

## **C. Overview and Scrutiny Procedure Rules**

### **1 Work Programme**

- 1.1 The Overview and Scrutiny Committee will consult with other parts of the Shadow Authority as appropriate, including the Shadow Executive, on the preparation of its work programme.
- 1.2 The Overview and Scrutiny Committee will take into account any views expressed following consultation under Rule 1.1 above in drawing-up and agreeing any work programme. It should also take into account the resources, both officer and financial, available to support its proposals.
- 1.3 Once any programme has been approved, a copy will be sent to all Members of the Shadow Authority and all relevant officers.
- 1.4 The Overview and Scrutiny Committee shall respond, as soon as it may consider it is possible to do so, to requests from the Shadow Authority and the Shadow Executive, to review particular areas of Shadow Authority activities. Where it does so, it will report its findings and any recommendations back to the Shadow Executive and/or Shadow Authority in accordance with Rule 4 below.

### **2 Agenda for meetings of the Overview and Scrutiny Committee**

- 2.1 Matters to be considered will be set out in an Agenda, together with appropriate and relevant supporting papers.
- 2.2 Any member of the Committee shall be entitled to require, in writing, that an item be included on the agenda, and such item shall appear on the agenda for the next meeting of the Committee in question. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 2.3 Similarly, the Leader or a Portfolio Holder may give notice in writing requiring an item to appear on an agenda of the Overview and Scrutiny Committee, relating to their area of responsibilities. The Overview and Scrutiny Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 2.4 Subject to Shadow Authority Procedure Rule D of the Shadow Authority Procedure Rules, any other Shadow Member may give notice in writing to the Monitoring Officer, requesting an item to appear on an agenda of the Overview and Scrutiny Committee. The item shall be included after consulting the Chairman of the Overview and Scrutiny Committee.
- 2.5 Any Shadow Member raising an item under Rules 2.2, 2.3 or 2.4 above shall be precluded from raising the matter again for a period of 12 months from the date it is considered by the Committee.

### **3 Policy Review and Development**

- 3.1 The Overview and Scrutiny Committee has a key role in policy and budget development in the approach to the creation of the Buckinghamshire Council.

### **4 Reports from the Overview and Scrutiny Committee**

- 4.1 Once recommendations have been formed, the Overview and Scrutiny Committee will submit a formal report for consideration by the Shadow Executive or where the Leader has delegated decision-making to a Portfolio Holder, the Portfolio Holder (if the proposals relate to an executive function and are consistent with the existing budgetary and policy framework), or to the Shadow Authority as appropriate (if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- 4.2 The Shadow Authority or the Shadow Executive shall consider the report of the Overview and Scrutiny Committee within two months (or next available meeting in the case of the Shadow Authority) of it being submitted.
- 4.3 Where the Overview and Scrutiny Committee submit a report for consideration by a Portfolio Holder, the Portfolio Holder must consider the report and respond in writing to the Overview and Scrutiny Committee within two months of receiving it. The Portfolio Holder will also attend a future meeting of the Overview and Scrutiny Committee to present their response.

### **5 Access to the Forward Plan**

- 5.1 The Overview and Scrutiny Committee will have access to the Shadow Executive's Forward Plan and timetable for decisions and intentions for consultation.

### **6 Rights of Overview and Scrutiny Committee members to documents**

- 6.1 In addition to their rights as Shadow Members, members of the Overview and Scrutiny Committee have the additional right of access to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

### **7 Shadow Members and Officers giving account**

- 7.1 The Overview and Scrutiny Committee may scrutinise and review decisions made, or actions taken in connection with the discharge of any Shadow Authority function. As well as reviewing the documentation, in fulfilling its scrutiny role, it may require the Leader or any Portfolio Holder, to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Shadow Authority policy; and/or
- (c) their performance,

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

- 7.2 Where the Overview and Scrutiny Committee requires an officer to attend to answer questions or discuss issues, this will be agreed with the lead officer of the Implementation Team.
- 7.3 Where it is agreed that an officer should appear to answer questions, their evidence should, as far as possible, be confined to questions of fact and explanation relating to policies and decisions. Officers may explain:
- (a) what the policies are;
  - (b) the justification and objectives of those policies as the Shadow Executive sees them;
  - (c) the extent to which those objectives have been met; and
  - (d) how administrative factors may have affected both the choice of policy measures and the manner of their implementation.
- 7.4 Officers may be asked to explain and justify advice they have given to the Shadow Executive prior to decisions being taken. They may also be asked to explain and justify decisions they have taken under delegation powers from the Shadow Executive.
- 7.5 Officers should not be expected and should avoid being drawn into discussions of politically contentious matters and any officer input should be consistent with the requirements for political impartiality.
- 7.6 The requirements of any protocols on Member/Officer relationships and the Code of Conduct must be adhered to where an officer is attending the Overview and Scrutiny Committee.
- 7.7 Where any Shadow Member or Officer is required to attend the Overview and Scrutiny Committee under this provision, the Chairman of that Committee will inform the Monitoring Officer, who will inform the Shadow Member or Officer in writing giving at least ten clear working days' notice of the meeting. The notice will state the nature of the item on which he/she is 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 Overview and Scrutiny Committee will require the production of a report, then the Shadow Member or Officer concerned will be given reasonable and sufficient notice to allow for its preparation.

- 7.8 Where, in exceptional circumstances, the Shadow Member or Officer is unable to attend on the required date, then the Committee shall, in consultation with the Shadow Member or Officer, arrange an alternative date for attendance.

## **8 Attendance by others**

- 8.1 The Overview and Scrutiny Committee may invite individuals other than those referred to in Rules 7.1 and 7.2 to address it, discuss issues of local concern and/or answer questions. In relation to the Conduct Sub-Committee an Independent Person under the definition of the Localism Act 2011 will attend to sit on the Conduct Sub-Committee as a non-voting member.

## **9 Call-in**

- 9.1 This Rule shall apply to a decision of the Shadow Executive, the Leader, Portfolio Holder or an officer that is a Key Decision and there are:
- a) reasonable grounds to suggest that a decision has not been made in accordance with the law and/or
  - b) where the decision was not made in accordance with the principles of Article 12 of the Constitution and/or
  - c) where the decision was not published in accordance with the requirements for the Shadow Executive Forward Plan, nor subject to the 'general exception' or 'special urgency procedures' set out in this Constitution.
- 9.2 When a decision is made by the Shadow Executive, or a Committee or Sub-Committee of the Shadow Executive, or a Key Decision is made by an officer with delegated authority from the Shadow Executive, the decision shall be published, by electronic means, and shall be available at the main offices of the Shadow Authority normally within 2 clear working days of being made. All members of the Shadow Authority will be sent an electronic record of all such decisions within the same timescale.
- 9.3 Subject to Rules 9.4, 9.5 and any urgency provisions a decision taken, and to which Rule 9.1 above refers will not come into force, and may not be implemented, until the expiry of 5 clear working days after the decision was made and recorded.
- 9.4 Where a decision referred to in Rule 9.1 has been made, any 20 or more Shadow Members, who are not members of the Shadow Executive, provided those Shadow Members include members from more than one political party may submit a call-in notice, in writing, within the period specified in Rule 9.3 above, to the Monitoring Officer. Where the notice is valid, the decision cannot be implemented until the procedures in this section have been followed. Where a valid notice is received the decision shall stand referred to the Overview and Scrutiny Committee for advice.
- 9.5 Where as a result of a corporate electronic system failure or planned shutdown, which prevents the issuing of or access to Shadow Executive decisions or the submission of a call-in notice by electronic means in accordance with the Shadow Authority's call-in provisions, the periods for notification or submission shall be extended by the period of delay, provided that period is in excess of four hours.

- 9.6 When, in the opinion of the Monitoring Officer, the period of delay is likely to extend beyond two clear working days, he/she shall agree with the Chairman of the Overview and Scrutiny Committee, alternative arrangements to avoid any delay in implementing Shadow Executive decisions not subject to “call-in”.
- 9.7 The decision will be referred to the first available meeting of the Overview and Scrutiny Committee, subject to the Access to Information Procedure Rules.
- 9.8 The Committee, having considered the matter, may decide to offer no advice and in which case the decision may be implemented immediately. Where advice is offered, the Shadow Executive will reconsider the decision as set out in Rule 9.10.
- 9.9 Once the Overview and Scrutiny Committee has decided to offer advice or not to offer advice, no further call-in notices may be served in respect of that matter subject to the decision in question. This does not prevent the matter being scrutinised further by the Committee after the decision has been implemented in accordance with these rules.
- 9.10 Where a matter is considered and advice is offered by the Overview and Scrutiny Committee, its advice will be submitted to the Shadow Executive for a decision to be made on the matter. The Shadow Executive shall consider the advice but shall not be bound to accept it in whole or in part. It shall have sole discretion to decide on any further action to be taken in relation to the decisions in question, including confirming with or without amendment, of the original decision or deferment pending further consideration, or making a different decision. There are no further rights to enable a Shadow Member to submit a call-in notice. The decision may then be implemented.
- 9.2 A submitted call-in notice can only be withdrawn with the written consent of all of its signatories.
- 9.3 The “call-in” facility does not apply to the determination of a Motion under Meeting Procedure Rule D (11).

## **10 Call-in and Urgency**

- 10.1 The call-in procedure set out above shall not apply where the decision being taken by the Shadow Executive the Leader, Portfolio Holder or an officer is urgent. A decision will be urgent if any delay, caused by the call-in process, would be likely to seriously prejudice the Shadow Authority’s or the public’s interests. The Chairman of the Overview and Scrutiny Committee or, in his/her absence, the Chairman of the Shadow Authority must agree that the decision should be treated as urgent, and that the call-in procedure should not apply. In the absence of the Chairman, the Vice-Chairman’s consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee’s consent shall be required.

## **11 Councillor Call for Action**

- 11.1 Any member of the Shadow Authority may submit a Councillor Call for Action using the appropriate form. The Councillor Call for Action is intended to be a process of last resort and therefore a member must demonstrate that reasonable steps have been taken to resolve the matter including a response from the relevant Portfolio Holder and the Head of Paid Service or his/her nominee. The Councillor Call for Action will be placed on the agenda of the Overview and Scrutiny Committee. It is for the Overview and Scrutiny Committee to determine how it wishes to respond to the Councillor Call for Action and in the case of refusal to undertake a review then reasons must be provided.

## **12 The Party Whip**

- 12.1 The use of the Party Whip is incompatible with the role of the Overview and Scrutiny Committee and shall not be used.

## **13 Procedure at Overview and Scrutiny Committee Meetings**

- 13.1 The Overview and Scrutiny Committee shall consider the following business:

- (a) record of the last meeting;
- (b) consideration of any matter referred to the Committee by the Shadow Authority or by the Shadow Executive;
- (c) consideration of any matter referred to the Committee for advice in relation to call-in or a decision;
- (d) responses of the Shadow Executive on reports of the Overview and Scrutiny Committee; and
- (e) the business otherwise set out on the agenda for the meeting.

- 13.2 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 its meetings, which are to be conducted in accordance with the following principles:

- (a) 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;
- (b) those assisting the Committee by giving evidence be treated with respect and courtesy; and
- (c) the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

- 13.3 Where the Committee sits as a Conduct Sub-Committee of three the principles of a fair hearing will be followed allowing all parties to be heard whether in person or on paper through representations.
- 13.4 When the Committee sits as a Conduct Sub-Committee a decision notice will be prepared and served on all parties.
- 13.5 Following any investigation (except for a Conduct Sub-Committee) or review, the Committee shall prepare a report for submission to the Shadow Executive and/or Shadow Authority as appropriate and shall, unless there are exceptional reasons, make its report and findings public.