

# **PART 4-5**

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. Number of Overview and Scrutiny Committees**

- (a) The Council will have one or more Overview and Scrutiny Committees, which will perform all overview and scrutiny functions on behalf of the Council.
- (b) The terms of reference of the Overview and Scrutiny Committee will be as set out at Article 6 of the Constitution.
- (c) In addition the Overview and Scrutiny Committee will:
  - i) approve an annual overview and scrutiny work programme, including the programme of any formal sub-committees and informal task and finish working groups it appoints so as to ensure that the Committee and sub-committees' / working groups' time is effectively and efficiently utilised;
  - ii) put in place a system to ensure that referrals from overview and scrutiny to the Cabinet, either by way of report or for reconsideration, are managed efficiently and do not exceed the limits set out in this Constitution;
  - iii) in the event of reports to the Cabinet exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet, make decisions about the priority of referrals made; and
  - iv) receive requests from the Cabinet and/or the Council for reports.
- (d) the Overview and Scrutiny Committee may appoint such formal sub-committees and informal task and finish groups as it considers to be necessary from time to time and for so long as considered necessary, subject to there being no more than four active sub-committees / groups at any one time and the same service officers not being involved in more than one active group at any one time. The Committee may also amend the terms of reference of any sub-committees / group it has appointed as appropriate.
- (e) Task and finish groups are not formally constituted sub-committees and therefore do not have to comply with the need to give public notice under the Access to Information rules.

### **2. Membership of Overview and Scrutiny**

All Councillors, except Members of the Cabinet, may be Members of the Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

### **3. Membership of Sub-Committees / Task and Finish Groups**

- (a) All Councillors, except Members of the Cabinet, may be appointed as a Member of a sub-committee / task and finish group – Membership does not have to be drawn from the make-up of the Overview and Scrutiny Committee. Membership is also open to non-members of the Council, and in particular, participation by youth and ethnic minority representatives should be encouraged. The exact external representation and political make up will be

determined by the parent Committee when establishing the sub-committee / task and finish group.

- (b) Councillor membership of any sub-committee / task and finish group can be changed by the respective Group Leader without the need for reference back to the parent Overview and Scrutiny Committee, as and when the need arises.
- (c) Group Leaders are also able to appoint substitute members (from the same political group) when substantive members are unable to attend task and finish group meetings on an ad-hoc basis.

#### **4. Meetings of Overview and Scrutiny Committee(s)**

Meetings of an overview and scrutiny committee shall be held on such dates and times as may be specified in the Council's calendar of meetings. However, such dates may be varied at the discretion of the Chair of the committee. In addition, extraordinary meetings may be called from time to time as and when appropriate by the Chair of the Committee or on the requisition of not less than three Members of the Committee, delivered in writing to the Head of Paid Service. The summons to the extraordinary meeting shall set out the business to be considered thereat and no business other than that set therein shall be considered at that meeting.

#### **5. Quorum**

The quorum for an Overview and Scrutiny Committee and any sub-committees shall be one third of its membership but in no case shall the quorum be less than two Council Members.

#### **6. Chair**

The Chair of the Overview and Scrutiny Committee will be drawn from the opposition Councillors sitting on the Committee, and subject to this requirement the Committee may appoint such a person as it considers appropriate as Chair.

The Chair of any sub-committees / task and finish groups will be drawn from among the Councillors sitting on the sub-committee / task and finish group, and subject to this requirement may appoint such a person as it considers appropriate as Chair.

The Chair of the Overview and Scrutiny Committee may not be assigned as a Project Sponsor for any major capital project nor act as Chair of any formal sub-committee or informal task and finish group in connection therewith.

#### **7. Work Programme**

The Overview and Scrutiny Committee will be responsible for setting its own work programme and in doing so it shall take into account the wishes of the Cabinet, the Corporate Management Team, external stakeholders and the interests of residents. Particular regard shall be given to Members on the Committee who are not Members of the controlling political group on the

Council. The Committee will adjust its Work Programme to accommodate any changes in priorities and circumstances which may emerge during the year.

Except for years in which ordinary elections take place, an informal annual Scrutiny Work Programming meeting will take place, after the Annual Council meeting but prior to the first scheduled meeting of the Scrutiny Committee. This allows the Committee to consider its priorities and work programme for the year in consultation with the Corporate Management Team in an informal meeting which is not open to the public. In an election year, this consultation will form part of the Members' Induction Day.

## **8. Agenda Items**

- (a) Any Member of the Council shall be entitled to give notice to the Head of Paid Service that they wish an item relevant to the functions of the Overview and Scrutiny Committee or sub-committee to be included on the agenda for the next available meeting of the Committee or sub-committee. On receipt of such a request, which shall indicate whether or not the matter has been raised as a Councillor Call for Action (CCfA) in accordance with the provisions of Section 119 of the Local Government and Public Involvement in Health Act 2007, the Head of Paid Service will include it on the next available agenda. The CCfA provides Councillors with a mechanism to formally request a relevant overview and scrutiny committee to consider an issue in their ward, if all other options to resolve it have failed.
- (b) The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee within six weeks of receiving it.

## **9. Speaking Rights at Meetings of the Overview and Scrutiny Committee / Sub-Committees / Task and Finish Groups**

- (a) Any Member of the Council (who is not a substantive Member of any of the above) may speak at such meetings on an issue which alone affects the Ward which the Member represents on the Council.
- (b) Any Member of the Cabinet who has been invited to address the Overview and Scrutiny Committee may only speak on an item of relevance to their Cabinet Portfolio.
- (c) Any other Member of the Council (who is not a substantive Member of any of the above) may speak at such by invitation of the Chair of the Committee. Any such request should not be unreasonably refused by the Chair, provided that the Member does not seek to unduly influence or dominate the discussion on the issue.
- (d) Any other non-members of the Council appointed to any sub-committee / task and finish groups may speak.

- (e) Any member of the public, stakeholders, staff side and Members and officers in other parts of the public sector invited to address the Overview and Scrutiny Committee / sub-committees / task and finish group may speak, but not engage with debate or decision making, as provided for at Rule 15 below.

## **10. Policy Review and Development**

- (a) The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules (See Part 4.3 of this Constitution).
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within its functions (See Part 3 of this Constitution).
- (c) The Overview and Scrutiny Committee 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. It may go on approved site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. It may ask witnesses to attend to address the Committee on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so. All such actions shall be subject to the costs being met from within the approved revenue budget or any budget that may be specifically provided by the Council for the Committee.

## **11. Reports from the Overview and Scrutiny Committee**

- (a) Once it has formed recommendations, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Head of Paid Service for decision by the Cabinet (if the proposals are consistent with the existing budget and policy framework), or via Cabinet for decision by the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then minority reports may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet shall normally consider the report of the Overview and Scrutiny Committee within six weeks of it being submitted to the Head of Paid Service.

## **12. Making Sure that Overview and Scrutiny Reports are Considered by the Cabinet**

- (a) Once an overview and scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject

of the report is scheduled to be considered by the Cabinet within a period of 12 weeks from the date the report adopted by the Overview and Scrutiny Committee. In such cases, the report of the Overview and Scrutiny Committee shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the Overview and Scrutiny report within 12 weeks then the matter will be referred to the next meeting of Council for review and consideration and Council will make a recommendation to the Cabinet.

- (b) The Overview and Scrutiny Committee will in any event have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

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

- (a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

### **14. Members and Officers Giving Account**

- (a) The Overview and Scrutiny Committee or any sub-committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Cabinet, the Corporate Management Team or such other officers as may be determined by the Chief Executive to attend before it to explain in relation to matters within their remit:
  - i) any particular decision or series of decisions;
  - ii) the extent to which the actions taken implement Council policy; and/or
  - iii) their performance,

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

- (b) Where any Member of the Cabinet or officer is required to attend a meeting of the Overview and Scrutiny Committee under this provision, the Chair of the Committee will inform the Head of Paid Service. The Head of Paid Service shall inform the Member of the Cabinet or officer in writing giving at least 10 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are 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 Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, the Overview and Scrutiny Committee shall in consultation with the Member or officer, arrange an alternative date for attendance.

## **15. Attendance by Others**

The Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders, Staff Side and Members and officers in other parts of the public sector and may invite such people to attend, provided that they should be under no obligation to do so.

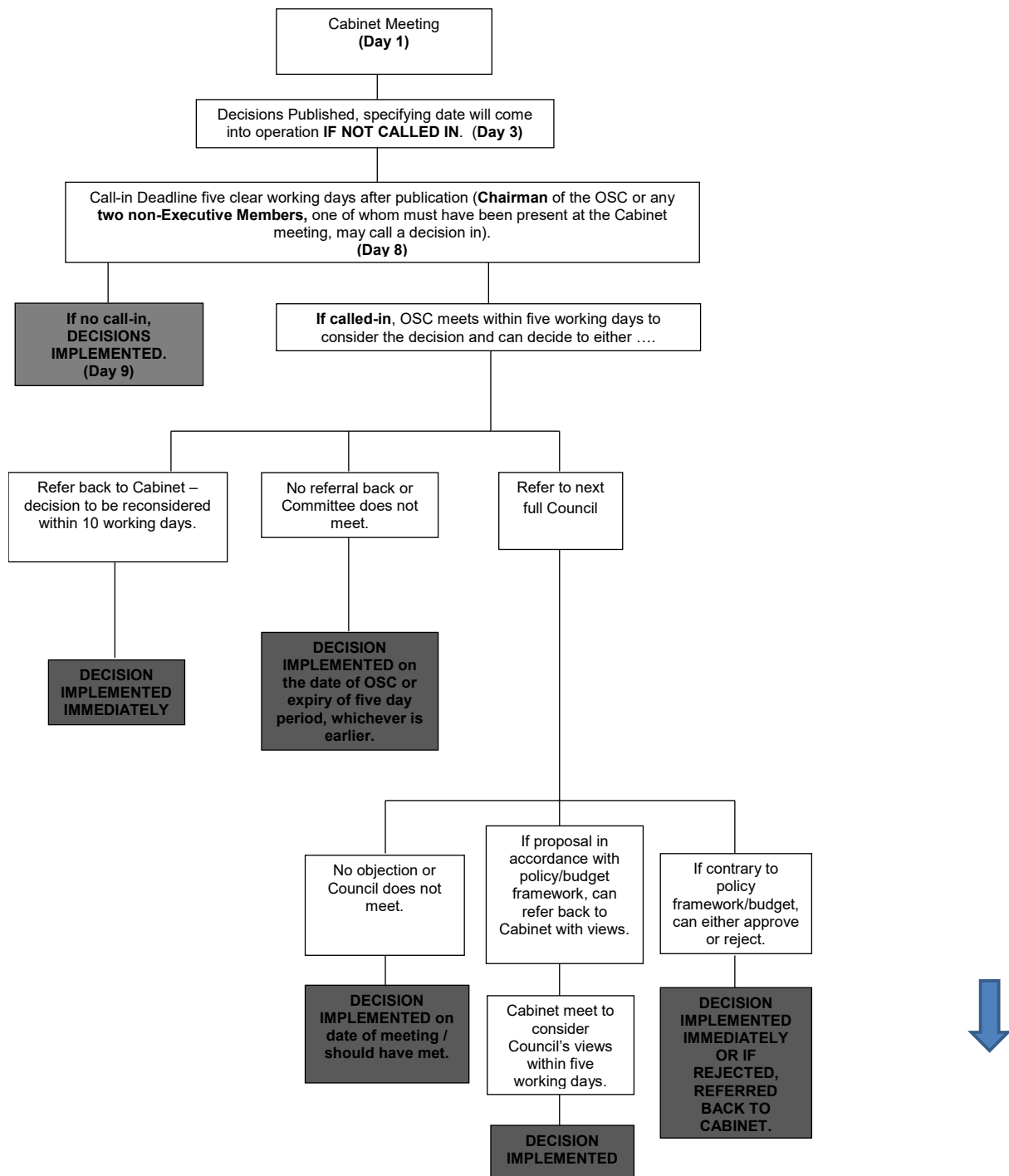
## **16. Call-In**

A flow-chart setting out the following process can be found at the end of this section.

- (a) When a decision is made by the Cabinet or a key decision is made by an officer with delegated authority from the Cabinet, or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. The person responsible for publishing the decision will send all Members of the Council copies of the records of all such decisions within the same timescale.
- (b) That record of the decisions will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the Overview and Scrutiny Committee or any two non-Executive Members objects to it and calls it in.
- (c) During that period, the Head of Paid Service shall call-in a decision for scrutiny by the Committee if so requested by the Chair or any two non-Executive Members, one of whom must have been present at the Cabinet meeting and shall then notify the decision-taker of the call-in. The request for the call-in must state the reasons for the call-in. The Head of Paid Service shall call a meeting of the Scrutiny Committee on such date as they may determine, where possible after consultation with the Chair of the Committee, and in any case within five working days of the decision to call-in.
- (d) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Council. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting, or the expiry of that further five working day period, whichever is the earlier.

- (f) No further action is necessary if the matter has been referred to Council and the Council has not objected; and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole, a meeting will be convened to reconsider within five working days of the Council request. Where the decision was made by an individual, the individual will reconsider within five working days of the Council request.
- (g) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- (h) Any decision referred back by the Overview and Scrutiny Committee or by Council for reconsideration by Cabinet or the decision-taker(s) shall not be subject to further call-in, whether or not it is altered or adjusted to accommodate some or all of the concerns of the original call-in request.

### Call-in Flow Chart



## 17. Call-In and Urgency

- (a) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. 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. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair's consent shall be required. In the absence of both, the Head of Paid Service or their nominee's consent shall be



required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted, via the Overview and Scrutiny Committee, to Council with proposals for review if necessary.

## **18. Procedure at Overview and Scrutiny Committee Meetings**

- (a) The Overview and Scrutiny Committee shall consider the following business:
  - i) minutes of the last meeting;
  - ii) declarations of interest;
  - iii) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
  - iv) responses of the Cabinet to reports of the Overview and Scrutiny Committee;
  - v) consideration of any matter referred to it by the Cabinet;
  - vi) any recommendations or reports from the committee's task and finish groups; and
  - vii) the business otherwise set out on the agenda for the meeting.
- (b) 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 Committee meetings which are to be conducted in accordance with the following principles:
  - i) that 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;
  - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

## **19. Crime and Disorder Matters**

19.1 The Council shall designate the overview and scrutiny committee as the Council's Crime and Disorder Committee with responsibility for scrutinising crime and disorder and community safety matters and the designated committee shall meet in this capacity at least once a year, or as required. The committee may:

- a) consider the decisions and actions undertaken by the responsible authorities involved in the Community Safety Partnership and make any recommendations or reports to the Partnership;
- b) request information from the responsible authorities;

- c) request attendance of officers or employees of the responsible authorities to answer questions or to provide information; and
- d) receive Councillor Calls for Action under Rule 14.2 below in relation to crime and disorder and community safety issues in accordance with the Police and Justice Act 2006.

19.2 Any member of the Council may give notice to the Monitoring Officer to include an item that they consider to be a crime and disorder matter (see note 4 below) relating to their Ward to be included on the agenda for discussion at a meeting of the overview and scrutiny committee responsible for crime and disorder.

19.3 On receipt of the request, the Monitoring Officer shall notify the Chair of the committee of the receipt of the item and ensure that the item is included on the next available or subsequent agenda for consideration by the committee.

19.4 If the relevant committee decides not to make a report or recommendation in relation to the matter, it shall notify the member who referred the matter of its decision and the reasons for it.

19.5 Where the committee makes a report or recommendations it shall, as it considers appropriate:

- (a) provide a copy of the report or recommendations to the member who referred the matter to the committee; and
- (b) provide a copy of the report or recommendations to the responsible authorities (within the meaning of Section 5 of the Crime and Disorder Act 1998)) and the co-operating persons and bodies (i.e. those persons and bodies with which the responsible authorities have a duty to co-operate under Section 5(2) of the Crime and Disorder Act 1998).

[Note 4: "Local crime and disorder matter" in relation to a member means a matter concerning:

- (i) 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
- (ii) the misuse of drugs, alcohol and other substances, which affects all or part of their Ward.]

## **20. Party Whip**

In recognition of the importance and legitimacy of the overview scrutiny function afforded by the law, created to act as a check and balance on the executive, the use of a party whip, by any political party in the committee's deliberations is forbidden. Members are encouraged to contact the Council's Monitoring Officer should they become aware of its use.

## 21. Task and Finish Group Operating Guidelines

Operating guidelines for Task and Finish Groups set up by the Overview and Scrutiny Committee:

|                                      |  |
|--------------------------------------|--|
| <b>Formal Agenda</b>                 | Optional   |
| <b>Informal minutes / notes</b>      | Yes, and not routinely publicly available.   |
| <b>Lead Officer(s)</b>               | Lead Officer(s) from the relevant service area with support from a dedicated Democratic Services Officer.  |
| <b>Action points</b>                 | To be compiled by the Democratic Services Officer as part of minutes and circulated to all relevant officers and reviewed from meeting to meeting.   |
| <b>External / public involvement</b> | Each Task and Finish Group to determine whether meetings shall or shall not be public. Stakeholders shall be invited to attend and to contribute to the group's work programmes, including co-option to the group, as appropriate.   |
| <b>Politically balanced</b>          | Not essential, but there is an expectation that task and finish groups shall include representatives from each political group, as far as reasonably practicable.  |
| <b>Composition</b>                   | Appointed by the Overview and Scrutiny Committee from non-executive members with the relevant experience / interest.<br><br>The lead Cabinet member may be invited to contribute in an advisory capacity to reviews.   |
| <b>Size</b>                          | This shall vary according to the matter under discussion; however, groups should not normally comprise more than five members of the Council.  |
| <b>Terms of Reference</b>            | Terms of Reference shall be set and agreed by the Overview and Scrutiny Committee at the point of establishment and shall include: <ul style="list-style-type: none"> <li>(a) The specific issue to be considered;</li> <li>(b) A timescale and deadline;</li> <li>(c) Principal aims and objectives.</li> </ul> |