

**MEETING**

**COUNCIL**

**DATE AND TIME**

**TUESDAY 2ND MAY, 2023**

**AT 7.00 PM**

**VENUE**

**HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ**

Dear Councillors,

Please find enclosed an updated version of Part 3C Committee Procedure Rules to include references to Planning Committees A and B being referred up to the Strategic Planning Committee.

Item No	Title of Report	Pages
	REPORT OF THE MONITORING OFFICER - CONSTITUTION REVIEW	3 - 22

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## Part 3C

### Committee Procedure Rules

### AGENDA ITEM 6

#### 1. Application of these Rules

1.1 These Rules are made up of the following sections:

1.1.1 The Committees of the Council are:

1.1.1.1 Governance, Audit, Risk Management and Standards Committee, Standards Sub-Committee

1.1.1.2 Licensing and General Purposes Committee: Licensing Sub-Committees, Employment Sub-Committee, Independent Panel and Appeals Committee

1.1.1.3 Strategic Planning Committee and Planning Committees A and B

1.1.1.4 Overview and Scrutiny Committee, Children's & Education Sub-Committee, Adults and Health Sub-Committee and Call-In Sub-Committee

1.1.1.5 Pension Fund Committee

1.1.1.6 Health and Wellbeing Board

1.1.1.7 Area Committees (East, North and West)

1.2 These Rules do not apply to the procedure of Council or the Executive, which have their own Procedure Rules.

#### 2. Establishment of Committees

2.1 The Council at its Annual Meeting will:

2.1.1 decide which Committees and Sub-Committees to establish for the Municipal Year;

2.1.2 decide the size and terms of reference of these Committees and Sub-Committees;

2.1.3 decide the allocation of seats on these Committees and Sub-Committees to the political groups in accordance with the rules on political proportionality apply to those committees;

2.2 The number of Members, Independent Members Independent Persons and co-optees appointed to each Committee and the details of any sub-committees established by Committees can be found in Part 3 of the Constitution (Allocation of Responsibilities).

#### 3. Appointment of Substitutes to Committees and Sub-Committees

##### 3.1 Allocation

The Council will allocate seats on Committees, sub-committees and boards for members and substitutes.

##### 3.2 Number

For each Committee and sub-committee, the Council will normally appoint substitutes in accordance with the wishes of the respective group leaders.

#### 4. Powers and Duties

Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

##### 4.1 Substitution

- 4.1.1 Where the committee have a substitute member sitting a meeting adjourned to another day shall be treated as a new meeting.
- 4.1.2 If a Substitute Member is in attendance at a meeting the ordinary member for whom they are substituting shall not be entitled to attend that meeting and take part as an ordinary member of that body.

#### 5. Attendance of Members at Committees and Sub-Committees

##### 5.1 Right to Speak

- 5.1.1 Members Requests to Speak at Planning Committees
- 5.1.2 Members may address a planning committee on any application, unless they have a pecuniary interest in which case they are precluded. Members should give notice to the Chair of the meeting of their intention to speak before the start of the meeting. Any Member wishing to address the Committee shall have up to 3 minutes. Members' rights to address planning committees are in addition to the rights of public speakers.
- 5.1.3 MPs and GLA Members from the borough and MPs, GLA Members and Members from neighbouring boroughs may request to address a planning committee on a matter which affects their constituency or ward. Notice should be given to the Chair of the meeting before the start of the meeting. Any such Member would be allowed up to 3 minutes.

##### 5.2 Members' rights to attend and speak at committees or subcommittees when they are not a Member of the committee.

- 5.2.1 Councillors may attend any Council Committee or Sub-Committee, even when they are not appointed to them, but they cannot vote and should sit with members of the public.
- 5.2.2 Apart from planning committees (see above) and ~~licensing~~ Licensing Sub committees Committees, councillors may speak at a meeting subject to giving notice to the Chair of the meeting before the start of the meeting and the Chair giving his or her consent. (for Licensing Sub Committee the rights to speak are outlined in the Licensing Code) Any Councillor wishing to address the Committee or Sub-Committee shall have up to 3 minutes.
- 5.2.3 The Lead Member for Children and Adults Services has a right to address a Committee, Sub-Committee or Partnership Board for up to three minutes when it is considering matters which relate children and young people, subject to giving notice to the Chair of the meeting before the start of the meeting and the Chair giving his or her consent.

5.2.4 A Member (including Members appointed as substitutes by Council) will be permitted to have one matter only (with no sub-items) on the agenda for a meeting of a committee or Sub-Committee on which s/he serves. The matter must be relevant to the terms of reference of the committee. If the Head of

Governance has any doubts about any Members Item for reasons of propriety, he or she may refer it to the Monitoring Officer. If the Monitoring Officer considers the Members Item to be vexatious, irrelevant, or otherwise improper, the Head of Governance will return it to the Member who submitted it as soon as possible. The Head of Governance will explain to the Member in writing why it will not be included on the agenda circulated for the meeting. This rule does not apply to planning committees and licensing sub-committees. The Head of Governance must receive written notice of a Member's Item, at least seven clear working days before the meeting. The Lead Member for Children's Services is permitted to have one matter only (with no-sub items) on the agenda for a meeting of a Committee, Sub-Committee or Partnership Board on which s/he does not serve when that body is considering an item which relates to children and young people.

5.2.5 A Ward Member will be permitted to have one matter only (with no sub-items) on the agenda for an Area Committee where the Member is submitting a request for CIL funding to an Area Committee Budget relating to their Ward. Members' Items for CIL funding Budget must be submitted 10 clear working days before the meeting. Items received after that time will only be dealt with at the meeting if the Chair agrees they are urgent.

5.2.45.2.6 Members may remain for the private part of any committee meeting.

## **6. Nominated Members**

6.1 Minority groups shall nominate from amongst their Members on Committees and sub-committees, a Member to be consulted by Chief Officers in the exercise of delegated powers relating to the urgency procedure. (The Urgency Procedure is set out in Part 4 of the Constitution). Nominated members must be full Members of the Committee concerned.

## **7. Charing Committees and Sub-Committees**

### **7.1 Election of a Chair of a Committee**

7.1.1 The Chairs of Committees of the Council will be appointed by the Council under the Council Procedure Rules. If the Council fails to appoint a Chair for any Committee then that Committee shall appoint a Chair as the first item of business at its first meeting following the Annual Council.

### **7.2 Election of Chair of Sub-Committee**

7.2.1 Where any Committee has a sub committee then the sub committee will appoint the Chair as the first item of business.

### **7.3 Absence of Chair at Meetings of Committees and Sub-Committees**

7.3.1 In the absence of the Chair, the Vice-Chair shall preside.

7.3.2 If after 15 minutes since the identified start time of the Committee or Sub-Committee neither the Chair nor Vice-Chair are present then the meeting shall elect a Chair for that meeting as its first order of business.

7.3.3 Where the Chair and Vice-Chair have both submitted apologies in advance of the meeting to the Monitoring Officer then, without the delay mentioned above, the first order of business shall be to elect a Chair for the meeting.

**8. Business not on the Agenda**

**8.1 Business not on the agenda may only be considered where:**

8.1.1 the Access to Information Procedure Rules in this Constitution have been complied with; or

8.1.2 a member of the Committee or any Statutory Officer has requested that an item be placed on the agenda for the meeting at any time before the start of the meeting and the Chair agrees to the item being included on the grounds of urgency and the Committee agreeing to consider that item of business. The grounds of urgency and the circumstances giving rise to the request must be recorded in the minutes of the meeting.

**9. Late and Urgent Reports marked “to follow on the Agenda”**

9.1 If there is a request to publish a report on an agenda after the statutory deadline for publication, that item may only be considered if the Chair (after consulting the Nominated Member) agrees by virtue of the special circumstances set out either in the report or on the supplementary agenda, that the item should be considered as a matter of urgency and specified in the minutes of the meeting.

**10. Time and Place of Meetings**

10.1 Meetings of Committees and sub-committees shall take place at the place and time stated on the agenda. Following consultation with the nominated Members and subject to compliance with the Access to Information Rules, the Chair shall have the power to alter the venue, day and time if they believe it to be appropriate for the conduct of the business of the Committee, sub-committee.

10.2 For those sub-committees not having scheduled meetings, the date, time and place of meetings will be set by the Head of Governance after consultation with the Chair and nominated Members of the sub-committee.

**11. Cancellation or Postponement of Meetings**

11.1 The Chair, or in their absence the Vice-Chair and/or Head of Governance, may cancel or postpone a meeting of any Committee, sub-committee either before or after the agenda for the meeting has been issued provided that reasons for the cancellation are given.

**12. Calling of Special Meetings**

**12.1 Calling Special Meetings**

12.1.1 Those listed below may request the Monitoring Officer or Head of Governance to call Committee or sub-committee meetings in addition to ordinary scheduled meetings:

12.1.1.1 the Committee or sub-committee by resolution;

12.1.1.2 the Chair of the Committee or sub-committee. In relation to the Overview and Scrutiny Committee or relevant Overview and Scrutiny sub-committee, the Chair must, before requesting the Monitoring Officer or Head of Governance to call a special meeting, consult with the nominated members of each of the political groups represented on the Overview and Scrutiny Committee or Overview and Scrutiny sub-committee;

12.1.1.3 at least one-third of the members of the Committee or sub-committee, if they have signed a requisition presented to the Chair of the Committee or sub-committee and they have refused to call a meeting or has failed to call a meeting within five clear working days of the presentation of the requisition.

## 12.2 Business

12.2.1 Business at special meetings of Committees and sub-committees shall be restricted to the items notified in the published agenda.

## 13. Notice of and Summons to Meetings

13.1 The Head of Governance will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules set out in this Constitution. At least five clear working days before a meeting, the Head of Governance will publish an agenda. The agenda will give the date, time and place of the meeting and specify the business to be transacted and will be accompanied by all relevant reports (except those marked to follow in accordance with Rule 7.2).

## 14. Quorum

14.1 The quorum of a meeting will be at least one quarter or three Members, whichever is the greater, of the whole number of members of the Committee or sub-committee, with the exception of the Overview and Scrutiny Committee.

14.2 The quorum for the Overview and Scrutiny Committee, and sub committees will be one quarter or three members, whichever is the greater of the whole number of Members (including co-opted voting members) AND where there are appointed co-opted voting members, the quorum shall be calculated on the total number inclusive of such co-optees.

14.3 If, after 15 minutes from the advertised time of the start of the meeting, or such other longer period as the Chair may decide, a quorum is not present, the meeting will not take place. The Chair may announce the time and date that the meeting will be convened.

14.4 During any meeting, if the Chair counts the number present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting of the Committee or sub-committee.

## 15. Closure of Meetings

### 15.1 Time of Closure

15.1.1 No business at any meeting of a Committee or Sub-Committee shall be transacted after three hours after the start time of the meeting and any business transacted after that time shall be null and void. After three hours and without further debate the Chair shall immediately put to the vote any motion or amendment, which has been formally moved and seconded.

15.1.2 At any meeting of the Strategic Planning Committee and Planning Committees, the Chair at their sole discretion may extend the period for the transaction of business to three and a half hours after the start time of the meeting. This will be recorded in the Committee's decisions.

## **16. Deputations**

- 16.1 This Rule does not apply to Planning Committees, when considering planning applications, nor to Licensing applications, nor to the Overview and Scrutiny Committee, nor Standards Sub-Committee.
- 16.2 Any committee or sub-committee of the Council other than those excluded from the application of this Rule may receive a deputation on any matter appearing on the relevant agenda.
- 16.3 Requests for deputations must be in writing and supported by the signatures of at least five and no more than 24 citizens (deputations with more than 24 signatures will be treated under the Petition Scheme) or representatives of local organisations or businesses in Barnet. The signatories must clearly state their names and post code/qualifying education/business address. The request must explain why a deputation is required.
- 16.4 The request must be given to Head of Governance by 10am on the third working day prior to the meeting, although the Committee or sub-committee on the grounds of urgency can waive this requirement.
- 16.5 Those persons nominated to speak should also be signatories to the original written request to make a deputation. All may speak but the total length of the speeches from the deputation must not exceed three minutes.
- 16.6 The deputation shall be heard at the beginning of the meeting. The Chair has complete discretion to move any items that are subject to a deputation on the agenda.
- 16.7 The total time for deputations at the meeting will be no more than 20 minutes.

## **16.8 Responses to Deputations**

- 16.8.1 The Committee may respond to deputations in the following ways:
- 16.8.1.1 To note the deputation and take no action.
  - 16.8.1.2 To vote on the substantive report taking into account the deputation.
  - 16.8.1.3 Ask officers to prepare a report for the next meeting (of either this committee or another relevant committee) on the deputation.
  - 16.8.1.4 Ask officers to provide a written response to the deputation.

## **17. Public Questions and Comments**

### **17.1 Comments**

- 17.1.1 Written comments must specify the item of business on the agenda which they relate to. Committee agendas are published on the Council's website five clear working days prior to the meeting. Citizens should state their road and postcode when submitting comments. Each written comment is limited to 100 words. Written comments should be submitted to the relevant Governance Officer by 10am on the third working day prior to the meeting. Any written comments received after this time will not be considered. A citizen may submit one written comment per agenda item. Written comments will be reported to the committee and published alongside the agenda papers for the meeting.

### **17.2 Public Questions**



- 17.2.1 Questions must specify the item of business on the agenda which they relate to. Committee agendas are usually published on the Council's website five clear working days prior to the meeting. Citizens should state their road and postcode when submitting questions. Each question is limited to 100 words.
- 17.2.2 Questions should be submitted in writing to the relevant Governance Officer by 10am on the third working day prior to the meeting. Any questions submitted after this time will not be considered.
- 17.2.3 Questions will be answered by the Chair in the meeting in order of receipt, alternating between citizens. Citizens will be able to ask one supplementary question per question answered.
- 17.2.4 Questions will be published prior to the meeting. Any additional questions received will be not be accepted. Citizens submitting questions are able to send a substitute to ask their question if they are unable to attend the committee meeting.
- 17.2.5 The Governance Officer supporting the meeting should be made aware of this prior to the meeting commencing.
- 17.2.6 Any questions that are not answered at the meeting will be given a written response at the discretion of the Chair.

**18. Procedure for Questions at Committees**

- 18.1 At committee meetings a time period of up to 20 minutes is available for public questions in total.
- 18.2 Questions will be asked in order of receipt.

**19. Restrictions for Deputations and Public Questions**

- 19.1 Public questions or comments are not permitted:
  - 19.1.1 If they don't relate to a substantive item on the agenda
  - 19.1.2 If they are defamatory, abusive or offensive.
  - 19.1.3 If submitted from Council employees or trade unions on employment matters; Members of staff may lead or join deputations only in their capacity as local electors and on issues other than those affecting their employment with the Council.
  - 19.1.4 If they would result in the release of confidential information, or which may prejudice enforcement.
  - 19.1.5 If they relate to a matter where there is a right of appeal against any decision of the Council.
  - 19.1.6 If they have been submitted by someone who has been deemed to be subject to the Management of Unreasonable Complainant Behaviour Policy and they relate to the particular subject matter for which the policy was imposed;
  - 19.1.7 If they are received from people who are not Barnet citizens;
  - 19.1.8 At the Strategic Planning Committee and Planning Committees on Town and Country Planning applications (a separate procedure is detailed in section 31.5).

Public questions are permitted at the Strategic Planning Committee on planning policy matters;

- 19.1.9 If they relate to the making / confirmation of Tree Preservation Orders, as the procedure for making objections or representations is prescribed by the Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012. The Chair of the relevant Committee or Sub-Committee, in consultation with the Head of Governance, shall decide whether any particular question, comment or issue will be permitted.

## **20. Confidential Business**

- 20.1 All reports, other documents, information, discussions and proceedings of a Committee or sub-committee which are marked Exempt under Schedule 12A of the Local Government Act 1972, or Confidential must be treated as such by all Members of the Committee or sub-committee. Members of the public will not have access to these papers and discussions. Confidential or exempt items will be marked as such and the relevant part of Schedule 12A will be specified on the document. Confidential and/or exempt items will be discussed in 'Part II' of the Committee or sub-committee meeting following a resolution to exclude the press and public.

## **21. Voting**

### **21.1 Majority**

- 21.1.1 Unless Statute or this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and seated in the room at the time the question was put. Voting shall be by a show of hands or electronic voting.

### **21.2 Chair's Casting Vote**

- 21.2.1 If there is an equal number of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

### **21.3 Individual Recorded Vote and Explanation for Vote**

- 21.3.1 If, immediately before the vote is taken, any Member present at the meeting requests that his or her vote be recorded as voting for or against or not voting, it shall be so recorded in the minutes.
- 21.3.2 A recording of a vote or abstention in the minutes of the meeting shall be made without explanation save that in cases where it is necessary for the avoidance of ambiguity a brief note may be added at the Member's request explaining that Member's reason for voting or not voting.

### **21.4 Recorded Vote by Roll Call**

- 21.4.1 If immediately before an ordinary vote is taken three Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

## **22. Minutes**

### **22.1 Signing the Minutes of Committees or Sub-Committees**

22.1.1 The Chair will sign the minutes of the proceedings at the next meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only aspect of the minutes that may be discussed is their accuracy.

**22.2 Minutes of Decisions of Committees or Sub-Committees**

22.2.1 Minutes of Committees or sub-committees shall be published on the Council's intranet and website.

**22.3 Production of Minutes**

22.3.1 Minutes of the meetings of Committees or sub-committees will normally be published within five clear working days of the date of the meeting.

**23. Record of Attendance**

23.1 All Members present during the whole or part of a meeting will be recorded in the minutes. If a member leaves during a meeting or joins a meeting part way through this will be recorded in the minutes.

**24. Exclusion of the Public**

24.1 Members of the public and press may only be excluded either in accordance with Rule 11 of the Access to Information Procedure Rules in Part 4G of this Constitution or under Rule 24 (Disturbance by the Public).

**25. Members' Conduct**

**25.1 Precedence of Chair**

25.1.1 When the Chair speaks during a debate, any Member speaking at the time must stop speaking. The meeting must be silent.

**25.2 Member not to be heard further**

25.2.1 If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further during the consideration of that item of business. If seconded, the motion will be voted on without discussion.

**25.3 Member to leave the Meeting**

25.3.1 If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leave the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

**25.4 General Disturbance**

25.4.1 If there is a general disturbance, making business impossible, the Chair may adjourn the meeting for as long as they think necessary.

**26. Disturbance by the Public**

**26.1 Removal of Member of the Public**

26.1.1 If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

**26.2 Clearance of Part of a Meeting Room**

- 26.2.1 If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

**27. Adjournment**

- 27.1.1 Following an order by the Chair for one or more members of the public to leave the meeting room, if they deem it necessary in the interests of public safety and for the safety of Members and officers present, the Chair may adjourn the meeting for as long as they think necessary.
- 27.1.2 If it is considered expedient so to do, the Chair with the agreement of the Members present may adjourn the meeting for such duration as is considered appropriate.

**28. Ruling of the Chair on Interpretation of these Rules**

- 28.1 The Chair's ruling on the interpretation or application of any of the Committee Procedure Rules is final.

**29. Membership of the Planning Committees and Licensing & General Purposes Committee**

- 29.1 The requirements set out in this Procedural Rule shall apply to Members and substitute or replacement Members serving on the Planning and/or Licensing & General Purposes Committee.
- 29.2 In nominating Members to serve on the Planning and/or Licensing & General Purposes Committee the political Groups will have regard to those Members of Council who have received the relevant training in the statutory roles of the Committee. A register of those Members who have completed training shall be kept by the Head of Governance and updated periodically by them as future Members are trained.
- 29.3 Members who are not trained may not serve on the Planning and/or Licensing & General Purposes Committee.
- 29.4 Where an application is recommended for refusal by the Chief Planning Officer but the Planning Committee or Strategic Planning Committee is minded to approve ('grant') the application, the application will be deferred to the next meeting of the Planning Committee or Strategic Planning Committee to enable re-notification to take place and give an opportunity for objectors to the application and the applicant to attend the subsequent meeting and make representations and for a rehearing of the application to take place.

**30. Additional rules for Planning Committee**

- 30.1 Requests to speak about an application on the Planning Committees agenda should be submitted to the relevant Planning Case Officer by 10am on the third working day prior to the meeting.
- 30.2 In addition to any Councillor and the Applicant (or their representative) two citizens may speak. Such speakers shall be one for and one against the application unless there is no citizen wishing to speak for the application in which case two citizens may speak against the application, or no citizen in objection in which case two citizens may speak in support of the application.
- 30.3 At the meeting, each speaker will have a time period of up to 3 minutes to address the committee. Committee members will then have the opportunity to question the speaker.

30.4 Citizens who have requested to speak are able to send a substitute to make their representation if they are unable to attend the committee meeting. The Governance Officer supporting the meeting should be made aware of this prior to the meeting commencing.

30-430.5 The Chair or three Members of Planning Committees A or B may refer an item to the Strategic Planning Committee for determination by indicating before any decision is made on the item that they wish to refer the item and providing reasons for the referral.

30-530.6 Where an application being considered by a Planning Committee is referred to the Strategic Planning Committee for determination, the speaking rights of members of the public who have registered to speak on the application or item will automatically transfer to the Strategic Planning Committee.

30-630.7 Speaking rights will also automatically transfer where an application has been deferred or adjourned to a future meeting of Planning Committees, but only if the speakers have not already addressed the committee on the deferred or adjourned item. In cases where the membership of the committee which considers the deferred or adjourned application is different from the committee which originally heard the application, then the application should be fully re-heard including speakers.

30-730.8 Public speaking arrangements do not apply to an item relating to the making / confirmation of a Tree Preservation Order as this would be contrary to the legislative procedure for making objections and/or representations.

### **31. Additional Rules for Overview and Scrutiny**

31.1 The rules below are specific to the Overview and Scrutiny Committee.

### **32. Membership of the Overview and Scrutiny Committee**

32.1 All Councillors except members of the Executive may be Members of the Overview and Scrutiny Committee and any Overview and Scrutiny sub-committees.

32.2 No member may be involved in scrutinising a decision in which they have been directly involved.

32.3 The Overview and Scrutiny Committee will comprise such members as the Council shall determine, including the Chairs of the Scrutiny sub-committees and will also include two voting parent governor representatives and two voting "church" representatives.

32.4 Members of the Overview and Scrutiny Committee will be appointed by Council in accordance with the rules on political proportionality.

32.5 Appointed representatives of the "church" and parent governors shall be voting members of the Overview and Scrutiny Committee including call-in. They are entitled to vote on any matter relating to an education function of the Authority. They are entitled to speak but not vote on any other matter.

### **33. Scrutiny Sub-Committees**

33.1 The Overview and Scrutiny Committee may appoint Sub-Committees. as set out below. Subject to Council approval, the Overview and Scrutiny Committee may discontinue any of these sub-committees and/or appoint alternative sub-committees. The Overview and Scrutiny Committee may also amend the terms of reference of the sub-committees as appropriate, such changes to be reported to Council.

- 33.2 Where the Overview and Scrutiny Committee seeks to discontinue or appoint sub-committees, it should consult interested parties as appropriate.
- 33.3 The Sub-Committees will comprise such Councillors as appointed by Council.
- 33.4 The terms of reference of the sub-committees are set out in the Allocation of Responsibilities in Part 3 of the Constitution.
- 33.5 Membership of the sub-committees will be subject to the political proportionality rules.
- 33.6 The appointment of parent governor representatives to the Children and Education Overview and Scrutiny Sub-Committee will be carried out in accordance with the requirements of the Parent Governor Representatives (England) Regulations 2001.
- 33.7 The appointment of “church” representatives to the Overview and Scrutiny Committee will be carried out in accordance with the requirements of Local Government Act 2000.
- 33.8 The sub-committees may appoint advisers to the sub-committees. Such advisers will not be members of the sub-committees and cannot vote.

#### **34. The Call-In Sub-Committees**

- 34.1 The Council will appoint a Call-In Sub-Committee to consider and comment on decisions of the Executive and to process matters “called-in”.
- 34.2 The Call-In Sub-Committee will comprise five Members of the Overview and Scrutiny Committee.
- 34.3 The Rules for call-in are detailed in below and Appendix 1.

#### **35. Meetings of the Overview and Scrutiny Committee and its Sub-Committees**

- 35.1 The Call-In Sub-Committee shall be convened as and when required.
- 35.2 In exceptional circumstances, the Chair, or if they are not available the Vice-Chair, may change the date or start time of any meeting, cancel or postpone any meeting or call any additional meeting by seeking and gaining the agreement of a majority of Members of the Committee.

#### **36. Work Programme**

- 36.1 The Overview and Scrutiny Committee will consider its outline work programme, and that of the Overview and Scrutiny sub-committees, at its first meeting following the Annual Meeting of Council, except in years where there are whole borough elections, where the work programme will be considered at the first suitable meeting.
- 36.2 In setting the outline work programme, account will be taken of the need to scrutinise forthcoming policy, for example, the budget and other major policies or strategies in development, whilst leaving flexibility to allow additional items to be added to the agendas for committees and sub-committees and to commission task and finish group reviews during the year in response to new requests for scrutiny.
- 36.3 The Overview and Scrutiny Committee will report the agreed outline work programme to the first available ordinary meeting of the Council.

#### **37. Setting the agenda for meetings**

- 37.1 The Chair of the Overview and Scrutiny Committee or the relevant Overview and Scrutiny sub-committees will be responsible for approving the agenda for each meeting.
- 37.2 The Chair of the meeting will decide on all matters of order, relevance and interpretation of these procedures.
- 37.3 The Chair will have the power to vary the order of business to give precedence to any item of business.
- 37.4 Any voting member of the Overview and Scrutiny Committee or the Overview and Scrutiny sub-committees is entitled by giving at least seven clear working days notice before the meeting to the Monitoring Officer or Head of Governance, that they wish an item relevant to the functions of the Committee or sub-committees to be included on the agenda. The Monitoring Officer or Head of Governance will ensure that the matter is included on the agenda.
- 37.5 The Overview and Scrutiny Committee shall consider whether it is appropriate to respond to requests from the Council and the Executive, to review particular areas of Council activity.

**38. Overview and Scrutiny Committee and Sub-Committees Responsibilities**

- 38.1 The role of the Overview and Scrutiny Committee and Overview and Scrutiny sub-committees in relation to the development of the Council's budget and policy framework is set out in the Budget and Policy Framework Procedure Rules in this Constitution.
- 38.2 Overview and Scrutiny Committee and Sub-Committees have the following powers and responsibilities:
  - 38.2.1 Review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive.
  - 38.2.2 Make reports or recommendations to Full Council or the Cabinet with respect to the discharge of any functions which are the responsibility of the executive.
  - 38.2.3 Review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive.
  - 38.2.4 Make reports or recommendations to Full Council or the Cabinet with respect to the discharge of any functions which are not the responsibility of the executive.
  - 38.2.5 Make reports or recommendations to Full Council or the Cabinet on matters which affect the borough or its inhabitants.
  - 38.2.6 Review or scrutinise the performance of anybody carrying out any function on behalf of or in partnership with the Council.
  - 38.2.7 Commission in depth evidence-based reviews via informal Task and Finish Groups.
  - 38.2.8 Produce and publish an annual report for consideration by Full Council.
  - 38.2.9 To review the policy framework, and budget of the council as set out in the Budget and Policy Framework.

38.3 In relation to the development of the Council's policy on matters which do not form part of the budget and policy framework, the Overview and Scrutiny Committee and/or Scrutiny sub-committees may make proposals to the Executive or the Council for developments in so far as they relate to matters within their terms of reference.

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

39.1 Once it has formed proposals for policy development, the Overview and Scrutiny Committee or sub-committee will prepare a formal report and submit it:

39.1.1 to the Executive, if the proposals are consistent with the existing budgetary and policy framework, or

39.1.2 to the Executive and to the Council, if the recommendations would require a departure from or change to the agreed budget and policy framework.

39.2 If the Overview and Scrutiny Committee or sub-committee cannot agree on one single final report, then any two Members of the relevant committee may prepare a minority report to be submitted for consideration by the Executive or Council together with the majority report.

### **40. Consideration of Overview and Scrutiny reports by the Executive and/or the Council**

40.1 The Council or Executive (as appropriate) shall consider a report of the Overview and Scrutiny Committee or sub-committees within 8 weeks of it being published, or at its next meeting, whichever is the sooner.

40.2 Where reports are sent to the Executive or Portfolio Holder from the Overview and Scrutiny Committee or sub-committees the Executive or Portfolio Holder will have 8 weeks from the date of the reference for them to respond to the Overview and Scrutiny Committee or Scrutiny sub-committees.

40.3 When the Council meets to consider a matter referred from the Overview and Scrutiny Committee or Scrutiny sub-committees, it shall also consider any response of the Executive to the proposals of the Overview and Scrutiny Committee or Scrutiny sub-committees.

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

41.1 The rights of access to documents of Members of Overview and Scrutiny Committees and Sub-Committees are set out in section 23 of the Access to Information Rules (Part 4G)

### **42. Holding Members and Chief Officers to Account**

42.1 In fulfilling the scrutiny role, the Overview and Scrutiny Committee and Scrutiny sub-committees may require the Leader of the Council and any other member of the Executive or Chief Officer to attend before the Committee to explain:

42.1.1 any particular decisions or series of decisions;

42.1.2 the extent to which the actions taken implement Council policy; and/or

42.1.3 their performance.

42.2 Where required to attend, it is the duty of that Member or Chief Officer to do so subject to them having been given reasonable notice.



42.3 Where the account to be given to the Committee or sub-committee will require the production of a report, the Member or Chief Officer concerned will be given sufficient notice to allow for the preparation of that documentation.

42.4 Where, in exceptional circumstances, the Member or Chief Officer is unable to attend on the required date, the Monitoring Officer or Head of Governance, in consultation with the Chair and the Member or Chief Officer concerned, shall arrange an alternative date for attendance.

#### **43. Attendance at the Overview and Scrutiny Committee and Scrutiny Sub-Committees**

43.1 The Overview and Scrutiny Committee and Scrutiny sub-committees may invite any other person to address the Committee or sub-committees. It may, for example, wish to discuss issues of local concern with citizens, partners, Members and officers from other public sector or private sector organisations.

43.2 The Overview and Scrutiny Committee or Scrutiny sub-committees may invite any person to attend, but attendance (except for Chief Executives of Health Authorities) is entirely optional.

#### **44. Call-in**

44.1 Call-in is the process whereby a key decision of the Executive, Officer, Portfolio Holder or any Joint Committee (where it has taken a decision delegated to it by the Executive) taken but not implemented, may be examined by the Overview and Scrutiny Committee prior to implementation. They may recommend that the Executive reconsider the decision. For the avoidance of doubt a decision may only be subject to the call-in procedure once.

#### **44.2 The process for call-in**

44.3 Five Members of the Council can call in a decision of the Executive, which has been taken but not implemented.

44.4 Decisions of the Executive shall not be implemented for 5 clear working days following the publication of the decision and a decision can only be called in during this period. This Rule does not apply to urgent decisions. The notice of the decision will state the date on which the decisions may be implemented if not called in.

44.5 Call-in must be by notification to the Monitoring Officer or Head of Governance in writing signed by all five Members

#### **45. Requirement to Give Reasons**

45.1 A notice seeking to invoke the call-in procedure must state at least one of the following grounds in support of the request for a call-in of the decision:

45.1.1 inadequate consultation with stakeholders prior to the decision;

45.1.2 the absence of adequate evidence on which to base a decision;

45.1.3 the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework;

45.1.4 the action is not proportionate to the desired outcome;

45.1.5 a potential human rights challenge, failure to consider the public sector equality duty or not in accordance with or which undermines the Council's corporate parenting responsibilities;

45.1.6 insufficient consideration of legal and financial advice.

45.1.7 The decision was a key decision and not labelled as such.

#### **46. Referral to the Call-In Sub-Committees**

46.1 Once a notice invoking the call-in procedure has been received the decision may not be implemented until the designated members (as defined in Appendix 1) have considered the guidance outlined in Appendix 1 and if required, the Call-In Sub-Committee has considered the decision. The Monitoring Officer or Head of Governance shall in consultation with the Chair arrange a meeting of the Call-In Sub-Committee to be held within seven clear working days of the receipt of the request for call-in.

46.1.1 Where the Call-In Sub-Committee fails to meet within seven clear working days of the call-in request being received by the Monitoring Officer, the decision may be implemented on the day following twelve clear working days from the date the decision was published.

46.1.2 Where the Call-In Sub-Committee meets within seven clear working days of the receipt of notification of a call-in request, but fails to refer the matter back to the Executive or Joint Committee, the decision may be implemented on the day following the Call-In Sub-Committee meeting.

46.1.3 No Member who has signed a call-in notice may sit as a member of the Call-In Sub-Committee which considers that call-in notice.

#### **47. Process for Consideration of Called-in Items at the Call-In Sub-Committee**

47.1 The Call-In Sub-Committee will consider the decision and the reasons for call-in. The Sub-Committee may invite the relevant Cabinet Member and a representative of those calling in the decision to provide information at the meeting.

47.2 The Sub-Committee may come to one of the following conclusions:

47.2.1 that the challenge to the decision should be taken no further and the decision may be implemented;

47.2.2 that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget framework, and should therefore be referred to the Council. In such a case the Call-In Sub-Committee must set out the nature of its concerns for Council; or

47.2.3 that the matter should be referred back to the decision taker (i.e. the Executive or Joint Committee) for reconsideration. In such a case the Call-In Sub-Committee must set out the nature of its concerns for the decision taker/Executive.

#### **48. Referral - Back under Rule**

48.1 In the event of a referral-back, the Executive or Portfolio Holder must reconsider the decision within ten clear working days of that referral or at the next meeting of Cabinet. The original decision may then be confirmed or amended in the light of the comments of the Call-In Sub-Committee.

#### **49. Referral to Council**

49.1 In the event that the Call-In Sub-Committee refers the matter to Council, the decision shall be discussed at the next ordinary meeting of Council.

- 49.2 The Council when considering the matter may conclude:
- 49.2.1 that the challenge to the decision should be taken no further and the decision may be implemented;
  - 49.2.2 that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget and cannot therefore be implemented; or
  - 49.2.3 that the matter should be referred back to the Executive, Portfolio Holder, officer or Joint Committee for reconsideration. In such a case the Council must set out its reasons for the referral; or
  - 49.2.4 acknowledge that the decision is contrary to the policy framework, or contrary to or not wholly in accordance with the budget framework, but approve an amendment to the particular policy or budget to allow the decision to be implemented.

**50. In the event of a referral back to the Executive**

- 50.1 The Executive must reconsider the decision at its next meeting (consideration should be given to the holding of a special meeting if the issue is considered to now be sufficiently urgent). The Executive can either:
- 50.1.1 confirm the original decision and report back to the next meeting of the Overview and Scrutiny Committee;
  - 50.1.2 amend or alter the decision in the light of the comments of the Call-In Sub-Committee and report back to the next meeting of the Overview and Scrutiny Committee or sub-committee.
- 50.2 The decision may be implemented as soon as the original Executive decision is confirmed or amended by the decision taker.

**51. Call-in and Urgency**

- 51.1 The call-in procedure set out above shall not apply where the decision being taken by the Executive is an urgent decision. 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.
- 51.2 The record of the decision, and notice by which it is made public, shall state that the matter is considered one of urgency, and will thus not be subject to call-in.
- 51.3 The Chair of the Overview and Scrutiny Committee must agree that the decision proposed is reasonable in the circumstances and should be treated as a matter of urgency.
- 51.4 In the absence of the Chair of the Overview and Scrutiny Committee, the consent of the Vice-Chair of the Overview and Scrutiny Committee is required.
- 51.5 Decisions taken, as a matter of urgency must be reported by the Monitoring Officer to the next available meeting of the Council, together with the reasons for urgency.

**52. Task and Finish Group Reviews**

- 52.1 Overview and Scrutiny Committee may conduct reviews via informal Task and Finish Groups but the findings must be reported back to the relevant Committee or Sub-Committee.

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- 52.2 In conducting Task and Finish Groups they may also ask people to attend to give evidence at their meetings.
- 52.3 Task and Finish Groups will be carried out in accordance with the principles set out in the Protocol for Member/Officer Relations in Part 5 of the Constitution.
- 52.4 Following any Task and Finish Group review, a report will be submitted to the relevant Committee or sub-committees for onward submission to the Executive.

## Appendix 1

### Overview and Scrutiny Sub-Committees Call-In Procedure: Guidance

This Guidance is written for all members to consider when calling in a decision made by the Executive. The Guidance has been prepared to prevent abuse of the call-in process, and to promote the efficient use of the Council's resources.

The Overview and Scrutiny Committee shall delegate authority to the designated Members (see below) to consider requests for Call-In received in accordance with the Council's constitution, except where either or both of the designated Members have signed the call-in notice (see below).

In the event that the designated Members fail to reach agreement on whether a request should be called in, the request for a Call-In shall automatically pass to the Call-In Sub-Committee for consideration.

#### (1) Call in by Members of Council

The Guidance will be relied upon by the Chair and Vice Chair of the Overview and Scrutiny Committee. These Members will be the designated Members for the purpose of this Guidance<sup>1</sup> when considering a request for call in by Members of the Council. If either of the designated Members has signed a call-in notice they will not take part in the consideration of the request for call-in and it will be considered by the other Member alone. If both designated Members have signed a call-in notice the request for a Call-in shall automatically pass to the Call-In Sub-Committee for consideration.

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<sup>1</sup> When the Chair and Vice-Chair of the Overview and Scrutiny Committee belong to the same political group, the designated members for the purposes of this Guidance only shall be the lead or nominated member from the next largest political group.

### Reasons for refusal

The designated Member(s) must ensure that the requirement to give reasons under the Committee Procedure Rules (“the Rules”) as contained in the Council’s Constitution is met. In the event that the requirements are met, the following guidance shall be used when considering a request for call-in to the Call-In Sub-Committee:

1. **Time limit** - A decision may only be called-in during the period of 5 clear working days from the date of publication of the executive decision.
2. **Financial and Political implications** - Only Key decisions may be called in.
3. **Duplication** - The Call-In Sub Committee should not be used when another forum or route is available to deal with concerns about an Executive decision, such as the Standards Committee or Appeals Committee
4. **Relevance** - The Call-in request must be of direct relevance to the Decision being called-in.
5. **Process** - Have the requisite 5 Members requested the call-in (for matters impacting a particular ward, a ward Councillors must be included in the 5 signatures). This guidance about ward councillors does not apply where: all ward councillors are members of the Executive, or where there are vacancies in that ward which mean that the only ward members are members of the executive at the time of the call in.)~~Have the requisite 5 Members requested the call-in (for matters impacting a particular ward, the ward Councillors must be included in the 5 signatures)~~
6. **Vexatious Requests** - Can the request be reasonably construed as vexatious having regard to tone, content, language, persistence etc.
7. A decision that can no longer be implemented should not be called in.

The list above is not exhaustive and occasionally additional and different reasons may be relied upon to reject a request for a call in. If this is the case, a review of this Guidance will be carried out to ensure that it remains up to date and of assistance to members.

The designated Member(s) should consider each of the above factors fully when considering a request for call-in, and in the event of refusal, reasons shall be provided which refer to the above categories.