

## **APPENDIX 4**

### **Overview and Scrutiny Procedure Rules**

#### **1. Arrangements for Overview and Scrutiny**

- 1.1 The Council will have an Overview and Scrutiny Panel and four Scrutiny Commissions as set out in Article 7 of this Constitution. Article 7 sets out the broad framework for the operation of the Council's overview and scrutiny function. These rules set out some of the more detailed working arrangements.

#### **2. Meetings of the Overview and Scrutiny Panel and Commissions**

- 2.1 There shall be 4 ordinary meetings of the Overview and Scrutiny Panel in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Panel meeting may be called by the Chair of the Panel or by the Monitoring Officer if s/he considers it necessary or appropriate.
- 2.2 The Overview and Scrutiny Commissions are each expected to meet at least 8 times a year, but this may include site visits and informal meetings undertaken as part of a review.

#### **3. Quorum**

- 3.3 The quorum for the Overview and Scrutiny Panel and the Scrutiny Commissions shall be one quarter of voting Members or three voting Members, whichever is the greater.

#### **4. Chairs and Vice-chairs**

- 4.1 The Chairs of the Overview and Scrutiny Panel and the Scrutiny Commissions shall be appointed by their voting members at their first meeting of each municipal year.
- 4.2 The Overview and Scrutiny Panel's Chair shall be a Member of the majority political group of the Council. The Vice-Chair shall be a Member of the largest minority political group of the Council. The Chairs of the Scrutiny Commission are not eligible for the position of Chair.

#### **5. Reports from Overview and Scrutiny**

- 5.1 Once it has formed recommendations, an Overview and Scrutiny Commission or the Overview and Scrutiny Panel will prepare a formal report and its recommendations to the Monitoring Officer for consideration by the Elected Mayor, a Cabinet Member, the Executive or Full Council (usually only if the recommendation would require a departure from or a change to the agreed budget or policy framework) as appropriate. Where recommendations are made that relate to an external organisation (such as an NHS Trust) the report will also be

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submitted to that body.

5.2 If the Overview and Scrutiny Panel or Commission cannot agree on one single final report, then up to one minority report may be prepared and submitted for consideration alongside the majority report.

5.3 Where referred to Full Council or the Executive, the report of the Overview and Scrutiny Panel or Commission will be considered at the next scheduled meeting.

### **6. Ensuring that Overview and Scrutiny reports are considered by the Executive and other bodies**

6.1 Where the Overview and Scrutiny Panel or Commission publishes a report which includes recommendations, it will submit a copy of the report to the relevant decision-making person or body. It will copy the report to the Elected Mayor (unless the Elected Mayor is the decision-maker) and the Monitoring Officer indicating the decision-maker(s) to whom the report has been sent.

6.2 The following sub-sections govern the procedure to be followed according to the decision-maker receiving the report:

- i) **Where the decision-maker is Full Council** – When Full Council meets to consider the report it shall also consider the response of the Executive to the recommendations. The outcome of the discussion at Full Council will be placed on the agenda of the next scheduled meeting of the Overview and Scrutiny Panel and/or Commission.
- ii) **Where the decision-maker is the Executive** – The report will be considered under the standing item “Issues Arising from Overview and Scrutiny”, unless it can be considered in the context of the Executive’s deliberations on a substantive item on the agenda. The Executive shall also consider the response of the lead Cabinet Member(s) for the portfolio area(s) to which the report’s recommendations relate. The outcome of the discussion by the Executive will be placed on the agenda of the next scheduled meeting of the Overview and Scrutiny Panel and/or Commission.
- iii) **Where the decision-maker is the Elected Mayor or another individual Member of the Cabinet** - The Member with delegated decision making power must consider the matter and report back to the Overview and Scrutiny Panel and/or Commission within 2 weeks. If the Member does not accept some or all of the recommendations then s/he must include within that report the reasons for not doing so, send a copy of his/her response to the Monitoring Officer, and attend the meeting of the Overview and Scrutiny Panel and/or Commission

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that considers his/her response.

iv) **Where the decision-making is an external (non-Council organisation) –**

- a) Where that organisation has a statutory duty to respond to the Overview and Scrutiny Panel and/or a Commission, a written response shall be requested within the timescale required, or if mutually agreed, by another set deadline, so the response can be placed on the agenda of the next scheduled meeting of the Panel and/or Commission;
- b) Where that organisation does not have a statutory duty to respond to the Overview and Scrutiny Panel and/or a Commission, a written response shall be invited within a reasonable period of time noting that, if submitted, the response would be placed on the agenda of the next scheduled meeting of the Panel and/or Commission.

6.3 The Overview and Scrutiny Panel and each Overview and Scrutiny Commission will in any event have access to the Executive Meetings and Key Decisions Notice and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed consideration by the Panel or a Commission, the Panel or Commission will be able to respond in the course of the Executive's planned consultation process in relation to any Key Decision.

### **7. Rights of Overview and Scrutiny Members to documents**

7.1 In addition to their rights as elected Members, members of the Overview and Scrutiny Panel and Commissions have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

7.2 Nothing in this Rule prevents more detailed liaison between the Executive and the Overview and Scrutiny Panel and Commissions as appropriate, depending on the particular matter under consideration.

### **8. Members and officers giving account**

8.1 The Overview and Scrutiny Panel and any Overview and Scrutiny Commission may scrutinise and review decisions made, or actions taken, in connection with the discharge of any Council functions relevant to the issues it is examining. As well as reviewing documentation, in fulfilling the scrutiny role it may require any member of the Executive, the Head of the Paid Service and/or any senior officer and, subject to contractual arrangements, any other person delivering a Council service, to attend before it to explain in relation to matters within their remit:

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- i) any particular decision or series of decisions;
- ii) the extent to which the actions taken implement Council policy; and/or
- iii) the performance of relevant services;
- iv) as required under the Council Petition Scheme;

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

8.2 Where any Councillor or senior officer is required to attend the Overview and Scrutiny Panel or a Commission under this provision, the Chair of that Panel/Commission will inform the Monitoring Officer who shall inform the Councillor or senior officer in writing giving at least 5 working days' notice of the meeting at which his/her attendance is required. The notice will state the nature of the item on which s/he is required to attend to give account and whether any papers are required to be produced for the Commission. Where the account to be given to the Commission will require the production of a report, then the Member or senior officer concerned will be given sufficient notice to allow for preparation of that document.

8.3 Where, in exceptional circumstances, the Member or senior officer is unable to attend on the required date, the Overview and Scrutiny Panel/Commission shall, in consultation with the Member or senior officer, arrange an alternative date for attendance, or, an alternative attendee.

8.4 A senior officer may determine that another officer should attend because of their knowledge and experience is more relevant to the issue being discussed.

### **9. Attendance by others**

9.1 The relevant Overview and Scrutiny Panel or Commission will be able to exercise legal rights to require attendance by individuals who are not officers, or Members of the Council, such as the right to require attendance by an officer of a local NHS body [as conferred by the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2013]; the right to require attendance by officers or employees of responsible authorities and co-operating bodies of a local Community Safety Partnership [as conferred by the Crime and Disorder (Overview and Scrutiny) Regulations 2009]; and the right to require information from partner authorities which relate to local improvement targets [as conferred by the Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2012].

9.2 An Overview and Scrutiny Panel or Commission may invite people other than those referred to above to address it, discuss issues of local

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concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and/or officers in other parts of the public or private sector; and shall be free to invite such people to attend.

### **10. Call-in**

10.1 Call-in should only be used in exceptional circumstances. These are where any 5 non-executive Members have evidence which suggests that:

- i) the Executive did not take the decision in accordance with the principles set out in Article 13.2; or
- ii) the Executive acted contrary to the policy framework; or
- iii) the Executive acted not wholly in accordance with the Council's budget; or
- iv) the Executive failed to consider relevant evidence when taking a decision; or
- v) the decision would not be in the interests of the borough's residents and a preferable alternative decision could be adopted.

10.2 The procedure for a call-in is:

- i) When an executive decision is made by the Elected Mayor, at an Executive meeting, or, by an individual member of the Executive, or a key decision is made by an officer (under delegated authority) the decision shall be published. The Chair of the Overview and Scrutiny Panel will be sent copies of the records of all such decisions within the same timescale by the person responsible for publishing the decision.
- ii) All such decisions will include the date published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless that decision is called-in by at least 5 non-executive members in writing and submitted to the Monitoring Officer. Each of the 5 non-executive members requesting the call-in shall either sign the call-in request or individually email the Monitoring Officer indicating their support for the request.
- iii) The Monitoring Officer shall call-in a decision for scrutiny by the Overview and Scrutiny Panel if so notified and shall then notify the Elected Mayor and Cabinet of the call-in. S/he shall place the call-in on the agenda for the next Overview and Scrutiny

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Panel meeting. If no meeting is scheduled to take place within 10 days, a special meeting of the Panel will be convened. The Panel may agree a procedure for convening such a meeting.

- iv) If, having considered the decision, the Overview and Scrutiny Panel feel that a preferable alternative decision should be taken it may refer the decision back to the decision-maker for reconsideration, setting out in writing the nature of its concerns and recommendations. Where the Panel considers that its recommendations would have an impact on the Council's budget or policy framework, it may instead refer the matter to Full Council.
- v) If the decision is referred to an individual member of the Executive, or to an officer, they will then re-consider the proposed decision, and may amend it. If the Member or officer rejects any or all of the recommendations made, they will submit a written statement to the next meeting of the Overview and Scrutiny Panel setting out their reasons.
- vi) If the decision is referred to the Executive, the item will be placed on the agenda for the next Executive meeting. They will then reconsider the proposed decision, and may amend it. If the Executive rejects any or all of the recommendations made to it, it will then reconsider the proposed decision, and may amend it. If the Executive rejects any or all the recommendations made to it, it will submit a written statement to the next meeting of the Overview and Scrutiny Panel setting out its reasons.
- vii) If the decision is referred to Full Council, the item will be included on the agenda for the next ordinary meeting for reconsideration.
- viii) If Full Council does not refer the decision back to the Cabinet the decision shall become effective on the date of the Full Council meeting.
- ix) Full Council may only change a Cabinet decision if it is contrary to the policy framework or contrary to or not wholly consistent with the budget.
- x) Unless that is the case, Full Council shall refer any decision with which it does not concur back to the decision-making person or body, together with Full Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not. Its determination shall then be implemented.
- xi) Where the decision was taken by the Cabinet as a meeting, or by a Committee of it, a meeting shall be convened to reconsider the decision within 15 working days of the Full Council meeting.

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Where the decision was made by an individual, the individual shall reconsider the decision within 15 working days of the Full Council meeting. In either case, a written statement shall be submitted to the next meeting of the Overview and Scrutiny Panel setting out the outcome.

- xii) If, following a call-in, the Overview and Scrutiny Panel does not meet in the period set out above, or does meet but does not refer the matter back to the decision-maker, the decision shall take effect on the date of the Panel meeting or 10 working days after notification of the call-in, whichever is earlier.
- xiii) If the decision-maker or Full Council does not amend a decision under the above circumstances, and the Overview and Scrutiny Panel still feels a more appropriate decision should have been taken, it may add the matter to its own work programme or the work programme of a Commission and monitor the implementation of the decision.

### **11. Call-in and urgency**

- 11.1 The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-maker, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Overview and Scrutiny Panel must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Speaker's consent shall be required. In the absence of both, the Head of the Paid Service, or his/her nominee's, consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of Full Council, together with the reasons for urgency.
- 11.2 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Full Council with proposals for review if necessary.

### **12. Councillor Call for Action**

#### **Local Government Matters**

- 12.1 The Councillor Call for Action is a procedure which enables Councillors to have a matter referred to the Overview and Scrutiny Panel or relevant Scrutiny Commission for consideration. Prior to requesting such reference, Councillors are invited to raise the matter with the relevant Group Director or Lead Member in order to achieve settlement without the need for formal reference. Notwithstanding, the option for formal reference shall remain available.

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- 12.2 Any member of any Overview and Scrutiny Panel/Commission, may by giving written notice of at least 15 working days to the Monitoring Officer, prior to the date of the meeting at which the Councillor wishes to raise the matter, request that any matter which is relevant to the functions of the Overview and Scrutiny Panel or Commissions, as the case may be, is included in the agenda for discussion at a meeting of the Panel or Commission.
- 12.3 Any Member of the Council, may by giving written notice of at least 15 working days to the Monitoring Officer, request that any local government matter (pursuant to Section 21A of the Local Government Act 2000) which is relevant to the functions of the Overview and Scrutiny Panel or Commissions is included in the agenda and is discussed at a meeting of the Panel or Commission.
- 12.4 Any Member of the Council, may, by giving written notice of at least 15 working days to the Monitoring Officer, request that a local crime and disorder matter (pursuant to section 19 of the Police and Justice Act 2006) is included in the agenda for discussion at a meeting of the Living in Hackney Scrutiny Commission.
- 12.5 A local government matter pursuant to Rule 12.3 shall not include:
- i) any matter relating to a planning decision;
  - ii) any matter relating to a licensing decision;
  - iii) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
  - iv) any matter which the Monitoring Officer determines to be vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Panel or Commissions.
- A matter shall not fall within a description in Rule 12.5(i)-(iv) above if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systematic basis, notwithstanding the fact that the allegation specifies or refers to a planning decision, a licensing decision or a matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to review or right of appeal conferred by or under any enactment.
- 12.6 The Overview and Scrutiny Panel and Commissions will undertake their proceedings pursuant to the powers set out in Article 7.
- 12.7 Where a local government matter is referred to the Overview and



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Scrutiny Panel or one of the Commissions by a Member of the local authority, in considering whether or not to exercise any of its powers in relation to a matter, the Scrutiny Panel/Commission may have regard to:

- i) Any powers which a Councillor may exercise in relation to the matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and
- ii) Any representations made by the Councillor as to why it would be appropriate for the Panel/Commission to exercise any of its powers to include a matter on the agenda for discussion at a meeting of any Panel/Commission.

11.8 If the Overview and Scrutiny Panel or Commission decides not to exercise any of those powers in relation to the matter, it shall notify the Councillor of –

- i) its decision; and
- ii) the reasons for it.

11.9 The Overview and Scrutiny Panel or Commission shall provide the Councillor with a copy of any report or recommendations which it makes to the authority or the Cabinet if the matter is included in the agenda and discussed at a meeting of the Panel/Commission.

### **13. Crime and Disorder Matters**

13.1 The Living in Hackney Scrutiny Commission is the designated Crime and Disorder Commission. A “crime and disorder matter” means a matter concerning crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) or the misuse of drugs, alcohol and other substances in that area.

13.2 Where the Living in Hackney Scrutiny Commission, as the Crime and Disorder Commission makes a report or recommendations to Full Council it must:

- i) provide a copy of the report or recommendations to any member of the authority who referred the local crime and disorder matter in question to the Commission;
- ii) provide a copy of the report or recommendations to such of the responsible authorities, co-operating persons and bodies as it thinks appropriate.

13.3 Where a copy of a report or recommendations is provided to a

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responsible authority, co-operating person or body under paragraph 13.2 above that authority, person or body shall:

- i) consider the report or recommendations
- ii) respond to the Living in Hackney Scrutiny Commission indicating what (if any) action it proposes to take;
- iii) have regard to the report or recommendations in exercising its functions

### **14. Joint Committee of the Six Growth Boroughs**

14.1 This Committee is a formally constituted Joint Committee undertaking executive functions on behalf of the Six Growth Boroughs including Hackney.

14.2 Decisions of the Joint Committee may be called-in by one or more participating boroughs pursuant to the Joint Committee's Procedure Rules. Each of the boroughs shall apply their existing overview and scrutiny arrangements to decisions of the Joint Committee.

13.3 Upon publication by the Chief Executive of the record of Joint Committee decisions, Members of Hackney Council may call-in any such decision pursuant to the Joint Committee Procedure Rules.

### **15. Procedure at Overview and Scrutiny Panel and Commission meetings**

15.1 The Overview and Scrutiny Panel and Commissions shall include within their agendas the following business:

- i) declarations of interest (including whipping declarations);
- ii) minutes of any previous meetings;
- iii) consideration of the body's own work programme;
- iv) other business.

14.2 Where the Overview and Scrutiny Panel or Commissions conducts investigations (e.g. with a view to policy development), the Panel/Commission may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles; that:

- i) the investigation be conducted fairly and all Members (including co-opted Members) of the Panel/Commission be given the opportunity to ask questions of attendees, and to contribute and speak;

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- ii) those assisting the meeting by giving evidence be treated with respect and courtesy;
- iii) the investigation be conducted so as to maximise the efficiency of the investigation or analysis;
- iv) evidence collected is analysed; and
- v) any recommendations made are based upon that evidence.

14.3 Following any investigation or review, the Overview and Scrutiny Panel or Commission, may prepare a report for submission to the relevant decision-maker, Executive and/or Full Council as appropriate and shall make its report and findings public except to the extent that they may include confidential or exempt information.

14.4 These rules shall apply to any Overview and Scrutiny Commissions and working parties.