

## **C. Overview and Scrutiny Procedure Rules**

### **1 The Overview and Scrutiny Committee**

- 1.1 The Shadow Council will have one Overview and Scrutiny Committee as set out in Article 6 of the Constitution.
- 1.2 The Overview and Scrutiny Committee will consult with other parts of the Shadow Council as appropriate, including the Shadow Executive Committee, on the preparation of any work programme.
- 1.3 The Overview and Scrutiny Committee will take into account any views expressed following consultation under Rule 1.2 above in drawing-up and agreeing any work programme. It should also take into account the resources, both officer and financial, available to support its proposals.
- 1.4 Once any programme has been approved, a copy will be sent to all Members of the Shadow Council and all relevant officers.
- 1.5 The Overview and Scrutiny Committee shall respond, as soon as it may consider it is possible to do so, to requests from the Shadow Council and the Shadow Executive Committee, to review particular areas of Shadow Council activities. Where it does so, it will report its findings and any recommendations back to the Shadow Executive Committee and/or Shadow Council in accordance with Rule 4 below.

### **2 Agenda for meetings of the Overview and Scrutiny Committee**

- 2.1 Matters to be considered will be set out in an Agenda, together with appropriate and relevant supporting papers.
- 2.2 Any member of the Committee shall be entitled to require, in writing, that an item be included on the agenda, and such item shall appear on the agenda for the next meeting of the Committee in question. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 2.3 Similarly, the Leader or a Portfolio Holder may give notice in writing requiring an item to appear on an agenda of the Overview and Scrutiny Committee, relating to their area of responsibilities. The Overview and Scrutiny Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 2.4 Subject to Shadow Council Procedure Rule 27 and Appendix 5 of the Shadow Council Procedure Rules, any other Shadow Councillor may give notice in writing to the Interim/Appointed Monitoring Officer, requesting an item to appear on an agenda of the Overview and Scrutiny Committee. The item shall be included after consulting the Chair of the Overview and Scrutiny Committee.

- 2.5 Any Shadow Councillor raising an item under Rules 2.2, 2.3 or 2.4 above shall be precluded from raising the matter again for a period of 12 months from the date it is considered by the Committee.

### **3 Policy Review and Development**

- 3.1 The Overview and Scrutiny Committee has a key role in policy and budget development in the approach to the creation of The West Northamptonshire Council.

### **4 Reports from the Overview and Scrutiny Committee**

- 4.1 Once recommendations have been formed, the Overview and Scrutiny Committee may submit a formal report for consideration by the Shadow Executive Committee or where the Leader has delegated decision-making to a Portfolio Holder, the Portfolio Holder (if the proposals relate to an executive function and are consistent with the existing budgetary and policy framework), or to the Shadow Council as appropriate (if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- 4.2 The Shadow Council or the Shadow Executive Committee shall consider the report of the Overview and Scrutiny Committee within two months (or next available meeting in the case of the Shadow Council) of it being submitted.
- 4.3 Where the Overview and Scrutiny Committee submit a report for consideration by a Portfolio Holder, the Portfolio Holder must consider the report and respond in writing to the Overview and Scrutiny Committee within two months of receiving it. The Portfolio Holder will also attend a future meeting of the Overview and Scrutiny Committee to present their response.

### **5 Access to the Forward Plan**

- 5.1 The Overview and Scrutiny Committee will have access to the Shadow Executive Committee's Forward Plan and timetable for decisions and intentions for consultation.

### **6 Rights of Overview and Scrutiny Committee members to documents**

- 6.1 In addition to their rights as Shadow Councillors, members of the Overview and Scrutiny Committee have the additional right of access to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

### **7 Shadow Councillors and Officers giving account**

- 7.1 The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Shadow

Council function. As well as reviewing the documentation, in fulfilling its scrutiny role, it may require the Leader or any Portfolio Holder, to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Shadow Council policy; and/or
- (c) their performance,

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

- 7.2 Where the Overview and Scrutiny Committee requires an officer to attend to answer questions or discuss issues, this will be agreed with the lead officer of the Central Implementation Team.

Where it is agreed that an officer should appear to answer questions, their evidence should, as far as possible, be confined to questions of fact and explanation relating to policies and decisions. Officers may explain:-

- (a) what the policies are;
- (b) the justification and objectives of those policies as the Shadow Executive Committee sees them;
- (c) the extent to which those objectives have been met; and
- (d) how administrative factors may have affected both the choice of policy measures and the manner of their implementation.

- 7.3 Officers may be asked to explain and justify advice they have given to the Shadow Executive Committee prior to decisions being taken. They may also be asked to explain and justify decisions they have taken under delegation powers from the Shadow Executive Committee.

- 7.4 Officers should not be expected and should avoid being drawn into discussions of politically contentious matters and any officer input should be consistent with the requirements for political impartiality.

- 7.5 The requirements of any protocols on Member/Officer relationships and the Code of Conduct must be adhered to where an officer is attending the Overview and Scrutiny Committee.

- 7.6 Where any Shadow Councillor or Officer is required to attend the Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Interim/Appointed Monitoring Officer, who will inform the Shadow Councillor or Officer in writing giving at least ten clear working days' notice of the meeting. The notice will state the nature of the item on which he/she is required to attend

to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Overview and Scrutiny Committee will require the production of a report, then the Shadow Councillor or Officer concerned will be given reasonable and sufficient notice to allow for its preparation.

- 7.7 Where, in exceptional circumstances, the Shadow Councillor or Officer is unable to attend on the required date, then the Committee shall, in consultation with the Shadow Councillor or Officer, arrange an alternative date for attendance.

## **8 Attendance by others**

- 8.1 The Overview and Scrutiny Committee may invite individuals other than those referred to in Rules 7.1 and 7.2 to address it, discuss issues of local concern and/or answer questions.

## **9 Call-in**

- 9.1 Call-in is the exercise of the Overview and Scrutiny Committees' statutory power in section 21(3) of the Local Government Act 2000 to review an Executive 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 Executive for reconsideration, it cannot be implemented until the call-in procedure is complete.

- 9.2 Any decision of the Shadow Executive, an individual member of the Shadow Executive or a committee of the Shadow Executive, or a Key Decision made by an officer under authority delegated by the Shadow Executive, is subject to call-in. A decision may be called in only once. A recommendation by the Shadow Executive by the Shadow Council may not be called in.

- 9.3 The call-in procedure and the powers to refer a decision back for reconsideration may only be exercised by the Overview and Scrutiny Committee, within the remit of their respective terms of reference.

- 9.4 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 set out elsewhere within this Constitution.

- 9.5 The Call-In Procedure

9.5.1 Once made, an Executive decision shall be published, in the form of a decision note, within two working days at the Council's main offices and on its public website. The decisions digest will be sent to all members of the Council within the same timescale.

9.5.2 The decisions digest will bear the date on which it is published and will specify that the decision will be effective on the expiry of 5 clear working days after the publication of the decision and may then be implemented,

unless called in under this provision within that 5 clear working day period. The deadline for a call-in request will be specified in the decisions digest.

- 9.5.3 Requests for call-in may be made by the submission of a notice in accordance with paragraph 9.5.4 below. A request shall only be considered to be valid if it is signed by at least 7 members of the Council (5% of the total number of members) who are not members of the Shadow Executive.
- 9.5.4 A call-in request must be in the form of a written notice submitted to the Monitoring Officer and received before the published deadline. Either one notice containing all required signatures or up to 7 separate e-mails (as appropriate) will be acceptable.
- 9.5.5 The notice must set out (a) the resolution or resolutions that the member(s) wish to call in; (b) the reasons why they wish the Overview and Scrutiny committee to consider referring it back to the Executive, with particular reference to the principles of decision making set out within Article 11 (Decision Making); and (c) the alternative course of action or recommendations that they wish to propose.
- 9.5.6 The call-in request will be deemed valid unless either:-
- a) The procedures set out in Procedure Rules 9.5.3 to 9.5.5 above have not been properly followed;
  - b) A similar decision has been called in to the committee previously;
  - c) The Executive decision has been recorded as urgent in accordance with Paragraph 10 below; or
  - d) The Monitoring Officer, in consultation with the Chair of the relevant Overview and Scrutiny Committee, considers the call-in to be frivolous, vexatious or clearly outside the call-in provisions; in which case the Monitoring Officer may reject the call-in request.
- 9.5.7 Before deciding on its validity, the Monitoring Officer may seek clarification of the call-in request from the member(s) concerned.
- 9.5.8 Upon deciding on its validity, the Monitoring Officer shall forthwith notify the member(s) concerned, the Leader of the Shadow Council and Shadow Executive Member, the Chair and Vice-Chair of the Overview and Scrutiny Committee and the Interim/Appointed Head of Paid Service.
- 9.6 Consideration by the Overview and Scrutiny Committee
- 9.6.1 The Monitoring Officer will ensure that any valid call-in is reported to the next available meeting of the Overview and Scrutiny Committee, or will convene a special meeting if so agreed by the Chair of the Overview and Scrutiny Committee and the decision taker.
- 9.6.2 The members submitting the request for call-in will be expected to attend

the meeting of the relevant Overview and Scrutiny committee to explain their reasons for the call-in and the alternative course of action or recommendations they wish to propose.

9.6.3 Having considered the call-in and the reasons given, the Overview and Scrutiny Committee may either:-

- a) 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;
- b) If it considers that the decision is outside the Shadow Council's budget and policy framework, refer the matter to full Shadow Council after seeking the advice of the Interim Monitoring Officer and/or Interim Section 151 Officer in accordance with the Budget and Policy Framework Procedure Rules; or
- c) Decide to take no further action, in which case the original Executive decision will be effective immediately.

9.7 Decisions Referred Back to the Decision-Maker

9.7.1 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 and Scrutiny Committee, and make a final decision, amending the decision or not, and give reasons for the decision.

9.7.2 If a decision relates to an Executive function only the Shadow Executive can ultimately decide the matter, provided that it is in accordance with the Council's budget and policy framework.

## **10 Call-In and Urgency**

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

- a) A call-in would prevent the Shadow Council reaching a decision that is required by statute within a specified timescale; or
- b) Any delay likely to be caused by the call-in process would seriously prejudice the Shadow 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.

10.2 The decision note shall state whether the decision is an urgent one, and therefore not subject to call-in.

10.3 The Chair of the Overview and Scrutiny committee must agree to the decision being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair of the Overview and Scrutiny Committee's consent shall be required. In the absence of that person, the Chair of the Shadow Council's consent shall be required. In the absence of the Chair of the Shadow Council, the Vice-Chair of the Shadow Council's consent shall be required.

- 10.4 Where the Shadow Executive has recorded a decision as urgent, the Overview and Scrutiny Committee may retrospectively review actions arising from that decision but cannot delay its implementation.

## **11 Councillor Call for Action**

- 11.1 Any member of the Shadow Council may submit a Councillor Call for Action using the appropriate form. The Councillor Call for Action is intended to be a process of last resort and therefore a member must demonstrate that reasonable steps have been taken to resolve the matter including a response from the relevant Portfolio Holder and the Interim/Appointed Head of Paid Service or his/her nominee. The Councillor Call for Action will be placed on the agenda of the Overview and Scrutiny Committee. It is for the Overview and Scrutiny Committee to determine how it wishes to respond to the Councillor Call for Action and in the case of refusal to undertake a review then reasons must be provided.

## **12 The Party Whip**

- 12.1 It is generally accepted that the Party Whip should be suspended in respect of Scrutiny matters. However, when considering any matter in respect of which a member of the Overview and Scrutiny Committee is subject to a formal party whip, the Shadow Councillor must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the Minutes of the meeting.

## **13 Task and Finish Panels**

- 13.1 The Committee may appoint such task and finish panels as it considers appropriate to undertake specific tasks on its behalf, with the same powers as the Committee. Whilst these will be on a task and finish basis in most cases, the Committee is not precluded from establishing such Panels on a more permanent basis subject to regular review. Task and finish panel members do not have to be members of the Overview and Scrutiny Committee, but may not be members of the Shadow Executive Committee.
- 13.2 Where the Committee establish any Panel under Rule 13.1 above, it will set out the name of the Panel, its membership (including the Chair and, if appropriate, the Vice-Chair) and the terms of reference including relevant dates for completion of the task or review.

## **14 Procedure at Overview and Scrutiny Committee Meetings**

- 14.1 The Overview and Scrutiny Committee shall consider the following business:
- (a) record of the last meeting;

- (b) consideration of any matter referred to the Committee by the Shadow Council or by the Shadow Executive Committee;
- (c) consideration of any matter referred to the Committee for advice in relation to call-in or a decision;
- (d) responses of the Shadow Executive Committee on reports of the Overview and Scrutiny Committee; and
- (e) the business otherwise set out on the agenda for the meeting.

14.2 Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at its meetings, which are to be conducted in accordance with the following principles:

- (a) the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) those assisting the Committee by giving evidence be treated with respect and courtesy; and
- (c) the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

14.3 Following any investigation or review, the Committee shall prepare a report for submission to the Shadow Executive Committee and/or Shadow Council as appropriate and shall, unless there are exceptional reasons, make its report and findings public.