

Part 2 - The Articles

Chapter 8 – Overview and Scrutiny Committee and Call-in

1. Status, Membership, Quorum and Meeting Frequency

- 1.1 The Overview and Scrutiny Committee is a committee established under Section 21 of the Local Government Act 2000, as amended by the Localism Act 2011.
- 1.2 The membership of the Committee shall be 10 Councillors and the quorum shall be three.
- 1.3 The Assembly shall appoint the membership, including the Chair and Deputy Chair, at its Annual Meeting. Political balance requirements of Section 15 of the Local Government and Housing Act 1989 apply when determining membership.
- 1.4 The Assembly shall also appoint four Co-opted Members to the Overview and Scrutiny Committee, representing the bodies listed below, to scrutinise education matters only. The Co-opted Members shall have voting rights in respect of educational matters, and non-voting in respect of all other matters:
 - i) One Church of England Diocesan Board of Schools representative;
 - ii) One Roman Catholic Brentwood Diocesan Schools Commission representative;
 - iii) One secondary school parent governor representative;
 - iv) One primary school parent governor representative.
- 1.5 The Committee may also co-opt a representative(s) of the BAD Youth Forum, in a non-voting capacity.
- 1.6 The Overview and Scrutiny Committee shall meet approximately every four weeks. Additional meetings may be arranged to deal with specific matters such as the Cabinet's budget proposals, Call-in's etc. if considered necessary.
- 1.7 Informal meetings of the Overview and Scrutiny Committee, such as task and finish groups and site visits, may be arranged as appropriate, however only one group may be in place at any one time.

2. Functions and Responsibilities

The Overview and Scrutiny Committee has the following functions and responsibilities:

(a) Statutory Functions

- i) Call-in

The Overview and Scrutiny Committee will be responsible for addressing any Call-in that is received, unless the subject relates to health matters which will be dealt with by the Health Scrutiny Committee. The Call-in Procedure is detailed in paragraph 6 of this Article.

ii) Councillor Call for Action

The Overview and Scrutiny Committee will also consider Councillor Calls for Action (section 119, Local Government Act 2000), in accordance with the relevant best practice guidance jointly issued by the Centre for Public Scrutiny and the Improvement & Development Agency. The CCfA procedure is detailed in paragraph 7 of this Article.

iii) Crime and Disorder scrutiny

The Overview and Scrutiny Committee shall:

- a. Act as the Crime and Disorder Committee within the meaning of Section 19 of the Police and Justice Act 2006
- b. Review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions
- c. Make reports or recommendations to the local authority with respect to the discharge of those functions
- d. Make recommendations to the Cabinet and/or Assembly with respect to any matter which is a local crime and disorder matter in relation to a Member of the authority
- e. Consider any crime and disorder matters referred by any Member of the Council.

iv) Education

The Council shall, in accordance with Section 499 of the Education Act 1996 and Section 9F of the Local Government Act 2000, appoint co-opted members to the Overview and Scrutiny Committee to scrutinise education matters only.

v) Flood risk management

In accordance with the Flood Risk Management Overview and Scrutiny Committee (England) Regulations 2011, the Overview and Scrutiny Committee has the power to request information and scrutinise the local flood risk authority's plans to mitigate flooding.

(b) General Role

- i) Review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- ii) Assist the Assembly and the Cabinet in the development of the budget and policy framework by in-depth analysis of policy issues, as required;
- iii) Review and scrutinise the performance of the Council, other public bodies and partner organisations in the area, invite them to address

the Overview and Scrutiny Committee, and prepare reports about their initiatives and performance;

- iv) Conduct pre-decision scrutiny to test the robustness and impact of budget savings and other key decisions to be considered by the Cabinet;
- v) Engage with, and represent local people and create opportunities to involve them in the scrutiny process;
- vi) In all of the above, make reports and recommendations to the Cabinet and/or Assembly and/or any Committee in connection with the discharge of any functions
- vii) Produce an annual report which the Chair of the Overview and Scrutiny Committee shall present to the Assembly.

3. Terms of Reference

3.1 Children's Services

- Scrutiny of matters relating to the provision of services to children and young people living or using services within the borough.
- Working with the Council and other partners to secure the continuous improvement of services for children and young people and assisting in improving outcomes for the borough's young people

3.2 Housing and Environment

- The scrutiny of the Council's housing and environmental services, including the provision, planning, management and performance of housing, environment, regeneration, economic development, street scene, public realm transport, and related matters.
- Scrutinising matters relating to the provision of business, jobs and skills within the Borough.

3.3 Petitions

The Overview and Scrutiny Committee will be responsible for receiving and debating petitions, unless the subject relates to health scrutiny matters which will be dealt with by the Health Scrutiny Committee, in accordance with the Council's Petition Scheme which can be found on the Council's website <http://www.lbbd.gov.uk/petitions>

4. Overview and Scrutiny Sub Committee

- 4.1 The Overview and Scrutiny Committee shall appoint a Sub-Committee which shall be convened as necessary to consider Call-Ins and petitions, upon receipt and validation.
- 4.2 The Sub-Committee shall consist of the Chair of the Committee and four other Members of the Committee. The quorum shall be two Members.

5. Scrutiny Procedure Rules

5.1 Work Programme

5.1.1 The Overview and Scrutiny Committee shall be responsible for setting and maintaining the work programme, which will be agreed at the start of the municipal year in consultation with the Council's Designated Scrutiny Officer. Meetings of the Committee will be themed.

5.1.2 The Overview and Select Committee may receive suggestions from the following for particular topics to be scrutinised:

- Members of the public
- Relevant partner organisations
- Officers of the Council
- Co-optees
- Cabinet
- Individual Members of the Council

5.1.3 The Overview and Scrutiny Committee shall typically go through a topic selection process in order to shortlist the areas for review.

5.2 Scrutiny Reviews

5.2.1 The Overview and Scrutiny Committee may undertake scrutiny reviews on any matter that is consistent with its terms of reference.

5.2.2 Before conducting a scrutiny review, the Overview and Scrutiny Committee will ensure it meets the **PAPER** criteria:

- **P**ublic Interest;
- **A**bility to Change;
- **P**erformance;
- **E**xtent of the Issue; and
- **R**eplication.

5.2.3 The Overview and Scrutiny Committee shall not undertake a scrutiny review on any matter directly or indirectly linked to work being undertaken by the Cabinet or a Policy Task Group.

5.2.4 The Overview and Scrutiny Committee may conduct research, consultation and anything which is reasonable to assist or inform its deliberations, including a general call for evidence, commission research, site visits, public surveys, public meetings and the involvement of the local community.

5.2.5 The Overview and Scrutiny Committee may appoint advisers and call witnesses to assist in its work and pay reasonable fees and expenses for such assistance within available budgets.

5.2.6 The process for scrutiny reviews and reports will follow the process below, subject to any variation agreed with the Chair in consultation with the Designated Scrutiny Officer:

- Gather evidence from Council officers, Members and statutory authorities;
- Identify where processes, policies or services could be improved;
- Develop formal draft recommendations to deliver these improvements and discuss them with the relevant portfolio holder(s) and, if appropriate, relevant statutory authorities either at a committee meeting or in writing;
- Submit the draft final report, with recommendations, to the relevant portfolio holder(s) and, if appropriate, relevant statutory authorities for comment;
- Present the final report (including portfolio holder comments) to the Overview & Scrutiny Committee for approval;
- Publish the approved report on the Council's website and circulate to relevant stakeholders, including those who gave evidence to the committee;
- Present an action plan to the committee for approval, allocating the recommendations to the decision-maker (as determined by the Scheme of Delegation) and agreeing a timeframe for their implementation;
- Report back to the committee within six months with a progress update on implementation of the recommendations.

5.2.7 Where the Overview and Scrutiny Committee makes a report and recommendations on matters relating to local crime and disorder it will provide a copy of the report to the relevant responsible authorities, notifying them of their duty (under section of the Police and Justice Act 2006) to:

- i) consider the report or recommendations;
- ii) respond to the Overview and Scrutiny Committee in writing within 28 days indicating what (if any) action it proposes to take, and;
- iii) have regard to the report or recommendations in exercising its functions.

5.3 Public Participation

5.3.1 Residents of the London Borough of Barking and Dagenham and those working, studying or with a business interest in the area are able to participate in the scrutiny process by:

- a) Suggesting topics for review by the Overview and Scrutiny Committee;
- b) Attending meetings;
- c) Presenting petitions;
- d) Asking a question;
- e) Making a statement or forming a deputation (lobbying) to the Overview and Scrutiny Committee;
- f) Being involved in a scrutiny investigation;
- g) Responding to surveys.

- 5.3.2 When there is a scrutiny investigation that would benefit from public participation the Officer supporting such investigation will ensure such participation is facilitated.
- 5.3.3 Members of the public interested in participating in a particular scrutiny investigation can do so by contacting the Scrutiny staff or the Chair directly.

5.4 Accountability and Attendance

- 5.4.1 The Overview and Scrutiny Committee may scrutinise and review any decisions made or actions taken in connection with the discharge of any Council function or other matter that is within its terms of reference. As well as reviewing documentation, the Overview and Scrutiny Committee fulfilling the scrutiny role, may require any Member of the Cabinet, Chief Officer and/or senior Officer to attend (only when invited) 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;
 - c) The performance of relevant services.

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

- 5.4.2 The Overview and Scrutiny Committee may also require any Council Member to attend before it to answer questions on any function which the Member has power to exercise.
- 5.4.3 Any Councillor or member of the public shall be entitled to attend meetings of the Overview and Scrutiny Committee and to speak on any agenda item at the discretion of the Chair.
- 5.4.4 Where any Cabinet Member, Ward Member or Officer is required to attend an Overview and Scrutiny Committee meeting, Scrutiny Officers will, within reasonable time, inform that Member or Officer in writing of the Select Committee 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.
- 5.4.5 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.
- 5.4.6 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then a substitute may be asked to attend or the Overview and Scrutiny Committee may, in consultation with the Member or Officer, arrange an alternative date for attendance, which shall be no later than the next scheduled meeting.
- 5.4.7 The Overview and Scrutiny Committee may invite people other than those people referred to above to address it, to discuss issues of local concern and/or answer questions. For example, it may wish to hear from residents; other interested parties, officers in other parts of the public sector, or experts.

5.4.8 In undertaking the scrutiny of crime and disorder issues, the Overview and Scrutiny Committee may invite representatives of the crime and disorder bodies to address it, discuss the issue of local concern and/or answer questions. An officer of a trust/ organisation must attend meetings to provide information needed by the Committees to discharge its functions. However, reasonable notice must be given.

5.5 Rights to Information

5.5.1 The Overview and Scrutiny Committee will have access to the Forward Plan of key decisions of the Cabinet and timetable for decisions and intentions for consultation.

5.5.2 In addition to their rights as Councillors, Members of Overview and Scrutiny Committee have the additional right to documents and to notice of meetings as set out in the Access to Information rules (Part 2, Chapter 17) and in line with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

5.5.3 Nothing in this paragraph shall prevent more detailed liaison between the Cabinet and the Overview and Scrutiny Committee if considered appropriate for the particular matter under consideration.

6. Call-in

6.1 Call-in is the exercise of Overview and Scrutiny Committee's statutory powers under Sections 9F(2)(a) and 9F(4) of the Local Government Act 2000 (as amended by the Localism Act 2011) to review an executive key decision that has been made but not yet implemented. Where a decision is called-in and the Overview and Scrutiny Committee decides to refer it back to the relevant decision-maker for reconsideration, it cannot be implemented until the Call-in Procedure is complete.

6.2 Any key decision is subject to Call-in. A decision may be called-in only once. A recommendation to the Assembly may not be called-in.

6.3 The Call-in Procedure and the powers to refer a decision back for reconsideration may be exercised by the Overview and Scrutiny Committee, provided the decision that is subject to the Call-in is within the remit of its respective terms of reference.

6.4 Requests for Call-in will only be accepted as valid if there is evidence that the decision maker did not take the decision in accordance with the principles of decision making as set out in Part 2, Chapter 16, paragraph 2 of this Constitution.

6.5 Call-in of decisions which may be contrary to the Budget and Policy Framework shall be governed by the provisions of the Budget and Policy Framework Procedure Rules in Part 2, Chapter 18, paragraph 6 of this Constitution.

6.6 Call-in should be regarded as a measure that is only needed in exceptional circumstances.

The Call-In Procedure

- 6.7 Once made, an executive decision shall be published in the form of a Decision Notice within two working days. The Decision Notice will be sent to all Members of the Council within the same timescale.
- 6.8 The Decision Notice will specify that the decision will be effective on the expiry of five clear working days after the publication of the decision and may then be implemented, unless called-in under this provision within that five-working day period.
- 6.9 Any two (or more) Councillors (excluding Cabinet Members), or statutory co-opted Members where the matter relates to education, individually or collectively, may call-in a key decision by submitting a written notification to the Chief Executive within the five-working day period. A form is available on the Council's website. Any Councillor who has a prejudicial and/or pecuniary interest in a particular issue should not instigate or take part in any Call-In related to that issue.
- 6.10 The form must include:
- i) the names of the Members requesting the Call-in (at least two are required), one of whom should be identified as the lead;
 - ii) the subject matter being called-in;
 - iii) the decision including, where relevant, whether all or part of the decision is being called-in; and
 - iv) clear reasons for the Call-in.
- 6.11 The Call-in request will be deemed valid unless either:
- i) The procedures set out in paragraphs 6.8 to 6.10 have not been properly followed;
 - ii) The grounds for Call-in as referred to in paragraph 6.4 above have not been met;
 - iii) The decision has been recorded as urgent in accordance with paragraphs 6.15 to 6.18 below;
 - iv) The Call-in is considered to be frivolous, vexatious or not a proper use of the Call-in provisions taking into account the following factors:
 - a. Whether the matter has been considered as part of pre-decision scrutiny by Overview and Scrutiny Committee or any sub-committee, task group or panel.
 - b. Whether there has been any substantive change in the nature of the decisions being made since any pre-decision scrutiny of the proposals.
 - c. Whether the recommendations or alternative course of action or recommendations in the Call-in request have been

previously considered and rejected, in whole or part, as part of pre-decision scrutiny.

d. Whether the Call-in request can be dealt with through the clarification of matters.

e. Any other relevant factor.

v) The Call-in would, in the opinion of the Monitoring Officer, result in the Council failing to discharge its legal duties.

6.12 Before deciding on (a) to (e) above, the Chief Executive may seek clarification of the Call-in request from the Member(s) concerned. The Chief Executive shall also consult with the Chair of Overview and Scrutiny Committee prior to making a determination on the validity of the Call-in. The decision of the Chief Executive shall be final and there is no right of appeal.

6.13 Upon deciding on its validity, the Chief Executive shall forthwith notify the Member(s) concerned, the Leader and Portfolio Holder, the Chair and Deputy Chair of Overview and Scrutiny Committee, the relevant Strategic and other Directors and the Council's Designated Scrutiny Officer.

6.14 In the absence of the Chief Executive, the Monitoring Officer shall exercise the Chief Executive's functions in respect of the Call-in.

Decisions not subject to Call-In

6.15 The following categories of decision are not subject to Call-in:

- i) recommendations from the Cabinet to the Assembly for final determination, such as the Budget and Policy Framework;
- ii) decisions for urgent implementation under the Access to Information Procedure Rules set out in Part 2, Chapter 17 of the Constitution;
- iii) urgent decisions outside the Budget or Policy Framework taken in accordance with paragraph 4 of the Budget and Policy Framework Rules in Part 2, Chapter 18 of the Constitution;
- iv) decisions to award a contract following a lawful procurement process.

Call-In and Urgency

6.16 The Call-in procedure set out above shall not apply where the decision being taken is urgent. A decision is urgent if:

- i) A Call-in would prevent the Council reaching a decision that is required by statute or otherwise within a specified timescale;
- ii) Any delay likely to be caused by the Call-in process would seriously prejudice the Council's or the public's interests and the reasons for urgency are reported to the decision-making body or person before the decision is taken;

- iii) Any delay likely to be caused by the Call-in process would be likely to expose the Council, its Members or its constituents to significant level of risk, loss, damage or significant disadvantage.

- 6.17 In the case of the above, the Decision Notice shall state whether a decision is an urgent one, and therefore not subject to Call-in. The consent of the Chair of the Overview and Scrutiny Committee is required before a decision is treated as urgent.
- 6.18 Where the Cabinet has recorded a decision as urgent, the Overview and Scrutiny Committee may retrospectively review actions arising from that decision but cannot delay its implementation.

Consideration of the Call-In

- 6.19 The Chief Executive will ensure that any valid Call-in is reported to the appropriate meeting.
- 6.20 At least one of the Members submitting the request for Call-in will be expected to attend the meeting to explain their reasons for the Call-in and the alternative course of action or recommendations they wish to propose. Appropriate representation from the Cabinet will be required to explain the reasons for the Cabinet's decision and to answer any questions. Similarly, the relevant Chief Officer shall attend to clarify any aspects associated with the issue in question.
- 6.21 Having considered the Call-in and the reasons given, the Overview and Scrutiny Committee (or convened Sub-Committee) may either:
- i) Refer it back to the decision-making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations;
 - ii) If it considers that the decision is outside the Council's Budget and Policy Framework, refer the matter to the Assembly after seeking the advice of the Monitoring Officer and/or Chief Financial Officer; or
 - iii) Decide to take no further action, in which case the original Cabinet decision will be effective immediately.

Decisions referred back to the Decision-Maker

- 6.22 If a decision is referred back to the original decision maker, that person or body shall then reconsider the matter, taking into account any concerns and recommendations of the Overview & Scrutiny Committee (or convened Sub-Committee), and make a final decision, amending the decision or not, and give reasons for the decision.
- 6.23 If a decision relates to an executive function, only the Cabinet can ultimately decide the matter, provided that it is in accordance with the Council's Budget and Policy Framework.

7. Councillor Call for Action

- 7.1 Any Councillor may request the Chief Executive to include a Councillor Call for Action on the agenda of a relevant Committee meeting. A Councillor Call for Action request must be made to the Chief Executive. A form is available on the Council's website which sets out the requirements for a Councillor Call for Action request to be considered valid by the Chief Executive.
- 7.2 Upon receipt of a valid Call for Action the Chief Executive shall ensure that the item is included on the agenda of the next appropriate meeting of the relevant committee, and ensure that the Lead Member of the relevant committee(s), relevant Cabinet Members, senior officers and any other members from the ward(s) in question are informed that a valid Call for Action has been received.
- 7.3 Any Councillor who submits a valid Call for Action will have the right to attend the meeting at which the item is to be considered, to explain the reasons for the Call for Action and to have the item discussed. The Committee will decide either:
- i) To request officers to prepare a report for the next meeting;
 - ii) To request the Councillor submitting the Call for Action to provide further evidence or information to a future meeting;
 - iii) To set up a task and finish group to investigate the matter and report back to the Committee or to agree to undertake a scrutiny review on the matter at the appropriate time;
 - iv) To refer the matter to the appropriate person or body be it a senior Officer, another committee such as the Cabinet or an external body, either for information or calling for specific action;
 - v) To take no further action on the request, for stated reasons.
- 7.4 A Councillor Call for Action will be deemed invalid in the following circumstances, and shall not be taken forward:
- i) The procedures set out in paragraphs 7.1 and 7.2 have not been properly followed;
 - ii) It does not affect all or part of the ward for which the referring Member is elected, or any person who lives or works in that ward;
 - iii) It is a matter that has been excluded by Order of the Secretary of State (e.g. planning or licensing appeals and other quasi-judicial matters); or
 - iv) The Chief Executive, in consultation with the Designated Scrutiny Officer, considers it to be vexatious, not reasonable, discriminatory or outside the Councillor Call for Action provisions.
- 7.5 Before deciding on its validity, the Chief Executive may seek clarification of the Call for Action from the Councillor concerned.