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**Part 4 – Section + – Officer Employment Procedure Rules**

# Part 4(C)

## Overview and Scrutiny Procedure Rules

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## 1 ESTABLISHMENT AND MEMBERSHIP

- 1.1 The Council will establish the Overview & Scrutiny Committee(s) set out in **Part 3A** of this Constitution. References to the Overview & Scrutiny Committee is to include reference to a standing Sub-Committee or Panel of the Overview & Scrutiny Committee(s) and these rules should be read accordingly.
- 1.2 All Members, except Cabinet Members, may be members of the Overview and Scrutiny Committee.
- 1.3 No Member may be involved in scrutinising a decision in which they have been directly involved. In particular, Cabinet Assistants (Members asked to provide a policy support role to Cabinet Members) shall not participate or vote on the scrutiny of matters within their identified remit, as approved by Cabinet.
- 1.4 Members of the Overview and Scrutiny Committee will be appointed in accordance with the rules on political proportionality.

## 2 TERMS OF REFERENCE

- 2.1 The general and specific role of the Overview and Scrutiny Committee or Committees will be as set out in Part 3A of this Constitution.
- 2.2 The Overview and Scrutiny Committee may not discharge any functions of the Council other than those functions provided under sections 9FA to 9FL of the Local Government Act 2000, which may be summarised as:
  - (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Leader and Cabinet executive;
  - (b) to make reports or recommendations to the Council or the Leader and Cabinet executive with respect to the discharge of any functions which are the responsibility of the Leader and Cabinet executive;
  - (c) to review the policy and decisions developed by others – by reviewing and/or scrutinising decisions made or actions taken in connection with the discharge of any of the Council's functions and review the Budget and Performance Framework;
  - (d) to review specific services – by making reports and/or recommendations to the full Council, Executive, Portfolio Holders and any Joint or Area Forums on any of their functions;
  - (e) to make reports or recommendations to the authority or the Leader and Cabinet executive on matters which affect the authority's area or the inhabitants of that area.
  - (f) to support the strategic development of policy - by supporting the Council and Executive in developing the policy framework and budget for the Council and working with partner organisations on issues that may be outside the remit of the Council
  - (g) to consider the Forward Plan and scrutiny prior to key decisions being made, as appropriate;
  - (h) where relevant and appropriate, to receive selected monitoring reports carried out internally and externally on services.

- 2.3 The Overview and Scrutiny Committee may appoint one or more sub-committees (which may be referred to as a sub-committee or panel) and may arrange for the discharge of any of its functions by any such sub-committee, provided that:
- 2.3.1 sub-committee may not discharge any functions other than those conferred on it by the Overview and Scrutiny Committee
  - 2.3.2 the establishment and terms of reference, including any changes made to the terms of reference, of a sub-committee will be reported to the next Council meeting.
- 2.4 In exercising, or deciding whether to exercise, any of its functions the Overview and Scrutiny Committee, or a sub-committee of such a committee, must have regard to any statutory guidance for the time being issued by the Secretary of State.
- 2.5 There shall be at least five ordinary meetings of the Overview & Scrutiny Committee every civic year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An extraordinary Overview & Scrutiny Committee meeting shall be called by the Monitoring Officer at the request of the Chair of the Overview & Scrutiny Committee, by any four members of the Committee or the Chief Executive. Where the Monitoring Officer declines to call an extraordinary meeting they shall give reasons for doing so.
- 2.6 Where the Overview and Scrutiny Committee has established sub-committees and panels with differing terms of reference and a matter for consideration falls within the remit of the Overview and Scrutiny Committee, sub-committees and panels, the parent Overview and Scrutiny Committee will decide which of them will lead the scrutiny process.

### **3 QUORUM**

- 3.1 The quorum for each Overview & Scrutiny Committee shall be in accordance with **Part 4B** of this Constitution.

### **4 WORK PROGRAMME**

- 4.1 The Overview & Scrutiny Committee(s) will be responsible for setting their own work programme and in doing so they shall take into account the wishes of members on the Committee who are not members of the largest political group on the Council.
- 4.2 The Overview & Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where it does, the Overview & Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview & Scrutiny Committee at the next available meeting.

### **5 AGENDA FOR THE OVERVIEW & SCRUTINY COMMITTEE**

- 5.1 Any member of the Overview & Scrutiny Committee or Panel shall be entitled to require, in writing, that an item be included on the agenda, provided that the item is within the remit of the Committee in question; the item will then appear on the agenda for the next meeting. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 5.2 Similarly, the Leader of the Council or a Cabinet Member with specific portfolio responsibilities may give notice in writing requiring an item to appear on an agenda of an Overview & Scrutiny Committee, relating to their area of responsibilities. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.

- 5.3 Any Member of the Council may refer to an Overview and Scrutiny Committee of which the Member is not a member any matter which is relevant to the functions of the committee and is not an excluded matter.
- 5.3.1 For these purposes an 'excluded matter' means any matter which is—
- (a) a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters); or
  - (b) any other matter of any description specified in an order made by the Secretary of State for these purposes, including:
    - (i) any matter relating to a planning decision;
    - (ii) any matter relating to a licensing decision;
    - (iii) any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal conferred by or under any enactment;
- any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee.
- 5.3.2 In exercising the power which a Member has by virtue of this Rule 5.3 in any case, the Member, and the Committee in responding, must have regard to any guidance for the time being issued by the Secretary of State.
- 5.4 On receipt of a notice under Rule 5.1, 5.2 or 5.3, the matter will be included on the agenda for, and discussed at, a meeting of the Committee. Notices under Rule 5.2 must be served no later than 28 days before the meeting at which the matter is to be discussed.
- 5.5 In considering whether or not to exercise any of its powers in relation to the matter referred under Rule 5.3 the Committee may have regard to any representations made by the Member as to why it would be appropriate to exercise any of its powers. If the Committee decides not to exercise any of those powers in relation to the matter, it must notify the Member of the decision and the reasons for it.
- 5.6 Where the Overview & Scrutiny Committee exercises its power to make a report or recommendation to the Council or the Cabinet on any matter referred to it by a Member under Rule 5.3 the Committee must provide the Member with a copy of the report or recommendation (subject to the exclusion of confidential and exempt information provided for under the Access to Information Rules at Part 4B).

#### **Policy Review and Budget Development**

- 5.7 The Overview & Scrutiny Committee has a key role in budget development. The Budget and Policy Framework Procedure Rules contains details of the process by which the Overview & Scrutiny Committee(s) may perform that role.
- 5.8 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Overview & Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

- 5.9 Overview & Scrutiny Committee(s) may undertake enquiries in relation to policy review and may appoint specialists to assist them in this process. They may visit sites, conduct public surveys, hold public meetings, commission research and undertake such other things they consider reasonable and necessary to inform their deliberations. They may call witnesses on any matter under consideration and may pay to any specialists and witnesses a reasonable fee and expenses for doing so within budgetary provision.

## **6 REPORTS AND RECOMMENDATIONS OF OVERVIEW & SCRUTINY COMMITTEE**

- 6.1 This Rule applies where an Overview & Scrutiny Committee makes a report or recommendation to the Council or the Cabinet, except in relation to a crime and disorder matter.
- 6.2 The Overview & Scrutiny Committee may publish the report or recommendations.
- 6.3 The Overview & Scrutiny Committee must by notice in writing require the Council or Cabinet:
- 6.3.1 to consider the report or recommendation;
  - 6.3.2 to respond to the committee indicating what (if any) action the Council or Cabinet proposes to take;
  - 6.3.3 if the Committee has published the report or recommendation to publish the response;
  - 6.3.4 if the Committee provided a copy of the report or recommendation to a Member as provided above, to provide the Member with the response; and
  - 6.3.5 to do all of the above within two months of receiving the report or recommendations or (if later) the notice.
- 6.4 It is the duty of the Council or Cabinet to which a notice is given under Rule 6.3 to comply with the requirements specified in the notice.

## **7 REPORTS AND RECOMMENDATIONS – PARTNER AUTHORITIES**

- 7.1 This order applies where an Overview & Scrutiny Committee makes a report or recommendation to the Council or the Cabinet, and the report or any of the recommendations relates to a local improvement target which relates to a relevant partner authority.
- 7.2 The Overview & Scrutiny Committee may by notice in writing to the relevant partner authority (accompanied by the report/recommendations) require that authority to have regard to the report or recommendation in question in exercising their functions.
- 7.3 The relevant partner must comply with the requirement in the notice to have regard to the report/recommendations.

### **Publication of reports, Recommendations and Responses**

- 7.4 Where a report or recommendation of the Overview & Scrutiny Committee or response of the Council or the Cabinet is published pursuant to Rule 7.2 or 7.3) and is provided to a Member or partner authority under Rules 6.3 or 7, any confidential information must be excluded and any relevant exempt information may be excluded in line with the provisions of the Access to Information Procedure Rules.

**8 RIGHTS OF THE OVERVIEW & SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

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

**9 RIGHTS OF CABINET MEMBERS**

- 9.1 Subject to the provisions of the Access to Information Procedure Rules, Cabinet Members may attend meetings of the Overview & Scrutiny Committee including parts of the meeting where exempt items are being discussed and shall be entitled to receive the agenda for the meeting (including exempt matters) and to speak, give evidence and answer questions at the invitation of the Committee.

**10 MEMBERS AND OFFICERS GIVING ACCOUNT**

- 10.1 Subject to Rule 16 below (speakers), the Overview & Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any executive function. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Cabinet Member, the Chief Executive and/or any Chief Officer to attend before it to explain in relation to matters within their remit:

- 10.1.1 any particular decision or series of decisions;
- 10.1.2 the extent to which the actions taken implement Council policy; and/or
- 10.1.3 their performance,

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

- 10.2 Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then Overview & Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance.
- 10.3 The Committee shall comply with Rule 16 below in respect of speakers attending before it.

**11 ATTENDANCE BY OTHERS**

- 11.1 The Overview & Scrutiny Committee may invite people other than those people referred to in Rule 11 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from members of the public, stakeholders and Members and officers in other parts of the public sector and may invite such people to attend.
- 11.2 The Committee shall comply with Rule 16 below in respect of speakers attending before it.

**12 CALL-IN**

- 12.1 When a decision is made by the Cabinet, an individual Cabinet Member or a committee of the Cabinet, or a Key Decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the Council Offices, normally within two days of being made. All Members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- 12.2 The record of the decision will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, as from 4.00pm on the fifth working day after the day on which the decision was published, unless within this time it is called in for scrutiny (“the call-in period”).
- 12.3 Subject to Rule 13 below, during the call-in period any **8** Members may submit a notice in writing (signed, or an email sent individually, by all eight Members) to the Scrutiny Officer requesting that the decision is called in to the Overview and Scrutiny Committee. The notice of request should identify a lead signatory and must give reasons why the decision should be reviewed, providing an explanation or evidence of:
- 12.4 inadequate consultation with stakeholders prior to the decision;
  - 12.5 the absence of adequate evidence on which to base a decision;
  - 12.6 the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework;
  - 12.7 the action is not proportionate to the desired outcome;
  - 12.8 a potential human rights challenge; or
  - 12.9 insufficient consideration of legal and financial advice.
- 12.10 The Monitoring Officer (as proper officer) shall notify the decision maker and call-in the decision for review by the Committee where, in consultation with the Chair of the Overview and Scrutiny Committee and the Chief Executive if reasonably practicable to do so, they are of the opinion that the request reasonably falls within the criteria set out at Appendix 1 below. The Monitoring Officer (as proper officer) shall then call a meeting of the Call-in Sub-Committee on such date (where possible within 15 working days) as they may determine and where practicable in consultation with the Chair of the Committee. Implementation of the decision shall be held in abeyance pending the conclusion of the process unless the matter is considered urgent as defined in Rule 13 below.
- 12.11 A decision may not be called-in if the Overview and Scrutiny Committee or a Scrutiny Panel has already made recommendations to the decision-taker and those recommendations have been accepted by the decision-taker either in whole or without significant addition or modification.
- 12.12 Where, as a result of any mediation meeting the decision maker, or where the decision maker is the Cabinet, the responsible Cabinet member, provides assurances or undertakings, in relation to the implementation of the decision and the lead signatory to the call-in notice requesting the decision for review confirms their agreement in writing prior to the meeting of the Call-in Sub-committee, then:
- 12.12.1 a notice shall be published confirming the mediation outcome;
  - 12.12.2 any meeting called or item of business placed on an agenda to undertake a review of the decision subject to the call-in will not proceed; and
  - 12.12.3 if requested by the Chair, Vice Chair or member of the Overview and Scrutiny Committee acting as political group spokesperson, a report on the mediation outcome of the call-in request will be reported to a subsequent meeting of the Committee.
- 12.13 In its meeting to review the decision called in, the Call-in Sub-committee shall follow, as far as is reasonably practicable, the suggested procedure for the meeting at Appendix 2 below to these procedure rules.

- 12.14 Where a decision has been called-in by eight Members and none of those Members attend, the Committee may, at its discretion, determine not to scrutinise the decision.
- 12.15 If, having reviewed the decision, the Call-in Sub-committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Council (as set out in more detail in the suggested procedure for the meeting at Appendix 2 below). Matters should only be referred to Council if the Call-in Sub-committee consider the decision to be contrary to the policy framework of the Council or contrary to or not wholly in accordance with the budget.
- 12.16 If the decision is referred back to the decision maker they shall then reconsider the decision. The decision maker may amend the decision or not, before adopting a final decision which will come into force immediately.
- 12.17 If following an objection to the decision, the Call-in Sub-committee does not either refer the matter back to the decision-making person or body or refer the matter to Council or determines not to scrutinise the matter, the decision shall take effect on the date of the Scrutiny meeting.
- 12.18 If the matter was referred to Council and the Council does not object to the decision which has been made, then no further action is necessary, and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no power to make decisions in respect of Cabinet functions unless the decision is contrary to the policy framework, or contrary to or not wholly consistent with the budget. If the Council does acknowledge that the decision is contrary to the policy framework, or contrary to or not wholly consistent with the budget, it may approve an amendment to the relevant policy or budget to allow the decision to be implemented. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- 12.19 If the Council does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting.
- 12.20 The Monitoring Officer may decide, in consultation with the Chair of the Overview and Scrutiny Committee that a decision which has been called in and accepted for review should be considered by the full Overview and Scrutiny Committee instead of the Call-in Sub-committee.

### **13 CALL-IN AND URGENCY**

- 13.1 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the legal or financial position of the Council or the interests of the members of the public of the area. The record of the decision, and the notice by which it is made public shall state whether in the opinion of the decision making person or body (having considered the advice of the Chief Executive and/or the Monitoring Officer and/or the Chief Finance Officer), the decision is an urgent one, and therefore not subject to call-in. The Chair of the Overview & Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.
- 13.2 In the absence of the Chair of the Overview & Scrutiny Committee, the Mayor's consent shall be required. In the absence of both, the Chief Executive or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.



- 13.3 The operation of the provisions relating to call-in and urgency shall be monitored annually by the Monitoring Officer, and a report submitted to Council with proposals for review if necessary.
- 13.4 Where a decision is exempted from call-in, it will become effective immediately or (if later) as soon as the agreement of the Chair of the Overview & Scrutiny Committee (or the Chair of the Council or the Chief Executive, if appropriate) has been obtained.

#### **14 THE PARTY WHIP**

- 14.1 The imposition of the party whip is regarded by the Council as incompatible with the Overview and Scrutiny Committee's functions and terms of reference. The party whip should not therefore be imposed on any member of the Overview and Scrutiny Committee whilst engaged in that Committee's work.

#### **15 PROCEDURE AT OVERVIEW & SCRUTINY COMMITTEE MEETINGS**

- 15.1 The Overview & Scrutiny Committee shall consider the following business:
- 15.1.1 minutes of the last meeting;
  - 15.1.2 declarations of interest (including whipping declarations);
  - 15.1.3 consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
  - 15.1.4 responses of the Cabinet to reports of the Overview & Scrutiny Committee;
  - 15.1.5 A referral to the Committee by a Member; and
  - 15.1.6 the business otherwise set out on the agenda for the meeting.
- 15.2 Where the Overview & Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
- 15.2.1 that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - 15.2.2 that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - 15.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 15.3 Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

#### **16 SPEAKERS**

- 16.1 Speakers who are summoned to the meeting under Rule 10

The Committee may require Members of the local authority, and officers of the authority, to attend before it to answer questions and it shall be the duty of any such Member or Officer to comply with the requirement, provided that they will not be obliged by that requirement to answer any question which he or she would be entitled to refuse to answer in, or for the purposes of proceedings in, a court of law in England and Wales.

## 16.2 Speakers who are invited to the meeting under Rule 11

The Committee may request any of the following to attend a meeting:

16.2.1 any Member, elected or co-opted, to attend and advise;

16.2.2 a representative of any outside body, whose powers or interests are relevant to the matter in hand, to give their views;

16.2.3 any external expert to give evidence, provided arrangements can be made within the budget to pay any expenses or fees so incurred; or

16.2.4 (or allow to speak) any resident of the Borough or any person with a legitimate interest in the topic under consideration to attend and give their views.

## 16.3 Conditions

In applying the Committees' powers contained in 16.1 and 16.2 above, the proceedings of the Committee will be subject to the following provisions:

- i) Any requirements to attend shall be subject to not less than five clear working days' notice, except in a case of urgency;
- ii) A chair of the committee concerned or relevant Member may ask the appropriate chief officer or other senior officer to attend with them to assist in providing technical advice;
- iii) Where the Committee asks or requires an officer to attend who is not a chief or statutory officer, the appropriate chief and/or statutory officer shall also be entitled to be heard, and the officer required to attend may, if they wish, nominate a senior officer to attend on their behalf;
- iv) Where someone requested or required to attend is genuinely unable to attend then, in the case of a Chair or Member, another Cabinet Member or member of the relevant committee shall attend in their place. In the case of an officer, another officer who is able to speak on the topic under consideration and is duly authorised shall attend;
- v) Anyone asked to speak to a meeting of the Committee shall be entitled to see the terms of reference of the particular matter under consideration by the Committee before attending to speak;
- vi) Anyone asked to speak to a meeting of the Committee shall be entitled to see the public papers which have been made available to the Committee and, wherever possible, on the same timescale as for a member of that Committee;
- vii) Anyone asked to speak to a to a meeting of the Committee shall, wherever possible, be given access to statements submitted by individuals from whom the Committee has already heard, but not those who have not yet given evidence. The Chair shall have a discretion to disclose other papers, including statements submitted by following speakers and confidential or exempt material, if he or she considers that will help the speakers to address a particular point, or will otherwise assist the Committee's examination of the issue;
- viii) All speakers shall respect the confidentiality of any confidential or exempt information they receive, and shall not disclose it without the authorisation of the Committee;
- ix) Speakers may submit papers in advance to the Committee, but such papers shall be clear and succinct;

- x) Papers for consideration by Committee will not be admissible less than one hour before the start of the relevant Committee meeting;
- xi) Speakers shall be able to bring such notes and diaries as are helpful to them in assisting the Committee, but shall expect to make available any such notes to the Committee, on the request of the Chair;
- xii) Papers submitted by speakers shall become public documents once they have presented their evidence, and shall be cited as background papers in any published report by the Committee;
- xiii) Officers shall not be required to give personal opinion on any Committee's decision which is different from the recommendation they made;
- xiv) Committee Members may expect to ask searching questions, but will always behave in a polite and respectful way to anyone contributing to the Committee's proceedings;
- xv) The Chair may specify a time limit for a contribution, in advance of the commencement of such contribution, which shall not be less than five minutes. If someone making such a contribution exceeds the time limit given, the Chair may stop them. The Chair may also structure a discussion and limit the time allowed for questioning by members of the Committee;
- xvi) Speakers shall be entitled to a copy of any draft minute or other record taken of their contribution for comment wherever possible. Should they feel that such record is not accurate, then they shall be given the opportunity to make a written representation to the proper officer to ask for the correction to be submitted to the next meeting of the Committee.

## Appendix 1 Call-In Criteria

Call-in should only be used in exceptional circumstances.

Members requesting a call-in are to provide reasons and evidence for doing so, as required by Procedure Rule 12.3

The Monitoring Officer, where reasonably practicable in consultation with the Chair of the Committee and the Chief Executive, is to consider whether those reasons and submitted evidence is sufficient to:

- reasonably suggest that the decision maker did not take the decision in accordance with the principles set out in Article 13 (Decision Making) of the Constitution; and
- call-in the decision, resulting in it not being implemented until a meeting of the Overview and Scrutiny Committee is held to review it.

The following shall be used to consider the validity of the call-in and may form valid reasons for refusal.

- (a) **Time limit** - A decision may only be called-in during the period of 5 clear working days from the date of publication of the executive decision.
- (b) **Financial implications** - Only decisions involving expenditure or risk of a value over £50,000 may be called-in unless it has significant impact on one or more of the wards in Hounslow where expenditure is the primary purpose of the decision. This factor in particular, should be considered in light of the other factors in this guidance.
- (c) **Political implications** - The decision should have a significant impact on one or more of the wards in Hounslow or the decision have an effect on the wider interests of the inhabitants of the area.
- (d) **Duplication** - The Call-In Sub-committee should not be used when another forum or route is available to deal with concerns about an Executive decision, such as Challenge Panels, Audit and Governance Committee or Regulatory Panels.
- (e) **Relevance** - The Call-in request should be of direct relevance to the Decision being called-in.
- (f) **Implementation** – The decision which is the subject of the Call-in should be able to be practically implemented.
- (g) **Executive** - Only Executive decisions can be subject of a Call-in.
- (h) **Not party political** - Call-ins should not be viewed as a substitute for early involvement in the decision-making process, nor as a party political tool.
- (i) **Statutory Guidance** – Any Call-in should comply with the statutory guidance.
- (j) **Prima Facie case** - The Call-in request must make out a prima facie case.
- (k) **Process** - The requisite 8 Members must have requested the call-in. The Members who make the call-in should be Members of the Council.
- (l) **Vexatious Requests** – Consider whether the request should reasonably be construed as vexatious having regard to tone, content, language, persistence etc.

The list above is not exhaustive and occasionally additional and different reasons may be relied upon to reject a request for a Call-in. If this is the case, a review of this Guidance will be carried out to ensure that it remains up to date and of assistance to Members.

## Appendix 2 Call-In Procedure

### (1) SCHEDULING OF THE MEETING

The meeting to consider the call-in must be held within 15 working days of the receipt of the call-in. The Monitoring Officer is responsible as proper officer for summoning the meeting. The date should be arranged where practicable in consultation with the Chair of, and group spokespersons for, the Committee.

Once the date of the meeting has been set, the relevant chief officer and all Council members will be notified of the date. If it is necessary to adjourn a meeting that is considering a call-in, it must be reconvened, and the scrutiny process completed, within 10 working days, provided that that is practicable (see also paragraph (4) below).

### (2) PREPARATION FOR THE MEETING

A suitable venue will be selected, taking into account the approximate number of members of the public that are likely to attend. Where the Chair considers it appropriate, the meeting may be held another venue.

A list of witnesses, and the order in which they are likely to be called, will be established and agreed with the Chair of the meeting. Witnesses may be nominated by both those submitting the call-in notice and the relevant Cabinet member/decision-maker. The complete list should be available in sufficient time to give formal notice to each witness at least three working days before the meeting (though it is to be hoped that they would have been given some indication beforehand).

The Scrutiny Officer and colleagues in Democratic Services will co-ordinate the witness list and will formally invite those people to the committee meeting on behalf of the Chair.

As the decision as to whether or not to seek the views of any person is a matter for either the Chair or the Committee itself, it follows that it would be reasonable for the Chair and Committee group spokespersons or the Committee to ascertain in advance the credentials of any person that has been proposed as a witness. The list of proposed witnesses should therefore include details of each witness's particular expertise or knowledge in relation to the matter, and the members of the committee will then be able to prepare appropriate questions for them.

The relevant Cabinet member and any Council officer required to answer questions on the matter must attend the meeting when requested to do so by the Chair of the committee. Other persons requested to attend as witnesses can choose whether or not to do so.

### (3) PARTICIPANTS IN THE MEETING

Only members of the committee (or designated substitutes) will be able to ask questions of the witnesses or take part in the subsequent debate.

A signatory to the call-in request may not sit on the Committee and thereby act in their own cause.

A member of the Committee cannot also act as a witness.

**(4) WITNESSES**

A witness must be given at least 72 hours notice (3 working days) that they are required to attend to give evidence.

Witnesses are to act under the direction of the Chair (i.e. not of the person that originally submitted their names). Each witness, once called, can be questioned by any member of the committee, but all questioning should be conducted through the Chair.

Witnesses may leave the meeting having given their evidence, but it is open to the Committee to recall them (if necessary at a subsequent meeting) in order to establish points of information (if, for example, a later witness produces counter-evidence).

Where, in exceptional circumstances, a member or officer acting as a witness is unable to attend on the required date, the committee, in consultation with the member or officer, can arrange an alternative date to hear the evidence within a maximum of 15 working days from the date of the original request or their submission can be considered in writing.

**(5) EXEMPT REPORTS**

There might be a call-in of a decision that followed the Cabinet's consideration of an exempt report. This could present problems in relation to the openness of the scrutiny process and to how much of the proceedings witnesses, and the public, can be admitted. If the Committee considers it necessary to exclude the public and press at any stage of the meeting (the term 'public' includes all witnesses except when they are invited in to give evidence), it will have to pass a specific resolution.

The first question the Committee should ask is whether all or any part of the report under consideration is still exempt. Having done so, it would have the following options:

- (a) it could exclude the public at the start and call witnesses into the meeting, one at a time, to be questioned; or the meeting could commence with an explanation, for the benefit of those present, of the implications of the report without divulging any of the exempt information, then carry on as above; or
- (b) if the meeting decides that the report should not remain exempt, then copies would have to be made available to the public, who can remain in the meeting. It may be possible, though, to produce an edited version of the report, leaving out any paragraph that can definitively be said still to be exempt under the Access to Information Rules. If the discussion shifts to the exempt information, the public could then be excluded temporarily.

On balance the Committee should err on the side of openness but always take legal advice at the meeting.

**(6) SUGGESTED STRUCTURE FOR THE MEETING**

- (a) **Chair's opening remarks** (5 minutes)

The Chair will open the Committee meeting convened to review the decision referred and set out the procedure as follows:

- (b) **Explanation of the call in by the lead signatory** (5 minutes)

The Chair will invite the lead signatory to set out the reasons for the decision review. Members of the Committee will be invited to ask the lead signatory questions.

(c) **Overview and explanation of the decision taken by the relevant Cabinet Member** (5 minutes)

The Chair will invite the decision-making officer or Committee Chair (or nominee) to explain the reasons for the decision. Members of the Committee will be invited to ask the decision-maker questions.

(d) **Evidence from call in witnesses**

The Chair will invite the following witnesses to come forward. Witnesses may read out a written statement (not to exceed 5 minutes) if they wish, prior to questions from Members of the Committee. (Running order of witnesses)

(e) **Evidence from decision-maker's witnesses**

The Chair will invite the following witnesses to come forward. Witnesses may read out a written statement if they wish (not to exceed 5 minutes), prior to questions from Members of the Committee.

(f) **Summary of the lead signatory** (5 minutes)

The Chair will invite the lead signatory to summarise the key points of evidence given in support of their case.

(g) **Summary of the decision-maker** (5 minutes)

The Chair will invite the decision-taker to summarise the key points of evidence given in support of the initial decision.

(h) **Committee Debate**

The Chair will invite comments, observations and discussion from members of the Committee.

(i) **Taking the decision**

The Chair will need to determine when the debate has reached a point that issues have been dealt with sufficiently to call for a proposer and seconder and allow for a formal vote of a motion (and any amendments to it) to produce a resolution/decision as to what happens with the call-in.

As with any decision, a scrutiny committee can pass a resolution on a matter by general consent or by a recorded vote. It is quite likely that votes will be necessary at a call-in meeting.

**(7) DECISION OF THE MEETING**

The Committee cannot substitute its own judgement for the original decision. The meeting must, however, conclude by agreeing to a recommendation, which may be to resolve:

- (a) to make no recommendation to the decision-taker, in which case the initial decision shall be implemented at any time after the end of the meeting of the Committee;

- (b) to make recommendation(s) in terms of improvement(s) to services or procedures, in which case the initial decision shall be implemented at any time after the end of the meeting of the Committee;
- (c) to make a recommendation, with a statement of reasons, to the decision-maker to alter the decision, or reconsider any part of it, in which case the implementation of the initial decision shall be delayed until such a recommendation has been considered;
- (d) exceptionally, to refer the decision to full Council, with a statement of reasons why the Committee considers the decision to be contrary to the policy framework of the Council or contrary to or not wholly in accordance with the budget; or
- (e) to defer consideration of the proposal for further reports, in which unusual circumstance the Committee must set a date and time for such deferred consideration, and the decision shall not be implemented until the end of that subsequent meeting.

A decision may only be subject to review once.