

## **To the Chair and Members of the ELECTIONS & DEMOCRATIC STRUCTURES COMMITTEE**

### **REVIEW OF OVERVIEW & SCRUTINY PROCEDURE RULES/TERMS OF REFERENCE**

#### **EXECUTIVE SUMMARY**

1. This report provides an opportunity for the Committee to consider the proposed changes to the Overview and Scrutiny Procedure Rules (OSPRs) and Terms of Reference for Overview and Scrutiny Panels as proposed by the Overview and Scrutiny Management Committee (OSMC). The purpose of the review is to streamline processes and improve openness and accountability and ensure the Constitution remains up to date.
2. Initial discussions took place with the Chairs and Vice Chairs of OSMC/Standing Panels during 2009 in response to changes arising from the Local Government and Public Involvement In Health Act 2007 and Local Democracy Economic Development and Construction Act 2009. This issue was considered further at a workshop for OSMC Members on 24<sup>th</sup> August 2010 where they were invited to give their views on specific aspects of the procedure rules. The Chair and Vice Chair of OSMC, Scrutiny Manager and Assistant Director of Legal and Democratic Services also met with Members of the Cabinet on 8<sup>th</sup> December to discuss these changes and where they may have an impact on the Executive. The proposed changes were considered further by the OSMC on 12<sup>th</sup> January 2011 and the Standards Committee on 16<sup>th</sup> February 2011. Any relevant feedback from the Standards Committee meeting will be reported verbally to Members.
3. A full text of the Overview and Scrutiny Procedure Rules (OSPR) and Terms of Reference are attached at Appendices A and B with proposed changes identified in the shaded text. Detailed within the body of this report is a commentary giving reasons for the proposed changes. Minor and grammatical changes are not included in the body of this report but are highlighted in the full OSPRs at Appendix A.
4. The recommendations agreed by OSMC will need to be considered by the Elections and Democratic Structures Committee and Standards Committee before consideration and approval by Full Council.

#### **RECOMMENDATION**

5. The Committee is asked to consider and comment on the draft Overview and Scrutiny Procedure Rules, prior to their submission to Full Council for approval.

#### **BACKGROUND**

6. Detailed below are the key areas where changes are being proposed. Appendix A lists the complete section of Overview and Scrutiny procedure rules with proposed changes incorporated. As a general rule any reference to OSMC establishing the

membership and agreeing the Chairs and Vice Chairs of standing Panels has been amended to reflect that with effect from June 2009 this function has been undertaken by Full Council. This is shown in the Appendices but to avoid repetition within the body of this report is not detailed on each occasion. Any proposed changes (deletions and insertions) are highlighted within the relevant text below.

7. In accordance with Article 15.03 of the Council's Constitution, Part 4 (Rules of Procedure) can only be amended by approval of the Full Council after consideration of a proposal by the Standards Committee or a report from the Monitoring Officer and may be amended by a resolution of a simple majority of Members present at the Council meeting. Part 3 relating to Terms of Reference may be amended by Council following a simple majority following proposals by the Chief Executive and/or the Monitoring Officer. Ultimately any proposals recommended by the OSMC will be submitted to the Elections and Democratic Structures Committee and the Standards Committee for further consideration before seeking approval at Council.

8. **A. PROPOSED CHANGES TO OVERVIEW AND SCRUTINY PROCEDURE RULES**

- 1. Arrangements For Overview and Scrutiny***

- (b) ~~Overview and Scrutiny Management Committee~~ **and/or The Full Council** will establish such **standing** Overview and Scrutiny Panels as are necessary with terms of reference set out in Part 3 of the Constitution **and delegate any in year changes to OSMC, having regard to any requirement for political balance.**  
(These Panels are Sub-Committees of the Council constituted under Sections 101 and 102 of the Local Government Act 1972.)

- 2. Membership of Overview and Scrutiny Panels and Management Committee.***

- (c) ~~The Full Council and/or Overview and Scrutiny Management Committee~~ may appoint, to any Overview and Scrutiny Panel, such **standing voting and or non-voting** co-optees as it believes will enhance the process of Overview and Scrutiny **and delegate any in year appointments to OSMC.**

9. Procedure Rule 1(b) confirms the current arrangement that full Council will appoint to OSMC and the Panels whilst allowing OSMC to agree any in year changes e.g. Members wishing to change Panels etc. Any changes of this type would be made in consultation with the relevant group leader and would ensure that political balance on the Panels was maintained. It is recommended that this principle is also applied to OSPR 2(c) whereby OSMC may make any in year appointments to those co-optees who have voting rights on the Scrutiny Panel with education within its terms of reference.
10. Procedure Rule 2(c) reflects the changes to establishing the membership of Overview and Scrutiny Panels in that full Council will also approve the appointment of any co-opted members with or without voting rights to Overview and Scrutiny Panels should this be required. OSMC would agree any in year changes e.g. to respond to resignations etc. The Local Government Act 2003, Part 8, Chapter 1, Section 115 allows the Authority to appoint additional co-opted Members with voting

rights. These appointments would allow Scrutiny to include the necessary expertise on its membership without impacting on the political proportionality of the Panels. However, in order to do this the Council needs to establish a scheme for co-option this would include such issues as limitations to voting rights for co-optees, term of office, impacts on quorum etc. The views of OSMC Members have been sought and at present there is no desire to co-opt additional members on to the Panels or OSMC. The proposed amendment to the procedure rule would allow this to be undertaken in future if required.

11. It is proposed that the OSMC will agree the appointment of any additional non voting Members that may be appointed after Annual Council has determined the membership of the standing Panels.

## 12. **6. Work Programme**

(b) *Overview and Scrutiny Management Committee will periodically consider how matters affecting the area and/or its inhabitants which are not functions of the Full Council, for example. This will include healthcare provision, Policing and crime and disorder reduction and the activities of the Local Strategic Partnership, particularly the Health Improvement Plan.*

13. This amended paragraph has been reworded to take account of the fact that the Health Improvement Plan no longer exists and also there is a greater focus on Scrutiny to work collaboratively with and review the activities of the NHS and a range of partners who are responsible for the delivery of LAA targets and local services. The Police and Justice Act 2006, Part 3, Section 19 and The Crime and Disorder (Overview and Scrutiny) Regulations 2009 provide a requirement for Scrutiny to consider decisions or actions of the responsible authorities for crime and disorder functions not less than once in every twelve month period.

## 14. **7. Agenda Items**

(a) *Meetings of Overview and Scrutiny Management Committee will conduct the following business...*

(x) *any matters referred to it by any Member or co-opted Members of any standing or ad hoc Overview and Scrutiny Panel including any issues that are referred in accordance with the Councillor Call for Action process.*

(xi) *any matters referred to it by a tenants and Residents Association, Community Forum, Health Agencies, Patients Forum and other partnership groups. Any matters referred by the Doncaster Federation of Tenants and Residents Associations or executive bodies of health Agencies or other partnerships that are of a strategic nature and are not eligible for consideration as part of any appeals process.*

(xii) *any matter referred to it in accordance with the Council's petition scheme.*

15. Reference to the Councillor Call for Action (CCfA) is made to distinguish between the very local and specific issues that may be raised by Members under the CCfA process and any requests to consider wider more strategic work plan issues. The revision at 7.(a)(x) of "any Member" also addresses an omission from the original

procedure rule as currently procedure rule 7.(a) would allow co-opted Members to refer issues to OSMC but not elected Members.

16. The proposed amendment at (xi) reflects Scrutiny's work within a wider partnership environment. During consultation with OSMC Members they were clear that issues referred by partners or agencies should be of a wider strategic matter rather than an individual, local or specific issue that could be dealt with through other processes. It was also suggested that referrals should be made through an organisation's Executive body rather than local branches or sub groups.
17. In respect of (xii) above, The Local Democracy Economic Development and Construction Act 2009 require every local authority to publish a scheme detailing how it will respond to petitions (Chapter 2, s 10 – 22). Within that scheme there are a number of requirements that relate specifically to Overview and Scrutiny and these are that Overview and Scrutiny may:
  - Review any petition that has been considered in accordance with the scheme.
  - convene a meeting to hold a chief officer of the Council to account where the requisite number of signatures have been received.
  - undertake investigations into an issue identified through the petition scheme.
18. This change was approved by the Full Council on 29<sup>th</sup> November, 2010 when it considered a report on "Revisions to the Council's Petition Scheme and Implementation of an e petition scheme".

(c) *Meetings of Overview and Scrutiny Panels will conduct the following business:.....*

*(viii) any matters referred to it by any Member or co-opted Member of the Council or its Committees and Sub-Committees including any issues that are referred in accordance with the Councillor Call for Action process.....*

*(x) Any matters referred by the Doncaster Federation of Tenants and Residents Associations or executive bodies of health Agencies or other partnerships that are of a strategic nature and are not eligible for consideration as part of any appeals process.*

*(xi) any matter referred to it in accordance with the Council's petition scheme.*

19. These proposed amendments relate to the standing Panels and replicate the proposed changes that apply to the OSMC as detailed above.

### **The Call In Group**

20. Members will note that the Overview and Scrutiny Procedure Rules provide for the establishment of a Call In Group which can meet as required to consider whether an Executive decision taken but not yet implemented should be called in and considered by the OSMC. In practice the Call In Group has not met in the last five years as Members have preferred to use the direct route for calling in Executive decisions i.e. the completion of a form signed by 5 Members who do not all belong to

the same political group. The views of OSMC Members were sought as to whether they believed the Call In Group should continue. Having discussed this issue and taken advice from officers, they supported the view that the Call In Group should be abolished. Members believed that this Group did not serve any purpose as Members preferred to Call decisions in using the direct route and it had not met for a significant amount of time. If supported by Council OSPRs 9 b) – e) would be deleted and the following amendments would be made to the procedure rules to recognise this.

(f) The following Executive decisions will be notified to ~~the call-in group~~ **all Members** by the Chief Executive:

- (i) all decisions by the Mayor
- (ii) all decisions of the Cabinet
- (iii) all decisions of a Committee of the Cabinet
- (iv) all decisions by individual Executive Members
- (v) key decisions delegated by the Executive to Officers

within 2 days of the decision being taken.

(g) Executive decisions will not be implemented for 7 working days from the date they are notified. This period shall be known as the “call-in period”. Executive decisions will state the end of the call-in period and the name of the person responsible for implementing the decision.

(h) At any time during the call-in period any ~~3 Members of the call-in group irrespective of the size of the call-in group may call in an Executive decision by signing a notice in a form approved by the Council for this purpose and delivered to the Proper Officer. Electronic signatures will be acceptable for this purpose. Alternatively any 5 Members of the Council may trigger a call-in, provided that not all the Members are from the same Political Group,~~ **by satisfactorily completing and signing a form approved by the Council for this purpose and delivered to the Proper Officer within the required timescales.**

21. It is recommended that the Proper Officer (detailed at (h) be the Council’s designated scrutiny officer). In practice the Scrutiny Manager has received notification of called in decisions and liaised closely with Members, the Chief Executive, Monitoring Officer and relevant Director’s to ensure the process is followed.

## 22. **9 Scrutiny of decisions (“Call In”)**

(i) **If the OSMC refers the decision back to the Executive with a recommendation(s) the Executive may:**

- i. Accept the recommendation in full or in part and amend its decision accordingly.
- ii. Decide that further work needs to be undertaken and defer the item until this is completed. The OSMC should be kept informed of the work as it progresses and be formally notified of when it is to be reconsidered;
- iii. Not accept the view of OSMC and confirm its original decision.,
- iv. Refer the issue for discussion at the next appropriate Council meeting.

(j) The Executive will respond in writing to OSMC's recommendations. If it decides not to follow OSMC's recommendation(s) ((m) iv above) it will clearly state its reasons for not doing so.

(k) The called in decision will be implemented upon receipt of a written response from the Executive to the Chair of OSMC and the Proper officer confirming the decision as there is no scope for further review or challenge.

23. As it is currently drafted, the Constitution details the process to be undertaken in respect of calling in decisions. The Constitution is silent however, on how the Executive responds to the recommendations of OSMC following consideration of a called in decision. Paragraph (i) above details the response that may be given by the Executive. Common practice among a number of other local authorities has shown that there is a further delay on the implementation of a called in decision until it has been formally considered by the Executive at a Cabinet meeting as this gives some clarity to the process. To provide some expediency and clarity it is proposed that a formal written response is given to OSMC clarifying the outcome of the Executive's consideration and the decision be formally implemented once this response has been received by the Chair of OSMC and copied to the Proper Officer (this could be the Council's designated Scrutiny Officer).
24. Introducing this requirement would potentially mean that the decision is further delayed until the response is received however, this would provide greater clarity openness and transparency within the decision making process particularly when it can be implemented and the reasons why a particular decision has been taken.
25. Should Council agree that the Call In Group should be disbanded in accordance with the proposals above, the following amendment relating to the Budget and Policy Framework Procedure Rules should also be considered:

## **8. Call-In of decisions outside the Budget or Policy Framework**

- (a) The Call-In Group may, under Rule 9 of the Overview and Scrutiny Rules call in a decision which they believe to be outside the Budget and Policy Framework.

### **Change to:**

- (a) Under Rule 9 of the Overview and Scrutiny Procedure Rules, 5 members of the Council, providing they are not all from the same political group, may call in a decision which they believe to be outside the budget and policy framework.

This proposal will ensure a level of consistency within the Constitution between both the Overview and Scrutiny and the Budget & Policy Framework Procedure Rules.

26. **15. Matters within the Terms of Reference of More than One Overview and Scrutiny Panel**

(c) *Where there is uncertainty over which Panel should take the lead in reviewing an issue that falls within the remit of more than one Overview and Scrutiny Panel the matter shall be referred to the OSMC for determination.*

27. This proposal allows clarity for Overview and Scrutiny in determining which Panel should lead on considering a cross cutting issue where there is any uncertainty.

28. **17. Consideration of Reports of Overview and Scrutiny Management Committee or Panels**

(e) *Where the recommendations are published by Overview and Scrutiny the Executive or authority must publish its response within two months of receiving the notification from Scrutiny. Any exempt or confidential information must be excluded from publication but should be summarised if this would make the response incomprehensible or misleading.*

29. This takes account of Part 5, Chapter 2, S122 of the Local Government and Public Involvement in Health Act 2007 which seeks to promote accountability and transparency by requiring the Executive to publish responses to Overview and Scrutiny recommendations where these have also been published. Currently Overview and Scrutiny Management Committee and Panels publish all correspondence between Scrutiny and the Executive. As well as promoting openness and accountability this provides an opportunity for Scrutiny to challenge outcomes or request further information from the Executive. It is worth noting that two months is the maximum time for response to be received. In practice the Scrutiny Panels and OSMC request a response within a month of sending the recommendations and these are included within the following OSMC/Panel meeting and published with the agenda.

30. **19. Best Value, Service Reviews and Inspections**

*The Overview and Scrutiny Management Committee will:-....*

(c) *take into account the programme of inspections, Best Value and Service Reviews and the outcome of any completed inspections or Reviews in planning and carrying out its functions.*

31. Members may wish to consider emphasising Overview and Scrutiny's role in performance monitoring and driving service improvements by specifically reflecting on its role in considering and reviewing the outcomes of inspections as part of its ongoing work programme. Although no Best Value reviews have been undertaken in recent years they are still referred to in the primary legislation relating to Overview and Scrutiny i.e. Section 21 of the Local Government Act 2000 therefore it is proposed that this remains within the procedure rules at present.

32. **23. Annual Quarterly Report to Full Council and the Executive**

(b) *The Chair of Overview and Scrutiny Management Committee will take a half*

*yearly update report to Full Council to provide an overview of the work being undertaken by Overview and Scrutiny and progress against any priorities set out in the Annual Report.*

33. This proposed change would provide a sharper focus to Overview and Scrutiny. Currently a number of update reports are presented to Council for consideration, but very little debate and discussion takes place in relation to these. A six monthly report would allow a more effective opportunity to track progress of Overview and Scrutiny against any priorities set out in its Annual Report and a greater scope for debate and discussion to take place in respect of its performance and impact.

## **B. Terms of Reference**

34. Amendments have been made to this section to reflect Full Council's role in appointing to the OSMC and where necessary the standing Scrutiny Panels. Terms of Reference for Overview and Scrutiny Management Committee and the standing Panels are contained within Part 3 of the Constitution.
35. Following the enactment of Section 19 of the Police and Justice Act 2006 it is recommended that an additional terms of reference be agreed for the Panel with responsibility for considering crime and disorder issues. Currently this is the Safer, Stronger and Sustainable Community Panel. The additional terms of reference address the key elements contained within Section 19 of the Police and Justice Act 2006. Members are asked to note that this legislation gives Scrutiny the power to require the attendance of partners from the Crime and Disorder Reduction Partnership to attend its meetings to provide evidence and answer questions.

36. **PANEL RESPONSIBLE FOR OVERVIEW AND SCRUTINY OF CRIME AND DISORDER REDUCTION**

*In addition to the Terms of reference detailed above at 1-4 this Panel will also include the following terms of reference.*

- 5. Review or scrutinise decisions made, or other action taken in connection with the discharge by the responsible authorities who comprise the local Crime and Disorder Reduction Partnerships (i.e: the Police, the Police Authority, Fire and Rescue Authority and PCT).*
- 6. To make reports and recommendations to the responsible authorities with respect to the discharge of those functions.*
- 7. To require the attendance of an officer of the responsible authority.*
- 8. To consider the activities of the CDRP at least once in every 12 month period.*
- 9. To consider any Councillor Calls For Action relating to crime and disorder issues.*

## **OPTIONS CONSIDERED**

37. This report contains a range of changes to Overview and Scrutiny procedure Rules and other areas of Overview and Scrutiny detailed within the Constitution which are in accordance with recent legislative changes and best practice.



38. The option not to review and refresh the Constitution with these changes would potentially leave the Constitution out of date and not responsive to new changes and legislative requirements.

### **REASONS FOR RECOMMENDED OPTION**

39. The proposals have been put forward for consideration in order to provide clarity within the Overview and Scrutiny function and to ensure the Constitution reflects the most recent legislative updates and best working practices within Overview and Scrutiny.

### **IMPACT ON THE COUNCIL'S KEY OBJECTIVES**

40. Overview and Scrutiny has the potential to impact on all aspects of the Council's key objectives by holding decision takers to account, reviewing and developing policy through robust recommendations, and monitoring performance. Ensuring the Constitution accurately reflects the role, responsibility and remit of Overview and Scrutiny will contribute to good governance.

### **RISKS & ASSUMPTIONS**

41. There are no specific risks associated with this report as it provides the opportunity to update and enhance Constitutional arrangements for Overview and Scrutiny.

### **LEGAL IMPLICATIONS**

42. The legal implications are contained within the body of the report. In particular paragraph 7 details the process for agreeing changes to the Council's Constitution.

### **FINANCIAL IMPLICATIONS**

43. There are no specific financial implications associated with this report.

### **CONSULTATION**

44. The Chairs and Vice Chairs Liaison Group have previously discussed and considered the proposed changes to Overview and Scrutiny Procedure Rules during 2009. Further consideration was given to these issues by OSMC at a workshop session on 24<sup>th</sup> August 2010. Consultation with the Mayor and Cabinet took place on 8<sup>th</sup> December particular emphasis was given to O&S Procedure Rules 17 responding to Scrutiny recommendations and OSPR 10 responding to Call Ins. The proposed changes detailed within this report were agreed by the OSMC at its meeting on 12<sup>th</sup> January 2011 and considered by the Standards Committee on 16<sup>th</sup> February 2011.

### **BACKGROUND PAPERS**

45. Briefing to Overview and Scrutiny Chair and Vice Chairs Liaison Group 26<sup>th</sup> February 2009 Overview and Scrutiny Procedural Changes.  
Report to OSMC on 12<sup>th</sup> January 2011.  
Report to the Standards Committee on 16<sup>th</sup> February 2011

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## 1. Arrangements for Overview and Scrutiny

- (a) The Full Council will appoint an Overview and Scrutiny Management Committee with the terms of reference set out in Article 6.01.
- (b) ~~Overview and Scrutiny Management Committee~~ **and/or The Full Council** will establish such **standing** Overview and Scrutiny Panels as are necessary with terms of reference set out in Part 3 of the Constitution **and delegate any in year changes to OSMC, having regard to any requirement for political balance.** (These Panels are Sub-Committees of the Council constituted under Sections 101 and 102 of the Local Government Act 1972.)
- (c) Overview and Scrutiny Management Committee may establish such ad hoc Overview and Scrutiny Panels as it deems necessary from time to time.
- (d) The Chief Executive will maintain and publish an up to date list of ad hoc Overview and Scrutiny Panels and their terms of reference.

## 2. Membership of Overview and Scrutiny Panels and Management Committee.

- (a) The Mayor and Members of the Executive may not be Members of an Overview and Scrutiny Panel or Overview and Scrutiny Management Committee.
- (b) The **Full Council** will appoint the following co-optees to the Overview and Scrutiny Panel with education within its terms of reference, who so far as the law allows, have voting rights, **and delegate any in year changes to OSMC.**
  - (i) at least one Church of England Diocese representative
  - (ii) at least one Roman Catholic Diocese representative
  - (iii) between 2 and 5 parent governor representatives (to be elected in accordance with the Parent Governor Representatives (England) Regulations 2001)
- (c) ~~The Full Council and/or Overview and Scrutiny Management Committee~~ **may appoint, to any Overview and Scrutiny Panel, such standing voting and or non-voting co-optees as it believes will enhance the process of Overview and Scrutiny and delegate any in year appointments to OSMC.**  
This will normally include:
  - (i) Representatives of faiths other than those in (b) above
  - (ii) Representatives from further education institutions
- (d) Trades Union representatives, young people (and others not eligible to be co-opted onto the Committee or Panels) may be invited to attend as participating observers who may speak but not vote and may have more limited rights to access information.

- (e) Co-optees and invitees may be paid their reasonable expenses and subsistence allowances at the same rates as are payable to Elected Members.

### **3. Chairing Overview and Scrutiny Management Committee and Panels**

- (a) The Full Council will appoint the Chair and Vice-Chair of Overview and Scrutiny Management Committee.
- (b) Overview and Scrutiny Management Committee **or the Full Council** will appoint the Chair and Vice-Chair of *standing and ad hoc* Overview and Scrutiny Panels. *at all times ensuring that not all Chairs and Vice-Chairs are drawn from the same party group.*

### **4. Number and Timing of Meetings**

- (a) The Overview and Scrutiny Management Committee will meet at least 6 times per year on dates to be fixed at the Annual Council Meeting.
- (b) Further meetings of Overview and Scrutiny Management Committee may be called in accordance with Council Procedure Rules.
- (c) Overview and Scrutiny Management Committee may determine meetings of Overview and Scrutiny Panels or leave the calling of meetings to the Panel under Council Procedure Rules.
- (d) Meetings will be held at venues appropriate to the business of the meeting. Choice of venue will be designed to encourage attendance and participation, particularly by those with a disability or who use public transport.

### **5. Quorum**

The Quorum for Overview and Scrutiny Management Committee shall be 3.

### **6. Work Programme**

- (a) ~~Subject to matters being referred to it by the Full Council or the Executive,~~ Overview and Scrutiny Management Committee will determine its own work programme taking account of any matters referred to it by the Full Council or the Executive.
- (b) *Overview and Scrutiny Management Committee will periodically consider how matters affecting the area and/or its inhabitants which are not functions of the Full Council, for example. This will include healthcare provision, Policing and crime and disorder reduction and the activities of the Local Strategic Partnership. particularly the Health Improvement Plan.*
- (c) Subject to matters being referred to them by other parts of the Full Council, Overview and Scrutiny Management Committee or the Executive and any timetables laid down by those references Overview and Scrutiny Panels will determine their own work programmes.

- (d) Overview and Scrutiny Management Committee and Panels will ensure that the wishes of non voting Co-Optees, Invitees and Members of groups other than the largest Political Group are taken into account.
- (e) Terms of reference for ad hoc Overview and Scrutiny Panels are to be drafted by the Overview and Scrutiny Management Committee. The ad hoc Panel will comment on the draft terms of reference at its first meeting. Overview and Scrutiny Management Committee will receive recommendations from the ad hoc Panel prior to finally determining the terms of reference.
- (f) Overview and Scrutiny Management Committee will establish and agree an Overview and Scrutiny protocol to assist in the operation of its functions. This may be reviewed periodically.

## 7. Agenda Items

- (a) Meetings of Overview and Scrutiny Committee will conduct the following business:
  - (i) declarations of interest
  - (ii) consideration of minutes of the last meeting
  - (iii) A period of time not exceeding 20 minutes in total be allocated for statements from up to 5 members of the public who will be asked to give their name and address and interest/affiliation (if any). Statements should propose action(s) which may be considered or contribute to the future development of the Committee's Work Plan or relate specifically to an item on the agenda.
  - (iv) any matters referred to it by the call-in group
  - (v) any matters referred to it by the Executive
  - (vi) any matters referred to it by the Full Council or its Committees
  - (vii) any matter referred to it by the Monitoring Officer and/or Chief Finance Officer
  - (viii) any matters referred by a standing or ad hoc Overview and Scrutiny Panel
  - (ix) any matters referred to it by one or more Members of the Committee
  - (x) *any matters referred to it by **any Member or** co-opted Members of any standing or ad hoc Overview and Scrutiny Panel **including any issues that are referred in accordance with the Councillor Call for Action process.***
  - (xi) *any matters referred to it by a tenants and Residents Association, Community Forum, Health Agencies, Patients Forum and other partnership groups. Any matters referred by **the Doncaster Federation of Tenants and Residents Associations or executive bodies***

*of health Agencies or other partnerships that are of a strategic nature and are not eligible for consideration as part of any appeals process.*

*(xii) any matter referred to it in accordance with the Council's petition scheme.*

~~(xi)~~ ~~(xiii)~~ matters set out on the agenda for the meeting

~~(xii)~~ ~~(xiv)~~ Annually - an annual Overview Scrutiny Plan

~~(xiii)~~ ~~(xv)~~ The revised Forward Plan

~~(xiv)~~ ~~(xvi)~~ As necessary reports from Scrutiny Panel Chairs as to use of the urgency provisions

(b) The Proper Officer shall be responsible for publishing the agenda and shall consult with the Chair or Vice-Chair to avoid overloading any agenda.

(c) Meetings of Overview and Scrutiny Panels will conduct the following business:-

(i) declarations of interest

(ii) consideration of Minutes of the last meeting

(iii) a period of time not exceeding 20 minutes in total be allocated for statements from up to 5 members of the public who will be asked to give their name and address and affiliation (if any). Statements should propose action(s) which may be considered or contribute to the future development of the Panel's Work Plan or relate specifically to an item on the agenda.

(iv) any matters referred to it by the Executive

(v) any matters referred to it by the Full Council or its Committees

(vi) any matter referred to it by the Monitoring Officer and/or Chief Finance Officer

(vii) any matters referred to it by Overview and Scrutiny Management Committee OR another standing or ad hoc Overview and Scrutiny Panel

(viii) any matters referred to it by any Member or co-opted Member of the Council or its Committees and Sub-Committees *including any issues that are referred in accordance with the Councillor Call for Action process.*

(ix) matters set out in the agenda of the meeting.

(x) ~~Any matters referred by a Tenants and Residents Association, Community Forum, Health Agencies, Patients Forum and other partnership groups~~ *including patient and user groups,*

~~by a tenants and Residents Association, Community Forum, Health Agencies, Patients Forum and other partnership groups.. Any matters referred by the Doncaster Federation of Tenants and Residents Associations or executive bodies of health Agencies or other partnerships that are of a strategic nature and are not eligible for consideration as part of any appeals process.~~

~~(xi) any matter referred to it in accordance with the Council's petition scheme.~~

~~(xii) Review of progress/outstanding work programme.~~

## 8. Policy Review and Development

- (a) The role of Overview and Scrutiny Management Committee and Panels in relation to the development of the Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules. The rules include the process for referring Executive decisions wholly or partly outside the Budget and Policy Framework to the Full Council.
- (b) In relation to the review and development of policy other than in Budget and Policy Framework, Overview and Scrutiny Management Committee or Panels may receive requests from the Executive to undertake work and will also develop their own work programme.
- (c) In planning their workload Overview and Scrutiny Management Committee will have regard to its own Work Plan as well as The Forward Plan of key decisions in relation to policy review and development.
- (d) The planning of workloads will also take into account the programme of Best Value Reviews.

## 9. Scrutiny of Decisions ("Call-In")

- (a) Call-in is an exceptional step to be taken only when Members with the power to call in decisions consider it to be a proportionate step which will be of benefit to the delivery of services under the Budget and Policy Framework or will improve the decision making process.

~~(b) The call-in group will consist of:-~~

~~(i) The Chair and Vice-Chair of Overview and Scrutiny Management Committee;~~

~~(ii) The Chairs of standing Scrutiny Panels~~

~~Overview and Scrutiny Management Committee will ensure that at all times at least one Member of the call-in group is not a Member of the same Political Group as the other Members.~~

~~(c) Substitutes will be allowed for Members of the call-in group as follows:-~~

- ~~(i)~~ Overview and Scrutiny Management Committee will maintain a list of Members who may be called on as substitutes.
  - ~~(ii)~~ Any Member of the call-in group may notify the Managing Director in writing of a substitution at any time prior to the start of the period of the substitution.
  - ~~(iii)~~ The notice of substitution will specify the time and date on which the substitution starts and ends and will name the substitute.
  - ~~(iv)~~ Where a vacancy occurs in one or more of Chairs or Vice-Chairs which make up the call-in group the Chair or Vice-Chair of Overview and Scrutiny Management Committee may notify a substitute to fill the vacancy for call-in purposes following the procedure in ~~(iii)~~ above.
  - ~~(v)~~ A notice which would result in all Members of the call-in group being Members of the same Political Group will NOT be effective.
- ~~(d)~~ The call-in group is not a Committee of the Full Council. The Chair of the Overview and Scrutiny Management Committee may invite the Members of the call-in group to meet occasionally or regularly in public or private to discuss issues of interest and/or to take representations about decisions of the Executive from other Members of the Council and/or interested parties.
- ~~(e)~~ The Chief Executive will assist the call-in group in making arrangements for and providing administrative support to any such meetings of the call-in group
- ~~(f)~~ **(b)** The following Executive decisions will be notified to ~~the call-in group~~ **all Members** by the Chief Executive:
- (i) all decisions by the Mayor
  - (ii) all decisions of the Cabinet
  - (iii) all decisions of a Committee of the Cabinet
  - (iv) all decisions by individual Executive Members
  - (v) key decisions delegated by the Executive to Officers
- within 2 days of the decision being taken.
- ~~(g)~~ **(c)** Executive decisions will not be implemented for 7 working days from the date they are notified. This period shall be known as the “call-in period”. Executive decisions will state the end of the call-in period and the name of the person responsible for implementing the decision.
- ~~(h)~~ **(d)** At any time during the call-in period any ~~3 Members of the call-in group~~ **3 Members of the call-in group** irrespective of the size of the call-in group may call in an Executive decision by signing a notice in a form approved by the Council for this purpose and delivered to the Proper Officer. ~~Electronic signatures will be acceptable for this purpose. Alternatively any 5 Members of the Council may trigger a call-in, provided that not all the Members are from the same Political Group,~~



by satisfactorily completing and signing a form approved by the Council for this purpose and delivered to the Proper Officer within the required timescales.

- (i) ~~(e)~~ The Proper Officer will inform the decision maker and the person responsible for implementation as soon as is reasonably practicable that the decision has been called in.
- (j) ~~(f)~~ A decision which is called in will not be implemented for a period of 10 working days after the end of the call-in period OR until a meeting of Overview and Scrutiny Management Committee meets to consider the called-in decision, whichever is the sooner.
- (k) ~~(g)~~ Within 10 working days of the end of the call-in period a meeting of the Overview and Scrutiny Management Committee will consider the called-in decision. The Committee may:-
  - (i) refer the decision back to the Executive for reconsideration in the light of the recommendations from the Committee
  - (ii) request that the decision be deferred until Overview and Scrutiny Management Committee or Panels have considered relevant issues and made recommendations to the Executive
  - (iii) take no action ~~decision~~ in relation to the called-in decision but consider whether issues arising from the call-in need to be added to the work programme of an existing or new Overview and Scrutiny Panel
  - (iv) if, but only if (having taken the advice of the Monitoring Officer and/or the Chief Finance Officer), the Committee determines that the decision is wholly or partly outside the Budget and Policy Framework refer the matter, with any recommendations, to the Council after following the procedure in Rule 8 of the Budget and Policy Framework Procedure Rules. Only in this case is there a continuing bar on implementing the decision.
- (l) ~~(h)~~ The Chief Executive will be notified of the outcome of the Overview and Scrutiny Committee deliberations under paragraph (k) and will inform the decision maker and the person responsible for implementation of the decision as soon as is reasonably practicable.

(i) If the OSMC refers the decision back to the Executive with a recommendation(s) the Executive may:

- i. Accept the recommendation in full or in part and amend its decision accordingly.
  - ii. Decide that further work needs to be undertaken and defer the item until this is completed. The OSMC should be kept informed of the work as it progresses and be formally notified of when it is to be reconsidered;
  - iii. Not accept the view of OSMC and confirm its original decision.,
  - iv. Refer the issue for discussion at the next appropriate Council meeting.
- (j) The Executive will respond in writing to OSMC's recommendations. If it decides not to follow OSMC's recommendation(s) ((m) iv above) it will clearly state its reasons for not doing so.
- (k) The called in decision will be implemented upon receipt of a written response from the Executive to the Chair of OSMC and/or the Proper officer confirming the decision as there is no scope for further review or challenge.

~~(p)~~ (l) References to days in this rule are to working days of the Council

~~(q)~~ (m) Key Decisions agreed to be urgent by the relevant Overview and Scrutiny Chair (as set out in rule 16 of the Access to Information Rules ) and Executive decisions which have previously been called in may not be the subject of the call-in procedure.

~~(r)~~ (n) Day to day management and operational decisions taken by Officers are not subject to the call-in procedure.

## 10. Rights to Documents and Information

- (a) In addition to their rights as Councillors, Members of Overview and Scrutiny Management Committee and Panels will have additional rights to access such documents and information in the possession of the Executive as is necessary for them to undertake any review or scrutiny of an action or decision or is relevant to any part of the work programme of the Committee or Panels, subject only to any common law or statutory rule of confidentiality (including those set out in rule 10.4 of the Access to Information Procedure Rules in Part 4) or any court order preventing access.
- (b) Notwithstanding 10(a) access to documents and information must be reasonable and proportionate to the matter under consideration.
- (c) The Managing Director will determine whether or not access is to be given where there is controversy.
- (d) Nothing in these rules may prevent detailed liaison between the Mayor and/or the Executive and Overview and Scrutiny Management Committee or Panels.

## **11. Members and Officers Giving Evidence**

- (a) As well as reviewing documentation Overview and Scrutiny Management Committee and Panels may require the Mayor, Members of the Executive, Chairs and Vice-Chairs of Committees or Sub-Committees and employees of the Council to attend and give written or oral evidence.
- (b) In requiring the attendance of employees, the Overview and Scrutiny Management Committee or Panels must consider who is the most appropriate Officer to give the evidence, taking into account the Overview and Scrutiny protocol.
- (c) As far as possible questions to employees should be limited to questions of fact and explanation relating to policies, decisions or actions. Employees may explain the justification or objective of policies, decisions and actions and explain how administrative factors had an influence. Employees should not be asked to comment on the relative merits of politically contentious issues.
- (d) In asking questions of those giving evidence proceedings will be conducted fairly and all Members of the meeting will be given the opportunity to speak and ask questions.
- (e) All Attendees and Officers giving evidence to the meeting will be treated with courtesy and respect.

## **12. Attendance by Others**

- (a) Individuals and representatives of organisations not part of the Council may be invited to give evidence to the Overview and Scrutiny Management Committee or Panels. They may be paid reasonable expenses and/or fees for so doing.
- (b) The same principles of fairness, courtesy and respect as are set out in relation to the treatment of employees will apply to others giving evidence.

## **13. Other Enquiries**

- (a) Overview and Scrutiny Management Committee may conduct or commission reasonable enquiries or research, including the appointment of advisors, going on site and other fact finding visits, conduct of surveys, public meetings and other consultation. Reasonable expenses incurred in such exercises may be paid.
- (b) Innovation in the work of Overview and Scrutiny Management Committee and Panels is encouraged.

## **14. Whipping**

- (a) Whipping will generally not be appropriate at meetings of Overview and Scrutiny Management Committee or Panels
- (b) Where a party whip is imposed on a Member they are required to declare it as an interest in the item under discussion.

**15. Matters within the Terms of Reference of More than One Overview and Scrutiny Panel**

- (a) Where, in the opinion of the Chair of an Overview and Scrutiny Panel, the matters under discussion are relevant to matters referred to other Scrutiny Panel(s) he/she shall consider to what extent to invite the participation of the Chair and/or other Members of the other Panel in the deliberations.
- (b) Where required by a Panel, the Chair of an Overview and Scrutiny Panel will report to that Panel making the request, the extent to which consideration has been given under rule 15(a).

**(c) *Where there is uncertainty over which Panel should take the lead in reviewing an issue that falls within the remit of more than one Overview and Scrutiny Panel the matter shall be referred to the OSMC for determination.***

**16. Reports of Overview and Scrutiny Management Committee or Panels**

- (a) Any Overview and Scrutiny Panel may, at any time, at its own request or in response to a request from the Overview and Scrutiny Management Committee, submit a progress, interim, final or follow-up report on any matter within its terms of reference, to the Management Committee.
- (b) Overview and Scrutiny Management Committee may refer any report from an Overview and Scrutiny Panel back to that Panel for any reason or refer it on, along with any additional recommendations to the Executive, the Full Council or its Committees, Committees and Sub-Committees the Monitoring Officer and/or the Chief Finance Officer or the Standards Committee.
- (c) Any Member(s) of any Overview and Scrutiny Management Committee or Panel who has/have attended at least 75% of meetings of that Committee or Sub-Committee of which an issue was discussed may submit a minority report to the Committee for consideration.
- (d) Where the Chair or Vice-Chair of Overview and Scrutiny Management Committee agrees, for reasons which will be set out in the report, an Overview and Scrutiny Panel may refer a matter straight to the Full Council, Executive, Monitoring Officer and/or Chief Finance Officer or Standards Committee directly, or where appropriate external organisations e.g. NHS Trust.
- (e) Reports are referred by delivering them to the Managing Director.

**17. Consideration of Reports of Overview and Scrutiny Management Committee or Panels**

- (a) Reports from Overview and Scrutiny Management Committee received by the Proper Officer will be placed on the next available agenda of the Executive, Full Council, Committee or Sub-Committee, subject only to consultation between the Proper Officer and the Mayor or relevant Chair to avoid impractical agendas.

- (b) Where the report relates to future decisions of the Executive, Full Council, Committee or Sub-Committee, it shall inform the taking of that decision and the decision will record what consideration was given to that report.
- (c) If a report referred to the Executive has not been considered by the Executive within 6 weeks of referral, the Chief Executive will place the report on the next available Full Council agenda and the Full Council will consider the report and make recommendations to the Executive.
- (b) Where the report referred to the Executive requires, the Executive must respond to the recommendations, within a timetable laid down by the report. The response will be to the Overview and Scrutiny Management Committee or Panel which produced the report. If the response from the Executive is to decline to follow recommendations in the report, it shall give the reasons.
- (e) *Where the recommendations are published by Overview and Scrutiny the Executive or authority must publish its response within two months of receiving the notification from Scrutiny. Any exempt or confidential information must be excluded from publication but should be summarised if this would make the response incomprehensible or misleading.*

**18. Matters not within the Remit of Overview and Scrutiny Management Committee or Panel**

The following matters should not normally be considered by Overview and Scrutiny Management Committee or Panels:-

- (i) Day to day managerial and operational decisions by Officers
- (ii) Any matter previously agreed to be an urgent decision by the Chair of the relevant Overview and Scrutiny Management Committee or Panel.
- (iii) An Executive decision which has already been the subject of consideration under the call-in procedure.
- (iv) Regulatory or quasi judicial decisions of the Full Council its Committees or Sub-Committees or the Executive.
- (v) Matters relating to the conduct of individual Members or Officers which are to be dealt with under the ethical framework established by Part III Local Government Act and the current disciplinary rules and procedure, respectively.
- (vi) Urgent decisions under Rule 16 of the Access to Information Rules or Rule 5 of the Budget and Policy Framework Procedure Rules.

**19. Best Value, Service Reviews and Inspections**

The Overview and Scrutiny Management Committee will:-

- (a) consider the extent to which it, and any Panels established by it, should be involved in Best Value Reviews

- (b) be consulted by the Executive in formulating the programme of Best Value Reviews
- (c) take into account the programme of **inspections**, Best Value **and Service** Reviews and the outcome of any completed **inspections or** Reviews in planning and carrying out its functions.

## **20. Conflicts of Interest**

- (a) Members and co-opted Members of Overview and Scrutiny Management Committee or Panels will not review a decision which they were responsible or jointly responsible for making.
- (b) The rules relating to declaration of personal and prejudicial interests set out in the code of conduct for Members will apply to Overview and Scrutiny Management Committee and Panels.
- (c) If a Prejudicial interest will substantially affect the ability of a Member to participate in the work of the Overview and Scrutiny Committee or Panel, the Member will withdraw from the review **or meeting**.

## **21. Key Decisions Not Taken in Accordance with The Access to Information Procedure Rules**

- (a) If an Overview and Scrutiny Management Committee or Panel thinks that a key decision has been taken which was not:-
  - (i) included in the forward plan set out in Rule 14 of the Access to Information Procedure Rules; or
  - (ii) the subject of the general exception procedure set out in Rule 15 of the Access to Information Procedure Rules; or
  - (iii) the subject of an agreement with a relevant Overview and Scrutiny Chair, under Rule 16 of the Access to Information Procedure Rules;

that Committee or Panel may require the Executive to submit a report to the Full Council within such reasonable time as is specified.

- (b) The power to require a report is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by resolution passed at a meeting of the relevant Overview and Scrutiny Committee or when requested to do so by any 5 Members of the Overview and Scrutiny Management Committee or relevant Overview and Scrutiny Panel.

### **(b) Executive's Report to Full Council**

The Executive will prepare a report for submission to the next available meeting of the Full Council. The report to Full Council will set out particulars of the decision, the individual or body making the decision, and if the Mayor is of the opinion that it was not a key decision the reasons for the opinion.

## **22. Quarterly Reports on Special Urgency Decisions**

In any event the Mayor will submit quarterly reports to the Full Council on the Executive decisions taken in the circumstances set out in Rule 17 in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

23. **Update Quarterly Reports to Full Council and the Executive**

(a) Overview and Scrutiny Management Committee will take an annual report to the full Council and the Executive, giving such details of their work and proposed work as the Committee believes would assist the Full Council or the Executive.

*(b) The Chair of Overview and Scrutiny Management Committee will take a half yearly update report to Full Council to provide an overview of the work being undertaken by Overview and Scrutiny and progress against any priorities set out in the Annual Report.*





**OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE (OSMC)**

This Committee is a Committee of the Council constituted under Sections 101 and 102 of the Local Government Act 1972.

1. To be responsible for co-ordinating and undertaking the Council's scrutiny and overview function in respect of all areas of Council activity including partnership working and particularly the responsibility to: -
  - (a) review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive;
  - (b) make reports or recommendations to the Authority or the Executive with respect to the discharge of any functions which are the responsibility of the Executive;
  - (c) 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;
  - (d) make reports or recommendations to the Authority or the Executive with respect to the discharge of any functions which are not the responsibility of the Executive;
  - (e) review and scrutinise relevant public bodies and partners in the Borough, including the Council's contribution and relationship with them and, where necessary, request them to address overview and scrutiny and local people about their activities and performance or particular decisions, initiatives or projects; and
  - (f) make reports or recommendations to the Authority or the Executive on matters which affect the Authority's area or the inhabitants of that area.
2. To carry out functions necessary to operate the call-in procedure set out in the Overview and Scrutiny Procedure Rules.
3. To have authority to establish Overview and Scrutiny (Panels) and appoint Chairs to look at specific issues determined by the Overview and Scrutiny Management Committee. Membership of Overview and Scrutiny Panels to be drawn from a pool of all Council Members, excluding the Executive.
4. To be responsible for drafting protocols in respect of the Overview and Scrutiny process.

## **STANDING OVERVIEW & SCRUTINY PANELS**

*These Panels are Sub-Committees of the Council constituted under Sections 101 and 102 of the Local Government Act 1972.*

### **Terms of Reference**

1. The Panels will conduct enquiries and investigations, in relation to those functions of the Council (and other matters of local interest), referred to them in the Annual Work Plan and any additional issues referred by the Overview and Scrutiny Management Committee.
2. The work of the Panels will be undertaken in accordance with the requirements of the Council's Constitution including the Overview and Scrutiny Procedure Rules and any Overview and Scrutiny protocols.
3. The Panels be empowered to establish ad hoc Working Groups from within its membership, to undertake project and policy development work, to meet the objectives and targets of its annual Work Plan.
4. The Panels **may** review and scrutinise relevant public bodies and partners in the Borough, including the Council's contribution and relationship with them and, where necessary, request them to address overview and scrutiny and local people about their activities and performance or particular decisions, initiatives or projects.

### **PANEL RESPONSIBLE FOR OVERVIEW AND SCRUTINY OF CRIME AND DISORDER REDUCTION**

In addition to the Terms of reference detailed above at 1-4 this Panel will also include the following terms of reference.

5. Review or scrutinise decisions made, or other action taken in connection with the discharge by the responsible authorities who comprise the local Crime and Disorder Reduction Partnerships (i.e: the Police, the Police Authority, Fire and Rescue Authority and PCT).
6. To make reports and recommendations to the responsible authorities with respect to the discharge of those functions.
7. To require the attendance of an officer of the responsible authority.
8. To consider the activities of the CDRP at least once in every 12 month period.
9. To consider any Councillor Calls For Action relating to crime and disorder issues.

## **PANEL RESPONSIBLE FOR HEALTH OVERVIEW & SCRUTINY**

This Panel is a Sub-Committee of the Council constituted under Sections 101 and 102 of the Local Government Act 1972

The generic Terms of Reference for Overview & Scrutiny Standing Panels apply to the Overview and Scrutiny Panel responsible for Health Overview and Scrutiny. These are as follows:-

1. The Panels will conduct enquiries and investigations, in relation to those functions of the Council (and other matters of local interest), referred to them in the Annual Work Plan and any additional issues referred by the Overview and Scrutiny Management Committee.
2. The work of the Panels will be undertaken in accordance with the requirements of the Council's Constitution including Overview and Scrutiny Procedure Rules and any Overview and Scrutiny protocols.
3. The Panels are empowered to establish ad hoc Working Groups from within its membership, to undertake project and policy development work, to meet the objectives and targets of its annual Work Plan.
4. The Panels review and scrutinise relevant public bodies and partners in the Borough, including the Council's contribution and relationship with them and, where necessary, request them to address overview and scrutiny and local people about their activities and performance or particular decisions, initiatives or projects.

In addition, because of the specific functions of Health Scrutiny detailed within the relevant legislation the following Terms of Reference will also apply to this Panel.

5. To review and scrutinise any matter relating to the planning, commissioning, provision and operation of health services in the local regions.
6. To make reports and recommendations to National Health Service (NHS) bodies, the OSMC, the Executive and the Council on any matter reviewed or scrutinised using the specific powers of Health Scrutiny.
7. To require the attendance of an officer of a relevant NHS body to answer questions and provide explanations about the planning, commissioning, provision and operation of health services in the area.
8. To require a NHS body to provide information about the planning, commissioning, provision and operation of health services in the Local Authority's area subject to exemptions outlined in the Health and Social Care Act 2001.

9. To consider matters referred by a Local Involvement Network (LINK).
10. To require (under Section 7 of the Health and Social Care Act 2001) NHS bodies to refer service development proposals which involve substantial change or variation of their service to the Health Overview and Scrutiny Panel.
11. To consider the establishment of Joint Committees with other local authorities to undertake Overview and Scrutiny of health services where these services are provided across regions.
12. To consider the delegation of functions of Overview and Scrutiny of health to another Local Authority Overview and Scrutiny Committee.
13. To report to the Secretary of State for Health:
  - (a) Where the Overview and Scrutiny Sub-Committee is concerned that consultation on substantial variation or development of services has been inadequate.
  - (b) Where the Overview and Scrutiny Sub-Committee considers that the proposal is not in the interests of the well-being of local residents.

## **X. OVERVIEW AND SCRUTINY COMMITTEES**

- (a) The Overview and Scrutiny Management Committee established under Article 6 **or the Full Council** will appoint and maintain such standing Overview and Scrutiny Sub-Committees as necessary.
- (b) The proper officer will maintain and publish a list of any ad hoc Overview and Scrutiny Sub-Committees established from time to time.