

E. Improvement and Review Protocol

Introduction

1. The Council will have the Improvement and Review Commission with the terms of reference as set out in Section 5 of the Constitution. The Council will appoint Members to the Improvement and Review Commission annually in accordance with Council Procedure Standing Orders. The Improvement and Review Commission is the principal means by which the Cabinet will be held to account. However, it will also assist in the development of Council policy by looking at existing policies and the effectiveness of delivery and may recommend whether new policies or changes to existing policies are needed.
2. The guiding principle for the work of the Improvement and Review Commission is that it should be consensual and positive rather than adversarial and negative. It is accepted that some work (particularly call-in) could be adversarial in a political environment, but the emphasis should be on making a proactive and positive contribution to the development of policy and the discharge of the Council's functions. This should be an inclusive process covering members, partners, service users and staff.
3. The Improvement and Review Commission has the scope to establish up to four Task and Finish Groups at any one time to conduct specific reviews.
4. The Improvement and Review Commission will receive work in one of the following ways (in each case the matter shall be included on the agenda of the Commission):-
 - (i) The main strategies, plans and policies comprising the Policy Framework and the Cabinet's proposed budget, referred from Cabinet for comments.
 - (ii) Any item identified by the Improvement and Review Commission for review which would normally be referred to it under the budget and policy framework or specifically identified by the Commission from the Cabinet Forward Plan.
 - (iii) Items included within the Improvement and Review Commission's own programme of work.
 - (iv) Other items referred to the Improvement and Review Commission from the Cabinet or Cabinet Members (either for preliminary examination or review) save where the Commission does not wish to consider the matter.

- (v) Items raised at Council and referred initially to the Cabinet for re-examination where the Cabinet asks the Improvement and Review Commission to look at them or where the Council refers the matter directly to it.
- (vi) Appropriate items arising from the Improvement and Review Commission calling-in rules.
- (vii) Items raised by a member of the Improvement and Review Commission, which are relevant to the functions of the Commission under section 21A (1) (a) of the Local Government Act 2000.
- (viii) Items concerning local government matters which are relevant to the functions of the Commission as referred to in section 21A (1) (c) of the Local Government Act 2000 which are raised by a member of the Council who is not a member of the Improvement and Review Commission [The “Councillor Call for Action”].
- (ix) Items concerning any local crime and disorder matter as defined by s.19(11) of the Police and Justice Act 2006, which are raised by a member of the Council who is not a member of the Improvement and Review Commission.

Provision in relation to the work of the Commission

5. (i) In considering whether or not to take any action in response to a matter referred by a Member under paragraph 4 (vii) or (viii) above, the Commission may have regard to:-
 - (a) any powers which the Council may have in relation to the matter under section 236 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) (exercise of functions by local councillors, where this has been approved by the Council); and
 - (b) any representations made by the member as to why it would be appropriate for the Commission to take action in exercise of its statutory powers. The Member shall have a right to attend the meeting of the Commission at which the matter is to be discussed. If the Commission decides not to exercise any of those powers, it must notify the member of its decision and the reasons for it.
- (ii) The Commission must also provide the Member with a copy of any report or recommendations which it makes to the Council or the Cabinet in relation to a matter referred under paragraph 4(vii) or (viii) above subject to paragraph 55 in relation to exclusion of confidential or exempt information.

- (iii) In the event that Cabinet declines to accept any of the recommendations of the Improvement and Review Commission, the Commission will be informed of the reasons in detail by means of the Cabinet minute.

Programme of Work

- 6. The Improvement and Review Commission will set its own work programme, including undertaking joint reviews with other Councils as considered appropriate.
- 7. Where the Improvement and Review Commission believes that a particular matter should be included in the Cabinet Forward Plan, it may so recommend to the Cabinet and may require the Cabinet to report to it on the matter, but the final decision as to whether to include a matter within the Forward Plan remains with the Cabinet.
- 8. There shall be scheduled at least 5 ordinary meetings each year of the Improvement and Review Commission.
- 9. The Commission shall meet no less than once every 12 months to review or scrutinise decisions made or actions taken in connection with the discharge of crime and disorder functions.

Procedures at Improvement and Review Commission Meetings

- 10. The Commission will operate in accordance with the Council's standing orders and this Protocol.
- 11. Call-in procedures are restricted to Cabinet decisions Cabinet Member decisions and decisions of Officers set out in the Schedule to this Protocol only; they do not extend to decisions of Committees of the Council.
- 12. The Chairman and Vice-Chairman of the Improvement and Review Commission will be appointed at the Annual Council meeting.

Pre-determination

- 13. In addition to the usual rules on interests Members must declare any previous involvement in a matter at the relevant meeting.

Speakers

- 14. The Improvement and Review Commission may require any of the following to attend a meeting to answer questions:-
 - (i) A Cabinet member.
 - (ii) An Officer (other than a political adviser), in which case the request shall be directed to the relevant Head of Service.

- (iii) any other member of the Council if and to the extent that the questions relate to any function which is exercisable by the member under section 236 of the Local Government and Public Involvement in Health Act 2007.
15. If the Improvement and Review Commission asks for an Officer to attend who is not the Chief Executive, a Corporate Director or a Head of Service; the Chief Executive, Corporate Director or Head of Service is also entitled to be heard by the Improvement and Review Commission. If the Chief Executive, a Corporate Director or a Head of Service is asked to attend they may nominate another Officer to be heard on their behalf. A Cabinet member may ask an Officer to attend with him or her to assist in providing technical advice.
16. Officers shall be accountable to the Improvement and Review Commission in respect of decisions which they have taken and advice which they have given.
17. Subject to paragraph 18 below, the Improvement and Review Commission may request any of the following to attend an Improvement and Review Commission meeting:-
- (i) Any elected Member or co-opted person.
 - (ii) A representative of any relevant outside body.
 - (iii) Any external expert to give evidence provided arrangements can be made within the budget to pay any expenses or fees incurred.
 - (iv) Any resident of the District or organisation that the Commission believes to have a legitimate interest in the topic under consideration.
18. Paragraph 17 is subject to the following provisions:-
- (i) Not less than three working days' notice, except in a case of urgency.
 - (ii) If a Member or Officer is unable to attend for a specific reason, then he or she may nominate another Member or Officer to attend who is able to speak on the topic.
 - (iii) Anyone asked to attend shall be entitled to see the terms of reference and the public papers relating to the particular matter under consideration prior to the meeting and wherever possible on the same timescale as that applicable to a member of the Improvement and Review Commission.

- (iv) Anyone asked to speak shall wherever possible (but at the Chairman's discretion) be given access to statements submitted by people from whom the Improvement and Review Commission has already heard but not those who have not yet given evidence. The Chairman of the Improvement and Review Commission shall have a discretion to disclose other papers, including statements submitted by following speakers and confidential (exempt) material, if he or she considers (having taken advice from appropriate Officers) that it will help the speakers to address a particular point or will otherwise assist the Improvement and Review Commission's examination of the issue.
- (v) All speakers shall respect the confidentiality of any confidential or exempt information they receive and shall not disclose it without the authorisation of the Improvement and Review Commission.
- (vi) Speakers may submit relevant papers in advance (or at the meeting) to the Improvement and Review Commission.
- (vii) Speakers may bring any notes or other papers that are helpful to them in assisting the Improvement and Review Commission, but (subject to any privilege and confidentiality rule) must make these available to the Commission at the request of the Chairman.
- (viii) Provided that no confidential or exempt information is contained in them, or their disclosure or circulation might give rise to criminal proceedings against the Council or its officers, papers submitted by speakers shall become public documents once they have presented their evidence and shall be cited as background papers to the Improvement and Review Commission's published report. Care must also be taken in respect of the Freedom of Information Act 2000.
- (ix) Officers and Portfolio Advisory Group members will not be required to give a personal opinion on any Cabinet decision [or decision of an individual Cabinet member] which is different from the recommendation they made.
- (x) Improvement and Review Commission members may be expected to ask searching questions but will always be polite and treat any speaker with respect. No questions that impinge on their personal and private lives will be permitted unless this impinges directly upon the subject under discussion, or in the case of Members and Officers, the performance of their Council duties.

- (xi) Where any person objects to a question as unreasonable, he or she should tell the Chairman why he or she objects to that question. The Chairman should then either:-
 - (a) Rule that the question be pursued or be no longer pursued;
 - (b) If so requested by the speaker, adjourn the meeting to hear in private the speaker's reasons for objection and the questioner's reasons for pursuing the question, and following advice from the Head of Democratic and Legal Services and/or District Solicitor (or their respective authorised representatives) rule whether the question should or should not be pursued; or
 - (c) Adjourn the question, requesting the speaker to submit a statement of his or her reasons for the objection and the questioner to submit a statement of his or her reasons for pursuing the question. The advice of the Head of Democratic, Legal and Policy Services and/or District Solicitor (or their respective authorised representatives) should then be sought before the Chairman decides whether the matter should be put before a subsequent meeting of the Improvement and Review Commission, and the question pursued.
- (xii) Each speaker will have five minutes to contribute evidence, or longer if the Chairman agrees. If someone making a contribution exceeds the time limit the Chairman may stop him or her.
- (xiii) Improvement and Review Commission members should limit their questions to the matter under consideration. The Chairman may structure the debate to limit the time allowed for questioning.
- (xiv) Speakers will be entitled to a copy of any draft minute or other record taken of their contribution for comment. Should they feel that such record is not accurate they will be given the opportunity to make a written representation asking for a correction to be submitted to the next meeting of the Improvement and Review Commission.
- (xv) Improvement and Review Commission meetings shall be open to the press and public except where they are considering matters which are exempt or confidential as defined under the Local Government Act 1972 (see Standing Order 18).

Documentation

19. The Improvement and Review Commission may within the limits of any budget that may be assigned from time to time, commission research or advice (including from external organisations) to assist in any deliberations.
20. Improvement and Review Commission members who have access to confidential or exempt material must respect the confidentiality of that material at all times, and must not use it in a context other than an Improvement and Review Commission examination without the permission of the originator of the material or the Improvement and Review Commission.
21. Subject to the exceptions set out in the Access to Information Procedure Rules, the Improvement and Review Commission will also have access to background information from a range of sources.
22. The Improvement and Review Commission will not have access to advice given by a political adviser.
23. Any Officer considering a request for a Member to access documents shall have regard to advice from the District Solicitor (or his/her authorised representative) on the question of that Member's entitlement (or otherwise) to access under any relevant legislation or the Common Law.

Membership / Co-Option

24. The Improvement and Review Commission may have such co-optees or establish such Task and Finish Groups to carry out work within the remit of the Commission as it wishes, but co-optees will not be able to vote (Sec 21(10) LGA 2000). The number of Members on any such Sub-Committee, their term of office, the terms of reference of the Sub-Committee or working group and any restricted area (geographical or otherwise) shall be resolved by the Commission at the time of appointing the Sub-Committee or working group.
25. The Chairman (and sometimes the Vice-Chairman) of the Task and Finish Group is normally announced by the Chairman of the Improvement and Review Commission at the meeting at which the Task and Finish Group is established. Any Wycombe District Councillor who is not a Cabinet Member or Deputy Cabinet Member, regardless of whether a Member of the Improvement and Review Commission, can serve on a Task and Finish Group.

26. A Task and Finish Group review (including joint reviews with other authorities) may last up to 6 months. Frequency of meetings can be variable, with monthly as average. Meetings usually take place in early evening, but occasionally during office hours at the discretion of the Task and Finish Group Chairman.
27. Whether a Task and Finish Group is to be politically balanced or politically representative is to be established by the Commission at the setting up of the Group.
28. The Commission may only have four Task and Finish Groups currently meeting and working at any one time.
29. In relation to scrutiny of a crime and disorder function, additional Members may be co-opted if they are an employee, Officer or Member of a responsible authority, or co-operating person or body. The co-opted person shall only be entitled to vote if the Commission so permit this.
30. No member or deputy member of the Cabinet may sit on the Improvement and Review Commission, its sub-committees, working groups or Task and Finish Groups.

Call-In Process for Executive Functions

General

31. With the exception of decisions that are taken under the urgent action procedure, or where a delay would prejudice the Council's interests, no decision of the Cabinet, a Cabinet Member or a key decision of an Officer under the approved scheme of delegation shall be implemented before the expiry of 5 working days from the date of publication of that decision.
32. A request for call-in of a decision that has not yet been implemented will only be permitted if:-
 - (i) the decision is not taken under the urgent action procedure;
 - (ii) delay will not prejudice the interests of the Council; and
 - (iii) the request is made by one or more members of the Improvement and Review Commission within 5 working days of the publication of the decision and confirmed within 10 working days thereof, and at least 3 of the following criteria are satisfied:-
 - (a) The decision is outside agreed policy or budgets.
 - (b) It proposes expenditure in excess of £250,000.

- (c) It affects at least one quarter of the wards of the District.
 - (d) The request is made by at least 5 members of the Improvement and Review Commission, excluding the Chairman but including members of at least two political groups.
 - (e) In the event that the decision affects less than one quarter of the wards, the decision is not supported by at least 1 Local Member (2 in a 3 Member ward).
 - (f) The consent of the Chairman of the Improvement and Review Commission has been obtained.
 - (g) There has been insufficient opportunity for Members to input into the decision.
33. A decision takes effect after 5pm on the fifth working day, after publication if it has not been called in.
34. With regard to Officer decisions, only decisions set out in the Schedule to this Protocol may be called in.
35. Once any proposed Cabinet or Cabinet Member decision is published, any Member, including members of the Improvement and Review Commission, can ask to see the papers to be considered and take preliminary advice from Officers about the implications.
36. Within 5 working days of the publication of the proposal, an Improvement and Review Commission Member must notify the Head of Democratic, Legal and Policy Services if he or she intends to request the Committee to examine the proposal, and if so, whether any Cabinet member (or other member if paragraph 14 (iii) above applies) or Officer will be required to attend the meeting.
37. The Improvement and Review Commission will consider the request for call-in at its next scheduled meeting, or if the Chairman thinks fit or a quarter of the members of the Commission so request at a special meeting called for the purpose. The Commission Chairman to have the final discretion as to the date of any special meeting.
38. At the Commission Meeting to which the request for 'Call-in' is considered, the 'mover' and a 'seconded' of the 'call-in' will have the opportunity to address the Commission on why the call-in has been submitted (prior to the Commission deciding if the call-in should be debated).

39. If, following discussion, the Improvement and Review Commission agrees that the matter should be called in it may agree its response to the Cabinet at that meeting. If the Improvement and Review Commission requires further investigation or information, the Cabinet or Cabinet Member may agree to extend the time in which a final view may be expressed.
40. If the Improvement and Review Commission does not propose that the decision should be reversed, amended, further investigated or referred up to the full Council at the first meeting to consider the call-in, the original decision will take effect at the end of that Improvement and Review Commission meeting or the expiry of five working days from the date on which the decision was originally taken, whichever is the later.
41. Upon receipt of the response from the Improvement and Review Commission (unless the Commission has asked for the decision to be referred up to full Council) the Cabinet or Cabinet Member may decide to proceed with the original decision or an amended decision. He or she will then publish that decision in accordance with the protocol on decision-making. Alternatively, before making a decision, the Cabinet (or Cabinet Member with the Leader's permission) may refer the matter to full Council for the Council's views to be sought before the decision is taken.
42. Unless the Cabinet or Cabinet Member agrees, the implementation of any decision may not be delayed for longer than 1 month.

Points to Consider when deciding whether to Call-In a Decision

43. Call-in should be a matter of exception. The Improvement and Review Commission should consider whether any of the following points are appropriate in deciding whether to proceed with a call-in:-
 - (i) If the decision specifically affects a particular ward(s) the Chairman shall consult the local member(s).
 - (ii) Any representations made, whether by members of the Improvement and Review Commission, or other Members of the Council or members of the public, should be considered.
 - (iii) The need to take such practical, technical, financial, legal and propriety advice as the Commission considers necessary to clarify any matters or doubts, including consultation with the relevant Cabinet Member or Officers as appropriate.
 - (iv) The need to ascertain whether any other all-party or Improvement and Review Commission examination has already been given to the issue.

- (v) The decision is outside the agreed policy or budget framework (including relevant provisions in Financial Regulations).
44. Unless point 43(v) above applies (the advice of the Monitoring Officer being final), the Commission will then consider the following “protocol questions”:-
- (i) Is the decision likely to cause significant concern or distress to the local community or prejudice individuals?
 - (ii) Has more than one-third of the Improvement and Review Commission expressed the view that the call-in should proceed?
 - (iii) Is the issue one that has been considered or consulted upon, whether in an open meeting or otherwise?
 - (iv) Would delay significantly damage the interests of the Council?
 - (v) Have other significant representations been made but not considered before the decision was taken?
 - (vi) Are there significant representations against the decision from outside bodies?
 - (vii) Are any matters in paragraph 5 (i) (a) or (b) above relevant?
45. The more protocol questions with a “yes” answer, the more likely it will be that the call-in will proceed, but the matter will be decided by a majority vote as usual at committee meetings.
46. A proposal may only be called in once. If, however, the Cabinet or Cabinet Member substantially amends the original proposal in a way which the Improvement and Review Commission has not considered, nor could reasonably have foreseen, to the extent that in reality it is a different proposal, the Improvement and Review Commission has the right to call it in again.

Preview

47. If any member of the Improvement and Review Commission identifies a matter likely to be considered by the Cabinet because of its sudden prominence but not already being dealt with (e.g. a natural disaster in the area or an announcement of a change of government policy) and the Commission Chairman agrees, he or she may give 5 working days’ written notice to the Head of Democratic, Legal and Policy Services to ask the Commission to give a view to assist Cabinet’s consideration of the issue. A similar procedure will apply to advance scrutiny of matters published in the Cabinet’s Forward Plan.

48. Having considered an issue, the Commission will submit a report to the Cabinet on it if it considers it to be appropriate.

Review

49. 12 months or more from the date on which a decision is made, there will be a presumption that any review will only be carried out at the request of the Cabinet or a Cabinet Member or if it is within the Improvement and Review Commission's own programme of work.

Urgency Procedure

50. Where the Cabinet needs to take a key decision which is not contained within the Cabinet Forward Plan of work, the Head of Democratic, Legal and Policy Services must notify the Improvement and Review Commission Chairman in writing at least five clear working days before the decision is intended to be taken.
51. Where such notice is given, the Chairman of the Improvement and Review Commission may call a meeting of the Commission or consult with the Commission Members to determine any response to be given to Cabinet prior to the decision being made.
52. Where compliance with paragraph 50 above is impractical because of urgency or a proposed decision is in the Cabinet Forward Plan of work but has become urgent due to unforeseen circumstances, then the Cabinet, individual Member or officer intending taking the decision will obtain the agreement in writing of the Chairman of the Improvement and Review Commission (or if he or she is unable or unwilling to act, the Chairman or Vice-Chairman of the Council) that the decision is urgent and that the decision cannot reasonably be deferred.
53. In all such cases, a report will be made to the full Council on the decision taken, the reasons for it and why the decision was urgent (See Protocol for Decision Making).

Preparation and Publication of Reports

54. When the Improvement and Review Commission completes its consideration of any matter, it will decide whether to make any recommendation to the Cabinet or to the Council or to publish a report on the matter. Interim reports may be made as required. The Improvement and Review Commission may authorise any of its Task and Finish Groups to report directly to Cabinet if it considers it appropriate to do so.
55. Under section 21B of the Local Government Act 2000, save in respect of excluded matters, where the Commission makes a report

or recommendation to the Council or the Cabinet, the Commission will require the Council or the Cabinet (as the case may be) within two months:-

- (i) to consider the report or recommendations.
- (ii) to respond indicating what, if any, action is proposed to be taken.
- (iii) (if the Commission has published the report) to publish the response.

If the Commission provided a copy of the report to a Member under paragraph 5 (ii) above, it shall provide him/her with a copy of the response.

- 56. In publishing or providing a document, the Commission must exclude confidential information as defined by s.100A(3) of the Local Government Act 1972 and may exclude any relevant exempt information as defined by s.21D of the Local Government Act 2000. This information may be excluded from the copy provided to a member of the local authority under paragraph 5(iii).
- 57. Where the Commission makes a report or recommendation in relation to a crime and disorder matter:-
 - (i) under s.19(1) of the Police and Justice Act 2006 (scrutiny of crime & disorder functions), it must provide a copy to all responsible bodies and co-operating persons and bodies;
 - (ii) under s.19(3) of the Police and Justice Act 2006 (local crime and disorder matters), it shall provide a copy to any responsible body or co-operating person or body as it considers appropriate.
- 58. Where the Commission makes a report and recommendation to a responsible authority or co-operating person or body in accordance with paragraph 57(ii), it shall notify the body to whom the report is made to consider the report, respond in writing within 28 days and to have regard to the report in exercising its functions.
- 59. Copies of final reports and recommendations on Cabinet or individual Cabinet Member items called in, previewed or reviewed must go to the Cabinet. Where appropriate, the report may recommend that the matter should be debated at Council. The Head of Democratic, Legal and Policy Services will submit the report to the Council or Cabinet for consideration within one month or at the next scheduled meeting, whichever is most appropriate.

60. The agenda for Cabinet meetings shall include an item “References from the Improvement and Review Commission” when reports will be presented by the Improvement and Review Commission Chairman or in his/her absence, the Vice Chairman.
61. Where the Improvement and Review Commission prepares a report for consideration by the Cabinet in relation to a matter where an individual Cabinet Member has delegated authority to make the decision, then the Improvement and Review Commission will also submit a copy of its report to him/her for consideration, and at the same time send a copy to the Head of Democratic, Legal and Policy Services. The Cabinet Member must consider the report and respond in writing to the Improvement and Review Commission within one month of receiving it. A copy of the response shall at the same time be sent to the Head of Democratic, Legal and Policy Services.

SCHEDULE

Definition of an Officer Decision which may be called in

An officer decision may only be called in if:

- (i) It involves expenditure in excess of £250,000 and/or
- (ii) The decision is outside agreed policies or budgets and/or
- (iii) It involves the acquisition or disposal of land or any interest therein in excess of £1,000,000 and/or
- (iv) It is of such significance to all or part of the area that it should be treated as a key decision.

An officer decision may not be called in if:

- (i) It is in the nature of day to day management activities and/or
- (ii) It is in respect of a non-Executive function, e.g. licensing or regulatory matters, development control matters, or matters falling within the purview of the Standards Committee or the statutory roles of the Monitoring Officer or the Chief Financial Officer and/or
- (iii) Delay might be prejudicial to the interests of the Council.
- (iv) It involves contracts for, and expenditure on repairs, maintenance or improvement works within budget provision and approved policy where the contract or expenditure has been properly and specifically approved by or on behalf of the executive, or by an officer acting under delegated powers, save where Contract Standing Orders require the Cabinet itself to authorise acceptance of a tender and such acceptance has not previously been authorised or delegated by the Cabinet.