

## **Part 3.3 Overview and Scrutiny Procedure Rules**

### **1. Introduction**

1.1 These rules of procedure provide a framework for carrying out the overview and scrutiny work of the Authority.

### **2. Objectives and key principles of scrutiny of the Authority**

2.1 The Authority has established an Overview and Scrutiny Committee (“the Committee”) in accordance with the relevant legislation and the Authority’s Constitution in order to scrutinise and support the decision-making of the Cabinet and the Mayor and other decision-making bodies and officers within the Authority.

2.2 The terms of reference of the Committee are set out in paragraph 5 of Part 2.4 of this Constitution.

2.3 The Committee shall be responsible for determining their own work programme, having taken advice from relevant officers. When considering their work programme, they shall:

- determine whether an issue is more appropriately dealt with by one of the constituent councils or by some other organisation or in some other way and will not duplicate the work of existing bodies or agencies;
- take into account the resources available to support that programme, and avoid establishing priorities for which the costs exceed the likely benefits;
- avoid initiating enquiries at a time, or in a manner which disrupts the effective and efficient operation of the Authority, or unnecessarily delays the conduct of its business.

2.4 The scrutiny process will be open and transparent and designed to engage all relevant organisations, residents and other stakeholders.

2.5 The terms of reference, timescale and outline of any review shall be agreed by the Committee.

2.6 Different approaches to scrutiny reviews may be taken in each case, but Members shall seek to act in an inclusive manner and take evidence from a wide range of opinion. The Committee shall make specific efforts to engage with groups who would otherwise be excluded.

2.7 The Committee may also establish subcommittees and temporary working groups to consider specific issues in more depth and to report back to the Committee. Working groups cannot, however, receive delegated authority from the Committee, who retain responsibility for all decisions.

### **3. Meetings of the Committee**

3.1 The Committee shall hold at least four meetings per year and may convene additional meetings as necessary, taking account of the considerations set out above.

3.2 Notice of the meetings will be sent to each Member of the Committee in accordance with the requirements of the Local Government Act 1972.

3.3 Meetings will be held in public, unless the Committee decides to convene in private in order to discuss confidential or exempt information, in accordance with the relevant provisions of the Local Government Act 1972.

3.4 The Committee, acting reasonably, may:

- request the members or statutory officers of the Authority (including the Mayor) to attend before it to answer questions and give evidence; and
- invite such other persons, including officers of the constituent councils, to attend meetings of the Committee.

3.5 Any invitation to officers under paragraph 3.4 must be made through the Head of Paid Service of the Authority, or the Chief Executive of the relevant constituent council. If any request is declined by the Head of Paid Service or Chief Executive, they must indicate the reasons for so doing.

#### **4. Functions of the Committee regarding the Authority's Budget and the Mayoral Budget**

4.1 Prior to the calculations on the transport levies being finalised the Cabinet and Mayor will consult the Committee on the Authority's proposed budget and the Mayor's proposed budget in accordance with the provisions of section 3 of Part 3.2 of this Constitution

4.2 The Committee will ensure that it responds to that consultation in a timely manner to ensure that the Cabinet and the Mayor can comply with their obligations to adopt the Authority's budget and the Mayor's budget for each financial year.

#### **5. Agendas and Business of the Committee**

5.1 The Chair will approve the agenda for each meeting of the Committee.

5.2 Any member of the Committee may raise with the Chair a matter which is relevant to the functions of the Committee, for consideration by the Committee.

5.3 Any member of the Authority or of a constituent council may also raise with the Chair an item which is relevant to the functions of the Committee, for the Committee's consideration.

5.4 In considering whether or not to exercise any of the powers specified in the Terms of Reference of the Committee (at paragraph 5 of Part 2.4 of this Constitution) in relation to a matter referred to it under paragraph 5.2 or 5.3 above, the Committee must have regard to any representations made as to why it would be appropriate for the Committee to exercise any of those powers.

5.5 If the Committee decides not to exercise any of those powers in relation to the matter, it must notify the relevant member of its decision and the reasons for the decision.

5.6 The Committee must also provide the relevant member with a copy of any report or recommendations which the Committee makes regarding the exercise of its powers in connection with the matter referred to it by the Member(s) concerned, subject to the provisions of paragraph 6.5 (confidential and exempt information).

## **6. Reports or Recommendations of the Committee**

6.1 Where the Committee makes a report or recommendations, the Committee may:

- publish the report or recommendations;
- by notice require the Cabinet or Mayor to:
  - consider the report or recommendations;
  - respond to the Committee indicating what (if any) action the Cabinet or Mayor proposes to take; and
  - (if the Committee has published the report or recommendations), publish the response.

6.2 Notice given under the preceding paragraph 6.1 must require the Cabinet or Mayor to comply with it within two months beginning with the date on which the Cabinet or the Mayor received the report or recommendations or (if later) the notice.

6.3 The Cabinet or the Mayor must respond to a report or recommendations made by the Committee as a result of a referral made in accordance with these Rules, within two months beginning with the date on which the Cabinet or the Mayor received the report or recommendations or (if later) the notice.

6.4 When publishing any document comprising such report or recommendations, or a response of the Cabinet or the Mayor to the report or recommendations, the Committee must exclude any confidential information, and may exclude any relevant exempt information.

6.5 When the Committee provides a copy of any such documents to a Member of the Authority, or to a Member of a constituent council, the Committee may exclude any confidential information or relevant exempt information.

6.6 Where the Committee excludes information under the preceding paragraphs, the Committee in publishing or providing a copy of the document may replace so much of the document as discloses the information, with a summary which does not disclose that information, and must do so if, in consequence of excluding the information, the document published, or the copy provided, would be misleading or not reasonably comprehensible.

6.7 Notwithstanding that the Committee, in publishing or providing a copy of a report or recommendations, has excluded information, or has replaced part of a report or the recommendations with a summary, it is nevertheless to be taken to have published the report or recommendations.

6.8 “Confidential information” has the meaning given by section 100A (3) of the Local Government Act 1972.

6.9 “Exempt information” has the meaning given by section 100I of the 1972 Act.

6.10 “Relevant exempt information” means:

- in relation to a report or recommendations of the Committee, exempt information of a description specified in a resolution of the Committee under section 100A(4) of the 1972 Act which applied to the proceedings, or part of the proceedings of the Committee at which the report was, or the recommendations were, considered; and

- in relation to a response of the Cabinet or the Mayor, exempt information of a description specified in such a resolution of the Cabinet or Mayor which applied to the proceedings, or part of the proceedings, at any meeting of the Cabinet at which the report or response was, or the recommendations were, considered.

## **7. Rights of Committee Members to documents**

7.1 Subject to paragraph 7.3 below a member of the Committee is entitled to a copy of any document which:

- is in the possession or under the control of the Cabinet or the Mayor and
- contains material relating to any business that has been transacted at a meeting of a decision-making body of the Authority, or to any decision that has been made by an individual Member of the Authority.

7.2 Where a member of the Committee requests a document which falls within the preceding paragraph 7.1, the Cabinet or the Mayor must provide that document as soon as reasonably practicable, and in any case no later than 10 clear days after the Cabinet or the Mayor receives the request.

7.3 However, no member of the Overview and Scrutiny Committee is entitled to a copy of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:

- an action or decision that the Member is reviewing or scrutinising; or
- any review contained in any programme of work of the Committee or of a working group of the Committee; or
- of a document or part of a document containing advice provided by a political adviser

7.4 Where the Cabinet or the Mayor or the Head of Paid Service determines that a member of the Committee is not entitled to a copy of a document or part of any such document for a reason set out in the preceding paragraph 7.3, they must provide the Committee with a written statement setting out its reasons for that decision.

## **8. Call-In Procedure**

8.1 The power of the Committee to call-in decisions for review and scrutiny is intended to apply in exceptional circumstances and it cannot be used in respect of day-to-day management and operational decisions.

8.2 The following decisions are subject to call-in:

- all decisions made by the Mayor (or Deputy Mayor or other Cabinet member), Cabinet or committees;
- decisions made by officers under delegated powers where the decisions are key decisions.,

Such decisions shall be published within 3 working days of being made. Committee members will be sent copies of the records of all such decisions by the person responsible for publishing the decision. The notice will bear the date on which it is published and will specify that (subject to paragraph 8.10 below) the decision will come into force, and may then be implemented, on the expiry of 5 working days after the

publication of the decision (which is period is referred to as “the Call-in Period”), unless a valid request for call-in is received during the Call-in Period.

8.3 It is important that the call-in mechanism is not abused or used unduly to delay decisions or slow down the process of decision-making. It should not be used solely as a means of requesting information. In making a request to call-in a decision, members of the Committee will need to demonstrate grounds that a decision of the Authority may have been made:

- in a manner which is inconsistent with the Constitution and procedures of the Authority;
- without adequate consultation with relevant parties;
- without adequate evidence to inform that decision, or with inaccurate or misleading evidence; and/or
- without sufficient regard to the financial or other impacts of the decision or the risks arising from the decision.

8.4 The written request for call-in of a decision should always include specific details clearly explaining why the Members making the request consider that one or more of the criteria in paragraph 8.3 applies. Wherever possible, the request shall also indicate whether the Members wish to request persons to attend any Committee meeting which is to be held to consider the call-in request. The Monitoring Officer will provide a form for completion by the Members making the call-in request, to ensure the proper application of the call-in procedure.

8.5 A decision shall be called in for scrutiny by the Committee if:

- a. a call-in request signed by at least 5 Members of the Committee is received by the Monitoring Officer within the Call-in Period; and
- b. the Monitoring Officer considers that one or more of the criteria in paragraph 8.3 have been met for the request to be valid.

In that event the Monitoring Officer shall then notify the decision-maker of the call-in. The Monitoring Officer shall call a meeting of the Committee on such date as they may determine, where possible after consultation with the Chair of the Committee, and in any case within a period not exceeding 10 days of the decision to call-in unless there are exceptional circumstances as to why this cannot be achieved. The Monitoring Officer, in consultation with the Chair of the Committee, will determine if there are exceptional circumstances.

8.6 On receipt of a valid call-in request, the Committee meeting to review the decision shall follow the following format:

- the Members requesting the call-in will explain the reasons for calling-in the decision;
- other Members of the Committee may ask questions or seek clarification on the reasons for call-in;
- the (representative of the) decision maker and/or supporting officer(s) will explain the reasons for the decision being made and respond to any issues raised by the call-in;
- Members of the Committee may ask questions or seek clarification; and
- the Committee will then deliberate and come to a decision.

Timings for each element of the meeting may be determined by the Chair in order to ensure the efficient conduct of the meeting.

- 8.7 The Committee may, by majority decision, take one of the following steps:
- a. agree that the original decision should stand, no further action should be taken and the decision can be implemented without further delay;
  - b. agree that the original decision should stand, but make comments to the decision-maker on the decision;
  - c. agree that the original decision should be referred back to the decision-maker with a recommendation it be reconsidered, providing a statement of the reasons for the referral;
  - d. (where the decision was made under delegated arrangements) agree that the original decision should be referred to the Cabinet or Mayor (as appropriate) with a recommendation that it be reconsidered, providing a statement of the reasons for the referral;
  - e. agree to adjourn the meeting for further consideration (the meeting can only be adjourned once).
- 8.8 If following a valid call-in, a quorate meeting of the Committee is not held within 10 days (unless there are exceptional circumstances for holding the meeting at a later date as set out in paragraph 8.5 above), or does meet but does not refer the matter back to the decision-maker or the Cabinet (as appropriate), the decision shall take effect on the sooner of the date of the Committee meeting or the 10 day period.
- 8.9 If the matter is referred to the Cabinet for reconsideration, the Cabinet shall meet within 10 days of the request, unless there are exceptional circumstances as to why this cannot happen, to reconsider the matter. Following the meeting the Cabinet shall respond to the Committee indicating what, if any, action the Cabinet proposes to take.
- 8.10 The call-in procedure set out above shall not apply where:
- a) the decision is urgent because any delay likely to be caused by a call-in would seriously prejudice the Authority's or the public's interest; or
  - b) there is substantial risk of serious prejudice to the Authority because of the increased risk of public disclosure of highly sensitive confidential information arising from the call-in process.

In these circumstances:

- the Head of Paid Service shall determine whether a risk of serious prejudice exists. In the event that the Head of Paid Service is the decision-maker, this assessment shall be confirmed by the Monitoring Officer;
- the Head of Paid Service must secure the agreement of the decision-maker, and the Chair (or, in their absence, the Vice Chair) of the Committee;
- the decision shall be communicated to the Committee in advance of implementation; and

- the fact that a decision is exempt from call-in shall be recorded alongside the decision itself.
- 8.11 The operation of the provisions relating to call-in and urgency shall also be monitored and reviewed annually.
- 8.12 Each decision can only be called in once.