



# **Part 4 Overview & Scrutiny Procedure Rules**

# Overview & Scrutiny Procedure Rules

## 5.0 Principles of Scrutiny

South Hams District Council aims to have a scrutiny function which adheres to the Centre for Public Scrutiny's four principles of good public scrutiny, as set out below:

- Provides critical challenge to Executive policy makers and decision makers;
- Enables the voice and concerns of the public to be heard;
- Is carried out by 'independent minded governors' who lead and own the scrutiny role; and
- Drives improvement in public services.

## 5.1 Terms of reference

The Council will appoint an Overview & Scrutiny Panel. The functions of the Panel are outlined in Part 3 (Delegations Scheme).

## 5.2 Officers

The Overview & Scrutiny Panel will have administrative support and be able to call on other relevant officer support and external expertise where necessary.

## 5.3 Annual Report

The Overview & Scrutiny Panel must report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

## Code of Conduct Hearing Panels

The Overview and Scrutiny Panel will have responsibility for appointing a Code of Conduct Panel which will have a specific role in the determination of Member Code of Conduct Complaints (including Town and Parish Council Members) in accordance with the Council's adopted procedure for dealing with Code of Conduct complaints.

## 4.1 Membership

The Code of Conduct Panel shall consist of three Members, with a fourth Member being appointed in a substitute capacity.

#### **4.2 Quorum**

The Quorum shall be three councillors.

#### **4.3 Meetings**

The Code of Conduct Hearings Panel will be convened as necessary

#### **4.4 Training**

Code of Conduct Hearing Panel members must have received appropriate training as agreed by the Monitoring officer before they can determine Code of Conduct complaints

## 1. General arrangements

1.1 The Council will have one Overview & Scrutiny Panel as set out in Article 5 ~~and will appoint to it as it considers appropriate from time to time.~~

1.2 The Overview & Scrutiny Panel may appoint ~~Task and Finish Groups which will be time limited. It will appoint members to the Task and Finish Groups from the Panel or any Members with the appropriate knowledge or expertise which can assist with the relevant topic. It may also co-opt Non Voting Members from the general public who may have specialist knowledge of the subject under consideration to help inform the group working groups (or Task and Finish Groups) which shall be time limited.~~

1.3 The number of Members of the Overview & Scrutiny Panel shall be determined at the annual council meeting.

1.4 The Overview & Scrutiny Panel shall be convened in conformity with the Council's Procedure Rules and the Access to Information Rules. ~~Task and Finish Working~~ groups will meet informally, to help inform the Scrutiny process and may submit reports to the Scrutiny Panel.

## 2. Functions

The functions of the Panel are outlined at Part 3: Delegation Scheme. Notably, these functions include responsibility for the standards regime in accordance with the Localism Act.

## 3. Who may sit on the Scrutiny Panel?

All councillors, except Members of the Executive and the Development Management Committee, are eligible to sit on the Overview & Scrutiny Panel which will comprise 13 Members.

## 4. Co-optees

The Overview & Scrutiny Panel shall be entitled to co-opt up to two people at any time (including members of the public), ~~to sit on Task and Finish Groups.~~ The appointment of Co-optees shall be time limited and at the discretion of the Overview & Scrutiny Panel. Co-optees will not be able to vote.

## 5. Overview & Scrutiny Panel Meetings

5.1 There shall be at least eight ordinary meetings of the Overview & Scrutiny Panel in each year. This will not prevent the ability to convene additional meetings and other informal sessions as necessary to deliver the pre-agreed work programme. However, the frequency and number of meetings and informal sessions shall not overstretch the resource of the Council. Meetings shall be called by the Head of Paid Service ~~in consultation with the Chairman of the Overview and Scrutiny Panel.-~~

5.2 An extraordinary meeting of the Overview & Scrutiny Panel may also be called by the Chairman of the Panel, by any four members of the

Panel or by the Monitoring Officer if he/she considers it necessary or appropriate.

5.3 Cancellation of any meeting shall be with the agreement of the Chairman.

## 6. Quorum

6.1 The quorum for the Overview & Scrutiny Panel shall be seven.

6.2 During any meeting, if the Chairman counts the number of Members present and declares that there is not a quorum present, then the meeting will adjourn immediately. Any remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 7. Who chairs meetings?

The Chairman and Vice-Chairman of the Overview & Scrutiny Panel shall be appointed by the Council. Without limiting the discretion of the Council, consideration shall be given to the selection of a Chairman on ability and expertise without reference to party political affiliation.

## 8. Production of Work Programmes

The Scrutiny function will, early in each Municipal Year, produce a work programme for the Overview & Scrutiny Panel for that year. The Panel will keep the work programme under review during the course of the year. The work programme will be devised having regard to the resources available, time constraints of Members and officers and the interests of the local community.

The views of all non-Executive Members will be taken into account when agreeing the work programme, including the views of the Members who are not Members of the largest political group on the Council. Executive Members may also be consulted on issues included within the work programme.

In determining which matters to review, regard will be given to the Policy Development and Review Programme, the Executive Forward Plan, other reports and any other relevant persons or bodies.

The Work Programme must be flexible enough to take account of changing circumstances throughout the Municipal Year. This flexibility will also allow for those recently implemented decisions of the Executive to be monitored and scrutinised.

All Members of the Council will have access to the published Executive Forward Plan. The Overview & Scrutiny Panel will be entitled to give its views to the Executive as part of the consultation process in relation to any key decision even where an item has not been the subject of detailed consideration by the Overview & Scrutiny Panel during a scrutiny review.

Any Council Member, officer or member of the public can request that consideration be given to an agenda item being scheduled on to the work

programme for the Overview and Scrutiny Panel through the completion of a Scrutiny Proposal Form (as attached at Appendix A).

In the first instance, completed Proposal Forms must be submitted to the Democratic Services – Senior Specialist. Once received, completed Forms will be considered by a Panel comprising of the Head of Paid Service and the Chairman and Vice-Chairman of the Overview and Scrutiny Panel., and the lead O&S officer.

9. **Agenda items: Scrutiny**

~~Any Council Member, officer or member of the public can request that consideration be given to an agenda item being scheduled on to the work~~

~~programme for the Overview and Scrutiny Panel through the completion of a Scrutiny Proposal Form (as attached at Appendix A).~~

~~In the first instance, completed Proposal Forms must be submitted to the Democratic Services – Senior Specialist. Once received, completed Forms will be considered by a Panel comprising of the Head of Paid Service and the Chairman and Vice-Chairman of the Overview and Scrutiny Panel.~~

~~The Panel will consider a completed Form within 7 working days of its receipt.~~

~~In the event of the Panel not being able to reach a consensus view on the merits of a Proposal Form, the decision will ultimately rest with the Chairman of the Overview and Scrutiny Panel.~~

~~The Democratic Services – Senior Specialist will advise the author of the Form whether or not their potential agenda item will be considered by the Overview and Scrutiny Panel. If an item has been agreed for future consideration, it will be scheduled on to the first reasonable available agenda thereafter.~~

~~The Overview & Scrutiny Panel shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Executive to review particular areas of Council activity. Where it does so, the Overview & Scrutiny Panel shall report its findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Overview & Scrutiny Panel within one month of it being submitted to the Head of Paid Service or at the next available meeting thereafter.~~

## 10. Policy review and development

10.1 The role of the Overview & Scrutiny Panel, in relation to the development of the Council's budget and policy framework, is set out in detail in the Budget and Policy Framework Procedure Rules.

10.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview & Scrutiny Panel may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.

10.3 The Overview & Scrutiny Panel may hold enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research, and do all other things that they reasonably consider necessary to inform their deliberations. ~~They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisors, assessors and witnesses a reasonable fee and expenses for doing so.~~

## 11. Reports on policy proposals

11.1 Once it has formed recommendations on proposals for policy development, the Overview & Scrutiny Panel will prepare a formal report and submit it ~~to the Head of Paid Service~~ for consideration by the

Executive, or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

~~11.2 If the Overview & Scrutiny Panel cannot agree on one single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.~~

11.3 The Council or Executive shall consider such report(s) of the Scrutiny Panel within two months of being submitted to the Head of Paid Service.

## 12. Rights of Scrutiny Members to documents

12.1 In addition to their rights as Councillors, Members of the Overview & Scrutiny Panel have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

12.2 Nothing in this paragraph prevents more detailed liaison between the Executive and Scrutiny as appropriate depending on the particular matter under consideration.

## 13. Councillors and Officers giving account

13.1 The Overview & Scrutiny Panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation in fulfilling the scrutiny role, it may require a Member of the Executive, assisted by the Head of Paid Service and/or any senior officer, to attend before it to explain in relation to matters within their remit:

- i) any particular decision or series of decisions which have either been taken already or are to be taken in due course;
- ii) the extent to which the actions taken implement Council policy; or iii) their performance,

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

13.2 Where any councillor or officer is required to attend the Scrutiny Panel under this provision, the Chairman will inform the Head of Paid Service. The Head of Paid Service shall inform the councillor or officer in writing giving at least five 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. Where the account to be given to the Scrutiny Panel will require the production of a report, then the councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation.

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

13.4 A Member of Council (who is not a Member of the Panel) may attend and partake, subject to prior notice being given to the respective Chairman.

#### 14. **Attendance by others**

14.1 The Overview & Scrutiny Panel may also invite people, other than those people referred to in paragraph 16 above, to address them, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and councillors and officers in other parts of the public sector and shall invite such people to attend.

14.2 Members of the public may make written submissions on agenda items under consideration by 5.00 pm three working days before the meeting (ie the Monday before a Thursday meeting). The Chairman can subsequently choose to invite the person.

#### 15. **Call-in**

Call-in by the Overview & Scrutiny Panel should only be used in exceptional circumstances. These are where non-Executive Members have evidence which suggests that the Executive did not take a decision in accordance with the principles set out in Article 11 (Decision Making).

- (a) The operation of the provisions relating to call-in and urgency shall be monitored regularly, and a report submitted to Council with proposals for review if necessary.
- (b) The process begins with the distribution of the Executive agenda which will give all councillors the opportunity to examine items for discussion and clarify issues before meetings.
- (c) When a decision is made by the Executive, or a key decision is made by an officer with delegated authority from the Executive, 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 normally within three working days of being made. Decisions will be ~~published~~sent to all councillors within the same timescale.
- (d) The decisions will indicate the date on which decisions will come into effect unless:
  - i) called-in;
  - ii) they are adjudged to be not in accordance with the Council policy or budget framework (see Policy and Budget Framework Procedure Rules – paragraphs 3, 4 and 5) and the decision falls to be referred to Council or is urgent and otherwise satisfies paragraph 4 of the Policy and Budget Framework Procedure Rules or where paragraph 7 of those Rules has been triggered.

- (e) A decision will normally come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the Scrutiny Panel objects to it and calls it in (except in cases of urgency and special urgency as defined in the Access to Information Procedure Rules).
- (f) During that period, the Head of Paid Service shall call-in a decision for the Overview & Scrutiny Panel if so requested by the Chairman or any three Members of the Panel or four other Members of the Council, and shall then notify the decision-taker of the call-in. Members who wish to call-in a decision are required to seek guidance from the Monitoring Officer on the veracity of their stated grounds for the call-in and demonstrate that they have been mindful of the advice they have received when deciding whether or not to proceed. The Head of Paid Service shall refer the matter to the next available meeting of Scrutiny.
- (g) Those councillors calling-in will need to specify the reasons for the call- in.
- (h) When the relevant Executive minutes are put before the Overview & Scrutiny Panel, together with the advice from the Monitoring Officer on the grounds for the call-in, the councillors who called in the decision shall have the right to attend and speak. The Leader of the Council and/or relevant Executive Members shall be invited to attend to explain the basis for the decision ~~but may then be asked to leave~~. They may choose also to make submissions in writing. Relevant officers shall also be invited to attend.
- (i) If, having considered the decision, the Overview & Scrutiny Panel is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration setting out in writing the nature of its concerns or refer the matter to the next full Council meeting or, if urgent, to a Special Council meeting. If referred to the decision maker they shall then reconsider within a further ten working days, amending the decision or not, before adopting a final decision.
- (j) If following an objection to the decision, the Scrutiny Panel meets but does not refer the matter back to the decision-making person or body or refer it to full Council, the decision shall take effect on the date of the Scrutiny Panel meeting whichever is the earlier.
- (k) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision, unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision- making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive, a meeting will be convened to reconsider within fifteen working days of the Council request.

- (l) If Council does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting.
- (m) The call-in procedure set out above shall not apply where the decision being taken is urgent as defined in the Access to Information Procedure Rules. 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**

There is a presumption that a party whip shall not be applied to matters considered by non-executive members when engaged in processes of the Scrutiny function.

## 17. **Procedure at the Overview & Scrutiny Panel**

The Overview & Scrutiny Panel shall consider the following business:

- i) Minutes of the last meeting;
- ii) Declarations of interest;
- iii) Public forum;
- iv) The most recently published Executive Forward Plan;
- v) Its future agenda items work programme;
- vi) Consideration of any matter referred to Scrutiny for a decision in relation to call in of a decision;
- vii) Updates on the progress made by working groups within its remit;
- viii) Responses of the Executive or Council where relevant to reports of the Panel;
- ix) Requests from the Executive for policy development work;
- x) The business otherwise set out on the agenda for the meeting.

## 18. **Conduct towards invitees to the Overview & Scrutiny Panel meetings**

18.1 Where the Overview & Scrutiny Panel conducts investigations and asks people to attend to give evidence at meetings, these are to be conducted in accordance with the following principles:

- i) That the investigation be conducted fairly and all councillors be given the opportunity to ask questions of attendees, and to contribute and speak;
- ii) That those assisting 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.

18.2 Following any investigation or review, the Overview & Scrutiny Panel shall prepare a report for submission to the Executive and/or Council as appropriate, and shall make its report and findings public.

### **5.4 Public Forum**

### (a) General

Members of the public may raise issues and ask questions at meetings of the Overview & Scrutiny Panel in relation to the current agenda items (and in accordance with the O&S rules in Part 4). This session will last for up to fifteen minutes at the beginning of each meeting.

### (b) Notice of Questions

An issue or question may only be raised by a member of the public provided that they have given written notice (which may be by electronic mail) to the Democratic Services Lead Specialist by 5.00 pm on the Monday prior to the relevant meeting.

### (c) Scope of Questions

An issue may be rejected by the Monitoring Officer if:

- it relates to a matter within the functions of the Development Management Committee;
- it is not about a matter for which the local authority has a responsibility;
- it is offensive, frivolous or defamatory;
- it is substantially the same as a question which has previously been put in the past six months; or
- it requires the disclosure of confidential or exempt information.