then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Panel/Committee. The Cabinet member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Panel/Committee within two months of receiving it. A copy of his/her written response to it shall be sent to the Proper Officer and he/she will attend a future meeting to respond.
- 12.3 In addition to any report submitted under the provisions of sub-paragraph 12.1, unless otherwise agreed by the Cabinet or directed by the Council, only one further report may be submitted every six months by each Overview and Scrutiny Panel/Committee to the Cabinet. This would not preclude the reference by an Overview and Scrutiny Panel/Committee of any other matter to the Cabinet for consideration.
- 12.4 Overview and Scrutiny Panels/Committees will 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 Panel/Committee following a consideration of possible policy/service developments, the Panel/Committee will be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

Rule No. 13 - Rights Of Overview and Scrutiny Panel/Committee Members To Documents

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

Rule No. 14 - Members And Officers Giving Account

14.1 Any Overview and Scrutiny Panel/Committee or Sub-Panel/Working Group may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any Director or Head of Service 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.

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

14.2 Where any Member or Officer is required to attend an Overview and Scrutiny Panel/Committee under this provision, the Chair of that Panel will inform the Proper Officer. The Proper Officer shall inform the Member or Officer in writing giving at least 5 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 panel/committee. Where the account to be given to the panel will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that document.

14.3 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview and Scrutiny Panel/Committee shall in consultation with the Member or Officer arrange an alternative date for attendance to take place within a maximum of 15 working days from the date of the original request.

Rule No. 15 - Portfolio Attendance at Meetings and Question Time

15.1 Cabinet Portfolio holders, or a nominated alternative Cabinet Member in the event that the Portfolio holder is unable to attend, are required to attend Overview and Scrutiny Panel meetings whenever they are carrying out the Overview and Scrutiny function for their portfolio responsibilities or when questions are raised on them.

15.2 An item will be programmed into the overview and scrutiny agenda at the start of each meeting to allow the Portfolio holder to be questioned on business for which they are responsible.

15.3 Questions which require a researched response must be submitted ~~three~~ two clear working days before a meeting, to allow any preparation before a response is presented. A Member may ask no more than one question at any meeting. Portfolio Holders may be questioned during the course of the meeting upon any general matters relating to their portfolio which may arise from items under consideration.

15.4 The answer to a question may be given orally and directly, or by reference to published material, or in writing which shall be circulated to all members of the Panel.

~~15.5~~ The Questioner may be entitled to ask one ~~two~~ further questions, ~~at the discretion of the Chair. At the further discretion of the Chair, additional questions and debate may be permitted upon the issues arising from any question raised or response given at the Panel.~~

Rule No. 16 - Attendance By Ward Members and Others

- 16.1 Any Member shall be entitled to attend any meeting of an Overview and Scrutiny Panel/Committee to speak, but not vote, on any matter under consideration at the meeting which affects his/her Ward uniquely from others. Other Members may attend and speak, but not vote, with the consent of the Chair.
- 16.2 An Overview and Scrutiny Panel/Committee may invite people other than those people 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, stakeholders and Members and Officers in other parts of the public sector and may invite such people to attend.
- 16.3 Attendance by such invitees is optional.

Rule No. 17 - Call-In

- 17.1 Call-in should only be used where Members have evidence which suggests that the Cabinet did not take the decision in accordance with the Principles set out in Article 13 (Decision Making). The validity of a reason or reasons for call-in given in accordance with 17.1(c) below shall be determined by the Proper Officer in consultation with the Chair(s) of the relevant Overview and Scrutiny Panel(s).
- (a) When a decision is made by the Cabinet, or when a key decision as defined in Article 13.3(b) is made by an Officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published by electronic means, and shall be available at Moorlands House, Stockwell Street, Leek, normally within 3 working days of it being made. All Members will be sent copies of the records of all such decisions as soon as possible after publication, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 7 working days after the publication of the decision, unless the requisite Members object to it and call it in.
- (c) During that period, the Proper Officer shall call-in a decision for scrutiny by an Overview and Scrutiny Panel/Committee if so requested in writing by:-
- (i) any three Members of the appropriate Panel/Committee; or
- (ii) a total of six Members of the Council

For the purposes of Leader's items, paragraph (c)(ii) above shall apply.

The Proper Officer shall then notify the decision-taker of the call-in.

The Proper Officer shall include an item on the agenda of the next meeting of the Overview and Scrutiny Panel/Committee or may call a special meeting of the Overview and Scrutiny Panel within 20 working days of the decision to call-in subject to consulting with the Chair of the relevant Panel/Committee.

The first four Members making such a requisition, who are not Members of the Overview and Scrutiny Panel/Committee to which the reference is made, may attend and speak, but not vote on the call-in at the Panel meeting.

- (d) If, having considered the decision, the Overview and Scrutiny Panel/Committee is still concerned about it, then it may refer it back to the

decision making person or body for reconsideration, setting out in writing the nature of its concerns. In exceptional circumstances i.e. when a decision is taken contrary to the Council's policy or budget, the Panel/Committee can refer the issue straight to the Council. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.

- (e) If following an objection to the decision, the Overview and Scrutiny Panel/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 first working day after the date when the Overview and Scrutiny Panel/Committee did or should have met.
- (f) If the matter is referred to full Council or Assembly 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 a Cabinet 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 Cabinet as a whole, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.
- (g) 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.

17.2 Exceptions

In order to ensure that call-in is not abused, nor causes unreasonable delay, the Council may on the recommendation of the Cabinet after consultation with the Standards Committee amend the provision of Rule 17 above and include limitations on the circumstances in which the right of call-in may be exercised.

17.3 Call-In And Urgency

- (a) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public 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 or Vice-Chair of the relevant Overview and Scrutiny Panel/Committee 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 or Vice-Chair of the Overview and Scrutiny Panel/Committee, the Chairman of the Council's consent shall be required, or in the absence of all three the Vice-Chairman of the Council's consent. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- (b) Notwithstanding Rule 17.2 above, the operation of the provisions relating to call-in and urgency shall be monitored annually by the Standards Committee, and a report submitted to Council with proposals for review if necessary.

Rule No. 18 - The Party Whip

18.1 The party whip is defined as:-

"Any advice 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, Overview and Scrutiny Panel, any 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."

18.2 The Council has resolved that the use of the Party Whip should not be condoned in Overview and Scrutiny Panels/Committees. Where despite this resolution a member of a Overview and Scrutiny Panel/Committee is subject to any advice 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 on any matter, the member must declare the existence of the Party Whip and the nature of it, before the matter is considered by the Overview and Scrutiny Panel/Committee. The declaration and detail of whipping arrangements shall be recorded in the minutes of the meeting.

Rule No. 19 - Procedure At Overview and Scrutiny Panel/Committees

19.1 The Overview and Scrutiny Panels and Committees shall consider the following business:

- (a) minutes of the last meeting;
- (b) urgent items of business (24 hours notice to be provided to the Chairman);
- (c) declarations of interest;
- (d) Portfolio holder question time (panels only);
- (e) consideration of any matter referred to the Panel/Committee for a decision in relation to call-in of a decision;
- (f) responses of the Cabinet to reports of the Overview and Scrutiny Panels; and
- (g) the business otherwise set out on the agenda for the meeting. Where appropriate the business will be split into 'scrutiny' and 'overview' areas.

19.2 Where the Overview and Scrutiny Panel conducts investigations (e.g. with a view to policy development), the Panel/Committee may also ask people to attend to give evidence at Panel/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 Panel/Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) that those assisting the Panel/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.

19.3 Following any investigation or review, the Overview and Scrutiny Panel/Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its reports and findings public.

Rule No. 20 - Matters Within The Remit Of More Than One Overview and Scrutiny Panel/Committee

20.1 Where a Overview and Scrutiny Panel/Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Overview and Scrutiny Panel/Committee, before submitting its findings to the Cabinet and/or Council for consideration, the report of the Overview and Scrutiny Panel/Committee shall be considered by the other Panel/Committee for comment. Those comments shall be incorporated into the report which is then sent to the Cabinet and/or Council for consideration.

Rule No. 21 – Absence of Procedure Rules

21.1 In the absence of any specific or alternative Overview and Scrutiny Procedure Rules, the Council, Cabinet or Committee and Sub Committee Procedure Rules as relevant will apply to Overview and Scrutiny Panel/Committee meetings.

General Terms of Reference of Each Overview and Scrutiny Panel

In accordance with Section 21 of the Local Government Act 2000 each Overview and Scrutiny Panel/Committee will have the following general terms of reference:-

1. To review and scrutinise decisions or action taken on any functions in its remit which are the responsibility of the Cabinet.
2. To make representations or recommendations to the Council or the Cabinet on any functions in its remit that are the responsibility of the Cabinet.
3. To review or scrutinise decisions or actions taken about any functions in its remit which are not the responsibility of the Cabinet.
4. To make representations or recommendations to the Council or Cabinet on any functions in its remit not the responsibility of the Cabinet.
5. To make representations or recommendations to the Council or Cabinet on matters in its remit which specifically affect the Council's area or its inhabitants.
6. To exercise the right to call-in for reconsideration, discussions made but not yet implemented by the Cabinet.
7. To consider external audit, inspection and ombudsman reports, relevant to its portfolio and to make recommendations to Council where appropriate.