

ROTHERHAM BOROUGH COUNCIL
OVERVIEW AND SCRUTINY PROCEDURE RULES

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PART I
APPOINTMENT AND TERMS OF REFERENCE

1. Appointment of overview and scrutiny select commissions

- (1) The Council's overview and scrutiny select commissions are set out in the Schedule to these Rules, and the Council will appoint to them from time to time as it considers appropriate and those select commissions may appoint sub-select commissions.
- (2) Overview and scrutiny review groups may also be appointed on an ad hoc basis for a fixed period with clear terms of reference, on the expiry of which they shall cease to exist.
- (3) In these Rules, unless the context otherwise requires, the term "overview and scrutiny select commission" means –
 - the Overview and Scrutiny Management Board (OSMB),
 - the overview and scrutiny select commissions appointed annually by the Council, and any of its or their Review Groups.
- (4) The Council may appoint from time to time informal select commissions or working groups, comprising members, council officers and others, such as representatives from local communities and businesses, to assist in the overview and scrutiny process.

2. Terms of Reference

- (1) The terms of reference of the OSMB and Select Commissions are set out in Appendix 9 of the Constitution – Responsibility for Functions. Details of the specific areas for scrutiny by each Select Commission are also set out in Appendix 9.

3. Membership

Appointment of members to overview and scrutiny commissions

- (1) All councillors except members of the Cabinet may be members of an overview and scrutiny committee, but no member may be involved in scrutinising a decision in which he or she has been directly involved.
- (2) All members of overview and scrutiny committees will be appointed annually by the Council, and each commission will be empowered to appoint members of the committee to its Review Groups.
- (3) The Chairs and Vice-Chairs of the overview and scrutiny select commissions will be appointed at the Annual Council meeting from the Councillors appointed to the committee.

Education representatives

(4) The Improving Lives Select Commission shall include in its membership the following voting representatives (“the education representatives”) –

- at least one Church of England diocese representative;
- at least one Roman Catholic diocese representative;
- between two and five parent governor representatives; and
- at the direction of the Secretary of State for Education representatives of other faiths or denominations.

(5) Where the Improving Lives Select Commission deals with other than educational matters, the education representatives shall not vote on those other matters, though they may stay in the meeting and speak to them.

Membership of particular committees

(6) The membership of the OSMB and the Select Commissions is set out in Appendix 9 of the Constitution – Responsibility for Functions..

(7) The membership of the overview and scrutiny select commissions are set out in paragraph 2 of Schedule 2.

4. Meetings

(1) The OSMB will hold ordinary meetings of the board at the frequency specified in paragraph 3 and at the place specified in paragraph 4 of Schedule 1 to the Rules, and, in addition, extraordinary meetings may be called from time to time as and when appropriate

(2) Each overview and scrutiny select commission will hold ordinary meetings at the frequency determined by the Council within its *Calendar of Council and Committee Meetings*, and, in addition, extraordinary meetings may be called from time to time as and when appropriate.

(3) The chairperson and vice-chairperson of an overview and scrutiny select commission may call an extraordinary meeting of the committee.

(4) All such meetings are subject to the Access to Information Procedure Rules.

5. Quorum

(1) The quorum for an overview and scrutiny select commission meeting will be one-third of its members.

PART II
ADMINISTRATION, BUDGET AND POLICY REVIEW AND
DEVELOPMENT AND ACCESS TO DOCUMENTS

6. Administration

Chairs of committees

- (1) The chairs and vice-chairs of the overview and scrutiny select commissions will be appointed at the Annual Council meeting from the Councillors appointed to the committee.

Work programme

- (2) Overview and scrutiny select commission work programmes will be set subject to any direction of the OSMB, taking into account the wishes of all members of the select commission including those who are not members of the largest political group on the Council.

Agenda items

- (3) A member of the Council may notify the Statutory Scrutiny Officer that he or she wishes an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the commission.
- (4) The Statutory Scrutiny Officer will inform the chair and vice chair of the particular overview and scrutiny select commission of the request at the earliest opportunity, and make arrangements for the matter to be considered by the select commission for inclusion on a future agenda. Where the Chair and Vice-Chair do not accept the request, this will be reported to the next select commission meeting.

Expeditious response to requests for reviews

- (5) OSMB and overview and scrutiny select commissions must respond, as soon as their work programme permits, to requests from the Council to review particular areas of Council activity.
- (6) On completion of a review, an overview and scrutiny select commission must report its findings and any recommendations to OSMB within one month. The findings and recommendations will then be referred to the Council within a further month.

7. Budget, policy framework, and related matters

Policy review and development

- (1) The role of overview and scrutiny select commissions in relation to the development of the Council's budget and policy framework is set out in detail in the Council's *Financial and Procurement Procedure Rules* and in Part V of the *Executive Procedure Rules*.
- (2) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, overview and scrutiny select commissions may make proposals to the Cabinet for policy developments in so far as they relate to matters within their terms of reference.
- (3) Overview and scrutiny select commissions may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process.

Site visits, public surveys, etc. and attendance of witnesses

- (4) Overview and scrutiny select commissions 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.
- (5) Overview and scrutiny select commissions may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for so doing.

PART III
REFERRAL, CONSIDERATION AND RESPONSE TO REPORTS

8. Reports from overview and scrutiny select commissions

Referral of report

- (1) Once it has formed recommendations on proposals for development, an overview and scrutiny select commission will prepare a formal report and submit it for consideration initially by the OSMB and then by the Cabinet. The OSMB may refer the matter to Council and shall do so if the matter relates to a responsibility of Council, (e.g. if the recommendation would require a departure from or a change to the approved budget and policy framework).
- (2) The response of the Cabinet to recommendations which are the responsibility of the executive shall be reported back to Council within two months of Council's original receipt of the report and recommendations from the OSMB.

PART IV
ACCESS TO DOCUMENTS AND ATTENDANCE AT COMMITTEE MEETINGS

9. Access to documents

Rights of overview and scrutiny select commission members to documents

- (1) In addition to their rights as councillors, members of overview and scrutiny select commissions have the additional right to documents and to notice of meetings, as set out in the *Access to Information Procedure Rules*.

10. Attendance of members and officers, etc at overview and scrutiny select commission meetings

Members and officers giving account

- (1) In fulfilling its scrutiny role, an overview and scrutiny select commission may invite any of the Cabinet Members or require any senior officer to attend before it to discuss or explain in relation to matters within the commission's remit -
- any particular decision or series of decisions,
 - the extent to which the actions taken implement Council policy,
 - his, her or their performance,
 - and it is the duty of those persons to attend if so required.
- (2) Where any officer is required to attend an overview and scrutiny select commission under this provision, the chairman of that commission will inform the Statutory Scrutiny Officer.
- (3) The Statutory Scrutiny Officer will inform the officer in writing that the commission requires their attendance, giving at least 10 working days' notice of the meeting at which he or she is required to attend.
- (4) The notice to the officer will state the nature of the matter on which he or she is required to attend to give account and whether any papers are required to be produced to the commission.
- (5) Where the account to be given to the commission will require the production of a report, the member or officer concerned will be given sufficient notice to allow for preparation of the report.
- (6) If in exceptional circumstances the officer is unable to attend on the required date, the commission must, in consultation with officer, arrange an alternative date for attendance or acceptable substitute.

Attendance by others

- (7) An overview and scrutiny select commission may invite other persons, such as residents, stakeholders, contractors and members and officers in other parts of the public sector, to address it and discuss issues of local concern or answer questions, criticisms or complaints. Those asked to address any panel will have access to support and guidance from the Statutory Scrutiny Officer.

PART V CALL-IN

11. Call-in

Publication of Cabinet decisions

- (1) A decision of the Cabinet, a committee of the Cabinet, or an individual member of the Cabinet will be published online, ordinarily within three working days of the decision being made.
- (2) A notice of such decisions and the date on which they were made will be published and state that any decision specified in the notice will come into force on the expiry of 7 working days after its publication (“the notification period”), and may then be implemented, unless the decision is called-in.

Decisions that may be called-in

- (3) Any decision of the Cabinet may be called-in unless it is –
 - in the form of a recommendation to the full Council;
 - an urgent decision (as defined by rule 14 (2)) and the reason for urgency is recorded in the body of the decision;
 - a decision of the Adoption Panel;
 - concerned with procedural matters; or
 - in connection with an appeal.
- (4) Where a Cabinet decision takes the form of an approval of details only, the principle having been established by an earlier Cabinet decision, then call-in shall be confined to those details.

Call-in of decision for scrutiny

- (5) During the notification period –
 - in the case of a decision that does not relate to an education function, a member of the Council who is supported by at least three other members may request the chairman of the OSMB to call-in the decision for scrutiny by that board; and
 - in the case of a decision that relates to an education function, a member or education representative who is supported by three members or three education representatives (or a combination of both members and education representatives) may request the chairman of the OSMB to call-in the decision.
- (6) If the decision relates to an education function, the education representatives will be invited to the meeting of the OSMB where the call-in will be considered.

- (7) The Statutory Scrutiny Officer will record –
- the decision to which the call-in relates;
 - the name of the member, or in the case of a decision that relates to an education function the name of the member or education representative, requesting call-in of the decision;
 - the names of the members, or in the case of a decision that relates to an education function the names of the members or education representatives or members and representatives, supporting the request;
 - the reason for the call-in.
- (8) The Statutory Scrutiny Officer will notify the decision-maker and the strategic director of the directorate concerned of the call-in request and advise him or her that implementation of the decision be delayed until conclusion of the call-in process.
- (9) Where appropriate, and after consulting the chairman of the OSMB, the Statutory Scrutiny Officer will add the call-in request to the agenda for the next following meeting of the board.

Consideration of Call-In

- (10) If OSMB does not object to the decision called-in, it will come into force and take effect immediately. If having considered the decision the OSMB is still concerned about it, the board may refer it back to the decision-maker for reconsideration with reasons or refer the decision to full Council for consideration with reasons.
- (11) If the full Council –
- meets but does not object to the decision called-in and referred by the OSMB
 - meets but does not refer the decision back for reconsideration by the decision-maker

the decision shall come into force and take effect on the date of the Council meeting.

Decision referred back by Council

- (12) If the full Council objects to a decision called-in and referred to it by the OSMB the Council will refer the decision back to the decision-maker together with the Council's views on the decision, and the decision-maker may amend the decision or not before reaching a final decision and implementing it.
- (13) If the Cabinet as a whole or a committee or sub-committee of the Cabinet made the called-in decision, a meeting of the Cabinet or committee or sub-committee (as the case may be) will be convened within ten working days of the Council's request to reconsider it.

- (14) If an individual made the called-in decision, that individual will reconsider the decision within ten working days of the Council's request to reconsider it.

12. Call-in and urgency

Urgent Cabinet decisions

- (1) The call-in procedure shall not apply where the decision being taken by the Cabinet is urgent.
- (2) A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests.
- (3) The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision-maker, the decision is an urgent one and therefore not subject to call-in.
- (4) The Chair of Overview and Scrutiny Management Board must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. The leader of the main opposition group shall be consulted on any decision to designate a Cabinet decision as urgent.
- (5) In the absence of the Chair, the Vice Chair's consent must be obtained and in the absence of both the Chief Executive's consent, or her nominee's consent in her absence, must be obtained.

Reporting and monitoring urgent Cabinet decisions

- (6) Where the Chair of Overview and Scrutiny Management Board, Vice Chair or Chief Executive consents to exempting a decision from call-in on grounds of urgency, the Statutory Scrutiny Officer will be informed as soon as possible after the decision is made.
- (7) Decisions taken as a matter of urgency must be reported to a meeting of the Cabinet, together with the reasons for urgency.
- (8) The operation of the procedures relating to scrutiny, call-in and urgency will be monitored annually, and a report submitted to the full Council with proposals, if necessary, for review of the procedures.

PART VI PETITIONS

13. Petitions

The Council's scheme for handling petitions

- (1) Overview and scrutiny select commissions have the following responsibilities in respect of petitions submitted under the above scheme.

Petitions referred by the Council

- (2) The Council may refer to the Overview and Scrutiny Management Board a petition received or debated at the Council meeting, which has received 600 or more signatures.
- (3) The petition will be reported to the next convenient meeting of the commission. The commission shall consider the petition and make a report in response to the Council or to Cabinet. The report may make recommendations as to the steps to be taken by Council or Cabinet in response to the petition.

PART VII
PROCEDURE AT OVERVIEW AND SCRUTINY MEETINGS

14. Order of business at overview and scrutiny committee meetings

Order of business

- (1) The order of business at overview and scrutiny committee meetings will be determined in accordance with the Council's Procedure Rules for Council Meetings.

Questions from the public and Press

- (2) An overview and scrutiny committee will allocate time at its meetings for questions from members of the press and public on matters to be considered on the agenda for the meeting ~~within the committee's remit~~.

Investigations

- (3) Where an overview and scrutiny committee conducts investigations (for example with a view to policy development), the committee may invite persons to attend to give evidence at panel meetings.
- (4) In conducting an investigation, a committee will ensure that
- the investigation is conducted fairly and that all members of the committee are given the opportunity to ask questions of attendees and to contribute and speak;
 - those assisting the committee by giving evidence are treated with respect and courtesy; and
 - the investigation is conducted so as to maximise the efficiency of the investigation or analysis.
- (5) Following an investigation or review, the committee will prepare and submit a report to the Council and shall make the report and findings public.

15. The party whip

- (1) When considering any matter, in respect of which a member of a committee is subject to the operation of a party whip, the member must declare the existence of the whip and the nature of it before the commencement of the committee's deliberations on the matter.
- (2) The declaration and the detail of the operation of whipping arrangements will be recorded in the minutes of the meeting.

16. Councillor Call-for-Action

- (1) In accordance with Section 119 of the Local Government and Public Involvement in Health Act 2007 and Sections 19 and 20 of Part 3 of the Police and Justice Act 2006, any member of the Council may submit a Councillor Call for Action (CCfA) on a local government or crime and disorder matter. This is intended only to be used when all the usual channels for resolving such issues have been exhausted.
- (2) Referral is by way of notice to the Statutory Scrutiny Officer that an item be placed on the next available meeting of the OSMB and will be dealt with under the procedure set out in these Rules.
- (3) Any member of the Council may submit a Councillor Call for Action (CCfA) on a local government or crime and disorder matter.
- (4) A local government matter means a matter which:
 - (a) relates to the discharge of any function of the Council;
 - (b) affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area, and;
 - (c) is not an excluded matter.
- (5) A local crime and disorder matter, in relation to a member of a local authority, means a matter concerning –
 - (a) Crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
 - (b) The misuse of drugs, alcohol and other substances.

which affects all or part of the electoral area for which the member is elected or any person who lives or works in that area.

- (6) Specifically excluded from becoming a CCfA is –
 - (a) any matter relating to a planning decision;
 - (b) any matter relating to a licensing decision;
 - (c) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
 - (d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the OSMB or at a meeting of a sub-committee of the OSMB.
- (7) Procedure Rule 6(a) to (d) shall not apply if the CCfA relates to an allegation that the Council has failed wholly or partly to provide a service on an individual or systematic basis. This will apply even though the matter might relate to a planning or licensing decision or one concerning an individual or entity who have a right of review or appeal.

(8) Unless specifically excluded, with regard to crime and disorder matters, the OSMB has the power to –

- (a) review or scrutinise decisions made, or other action taken, in connection with, the discharge by the responsible authorities* of their crime and disorder functions;
- (b) to make reports or recommendations to the Safer Rotherham Partnership with respect to the discharge of those functions.

Notes:

A licensing decision means any decision in relation to:

- an application for any authorisation within the meaning of section 2 of the Licensing Act 2003 (b), or
- a request for a review of any such decision; or
- any enforcement decision made under that Act or subordinate legislation made under that Act.

Planning decision means –

- any decision on an application under the planning Acts or subordinate legislation made under those Acts for any agreement, approval, consent or permission; or
- any enforcement decision relating to any development within the meaning of those Acts; and
- “right of recourse to a review” does not include any right to make a complaint to the Commission for Local Administration pursuant to the Local Government Act 1974.

*Responsible authorities means the bodies or persons who are responsible authorities within the meaning given by section 5 of the Crime and Disorder Act 1998. Namely –

- (i) the council for the area;
- (ii) the police and police and crime commissioner for the area;
- (iii) the fire and rescue service and fire and rescue authority for the area; and
- (iv) the NHS.