

SECTION 6

6. Overview and Scrutiny

6.1 Guiding Principles

- 6.1.1 The guiding principle for the work of Overview and Scrutiny is that it should involve constructive criticism with the aim of improving decision-making.
- 6.1.2 Whilst it is accepted that some work (particularly call-in) could be potentially adversarial in a political environment, the emphasis of the work of Overview and Scrutiny should be on making a positive contribution to the development of policy and in improving performance for the benefit of the people of Allerdale.
- 6.1.3 Whilst Overview and Scrutiny will review executive decisions through the call in mechanism, they will also assist in the development of council policy; this function will be carried out by looking at existing policies and the effectiveness of their delivery and reviewing whether new policies or changes to existing policies are needed.
- 6.1.4 The principles of independent and effective scrutiny mean that the use of the party whip is inappropriate to any agenda item and vote of any Overview and Scrutiny committee or sub-committee. For the purposes of this section, a party whip is defined as ‘any instruction given by, or on behalf of, any political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the overview and scrutiny committee, or the application or threat to apply any sanction by the group in respect of that councillor should s/he speak or vote in any particular manner’.
- 6.1.5 In the unlikely event that a member of any Overview and Scrutiny Committee is subject to a party whip on any agenda item, the member must declare the existence, and nature, of the whip before the commencement of discussion on that matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of that meeting.

6.2 General role

- 6.2.1 Overview and Scrutiny look at the quality of council services, and other issues that affect the lives of people in Allerdale. The Overview and Scrutiny Committee will listen to the concerns of local people to investigate how the council and other organisations are performing, and where necessary seek improvement.
- 6.2.2 Overview and Scrutiny will:
- (a) review any actions taken in connection with the discharge of any of the council’s functions both in relation to individual decisions and performance over time;
 - (b) exercise the right of call in of any decision taken by the Executive, or by officers under the executive arrangements, which has not yet been implemented;
 - (c) consider any Councillor Call for Action requests, and take any follow up action as required;
 - (d) submit reports and/or make recommendations to the Executive, to Council or to any appropriate partnership or external agency on the delivery of public services;
 - (e) respond to consultation by the Executive;

- (f) provide assistance with policy development and review, taking an early view on policy issues and providing evidence based recommendations.

6.3 **Specific duties**

6.3.1 Overview and Scrutiny will review policies and contribute to policy development to assist Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues.

6.3.2 In carrying out its work, Overview and Scrutiny will:

- (a) carry out research and consultation with the community, local businesses and other appropriate interest groups in considering different policy options;
- (b) question members of the Executive, other committee members, officers and other appropriate people to canvass opinion and gather evidence to assist in developing their conclusions, and liaise with external organisations to gather evidence based on wide-ranging views;
- (c) make recommendations to the Executive, to an appropriate committee or to Council arising from the outcome of the scrutiny process. They may also make recommendations to partner and external organisations as appropriate;
- (d) invite individual witnesses, other public bodies or partnerships in the Borough to participate in the scrutiny process and question any person (with their consent).

6.3.3 Overview and Scrutiny will report annually to Council and the chairs will jointly keep scrutiny practices, procedures and work programmes under periodic review.

6.4 **Membership of Scrutiny Committees**

6.4.1 All councillors, except members of the Executive, may be members of, or be co-opted onto, an Overview and Scrutiny Committee. However, no member may scrutinise a decision which he/she has been directly involved in making.

6.4.2 The Overview and Scrutiny committees shall each comprise 12 members and be politically proportionate.

6.5 **Chair(s)**

6.5.1 The Overview and Scrutiny Committee will have two Co-Chairs.

6.5.2 In the absence of both Co-Chairs, a councillor appointed to do so by those councillor's present will preside.

6.5.3 The chairs of both committees will be jointly responsible for allocating items of work that fall outside the main terms of reference for each committee.

6.6 **Quorum**

No business will be transacted at any Overview and Scrutiny Committee meeting unless at least 4 councillors are present.

6.7 **General Procedural Rules**

6.7.1 The Overview and Scrutiny committee will generally meet every other month, but can meet more or less frequently as necessary, and can establish sub-

committees to carry out specific pieces of work. Sub-committees will meet as and when required in order to complete the allocated task, they will then cease to exist.

- 6.7.2 Sub-committees will be established by the Overview and Scrutiny Committee. Sub-committees can be made up of Overview and Scrutiny Committee members only or can be opened up to the wider council membership as appropriate, at the discretion of the committee co-chairs.
- 6.7.3 Sub-committees, including those incorporating the wider council membership, will be established by one of the Overview and Scrutiny committee and expressions of interest sought for membership. In the event of a large number of expressions of interest being received, the Co-Chairs of the Overview and Scrutiny committee will decide the final membership of the sub-committee.
- 6.7.4 The Overview and Scrutiny committee and sub-committee's can co-opt external 'experts' to take part in a review, but they will not have voting rights on any committee or sub-committee.
- 6.7.5 In the event of equal numbers of votes for and against a proposal on either the committee or a sub-committee, the chair of the meeting will have a second or casting vote.
- 6.7.6 Informal meetings of Overview and Scrutiny members may take place, particularly to scope investigations, review information or prepare for the questioning of witnesses (internal or external) in relation to those investigations.
- 6.7.7 The Co-Chairs of the Overview and Scrutiny committee are responsible for deciding whether to issue a media briefing in relation to proposed or completed reviews. The Scrutiny Co-ordinator will assist with this role in liaison with the communications team.
- 6.7.8 Reports approved by the committee will normally be forwarded to senior management for comment before being submitted to the appropriate committee or body. This allows senior management to provide an opinion on the recommendations being proposed. The content of the report or the wording of recommendations will not be changed at this stage, without the express approval of the relevant scrutiny committee chairs.
- 6.7.9 If the recommendations are accepted by the appropriate body, the Overview and Scrutiny committee will monitor the implementation of the recommendations around six months after the decision.
- 6.7.10 If the recommendations are not accepted in full, the relevant Portfolio Holder will be expected to report back to the Overview and Scrutiny committee providing the rationale for the decision taken.

6.8 **Procedures for the operation of Overview and Scrutiny sub-committees**

- 6.8.1 Overview and Scrutiny sub-committees need to operate on a relatively informal basis in the sense that they are a forum for information gathering and discussion between members, officers and external witnesses rather than a formal decision making body. They have no powers other than to investigate issues delegated from the relevant scrutiny committee,
- 6.8.2 At the start of the project, the scrutiny committee will provide the sub-committee with an outline scope of the investigation and required timescales. Meetings will take place as often as needed until the task is complete, which should normally take no longer than 6 months.

- 6.8.3 Sub-committees will normally be made up of a maximum of 9 members, with at least one allocated from the relevant scrutiny committee. A member allocated from the main committee will be expected to chair the group and will feedback to the main committee on a regular basis. The relevant committee will decide who is to chair the sub-committee. Allerdale Borough Council members invited to join a sub-committee will have voting rights on for the duration of the sub-committee.
- 6.8.4 A sub-committee can also co-opt external experts for the duration of the investigation. These external experts will participate in all aspects of the review, but will be in addition to the usual number of members and will not have voting rights on any sub-committee.
- 6.8.5 In discussing issues to reach conclusions and make recommendations, it is hoped that the sub-committee will be able to reach agreement by consensus. If, following discussion, an agreement cannot be reached; a minority view on a particular issue can be included in any report to the main committee. The main committee will then be responsible for deciding what is put forward as the final report.
- 6.8.6 Members of the sub-committee should operate within the agreed plan for the task and must not disclose or use any information/knowledge obtained through involvement in the sub-committee for any other purpose. This also applies to councillors not on the sub-committee who have requested information about the work being undertaken. Councillors should not do anything to pre-empt or undermine the outcome of a sub-committee investigation.
- 6.8.7 When the sub-committee has finished its report, the chair of the sub-committee will present the work to the committee. As part of the process, the chair will explain the work that the sub-committee has done, and ask the committee to support its recommendations.
- 6.8.8 The committee has a number of options open to it once a sub-committee report is presented. The committee can;
- (a) support the report and recommendations, and forward to the appropriate committee for consideration;
 - (b) amend, remove or add to the recommendations as felt appropriate to meet the original scope objectives, providing reasons as to why the changes were felt necessary; or
 - (c) request that the sub-committee reconvene to further consider the matter, and outline the reasons why.

6.9 **Attendance at Overview and Scrutiny meetings**

- 6.9.1 Section 21 of the Local Government Act 2000 places a duty on members of the Executive and officers of the council to attend Overview and Scrutiny meetings to answer questions if required to do so.
- 6.9.2 Executive members should not attend meetings as a matter of course, but may make a request to the chair to allow them to attend and speak on a particular item; the final decision rests with the Chair.

6.10 **Rights of members to ask for matters to be included in the agenda (Section 21 [8] of the Local Government Act 2000)**

- 6.10.1 Any member has a right to request that any item relevant to the committee's remit is placed on the agenda and discussed. This right should be used constructively and not to subvert a decision properly taken (for example to repeat a debate

carried out a previous meeting over the last 6 months) or as means for a member to obtain information for which other rights and procedures exist at law and under the Constitution.

- 6.10.2 A request for an agenda item should be forwarded to the Scrutiny Co-ordinator. If the Scrutiny Co-ordinator receives such a request, discussions with the chairs, with due regard to advice from relevant members of CMT and/or the Monitoring Officer, will determine the legitimacy of the request. Should the agenda item be accepted, discussions will also determine the earliest opportunity for the item to be considered, with reference to the agreed priorities of the work plan.
- 6.10.3 A *Request for an Agenda Item Form* is available from the Allerdale Borough Council website, or can be obtained from the Scrutiny Co-ordinator.
- 6.10.4 If an item is rejected by the chairs of the relevant committee as not being within the remit of that committee, this decision and the reasons for it shall be reported to the Overview and Scrutiny membership.
- 6.10.5 Members are free to discuss this decision and the reasons for it with the relevant chairs if they wish to do so and should contact the relevant chair directly.

6.11 **Officer Support**

- 6.11.1 The Scrutiny Co-ordinator will support the approved work programme for overview and scrutiny, in addition to support from members of the Corporate Management Team and their representatives. Legal advice will be provided by the Monitoring Officer, and administrative and logistical support will be provided by the Democratic Services department.
- 6.11.2 There is no requirement for anyone other than the Scrutiny Co-ordinator and a Democratic Services assistant to attend formal meetings, unless specifically invited or required to do so for a particular item, but they may do so if they wish with the permission of the appropriate chair.
- 6.11.3 Officers of the council have a role in supporting and advising all members, irrespective of the political party to which members belong, or whether they carry out executive or non-executive roles.
- 6.11.4 An officer, nominated by the relevant member of Corporate Management Team, will be available to support the overview and scrutiny role from a service perspective, on terms that reflect the needs of the overview and scrutiny process. In practice this will normally be the relevant service manager.

6.12 **Non-executive members**

- 6.12.1 Overview and Scrutiny plays a critical role in informing future policy development in the council, as well as scrutinising current policies and services both inside and outside the council.
- 6.12.2 It is important therefore that all non-executive members have the opportunity to be involved in the work of the scrutiny as it will:
 - (a) give a wider democratic representation to inform the groups work;
 - (b) widen the knowledge and skills resource base of members involved in overview and scrutiny work;
 - (c) give them a 'hands on' opportunity to make a difference in areas of work that they have a specific interest in.

6.12.3 The draft work programme will be circulated to all non-executive members, asking if they have a specific interest in any of the investigations scheduled in the forthcoming year.

6.12.4 The term 'non-executive member' refers to all councillors other than the Leader and members of the Executive.

6.13 **Work Programme**

6.13.1 It is the responsibility of the Overview and Scrutiny Committee to select suitable topics for scrutiny, and to set an annual work programme at the beginning of each municipal year.

6.13.2 The work programme will comprise priority issues, and allow for the inclusion of ad hoc and urgent items during the year. The committees will consider other issues in addition to the main work programme by agreement with the chairs. In the first instance an approach should be made to the chair of the relevant committee or the Scrutiny Co-ordinator for additional work plan items to be considered.

6.13.3 It is important for Overview and Scrutiny to report its workings and recommendations for future work programmes to Council at least once a year. This will be carried out in the form of an annual report.

6.14 **Call In Protocol**

6.14.1 The Local Government Act 2000 includes a provision for non-executive members of the Council to request that a decision taken by the Executive, or an officer under delegated powers, but not yet implemented, be reconsidered. This is known as the 'call in' process.

6.14.2 Executive decisions cannot be implemented within 8 clear working days of making the decision. This is known as the 'call in period'. This pause in the process is intended to allow non-executive members a reasonable timescale to examine the decision, and the information used by the Executive to reach that decision. A minimum of three non-executive members must sign the call in request.

6.14.3 The call in process is designed to allow non-executive members to hold the Executive to account for the decisions it takes. Therefore, only issues that pertain directly to the specific minuted decision can be considered during the call in process. The call in process is not to be used to attempt to make a wider point about policy issues.

6.15 **Initiating a Call In**

If three councillors wish to have an Executive decision reviewed, they must, within 8 clear working days of the date on which the decision was made, fill in a formal written request. The request will be considered by the Monitoring Officer to determine whether there are material grounds for the call in to take place.

6.16 **Carrying out the Call In**

6.16.1 Once agreement has been reached to accept a call in, the decision, which is the subject of the call in, may not be implemented until Overview and Scrutiny has reported back to the Executive or Council in accordance with this procedure.

- 6.16.2 A meeting of the relevant committee will take place to consider the Executive decision within 5 clear working days of the acceptance of the call in request. Every consideration will be given to accommodate previous commitments of those called to give evidence. However, in the event that no mutually agreeable date can be found, members and officers may be required to attend a call in meeting, provided three clear working days' notice have been given; unless the Leader (or where the call in is to be reported to Council, the Mayor) and the committee chairs are both in agreement to an extension of this call in procedure.
- 6.16.3 At the committee meeting, at least one of the call in signatories should be present to introduce the call in to committee members, explain the reason for the request and answer any initial questions. Without the attendance of at least one of the signatories, the scrutiny chairs can agree to withdraw the call in and allow the implementation of the original Executive decision. The chair may agree in advance that the call in can go ahead without the attendance of one of the signatories.
- 6.16.4 As a rule, the relevant senior manager and Portfolio Holder will be present at the meeting, but other witnesses may be called at the discretion of the scrutiny chairs.
- 6.16.5 As the purpose of the call in is to examine a specific decision made by the Executive, written reports submitted to the Executive as part of the decision making process will be available to members of the Overview and Scrutiny committee for consideration. The Committee will examine the reports provided to the Executive as part of their investigation. Further written reports would not usually be provided specifically to scrutiny members as part of the call in process; although senior officers can attend the meeting to explain their original advice with regards the decision taken.

6.17 **Agreeing and submitting a report**

When the Committee has met to consider the call in, it shall have 5 clear working days to draft and agree a report of its findings and/or recommendations, which will be reported to the next available Executive or Council meeting.

6.18 **Councillor Call for Action Protocol**

- 6.18.1 Under Section 119 of the Local Government and Public Involvement in Health Act 2007, members now have the ability to call for debate and discussion at an Overview and Scrutiny committee about a local ward issue. These powers are known as the Councillor Call for Action (CCfA).
- 6.18.2 The power is not limited to services provided by the council, but includes issues relating to the council's partners. Similar powers are provided under the Police and Justice Act 2006.
- 6.18.3 The Councillor Call for Action is essentially about empowering the ward councillor to resolve local issues. However, for the issue to come before an Overview and Scrutiny committee, it is expected that all other avenues of resolution are exhausted first.
- 6.18.4 Members may be asked to evidence attempts to resolve the issue as part of the consideration of the CCfA request. Some options for resolution are listed below:
 - (a) Discuss the issue with the relevant senior manager, service manager or another agency, for example Cumbria Police;
 - (b) Discuss the issue with the relevant Executive Portfolio Holder;

- (c) If it is a crime and disorder matter, then members can raise the issue with the Cumbria Safety Partnership;
- (d) Questions raised at Executive or Council.

6.19 **Exclusions from Councillor Call for Action**

CCfA cannot consider the following items:

- 6.19.1 Individual complaints. If the issue is a complaint about Council services then refer to the Council's Official Complaints Procedure on the Council's website. However, if a series of local constituents' complaints demonstrate a systemic failure in a particular service area in a single ward, then this may be an appropriate issue for a CCfA;
- 6.19.2 Individual 'quasi-judicial' decisions (e.g. planning and licensing decisions) or to Council Tax or non-domestic rates. These kinds of concerns are subject to their own statutory appeals process;
- 6.19.3 Matters which are 'vexatious, discriminatory or not reasonable'. Under the Freedom of Information Act 2000 the key question around vexatious is 'whether the request is likely to cause distress, disruption, or irritation without any proper or justified cause'.

6.20 **Submitting a CCfA Request**

- 6.20.1 The CCfA request form, available on the Councils website or from the Scrutiny Co-ordinator, should be submitted to the Scrutiny Co-ordinator no later than two days before the relevant committee's next meeting.
- 6.20.2 At the initial meeting to consider the request for a CCfA, the member making the request must attend the meeting to make their case. If the member is unable to attend, the request may not be considered and be deferred to a future meeting.
- 6.20.3 The relevant senior manager and the Executive Portfolio Holder may also be in attendance to give their perspective on the request.
- 6.20.4 The Overview and Scrutiny Committee will consider the request and decide if it is a valid use of the CCfA scheme. If members conclude that the request is a valid use of the CCfA scheme, an investigation will be carried out into the issue. If members conclude that the request is not a valid use of the CCfA scheme, the reasons will be recorded in the minutes.

6.21 **Public Participation in CCfA meetings**

- 6.21.1 If the request for a CCfA is considered valid an investigation will be carried out and report to the relevant scrutiny committee. At the discretion of the presiding chair, members of the public attending the meeting may be permitted to address the committee. The usual rules regarding the exclusion of the press and public will apply if exempt or confidential information is to be discussed.
- 6.21.2 The chair controls the meeting and their decision on whether, and for how long, the public can speak will be final. All rules within the Overview and Scrutiny Public Participation Protocol will apply when members of the public are addressing the committee, with the exception of the requirement to register in advance.
- 6.21.3 In the event of wishing to speak at a CCfA meeting, members of the public cannot register in advance but must attend the meeting and speak if invited to do so by

the chair. Public participation in meetings to consider CCfA investigations is not guaranteed, and will be allowed at the discretion of the Chair.

APPENDIX 1 TO SECTION 6



Overview and Scrutiny Public Participation Protocol

The purpose of this document is to advise members of the public how they can contribute to the scrutiny process.

August 2012

“Allerdale – a great place to live, work and visit”

1. **WHAT IS OVERVIEW AND SCRUTINY?**

- 1.1 Overview and Scrutiny (Scrutiny) is a group of councillors that look at the quality of council services and other issues that affect the lives of people in Allerdale. They hold the Executive to account for the decisions that it takes and contribute to policy development.
- 1.2 Scrutiny operates in both formal committees and informal sessions.
- 1.3 The purpose of this document is to advise members of the public how they can contribute to the scrutiny process.

2. **WHERE AND WHEN DOES THE COMMITTEE MEET?**

- 2.1 The Overview and Scrutiny committee meets every other month. Sub-committees set up by the main committee meet as and when appropriate to the individual reviews. Meetings usually take place in Allerdale House, Workington. On certain occasions meetings may be held elsewhere.
- 2.2 Details of these meetings will be published in advance. Agendas can be obtained from Allerdale House, Workington, or on the Council's website www.allerdale.gov.uk.

3. **THE AGENDA**

- 3.1 The order of business will follow that which appears on the agenda, unless changes are agreed at the meeting by the Chairman and members present.
- 3.2 There are a number of standard items on the agenda including apologies for absence and declaration of interests. There will also be an agenda item entitled "Public Participation". This will be your opportunity to address the committee and put forward your points.
- 3.3 This protocol does not apply to consideration of petitions, call ins, Councillor Call for Actions and the scrutiny work programme.
- 3.4 The agenda pack will include any written reports or documentary evidence to be discussed at the meeting. Overview and Scrutiny also take evidence from "witnesses" during meetings and there may be people present who have been invited to address the committee as "expert witnesses". These people will address the committee during the appropriate agenda item, rather than during the "Public Participation" item.

4. **PROCEDURE**

- 4.1 At the appropriate point on the agenda the Chairman will invite members of the public who have registered to speak to address the committee. The applicant will then have the opportunity to speak for a maximum of five minutes on each agenda item they have registered for (maximum of two).
- 4.2 A maximum of thirty minutes will be allocated for public speaking at the meeting. In the event there are insufficient speakers registered to fill the allotted thirty minutes, the public speaking time will be ended after the final registered speaker. The Chairman, with the agreement of the members present, will have discretion to vary the time allocated and the number of speakers in cases of exceptional interest.
- 4.3 The Chairman will have the discretion to stop a speaker before their allotted time has concluded if, in the Chairman's view, the speaker is making any comments that are, or appear to be repetitive, defamatory, vexatious, discriminatory or contain offensive language. In the event that the Chairman exercises his or her discretion to stop a speaker before their allotted time has concluded, their decision is final.

- 4.4 While the Scrutiny Committee will give full consideration to the comments that have been made by public speakers in forming its recommendations, it reserves the right to form its own conclusions as it sees appropriate.

5. **WHAT CAN MY STATEMENT INCLUDE?**

- 5.1 A member of the public speaking at an Overview and Scrutiny meeting must address their speech to the item they have registered to speak upon on the agenda, and cannot address other agenda items or unrelated business.
- 5.2 Members of the committee may ask follow up questions of speakers, but these should be restricted to matters of clarification or to directly related matters.
- 5.3 The right to speak does not include the right to ask questions of any Councillors, officers of the Council, invited attendee, or any other public speaker present at the meeting. Any public speaker should declare at the start of their allotted speaking time if they have a current or prospective financial interest in the subject under discussion.

6. **HOW MUCH TIME CAN I SPEAK FOR?**

- 6.1 You are asked to speak for no more than five minutes. If there is more than one person wishing to speak on an agenda item, you are encouraged to consult each other before the meeting and try to agree whether one or two people can speak on behalf of all. The Chairman will not allow speakers to repeat points already made. After five minutes the Chairman will ask you to stop and return to your seat.
- 6.2 Speakers are only permitted to speak on two agenda items at any one meeting. There will normally be a maximum of four speakers for each agenda item.

7. **RECOMMENDATIONS**

- 7.1 Overview and Scrutiny is not a decision making body. Overview and Scrutiny's power lies in its ability to investigate issues in depth and make evidence based recommendations to the Executive or Council, as appropriate.
- 7.2 Encouraging public participation at Overview and Scrutiny meetings is an important means of ensuring that members of the public are able to contribute to the work of Overview and Scrutiny and help influence decision making in their local area.

8. **CONDUCT**

- 8.1 It is the role of the Chairman to maintain order at the meeting. Members of the public can observe the proceedings but cannot address the meeting except in accordance with the procedure outlined above. If a member of the public is disruptive then he or she will be asked to leave the room.
- 8.2 After consideration of each agenda item there will be an opportunity for members of the public to leave the meeting, although they are welcome to stay and listen to the discussions on other agenda items.

9. **WHAT DO I NEED TO DO TO SPEAK AT THE MEETING?**

- 9.1 In order to speak at an Overview and Scrutiny meeting you must request permission in writing, no later than 2 working days before the date of the meeting.
- 9.2 If you would like to register to speak at a Scrutiny meeting, please write to:

Scrutiny Co-ordinator
Allerdale House

Workington
Cumbria
CA14 3YJ

Or email: scrutiny@allerdale.gov.uk

9.3 Requests must include details of the agenda item(s) on which you would like to speak, any supporting documents that you would like to circulate to members and a brief outline of the points you intent to make.

9.4 Requests must be received by 5.00pm on the appropriate day. Late submissions will not be accepted.

10. **COMPLAINTS**

If you have a complaint relating to any Overview and Scrutiny meeting, please contact the Scrutiny Co-ordinator on 01900 702 730 or email: scrutiny@allerdale.gov.uk.

11. **FURTHER INFORMATION**

We hope this document will assist you in contributing to the work of Overview and Scrutiny. However, if you are unsure about any aspect please contact the Scrutiny Co-ordinator on 01900 702 730 or email: scrutiny@allerdale.gov.uk.



Allerdale Borough Council
Allerdale House
Workington
Cumbria CA14 3YJ
Tel: 01900 702730

Email: scrutiny@allerdale.gov.uk
www.allerdale.gov.uk

Document reference
Version 0.1
August 2012

Please phone (01900 702730) if you would like a copy of this document in a different format

APPENDIX 2 TO SECTION 6

CALL-IN PROTOCOL FOR OVERVIEW AND SCRUTINY COMMITTEE

In considering a Call-in decision the Overview and Scrutiny Committee will follow this protocol:

Before Receipt of Call-in

Overview and Scrutiny support officers will work with the call-in signatories to complete the reasons for call-in. Completed reasons for call-in will be received by the Monitoring Officer in consultation with the relevant Chair(s) of Overview and Scrutiny, who will then consider whether to call-in the decision.

After Receipt of Call-in and before the meeting

The Monitoring Officer will confirm the validity of the call-in and advise all Councillors and Senior Management Team members of the call-in request.

The Leader of the Council will determine which Executive Member should attend the call-in, which officer should accompany them and which officer they appoint to advise the Overview and Scrutiny Committee on the call-in.

The Monitoring Officer will meet with the call-in signatories, to clarify the procedure, consider how they will present the call-in and prevent duplication. The Scrutiny Coordinator will brief the Chair on the call-in.

Documents

The agenda will contain:

- This call-in Protocol
- The call-in request
- The Executive Members' decision statement or minutes
- The original report(s) upon which the decision was made
- (In the case that either the minutes or report are exempt a public summary of the information will be provided as far as is possible).

Any other document that the Monitoring Officer, Executive Member or call-in signatories feel would assist the Committee in considering the call-in.

At the start of the meeting

The Chair will outline the procedure for the meeting, setting the tone and approach that will be taken.

The meeting

The spokesperson(s) for the Councillors who have made the call-in request (who shall be seated together) should outline the reasons for the call-in. Each speaker will be time limited to 5 minutes.

The relevant Executive Member explains the rationale for the decision and may be supported by officers and the Leader of the Council as appropriate. They shall also be seated together. Each speaker will be time limited to 5 minutes.

Councillors who have made the call-in request have the opportunity to question the Executive Member.

Other members of the Overview and Scrutiny Committee have the opportunity to question the Executive Member.

At the discretion of the Chair, other Members present may have the opportunity to question the Executive Member or make a brief statement.

At the discretion of the Chair, anyone else present may have the opportunity to make a statement (limited to 5 minutes) on the issue.

The Executive Member or the Leader of the Council will have a right of reply to any brief statement made on the issue.

Before forming a decision, the Chair may decide to adjourn the meeting in order to allow the call-in signatories to reflect on the evidence received and to consider any proposals they wish the Committee to consider.

The Overview and Scrutiny Committee will debate the issue. Only members of the Committee and the Officer appointed by the Leader of the Council to advise the Overview and Scrutiny Committee on the call-in may speak.

If there is no proposal the Chair or another Member may propose a motion which can be voted on in the normal way.

Options available to the Overview and Scrutiny Committee

There are only three options available to the Overview and Scrutiny Committee when they are considering a call-in:

- Let the decision stand
- Refer the decision back to the decision taker, stating their concerns and the decision that the Committee wish the decision taker to make
- Refer the decision to full Council if the decision is contrary to the Policy Framework contrary to or not wholly consistent with the budget.

Additionally the Overview and Scrutiny Committee may make other recommendations as a result of the call-in to relevant bodies, which shall be considered after a decision has been reached on the call-in.

When can a decision be called-in?

It is important that the call-in process is not abused, nor causes unreasonable delay; the main tool of the overview and scrutiny committee to improve the delivery of policies and services should be detailed reviews, rather than call-ins.

The Overview and Scrutiny Procedure Rules in Part Six of the council's constitution specify formal safeguards for the use of call-in. These include rules about the number of members who must request a call-in and a restriction that prevents any decision on the same matter being called-in on more than one occasion within a six month period. The constitution also suggests that call-ins should be reserved for exceptional circumstances. Broadly, a decision can be called-in when members:

- believe it may be contrary to the normal requirements for decision-making;
- believe it may be contrary to the council's agreed Policy Framework and/or budget;
- need further information from the decision-taker to explain why it was taken.

Call-in checklist

The above rules and criteria can be brought together in the following checklist of questions (or tests) that can be used when a member is considering a call-in. Questions 2-5 can also be used by authors to test draft reports for Executive.

- 1 Can the decision actually be called in? *If the answer to any of questions 1(a)-(g) is yes, then the decision CANNOT be called-in.*
- a) *Does it relate to a non-executive function?*
- b) *Was it a non-key decision taken by an officer under delegated powers?*
- c) *Was it classed as an urgent decision?*
- d) *Has the issue been called-in in the last six months?*
- e) *Does the decision relate to an existing call-in (i.e. decisions taken in relation to a reference back)?*
- f) *Does the decision relate to the formulation of a policy or budget matter that requires full council approval?*
- g) *Was it a decision taken by full council?*
- 2 Was the decision in accordance with the council's policy framework?
- a) *What is the relevant policy or strategy?*
- b) *Is the decision contrary to that policy?*
- 3 Was the decision in accordance with the agreed budget or budget procedures?
- a) *Is there funding for the proposal in an agreed budget/capital programme?*
- b) *If no, have the rules for virement and supplementary estimates been observed?*
- 4 Was the decision taken in accordance with the principles of good decision-making (Section 10 of the Constitution)?
- a) *Does the decision comply with the council's constitution, i.e.:*
- *Scheme of Delegation*
 - *Rules of Procedure*
 - *Codes and Protocols?*
- b) *Was the decision reasonable within the common meaning of the word, i.e. rational, based on sound judgment?*
- c) *Was the decision reasonable within the legal definition of 'reasonableness', i.e. was everything relevant taken into account, and was everything irrelevant disregarded?*
- d) *Was the decision proportionate, i.e. is the action proportionate to the desired outcome*
- e) *Was the decision taken on the basis of due consultation?*

- f) Was the decision taken on the basis of professional advice from officers?
- g) Were human rights respected and/or will the decision give rise to any human rights implications, i.e. without discrimination, the right of an individual to:
- liberty and security;
 - the enjoyment of their property;
 - a fair trial;
 - respect for private and family life;
 - freedom of thought, conscience and religion;
 - freedom of expression; and
 - freedom of assembly and association etc.?
- h) When the decision was taken, was there a presumption in favour of openness?
- 5 Has the decision been well explained, i.e. do you need more information?
- a) Was it clear what the reasons for the decision were?
- b) Was it clear what the desired outcomes were?
- c) Was it clear what alternative options (if any) were considered?
- d) Was it clear why the alternative options were not chosen?
- e) Do you need any more information/clarification?

ALLERDALE BOROUGH COUNCIL CONSTITUTION

SECTION 1

7. INTRODUCTION

7.1 Purpose and Content of the Constitution

- 7.1.1 The Constitution describes the various bodies that make up Allerdale Borough Council, their functions, Membership and procedural rules.
- 7.1.2 In Section **Error! Reference source not found.** (Getting Information and Getting Involved) we have provided information for members of the public and councillors on how you can get information about the Council, and how you can get involved. We hope that this will help people who have an interest in the Council's work, or a particular matter it is dealing with, understand where they can get more information, and how they can contribute to Council activities.
- 7.1.3 You can get a better understanding of what each of the Council's bodies do in Sections **Error! Reference source not found.** to **Error! Reference source not found.** of this Constitution, including Council, Executive, Overview and Scrutiny Committee, Standards Committee and Regulatory Committees. Section **Error! Reference source not found.** provides information on the management and Officer structures of the Council. Some Officers have a specific duty to ensure that the Council operates within the law and uses resources wisely. Responsibility for functions at Section **Error! Reference source not found.** says which Council bodies, and which Officers, have authority to make which decisions.

- 7.1.4 The procedural rules that apply to the different Council bodies are contained in the sections relating to those bodies, e.g. Council (Section **Error! Reference source not found.**), the Executive (Section **Error! Reference source not found.**) and Overview and Scrutiny (Section 6). You may find these useful if you want to attend a meeting, particularly if you want to be able to ask questions, have a matter discussed, or put your point of view.
- 7.1.5 Sections **Error! Reference source not found.** to **Error! Reference source not found.** have the Codes of Conduct and Protocols which Officers and Councillors have agreed to comply with. They set the standards of behaviour.
- 7.1.6 The Contents pages at the beginning of this Constitution provide a guide on what is in the Constitution and where you can find it.

7.2 **How the Council Operates**

- 7.2.1 The Council is comprised of forty-five (45) Councillors elected every four years. Each Councillor is democratically accountable to the residents of their electoral ward as well as all of those who live in the Borough of Allerdale. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those that did not vote for them.
- 7.2.2 All Councillors have agreed to follow a Code of Conduct, to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for training and advising on the Code of Conduct.
- 7.2.3 All Councillors meet together regularly as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall Policy Framework and set the Budget each year. The Council appoints the Leader of the Council for a period of four (4) years. The Leader then decides the size and Membership of the Executive including the role of individual Members of the Executive and arrangements for the exercise and delegation of Executive Functions. The Executive is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution, together with making decisions within the Budget and Policy Framework set by the Council.

If you need any further help please do not hesitate to contact us.

Monitoring Officer
Allerdale Borough Council
Allerdale House
Workington
CA14 3YJ
E-mail: democratic.services@allerdale.gov.uk
Tel: 01900 702502

Whilst the Constitution is very long we hope that you will find it easy to use. We have spent a lot of time trying to make it as easy to follow as is possible with such a long and complex legal document.