

EXTRACT OF SDDC CONSTITUTION - OVERVIEW AND SCRUTINY

This document comprises the relevant sections of the Council's Constitution, that relate to Overview and Scrutiny, namely the Summary and Explanation, the Article and Overview and Scrutiny Procedure Rules. Suggested additions to the Constitution are shown in bold italic text.

CONSTITUTION SUMMARY AND EXPLANATION

OVERVIEW AND SCRUTINY

An Overview and Scrutiny Committee supports the work of the Policy Committees and the Council as a whole. It allows citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These can lead to reports and recommendations that advise the Policy Committees and Full Council on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the Policy Committees. It can 'Call-In' a decision that has been made by a Policy Committee but not yet implemented. This enables the Committee to consider whether the decision is appropriate. It may recommend that the Policy Committee or Full Council reconsider the decision. The Overview and Scrutiny Committee may also be consulted by Policy Committees on forthcoming decisions and the development of policy. ***The Overview and Scrutiny Committee meets once each year to scrutinise decisions made or other action taken by the responsible authorities in relation to crime and disorder. Individual Members of the Council may also request the Committee to consider and debate a topic of neighbourhood concern, which is known as a "Councillor Call for Action". The Committee may co-opt persons to assist in its workload generally and may consider conferring voting rights on such persons, when dealing with crime and disorder matters.***

Article 6 – Overview and Scrutiny Committee

6.01 Form and Composition

The Council will appoint a politically balanced Overview and Scrutiny Committee, comprising of 8 Members.

6.02 Main Purposes

The Overview and Scrutiny Committee will:-

- (a) make reports and/or recommendations to Full Council, Policy Committee or Area Meeting in connection with the formulation of Policy and the discharge of any functions;
- (b) consider any matter affecting the District or its inhabitants;
- (c) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (d) exercise the Call-In procedure in respect of decisions made but not yet implemented by any Policy Committee or Area Meeting;
- (e) oversee the best value process and report their findings to the relevant Policy Committee; and

6.03 Specific Functions

(a) Policy Development and Review

To carry out the main purposes listed in 6.02 (a) – (b) above, the Overview and Scrutiny Committee may:-

- (i) assist the Council in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- (ii) conduct research and other consultation in the analysis of policy issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question Members of Committees and Chief Officers about their views on issues and proposals affecting the District; and
- (v) liaise with other external organisations operating in the District, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) **Scrutiny**

To carry out the main purposes listed in 6.02 (c) – (e) above, the Overview and Scrutiny Committee may:-

- (i) review and scrutinise the decisions made by and the performance of Full Council and Policy Committees;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question Members of Committees, Chief Officers and Heads of Service about their decisions and performance, whether generally in comparison with service plans and targets, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the appropriate Committee and/or Full Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the District ***and all relevant partners in delivering the Local Area Agreement targets***;
- (vi) question and gather evidence from any person (with their consent); and
- (vii) ***Require the attendance of an officer or employee of the responsible authority or of a co-operating person or body in order to answer questions, when considering crime and disorder matters.***

6.04 Finance

The Overview and Scrutiny Committee may exercise overall responsibility for any finances made available to it.

6.05 Annual Report

The Overview and Scrutiny Committee will report annually to Full Council on its workings and make recommendations for future work programmes and amended working methods, if appropriate.

6.06 Proceedings of Overview and Scrutiny Committee

The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

Overview and Scrutiny Procedure Rules

1. **ARRANGEMENTS FOR OVERVIEW AND SCRUTINY COMMITTEE**

Full Council will have the Overview and Scrutiny Committee set out in Article 6 and will appoint to it as it considers appropriate from time to time.

The Overview and Scrutiny Committee may appoint ad hoc Sub-Committees that shall be appointed for a fixed period, on the expiry of which they shall cease to exist.

2. **MEMBERS OF OVERVIEW AND SCRUTINY COMMITTEE**

All Councillors except the Leader or Deputy Leader of the Council or the Chairman or Vice-Chairman of any of the Policy Committees may be appointed Members of the Overview and Scrutiny Committee.

Members, including the Chairman and Vice Chairman will be appointed at the Annual Council Meeting.

No Member may be involved in scrutinising a decision in which he/she has been directly involved.

3. **CO-OPTEEES**

The Overview and Scrutiny Committee or Sub-Committee shall be entitled to appoint any number of people as non-voting co-optees for the duration of an investigation or for a period specified by the Overview and Scrutiny Committee or Sub-Committee ***and may consider conferring voting rights on such persons, when dealing with crime and disorder matters.***

4. **MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEE**

There shall be at least 8 Ordinary Meetings of the Overview and Scrutiny Committee in each year ***including at least one meeting dedicated exclusively to crime and disorder matters.*** In addition, Special Meetings may be called from time to time as and when appropriate.

An Overview and Scrutiny Committee Meeting may be called by the Chairman of the Committee, by any 3 Members of the Committee or by the Head of Paid Service if he/she considers it necessary or appropriate.

5. **QUORUM**

The quorum for the Overview and Scrutiny Committee shall be 3 elected Members.

6. **WORK PROGRAMME**

The Overview and Scrutiny Committee/Sub-Committees shall, subject to Article 6.03 of the Constitution, be responsible for setting its own work programme. In doing so, it shall take into account the views of the

Committee and wishes of Members on that Committee who are not members of the largest political group on Full Council.

7. **AGENDA ITEMS**

Any Member of the Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Head of Paid Service that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available Meeting of that Committee or Sub-Committee. ***This includes a Councillor Call for Action request.*** On receipt of such a request, the Head of Paid Service will ensure that it is included on the next available agenda.

Any two Members of Full Council who are not Members of the Overview and Scrutiny Committee may give written notice to the Head of Paid Service that they wish an item to be included on the agenda of the Overview and Scrutiny Committee. If the Head of Paid Service receives such a notification, then he/she will include the item on the first available agenda of the Overview and Scrutiny Committee for consideration by the Committee.

The Overview and Scrutiny Committee shall also respond to requests from Full Council and, if it considers appropriate, Policy Committees to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the relevant Policy Committee and/or Full Council within three months of the request.

8. **POLICY REVIEW AND DEVELOPMENT**

- (a) The role of the Overview and Scrutiny 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 set out in Part 4 of this Constitution.
- (b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Overview and Scrutiny Committee or Sub-Committee may make proposals to Policy Committees for developments in so far as they relate to matters within their terms of reference. The Policy Committee shall respond to any recommendations within three months of receipt.
- (c) The Overview and Scrutiny Committee 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. 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 and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

9. **DECISIONS / MATTERS EXEMPT FROM OVERVIEW AND SCRUTINY**

- (a) Actions taken under statutory powers by the Monitoring Officer and the Director of Corporate Services;
- (b) Action taken under any legal power or duty by any Officer or Member in reporting to the appropriate enforcement agency any alleged criminal act or administrative or financial irregularity;
- (c) The exercise of the Council's functions in respect of employees' disciplinary or grievance matters, the merits of any individual appeal or licensing decision of the Licensing & Appeals Committee and the merits of any decision of the Development Control Committee;
- (d) Any function within the terms of reference of the Standards Committee;
- (e) ***A matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman); or***
- (f) ***A matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of an Overview And Scrutiny Committee.***

However, a matter which consists of an allegation of systematic failure of an authority to discharge a function for which the authority is responsible may be referred to Overview and Scrutiny Committee, notwithstanding the fact that the allegation specifies matters which would otherwise be excluded.

10. **REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEE**

- (a) Once it has formed recommendations on proposals, the Overview and Scrutiny Committee will prepare a formal report. This report will be submitted to the Head of Paid Service who will ensure that it is considered by the relevant Policy Committee (if the proposals are consistent with the existing Budget and Policy Framework), or Full Council (if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework) with a response to the recommendations being provided by Full Council or the relevant Policy Committee, as appropriate within a period of three months of receipt of the report.
- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to Full Council or the relevant Policy Committee as

appropriate, then up to one minority report may be prepared and submitted for consideration by Full Council or Policy Committee with the majority report.

- (c) When reports are submitted to Full Council for their consideration in accordance with 10(a) above then the Chairman of the relevant Policy Committee shall be entitled to submit a report for consideration by Full Council at the same time.

11. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

- (a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of Meetings as set out in the Access to Information Procedure Rules, paragraph 13, in Part 4 of this Constitution.
- (b) Nothing in paragraph 11(a) prevents more detailed liaison between the relevant Policy Committee and the Overview and Scrutiny Committee, as appropriate, depending on the particular matter under consideration.

12. MEMBERS AND OFFICERS GIVING ACCOUNT

- (a) The Overview and Scrutiny Committee or Sub-Committee may, subject to their terms of reference, 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 a Policy Committee, the Head of Paid Service and/or Chief Officer or Heads of Service to attend before it to explain in relation to matters within their remit:-

- (i) any particular decision or series of decisions;
- (ii) the extent to which the actions taken implement Council policy; and/or
- (iii) their performance,

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

- (b) Where any Member or Officer is required to attend the Overview and Scrutiny Committee under this provision, the Chairman of the Committee will inform the Head of Paid Service. The Head of Paid Service shall inform the Member or Officer in writing, giving at least 10 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 for preparation of that documentation.

- (c) A Chief Officer may attend with a Head of Service if he/she considers that it is appropriate to do so.

13. **ATTENDANCE BY OTHERS**

The Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 12 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. ***The Committee may also require the attendance of an officer or employee of the responsible authority or of a co-operating person or body in order to answer questions, when considering crime and disorder matters.***

14. **CALL-IN**

- (a) Call-In enables the Overview and Scrutiny Committee to scrutinise decisions before they are implemented. This may lead to a reconsideration of the decision by the relevant Policy Committee. It should only be used in exceptional circumstances.
- (b) When a decision is made by a Policy Committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council and sent to all Members within 2 working days of being made.
- (c) 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 5 working days after the publication of the decision, unless the Overview and Scrutiny Committee calls it in.
- (d) During that period, the Head of Paid Service shall Call-In a decision for scrutiny by the Committee if so requested, in writing, by any three Members including at least one Member of the controlling group who must give a full explanation of the reasons why the decision has been called-in for scrutiny and shall then notify the Chairman of the relevant Policy Committee of the Call-In. He/she shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Overview and Scrutiny Committee, and in any case the Meeting shall be held within 7 working days of the date that the request to Call-In a decision was received by him/her.
- (e) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it:-
 - (i) back to the relevant Policy Committee for reconsideration where it considers that it is in breach of the principles of decision-making set out in Article 12.02 of the Constitution; or

- (ii) refer the matter to Full Council where it considers that it is in breach of the Budget and Policy Framework.

Either way, it must set out in writing the nature of its concerns.

- (f) If referred to the relevant Policy Committee, it shall then reconsider the decision within a further 10 working days, amending the decision or not, before adopting a final decision.
- (g) If, following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the relevant Policy Committee or Full Council, the decision shall take effect on the date of the Overview and Scrutiny Committee meeting, or the expiry of that further 7 working day period in which the Meeting should be held, whichever is the earlier.
- (h) If the matter was referred to Full Council, it shall be considered at the next scheduled meeting of Full Council. If Full Council does not object to a decision that has been made, then no further action is necessary and the decision will become effective immediately. However, if Full Council does object, Full Council will refer any decision to which it objects back to the relevant Policy Committee, together with Full Council's views on the decision. The relevant Policy Committee shall convene a meeting within 10 working days of Full Council to discuss whether to amend the decision or not before reaching a final decision and implementing it.
- (i) Decisions reconsidered by the relevant Committee may not be called-in again.

15. **URGENT DECISIONS AND CALL-IN**

The Call-In procedure set out above shall not apply where the decision being taken by the Policy Committee is urgent.

A decision will be urgent if any delay likely to be caused by the Call-In process would seriously prejudice the Council's or the public's interests or where a deadline has been set by a third party which will expire before the Overview and Scrutiny Committee could meet.

The record of the decision, and notice by which it is made public, shall state whether, in the opinion of the relevant Policy Committee, the decision is an urgent one, and therefore not subject to Call-In or whether it is exempt from Call-In in accordance with paragraph 9 above. Where a decision is urgent, the Chairman 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 Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required.

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

16. THE PARTY WHIP

- (a) For the purposes of this paragraph "party whip" shall mean "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."
- (b) When considering any matter in respect of which a Member of the 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 commencement 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.

17. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS

- (a) The Overview and Scrutiny Committee and Sub-Committees shall consider the following business:-
 - (i) Minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations);
 - (iii) consideration of any matter referred to the Committee for a decision in relation to Call-In of a decision;
 - (iv) responses of the Policy Committee to reports of the Overview and Scrutiny Committee; and
 - (v) the business otherwise set out on the agenda for the Meeting.
- (b) 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:-
 - (i) 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;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

- (c) Subject to the Access to Information Procedure Rules set out in Part 4, Paragraph 11 of the Constitution, any report prepared by the Scrutiny Committee shall be made public.