

**OVERVIEW AND SCRUTINY  
HANDBOOK:**

**A PRACTICAL GUIDE  
FOR SCRUTINY MEMBERS**

**JUNE 2021**

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## **INTRODUCTION**

### **Purpose**

1. This handbook is designed to provide information for Members and Officers involved in scrutiny activities and aid the effectiveness of the scrutiny process. It is subject to revision by the Overview & Scrutiny Management Committee from time to time. It sets out locally agreed procedures and processes for Scrutiny, and should be read alongside the Council's Constitution which reflects the legal requirements of the Local Government Act 2000 and other relevant legislation. The Constitution also contains the Code of Conduct for Members and the Officer / Member protocol, both of which are relevant to this handbook.
2. The statutory Overview & Scrutiny function is defined in Article 6 of the Constitution. The following definitions are used in this handbook:
  - The phrase "Scrutiny bodies" encompasses Overview and Scrutiny Management Committee, the Health Overview and Scrutiny Panel, the Children and Families Scrutiny Panel, and the Scrutiny Inquiry Panel.
  - "Scrutiny Member" means a person who is a member of a Scrutiny body, and this can include non-Councillors.
3. Section 9F of the Local Government Act 2000 requires the appointment of at least one overview and scrutiny committee. Southampton City Council will have two bodies that will share the statutory function between them.

### **Background**

4. Overview and Scrutiny has a specific statutory basis under Part 1A of the Local Government Act 2000, which introduced Executive arrangements for local authorities. This was extended by the Health and Social Care Act 2001, which extended local authority scrutiny to NHS bodies. The Police and Justice Act 2006 empowers overview and scrutiny committees to scrutinise Crime and Disorder Reduction Partnerships, and the partners who comprise it, insofar as their activities relate to the partnership. The Local Government and Public Involvement in Health Act 2007 lists a number of relevant partner authorities overview and scrutiny committees can request information from, and consequently engage them in the scrutiny process. This Act also formalised the Council's existing arrangements requiring the Executive to attend overview and scrutiny meetings when requested and introduced the power for any councillor to refer a local government matter to an overview and scrutiny committee, whether or not they are a member of that particular committee or sub-committee (commonly referred to as the Councillor Call for Action).
5. The work of overview and scrutiny aims to reflect the "4 Principles of Effective Scrutiny" established by the Centre for Public Scrutiny, which together aim to improve accountability in the local democratic processes and lead to improved public services. The 4 principles are:-
  - Providing a "critical friend" challenge
  - Enabling the voice and concerns of the public and local communities
  - Being undertaken by "independent minded governors" who lead and own the scrutiny process
  - Driving improvement in public services.

## Key functions

6. The Overview and Scrutiny function is a key element in the Council's democratic mechanism. One of its key roles is to hold the Executive to account by:-
  - Questioning and evaluating the Executive's actions, both before and after decisions are taken
  - Monitoring the performance and financial management of the Council
  - Developing and reviewing policies, including the Policy Framework and Budget Strategy
  - Making reports and recommendations on any aspect of Council business (ie non-executive functions) and other matters that affect the City and its citizens.
  
7. Overview and Scrutiny is a key mechanism for enabling Councillors to represent their constituents' views to the Executive to inform policy development. The Council's Overview and Scrutiny bodies will review local authority policies and matters of local concern and interest, and make recommendations to the Executive and Full Council. They are the main way in which the Executive is to be held to account in public for the discharge of the functions it is responsible for. In addition, through the "Call-In" procedure scrutiny members are able to require the Executive to publicly defend and, if necessary, reconsider important decisions.

## **FRAMEWORK AND STRUCTURES FOR THE DELIVERY OF OVERVIEW & SCRUTINY**

The Council's Overview and Scrutiny function is undertaken by the Overview and Scrutiny Management Committee, the Health Overview and Scrutiny Panel, the Children and Families Scrutiny Panel and the Scrutiny Inquiry Panel.

### **The role of the Overview and Scrutiny Management Committee**

8. The Overview and Scrutiny Management Committee is responsible for:
- Setting the overall Scrutiny agenda
  - Setting and monitoring standards for Scrutiny
  - Establishing Scrutiny Panels
  - Preparing a Scrutiny Inquiry Programme
  - Scrutiny of all corporate and resource management issues
  - The exercise of all decisions called in
  - Scrutiny of the Forward Plan
  - Monitoring performance and budgets
  - Considering, at least once a year, actions undertaken by the responsible authorities on the Safe City Partnership
  - Responding to the Councillor Call for Action with the exception of health matters where the Health Overview and Scrutiny Panel will respond
  - Engaging with the Leader of the Council and appropriate members of Southampton Connect in State of the City debates.

### **The role of the Health Overview and Scrutiny Panel**

9. The Health Overview and Scrutiny Panel is legally a sub-committee of the Overview and Scrutiny Management Committee.
10. The Health Overview and Scrutiny Panel is responsible for undertaking the statutory scrutiny of health across Southampton. This role includes:
- Responding to proposals and consultations from NHS bodies in respect of substantial variations in service provision and any other major health consultation exercises
  - Scrutiny of Adult Social Care issues in the City unless they are forward plan items. In such circumstances members of the Health Overview and Scrutiny Panel will be invited to the relevant Overview and Scrutiny Management Committee meeting where they are discussed
  - Scrutinising key decisions of the health agencies in the City and the development and implementation of the Joint Strategic Needs Assessment and Health and Wellbeing Strategy developed by the Health and Wellbeing Board
  - Liaising with, and responding to, matters brought to the Panels attention by Healthwatch Southampton
  - Undertaking inquiries relating to health and well-being issues in the city
  - Considering Councillor Calls for Action for health and social care matters.

### **The role of the Children and Families Scrutiny Panel**

11. The Children and Families Scrutiny Panel is legally a sub-committee of the Overview and Scrutiny Management Committee.

12. The Children and Families Scrutiny Panel is responsible for undertaking the scrutiny of services for children and families across Southampton. This role includes:
- Scrutiny of Children and Families Services in the City, including MASH, Early Help, Specialist & Core Service, looked after children, education and early years and youth offending services, unless they are forward plan items. In such circumstances members of the Children and Families Scrutiny Panel will be invited to the relevant Overview and Scrutiny Management Committee meeting where they are discussed.

### **The role of the Scrutiny Inquiry Panel**

13. The Scrutiny Inquiry Panel is legally a sub-committee of the Overview and Scrutiny Management Committee. The Panel is responsible for undertaking scrutiny inquiries in accordance with a programme developed by the Overview and Scrutiny Management Committee.

### **Membership of Scrutiny Bodies**

14. Details of who can be a member of Scrutiny bodies are set out in rule 3 of the Overview and Scrutiny Procedure Rules in the Constitution, as are the arrangements for appointing Chairs and Vice-Chairs of Scrutiny bodies. By local convention, it is agreed that:
- The Chair of Overview and Scrutiny Management Committee will be a Member from a political group other than that which forms the Executive
  - The Vice-Chair of Overview and Scrutiny Management Committee may, but does not have to, come from the group(s) forming the administration

### **Church and Parent Governor Representatives**

15. Under Regulations and the Local Government Act 2000, Church and Parent Representatives should be appointed as members of the Scrutiny panels dealing wholly or partly with the Council's education functions. They are eligible to chair Overview and Scrutiny Management Committee and its panels and to vote on matters relating to education. Where a panel chaired by a Church or Parent representative deals with other (non-LEA) functions a Councillor should take over the Chair when non-education matters are being discussed so as to allow the Chair a casting vote if necessary.
16. In Southampton the following arrangements have been made for Church and Parent representatives –
- 2 Church Representatives: one nominated by the Roman Catholic (Bishop of Portsmouth) board of education and one by the Church of England (Winchester Diocese) board of education;
- 2 Parent Representatives who have been elected by parent governors at Southampton schools representing the primary and secondary sectors.
17. Unlike other non-Councillors, the 4 Church and Parent reps are by law allowed to vote on education matters considered by the Panel they are members of. They

must be treated no differently than their Councillor colleagues, and have the same rights of access to information, as well as duties to declare interests and exercise powers of Call-In detailed in rule 12 of the O&S Procedure Rules in the Constitution in relation to education matters. These 4 representatives will, therefore, be invited to attend Overview and Scrutiny Management Committee and the Children and Families Scrutiny Panel when it is examining any education matter.

### **Duration of Scrutiny Meetings**

18. In the interests of economy, and in acknowledgement of the pressure on diaries of Cabinet Members and officers, meetings should not regularly be protracted or unduly long. Committee and Panel Chairs should ensure that the items of business are prioritised on the agenda, and that the meeting is conducted in a brisk and business-like manner, without compromising the ability of Scrutiny Panel Members to review agenda items in a thorough manner. Members have previously indicated that they prefer, where possible, that meetings should not exceed 2 hours in duration.

### **Executive Members**

19. Executive Members are not permitted to be Members of Overview and Scrutiny Committees or Sub-Committees. Rule 3 of the Overview and Scrutiny Procedure Rules in the Constitution sets out the rules concerning when a former Executive Member may become a member of a Scrutiny body. In essence a 6 month “firebreak” period exists between ceasing to be a Cabinet Member and becoming a member of a Scrutiny body. There are exceptions, including when there is a change in the political control of the Council.

### **Attendance at Scrutiny Meetings**

20. The Local Government Act 2000, the Health and Social Care Act 2001, the Police and Justice Act 2006 and the Local Government and Public Involvement in Health Act 2007 gives the Overview and Scrutiny Management Committee / Health Overview and Scrutiny Panel / Children and Families Scrutiny Panel the following legal powers:
  - To require officers and Executive Councillors (but not other Councillors or co-optees) both to attend before it and to answer questions;
  - To require the Chief Executive or Chair of an NHS Trust to attend before it and answer questions on health matters;
  - To require the attendance of a representative from the responsible authorities for crime and disorder to answer questions on community safety issues. Responsible authorities include the local authority, the police force, the fire and rescue authority and the clinical commissioning group;
  - To require relevant partner organisations to provide information when requested;
  - To invite (but not require) other persons to attend meetings, e.g. local MPs, utility providers, citizens’ groups etc.
21. Executive Councillors and officers are under a legal duty to comply both in attending and answering questions. No-one is required to answer any question they would be entitled to refuse to answer in a court of law. The legal duty to appear and answer questions does not arise until the Scrutiny body has passed a formal resolution to that effect and served a “Requirement for Attendance Notice” on the person concerned in accordance with the procedure set out in O&S

procedure rule 10 in the Constitution. This requires a copy of the notice to be sent to the Monitoring Officer. However, the local convention is that such a notice would only be served if an invitation to attend was rejected or ignored. It is agreed between the political groups that all Councillors, whatever their status, will fully cooperate, and attend to answer questions when invited. If a Councillor refuses to attend for reasons thought unconvincing, this can be recorded in the Committee's / Panel's report. Failure to attend in breach of a Notice is a breach of standards and may be reported to the Governance Committee where an Executive Member has not attended.

### **Attendance of Officers**

22. Section 9F of the 2000 Act allows scrutiny bodies to require officers to attend to answer questions. Where the Overview and Scrutiny Management Committee or Scrutiny Panels exercise that power they should also consider the seniority of officers it would be appropriate to require to appear before it. They should always ensure that the right person with the required level of knowledge and responsibility is the person invited.

### **Who Scrutiny should call to question at Scrutiny meetings**

23. In deciding who to call, Overview and Scrutiny Management Committee and its Panel should consider the following framework of accountability:
24. **The Leader and Executive Members ("Cabinet")**  
Accountable for the political direction of the Executive which forms the Council's administration and, subject to their approval by full Council, propose and implement the policy framework and budget strategy. They also discharge those powers given to the executive, whether taken in Cabinet or individually.
25. **The Chief Executive, Executive Directors and Statutory Officers**  
The Chief Executive, Executive Directors and Statutory Officers are responsible for the implementation of the approved policy framework and budget strategy and for other decisions taken by executive Councillors or the regulatory committees, for the actions of Council directorates and officers under the scheme of delegation, for policy advice, financial and legal probity, value for money, disciplinary matters and for the Council's overall administration. Although responsible to the Chief Executive, the Monitoring Officer and Chief Financial Officer (Section 151 Officer) have their own particular responsibilities under statute independent of the full Council, the Cabinet, the Chief Executive or any other officers. These are set out in the Constitution.
26. **Service Directors and Heads of Service (Level 1)**  
Responsible for the implementation and delivery of policies and other decisions taken by the Cabinet or regulatory committee's in particular service/policy areas.

### **Manner of Questioning**

27. The overall principles which apply to attending Scrutiny meetings are the same as apply to attendance at any other Council meeting, and reflect the Officer / Member Protocol. It is recognised that Scrutiny may from time to time undertake work involving detailed examination and exploration of the reasons behind decisions or performance trends, and as such it is important to have clear ground rules for the



benefit of both those attending to provide information and those carrying out the scrutiny.

28. The principles relating to Scrutiny are designed to ensure fairness to participants in the Scrutiny process and to facilitate effective Scrutiny which relies on the sharing of appropriate, good quality information:

- Every individual invited to appear before a Scrutiny Committee/Panel should be provided with an outline of the topics and areas they can be expected to answer questions on.
- Questioning should remain within the subject area indicated to executive members, officers and other witnesses.
- All individuals attending a meeting should be given a reasonable opportunity to answer questions and to clarify or correct anything they feel may have been misconstrued.
- Everyone will be treated politely, fairly and with respect. (This has particular importance with regard to officers, where breach of this can give rise to grievance or even constructive unfair dismissal claims).
- Certain matters may be subjudice or under investigation by the Council or other agencies, and it may be inappropriate to pursue certain matters at that time accordingly.
- Members of the public can address a Committee/Panel at the discretion of the Chair.
- Compliance with all legal requirements, including (but not limited to) the Human Rights Act and the Council's constitution – is important.
- Scrutiny meetings are not disciplinary hearings, and Scrutiny Members should ensure that when examining the performance of the Executive that they do not stray into this territory. Discipline is the Chief Executive's function alone in relation to staff, and the Monitoring Officer, the Standards Sub-Committee and the National Standards Board as regards the conduct of Councillors/Members under the National Code of Local Government Conduct/Local Code of Conduct.

### **Consulting others about inquiries/reviews**

29. Where appropriate, and particularly when undertaking Scrutiny inquiries, the Scrutiny Inquiry Panel will seek to involve key partner organisations, groups, and individuals from outside the Council in the inquiry. The Overview and Scrutiny Management Committee should formally consider how external parties can make the most effective contribution at the inquiry planning stage. Better outcomes are likely to be generated by seeking views from as many communities and interested parties as necessary to get a balanced picture of the effects of policy and Executive decisions. In particular they should pay attention to obtaining views from 'hard to reach' groups such as minority ethnic communities and disabled people, and vulnerable citizens.

### **Declarations of interest through previous involvement in decision making**

30. If a Member is involved in the consideration of an item at a meeting of a Committee/Panel, he/she should regard him/herself as having a personal and a prejudicial interest if the business relates to a decision made, or action taken, by another of the authority's committees or sub-committees; or joint committees or joint sub-committees, of which he/she is also a member, unless the member is attending scrutiny to answer questions or give evidence relating to that decision or action.
31. Where a member has such a prejudicial interest they must:
- Withdraw from the room where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he/she has obtained a dispensation from the authority's standards committee; and
  - Not seek improperly to influence a decision about that matter.

### **Rights to Copies of Executive's Documents**

32. The rules on access to the Executive's documents are set out in the 'Access to Information Procedure Rules' of the Constitution. Subject to the next paragraph, the Overview and Scrutiny Management Committee and Scrutiny Panels are entitled to copies of any document which is in the possession or control of the Executive [or its committees] and which contains material relating to –
- any formal decision-making business transacted at a public or private meeting of the Executive or its committees; or
  - any decision taken by an individual Member of the Executive.
33. An Overview and Scrutiny Committee will not be entitled to see:
- any working or background document that is in draft form (This does not apply to draft policy and strategy documents or the draft budget);
  - any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
  - advice provided to a Member in confidence, in line with the Officer / Member protocol.

### **Protection from Defamation**

34. Anyone attending a properly convened meeting of a Scrutiny Body, whether as a member of Overview and Scrutiny Management Committee/Panel or a witness or officer supporting the meeting, has the legal protection of "qualified privilege" from personal liability in relation to the law of defamation.
35. This means –
- They cannot be sued for defamation in relation to anything said or written, provided they do not do so maliciously.
  - The final report will also have the same qualified privilege provided that potentially defamatory material is not included maliciously.

36. Qualified privilege only applies to defamation proceedings and would not cover conduct that might bring other legal liability for e.g. unfair dismissal. Also it only applies to a properly convened meeting of a committee or sub-committee. This means a public meeting of the Overview and Scrutiny Management Committee / Scrutiny Panels convened in accordance with the Access to Information provisions of the Local Government Act 1972, whether or not confidential/exempt items are on the agenda.

### **Declarations of Interest**

37. All Scrutiny agendas follow a standard format. At the start of the meeting Members are invited to declare:
- Personal and pecuniary interests
  - Prior participation in any decision taken by a Committee, Sub-Committee or Panel of the Council on the agenda and being scrutinised at the meeting.
38. The Chair is not obliged to read these items out in full, and can simply ask Members whether they have any declarations to make under each item. However, if there are members of the press and public present at the meeting, then in the interests of openness, transparency and accountability it is advisable for the Chair to read the items in full.

### **Declaration of the Party Political Whip**

39. The Government believes whipping is incompatible with overview and scrutiny and recommends that whipping should not take place, and that where it does it should be declared. The proper and thorough examination of decisions and policies in the public interest should come before local party political allegiance and expediency. An item inviting Members to declare the application of any party political whip is included on all scrutiny agendas to reflect government guidance on best practice. If a Member declares the party whip, that fact is recorded in the minutes of the meeting. The Member is not required to leave the meeting.

### **Limits of the Scrutiny Process**

40. Scrutiny Committees/Panels do not exist to serve as a “court of appeal” against decisions or to pursue complaints by individuals (Councillors, officers or members of the public) as other procedures exist for this e.g. the Corporate Complaints Procedure, and external/statutory mechanisms, e.g. the Local Government Ombudsman or appeal to the courts. That said:
- Committees/Panels may investigate the manner in which decisions are made but should not pass judgements on the merits of a decision in individual cases.
  - They can comment, however, on the merits of a particular policy affecting individuals.

### **Review of Regulatory Committee’s Work**

41. Where a Committee/Panel reviews the work of another Council (i.e. non-Executive) committee it should not scrutinise individual decisions made by such committees, particularly decisions in respect of development control, licensing, registration, consents and other permissions. The Overview and Scrutiny Management

Committee in particular, as the co-ordinating Scrutiny body, will need to ensure such scrutiny is not an alternative to normal appeals procedures.

### **Review of Non-Executive Functions**

42. Although Committees/Panels have the power to make reports and recommendations on functions that are non-Executive functions, this should normally only be used as part of wider policy reviews.

## HOLDING THE EXECUTIVE TO ACCOUNT

### Overview and Scrutiny Management Committee - Regular Agenda Items

43. The Overview and Scrutiny Management Committee will normally meet monthly. At this meeting it will hold the Executive to account by a variety of mechanisms that will include:
- **The Forward Plan** - The Overview and Scrutiny Management Committee will discuss forthcoming decisions with the Executive and bring to the Executive's attention matters considered to be appropriate in taking individual decisions;
  - **Service and Financial Performance Information** – The Overview and Scrutiny Management Committee will receive the same quarterly performance monitoring reports and periodic financial monitoring as Cabinet Members, detailing service performance, financial monitoring information, and an explanatory narrative to enable progress to be monitored against the targets and commitments set out in the Council Plan;
  - **Any Policy Framework Plans** – Consideration of issues papers summarising the main elements of Policy Framework Plans to be recommended to the Council by the Executive;
  - **Any reports by other Review Bodies** – This might include reports from external inspection bodies. The Committee would be likely to seek the views of the Executive on comments made in the reports and identify actions proposed to address any of the issues raised;
  - **Items placed on the agenda by elected Members (including Councillor Calls for Action)** – This applies where an issue has been placed on the agenda by a member in accordance with overview and scrutiny procedure rule 9, or in accordance with the agreed process for dealing with Councillor Calls for Action.

### Policy Framework

44. Overview and Scrutiny has an integral role to fulfil in policy development. The Executive will consult the Overview and Scrutiny Management Committee during the process of preparing the draft budget and draft plans and strategies. Details of this interaction are set out in the Constitution under the Budget and Policy Framework Procedure Rules.
45. When elements of the Policy Framework are under review, the Overview and Scrutiny Management Committee should consider:
- The Executive's initial proposals for the Policy Framework in the form of an Issues Paper detailing significant changes from the existing policy framework, how the proposals reflect any Scrutiny Inquiry or other review recommendations, and details of the consultation underpinning the proposals;
  - The evidence of individuals or organisations invited by the Overview and Scrutiny Management Committee, or else requesting representations to comment on the policy framework proposals, e.g. from partner organisations.

46. The Overview and Scrutiny Management Committee's role at this stage is essentially one of quality control, ensuring that the policy directions proposed have been adequately researched and developed, that adequate consultation has taken place, and that the results of the consultation are reflected in the proposals.
47. A report detailing the Committee's comments on the initial proposals will be submitted to the Executive after the meeting at which it was discussed. This report will also be submitted to Council for consideration along with the Executive's proposals.

### **Call-in**

48. The Overview and Scrutiny Management Committee may hold the Executive to account for the discharge of its functions by examining, challenging, and if necessary requesting changes to, executive decisions made, but not yet implemented. This power is exercised through "Call-In". The power does not enable the Overview and Scrutiny Management Committee to require that a decision be changed.
49. The Council's Call-In procedure is set out in rule 12 of the Overview and Scrutiny Procedure Rules in the Constitution. It applies to decisions taken by the Executive as a whole, or an individual Executive Councillor or an officer acting under delegated powers. The procedure's main features are :
  - Only Overview and Scrutiny Management Committee can exercise the Call-In function;
  - Call-In applies to all executive decisions taken by the Cabinet Members, either working individually or collectively, and to "key" executive decisions taken by officers under delegated powers;
  - The particular decision must not have been implemented at the time Call-In is made. However, it should be noted that the decision cannot be implemented until after the Call-In meeting has taken place;
  - Urgent decisions cannot be Called-In, as the Chair and Vice-Chair of the Overview and Scrutiny Management Committee will have already been involved in the question of whether the particular decision is urgent;
  - Call-In has a special role to play where a decision is thought to be contrary to, or not wholly in accordance with, the approved policy framework or budget.
50. Call-In procedures have the potential, if abused, to significantly disrupt the smooth running of the Council and should be used only in exceptional circumstances. Overview and Scrutiny Management Committee will report to Council on a 6 monthly basis the number of decisions that have been Called-In during that period, and the outcome of the Call-Ins.
51. In order to manage the use of Call-In, it is recommended that prior to calling in a decision, Members should:
  - Obtain and read the report on which the decision is based;
  - Discuss the decision and the reasons behind it with the decision maker/lead officer;
  - Identify on the Call-In notice the specific concerns arising from the decision to be discussed at the call-in meeting;

- Discuss their proposal to use the call-in procedure with the Scrutiny Manager.
52. It is not recommended that Call-In is applied to:
- Any decision in relation to the award of bus contracts where this would result in a break of service to the public;
  - Any decision relating to the award of a discretionary grant to a third party where the likely result of the delay would be that the decision could not be implemented prior to the commencement of the financial year to which the award relates, or be detrimental to that party.
53. The call-in process can be activated either by the Chair of Overview and Scrutiny Management Committee acting singly, or by any 2 members of Overview and Scrutiny Management Committee acting together, or by two of the Church and/or Parent Scrutiny Members acting together, but only in respect of the Council's functions as a local education authority.
54. Scrutiny Members are encouraged to submit Call-in notices as soon as possible, and avoid submitting them on the last day of the Call-in period. Timely deposit of Call-in notices will enable members who may have inadvertently submitted an invalid Call-in notice to have an opportunity to re-submit a valid one.
55. Call-in notices are available in hard copy from Democratic Services. The notices are also available on the Members' Zone of the intranet. When submitting hard copies, all Members requesting the Call-in must sign the notice. When submitting notices electronically each of the Members requesting the Call-in should be identified on the notice, and should confirm their request by e-mail. The notices submitted electronically should be sent to [mark.pirnie@southampton.gov.uk](mailto:mark.pirnie@southampton.gov.uk).

### **Items Placed on the Agenda by Elected Members - Including Councillor Call for Action**

56. Any member of the authority has the legal right to have included in the agenda for a meeting any local government matter relevant to that Committee/Panel's functions, and for it to be discussed at the meeting. This can be done by a Scrutiny Member depositing a "Scrutiny Request Form" in accordance with the procedure set out in Rule 8 & 9 of the Overview and Scrutiny procedure rules or rules 26.5 and 26.6 of the council procedure rules on the Constitution. The key factor to be aware of is that the Scrutiny Request Form must be delivered to the Director, Legal and Governance at least 12 clear working days before the date of the next meeting. However, the earlier the form is delivered, the greater the opportunity for a more detailed report to be submitted to the meeting with facts to enable the issue to be scrutinised. When a Scrutiny Member exercises his/her power to place an item on the agenda the item would be placed on the Overview and Scrutiny Management Committee or Scrutiny Panel agenda for discussion with the Executive Member and/or senior officers.
57. In addition the Local Government and Public Involvement in Health Act 2007 introduced, to help frontline councillors raise matters on an authority's agenda on behalf of their constituents, the Councillor Call for Action (CCfA).
58. The aim of the CCfA is to support elected Members in achieving improvements for their local areas. The Act envisages that:

- councillors identify issues of significant concern to their communities;
  - they seek to resolve problems by talking to the local authority and other service providers;
  - if they cannot resolve matters, then they can refer them to overview and scrutiny committees.
59. At the meeting of the Overview and Scrutiny Management Committee in June 2009 a process was agreed for managing CCfA's in Southampton. The outline process is as follows:
- a. Ward Councillor resolves issue at a local level;
  - b. If unable to do so, Ward Councillor completes a CCfA request form available from Democratic Services and sends it to the Scrutiny Manager who will send it on to the Overview and Scrutiny Management Committee Chair / Health Overview and Scrutiny Panel Chair, if health related;
  - c. The Chair of the Overview and Scrutiny Management Committee or Health Overview and Scrutiny Panel will then determine whether to take the CCfA forward and s/he will inform the Ward Councillor whether s/he will accept the CCfA within 3 working days;
  - d. Relevant Members, partners and officers agree how the CCfA is to be handled;
  - e. The CCfA is heard at the first available meeting of the Overview and Scrutiny Management Committee / Health Overview and Scrutiny Panel;
  - f. The Overview and Scrutiny Management Committee / Health Overview and Scrutiny Panel agrees a resolution for the CCfA.
60. Reasons the Chair may not take the CCfA forward to Committee could include:
- Not enough information has been provided;
  - More could be done to resolve the issue at a local level, e.g. key people have not been contacted;
  - The CCfA is, or has stemmed from, a vexatious complaint;
  - The matter has recently been examined by Overview and Scrutiny (though the Ward Councillors may argue that certain aspects were not sufficiently covered hence a need for a CCfA);
  - The matter is the subject of an ombudsman complaint or other official complaints procedure;
  - The matter falls under excluded matters such as those decided by Regulatory Committees (Planning, Licensing and Education Appeals).
61. The Committee's/Panel's decision will mirror one of the following options:
- The Committee/Panel could determine not to make a report (perhaps because it is not considered the right time to consider a particular issue);
  - The Committee/Panel could write a report on the CCfA, which would be a public report;
  - The Committee/Panel could determine that it is a complex issue that requires further investigation, and undertake a Scrutiny Review or Overview of the issue.
62. The CCfA is not:
- A way to resolve individual casework problems;
  - An appeals process;
  - A forum for vexatious complaints.
63. The Overview and Scrutiny Management Committee will consider all CCfA's with the exception of those relating to health and adult social care. These issues will be



considered by the Health Overview and Scrutiny Panel.

### **Recommendations and Scrutiny Monitoring Procedures**

64. During the course of meetings, members are encouraged to formulate recommendations on matters which they consider appropriate to pass a comment or to recommend a particular course of action to a Cabinet Member. Recommendations should be as concise and unambiguous as possible. The monitoring procedure allows action taken to be monitored against the original proposal made at the meeting.
65. All recommendations made by the Overview and Scrutiny Management Committee are collated into a scrutiny monitoring form. This document is then put to 2 uses: -
  - Firstly it used as the means to identify work required from the Decision Maker. This ensures that the same wording is used at an early stage by everyone involved.
  - Secondly, it is reported back to the following Overview and Scrutiny Management Committee meeting with the action taken being recorded. This enables the Committee to check that the Decision Maker is responding to their recommendations. The number of outstanding responses, and the length of time elapsed since the recommendation was made can be tracked.

## SCRUTINY INQUIRIES

### Planning for Scrutiny Inquiries

66. Annually the Overview and Scrutiny Management Committee will prepare a limited Scrutiny Inquiry programme.
67. The Committee will set the Terms of Reference for inquiries, and approve an inquiry plan identifying the number of meetings allocated to the inquiry, and an outline of the evidence to be heard at each meeting. The Committee will approve the inquiry final report and submit the report to the Cabinet for consideration.
68. It will be the role of the Chair of the Scrutiny Inquiry Panel to ensure that the Panel maintains its focus on the terms of reference set by the Overview and Scrutiny Management Committee.

### Selecting Topics for Inquiry

69. Members may request that the Overview and Scrutiny Management Committee commissions an inquiry by tabling a motion to Council, where the matter will be discussed and, if passed, be submitted to Overview and Scrutiny Management Committee for consideration.
70. Where Council passes a resolution that a subject is of such importance that the Overview and Scrutiny Management Committee should be directed (as opposed to requested) to commission an inquiry, the Overview and Scrutiny Management Committee must commission the inquiry to be completed within 12 months (or such other timescales as council directs), postponing other work to accommodate such demands where necessary.
71. When considering whether to commission an inquiry into a particular policy or service area, Overview and Scrutiny Management Committee will take into account:
  - **Policy development:**  
Whether a review topic relates to an area that is going to be of major significance in terms of the development of policies and associated practices that need to be introduced in order to respond to national, regional or local developments, e.g. the refresh of a Policy Framework Plan, demographic changes etc. If so, then a scrutiny inquiry could help to influence the direction and shape of any policy proposals.
  - **Performance issues:**  
A service that fails to meet expected targets over a period of time or, appears to provide comparatively low value for money, or generate a large number of complaints and a high caseload of work for elected members could benefit from a review to explore how service delivery could be improved.
  - **Impact:**  
For an inquiry to be worth the member and officer resources invested, it must have the potential to make a difference to city life and improve a situation for the benefit of people living and working in Southampton.

- **Opportunity to engage partners:**  
With many of the key issues facing the city being addressed through joint working and mechanisms which require the active engagement of key delivery partners, there is an opportunity for inquiry outcomes to benefit from the input of partners into the scrutiny process. The Local Government and Public Involvement in Health Act also makes provision for what it terms “key partner authorities” (e.g the police and the Clinical Commissioning Group) providing information to overview and scrutiny committees.
- **Avoiding duplication:**  
There are other review bodies within the Council (e.g. the Governance Committee) and external inspection bodies seeking to ensure the delivery of strategic objectives and improved operational services by the Council and its partners. It would not be an effective use of scrutiny resources to duplicate reviews. Where the scrutiny inquiry process could add value is by identifying issues that are not being reviewed elsewhere, or by connecting issues that have been reviewed individually but which have not brought together for the benefit of local residents.
- **Resources:**  
Given the reduced resources available to support the scrutiny function the Committee will need to satisfy itself that adequate officer resources are available to support the inquiry process, both from the Scrutiny function, and from the service areas in the Council or partner organisations who would be required to provide witnesses and technical advice.

### **The process of undertaking a Scrutiny Inquiry**

72. Once the terms of reference and the inquiry plan for a scrutiny inquiry have been agreed by the Overview and Scrutiny Management Committee’s the inquiry will be undertaken by the Scrutiny Inquiry Panel.
73. The inquiry will then proceed in accordance with the inquiry plan. Members will be provided with a summary of the key points from each discussion. On occasions members may be invited to informal meetings. These are not subject to access to information rules and are held in private. The purpose is to allow members to review and reflect on the information presented, to discuss potential areas for recommendations, and for drafting sections of the inquiry report.
74. At the end of the process the Panel will make any final changes to its report at a scheduled meeting. The Chair of the Panel will then present the final report to the Overview and Scrutiny Management Committee. The role of the Committee is to ensure that the Panel have met the agreed terms of reference of the inquiry and to formally approve a final document for submission to the Cabinet. The Cabinet will normally respond to an inquiry report within two months of submission to Cabinet.

## SCRUTINY SKILLS

75. This section outlines some of the key skills required to undertake successful scrutiny.

### Asking Questions

76. Scrutiny will be at its most effective when panel members examining a topic are able to ask the right people the right questions in order to get to the information required to make an effective assessment of the matter under consideration. Officers supporting Scrutiny will provide advice and support to Members if requested in advance of the meeting to ensure that Members are best placed to have the most appropriate Cabinet Members, officers and representatives from partners in attendance at their meetings. Guidance on asking questions is outlined below.

### Putting questions to Cabinet Members and officers

77. It is important to distinguish between the types of question that are most appropriate to be put to and answered by Cabinet Members, and those which are most appropriately put to and answered by officers. The paragraphs below give examples of the different types of question that can be asked of Cabinet Members and officers.
78. Cabinet members can be expected to answer questions about:-
- a) The general direction and content of policies, e.g.
    - *Why do you think this is the right policy?*
    - *What factors lead you to implement this policy?*
    - *Council X is known to have had problems in this area – why do you think the same thing won't happen in Southampton?*
    - *What are the key results and outcomes you would you expect to see in 6/12 months' time?*
  - b) The reasons for chosen priorities, e.g.
    - *Why are you proposing to do X before Y?*
    - *Why are you allocating resources to this proposal now when Y is in such a bad way?*
  - c) Performance within their portfolio area
    - *What is your opinion of the overall performance of your portfolio this quarter?*
    - *Which areas of under-performance are currently of greatest concern to you?*
    - *What steps do you propose to undertake to ensure any areas of under-performance are improved?*
    - *It seems to me there are problems/shortcomings with X:-  
How serious do you think they are?  
What steps do you intend to take to improve the service?  
How soon do you think we can expect to see significant improvements?*
    - *It seems to me that something went seriously wrong with X:-  
What involvement did you have in overseeing the process (name whatever the process is)?*

*Do you think you knew enough about what was happening, and if not, why not?*  
*Why weren't you aware of any problem(s) earlier?*  
*What steps have you taken to make sure this won't happen again?*  
*Do you think these steps go far enough? (And refer to any areas where you think the cabinet member is not going far enough)*

79. If the Cabinet Member defers to officers for questions of this type, it is quite in order for the Scrutiny Member to indicate they would like the response to come from the Cabinet Member. If the Cabinet Member is unable or unwilling to do so then the Scrutiny Member may wish to make a comment on it.
80. Officers can be expected to answer questions about:-
- a) Technical terms and jargon referred to in a report
    - *What does X mean?*
    - *Can you explain how X will work?*
  - b) The methodology for collecting data referred to in a report
    - *How did you go about collecting the figures set out in paragraph X?*
    - *To what extent do these figures convey the overall picture?*
  - c) The detailed interpretation of data referred to in a report
    - *What period do these figures cover? (If not clearly labelled)*
  - d) Detailed issues of technical implementation
    - *I see from the report that there were problems with X. Why were these not highlighted earlier?*
  - e) Detailed issues of technical problem solving
    - *How soon do you think these remedies will take effect? (The Cabinet Member can then be asked if they think this is soon enough)*
  - f) Advice given to the Cabinet Member
    - *Does the decision proposed/implemented reflect the advice provided to the Cabinet Member?*
81. If upon reading a report there are issues in it where Scrutiny Members want detailed answers to questions which depend on facts not contained in any supporting report, then Members should contact the Scrutiny Manager and indicate the line of questioning they wish to pursue and the detail they are looking to examine. The Scrutiny Manager will then indicate to the relevant officers the nature of the data and information they need to prepare to answer questions on at the meeting. If this is not done and a detailed question is subsequently asked at a meeting, the officer is entitled to respond that they are unable to answer a detailed question of this type and it may not be possible to pursue this line of questioning at the meeting.

## Directing the Right Questions to the Right People

82. The less senior a member of staff, the lower his or her responsibility for policy and resource decisions within their area of work. If involved in the Scrutiny process at all, the contribution of members of staff below the level of Head of Service should be confined to matters of fact within their day to day working environment, including the practical results of particular policy choices. For example, they might be involved in providing a factual briefing but it would not be appropriate for them to discuss or comment on resource allocation or policy matters. Therefore, the agreed convention is that:
- Overview and Scrutiny Management Committee / Scrutiny Panels will not normally require the attendance of any officer below Head of Service level where policy matters are involved;
  - Officers below Head of Service level may attend but questioning should be confined to matters of fact only and not resource allocation or policy;
  - Officers may be asked for their professional views on services or policies.

## Formulating Good Quality Recommendations

83. The attributes of effective recommendations reflect the key data quality principles the Council has been embedding in its work. The list below highlights the most common ones which are relevant to the overview and scrutiny process.
- **Clarity:** Recommendations need to be clear and intelligible. They should be unambiguous and say what is meant, not what the proposer may have intended to say.
  - **Specific:** As well as possessing clarity, a good recommendation should be specific. This is best achieved by concise recommendations that attempt to deal with a single point, as opposed to bringing together a number of trains of thought within a single recommendation.
  - **Realistic:** A successful recommendation is one that can make a real difference to policy development or service delivery. In formulating the recommendation it is therefore important to take account of what is realistically achievable. Scrutiny should ultimately be judged by the difference it makes to improving city life, and not by the number of recommendations members produce.
  - **Action focussed:** The impact of scrutiny can be assessed if the recommendations are based on an action that can subsequently be undertaken either by the Executive or a partner organisation. There may be occasions when passive recommendations (e.g. those that welcome a proposal, or support an action) are appropriate, but in the main effective recommendations are those that propose a specific course of action underpinned by evidence presented to the Scrutiny Committee, or related to an intellectual case developed by the Scrutiny Committee.
  - **Measurable:** If there are specific changes or improvements that members are looking for, then these should be set out in the recommendation with an appropriate timescale. This is key to being able to measure the impact of the scrutiny recommendation further down the line.

## Achieving more successful recommendations

84. The following list of practices may assist members in formulating better quality recommendations.

- **Read all reports prior to the meeting:** Despite shortcomings that members regularly identify in written reports, they contain useful information which is important for members to be aware of at the start of the consideration of any issue.
- **Issues in reports need to be understood:** Reading reports and gaining an understanding of the issues is likely to result in being able to ask more challenging questions. This in turn can lead to a greater understanding of the issue, and generate higher quality recommendations that may result in a measurable difference to residents' lives. If the issues are not clear and understandable from reading the reports, briefings can be arranged through the Scrutiny Manager in advance of the meeting.
- **Identify the key issues that are most likely to be the subject of recommendations:** Members prefer meetings that do not last for more than 2 hours. Therefore, preparation which prioritises and identifies the key issues will enable members to focus on the most important matters in the meeting and to enable recommendations to be focussed on these issues.
- **Ask the right questions:** It is impossible to identify a list of right questions that can be applied in every circumstance, but if the answers to questions such as "who", "what", "why", "where", "when" and "how" are not apparent from the report, then there is likely to be a need to ask them at the meeting.
- **Listen to information provided at the meeting:** Listening skills are absolutely key to successful scrutiny outcomes. Useful and critical pieces of information can be elicited if the right questions are asked, but the benefit of the information generated through the question process is lost if a Scrutiny Committee is not listening carefully to the response provided. The most successful supplementary questions are likely to be those generated in response to answers given to the previous question.
- **Effective use of pre-meetings:** A pre-meeting provides an opportunity for members to identify collectively the key issues and plan a campaign for asking questions, ensuring all their key concerns get covered. It is at the discretion of the Chair as to whether a pre-meeting should be held.

## Blocks to making successful recommendations

85. There are a number of reasons why significant issues being discussed do not result in successful recommendations being made. Some of the most common are identified below:-

- **Using meetings to collect information:** Good scrutiny is about making a difference to the overall quality of city life. This objective cannot be achieved if members use the meeting simply to collect information. To take the process forward members need to use the information obtained. If further information is needed to advance the scrutiny process then members should raise their concerns with the Scrutiny Manager prior to the start of the meeting. If necessary individual or collective briefings can then be arranged with appropriate officers.

- **Using scrutiny meetings to undertake case-work:** Scrutiny meetings enable members to look at whole areas of work and activity. Asking questions about instances resulting from an individual case distracts the Scrutiny Committee from broader issues that are the subject of the meeting. This is not to say that the understanding of detail is not important to the scrutiny process, but it must be directly related to the planned outcome from the scrutiny discussion.
- **Compiling recommendations that express opinions or request further information, but do not lead to action:** If recommendations go no further than expressing views on a particular topic, then there is little prospect of them leading to a tangible change in city life. Similarly, simply asking for more information to be supplied either to a future meeting, or outside of the formal meeting process, cannot lead to the Scrutiny Panel being able to generate an outcome without further consideration of the issue.
- **Not being clear on what is wanted at the point of making recommendations:** If a member making a recommendation is not clear on what is trying to be achieved and why for local residents, then there is little chance of the recommendation making a difference to the overall quality of city life.



## CONCLUSION

86. This handbook sets out practical advice to members for the conduct of overview and scrutiny in Southampton City Council. The information and guidelines it contains aim to provide guidance and information on the most important and most common issues scrutiny members are likely to encounter. The document aims to be comprehensive, but cannot be exhaustive. If any issues and questions arise which it does not cover or are missing, or information provided is not clear and requires further explanation and guidance, members should contact the officer listed below, who will be able to respond to any questions and problems.

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