

Section 5 - Overview and scrutiny rules

5.5.1 Arrangements for overview and scrutiny

5.5.2 The overview and scrutiny arrangements for the Council are as laid out in part 2 article 6 and section 4 of the functions scheme. The Council has decided that it will have two overview and scrutiny committees (an Overview and Scrutiny Committee and a Health Scrutiny Committee) which will have responsibility for all the overview and scrutiny functions on behalf of the Council as set out in part 3 section 4. These Rules apply to both Committees.

5.5.3 Who may sit on an overview and scrutiny committee?

5.5.4 All Councillors except Cabinet members may be members of an overview and scrutiny committee. No member may be involved in scrutinising a decision in which they have been directly involved, or for a decision in the Cabinet portfolio they provide support to as a deputy cabinet member.

5.5.5 Co-option

5.5.6 An overview and scrutiny committee may co-opt a maximum of two non-voting people as and when required, for example for a particular meeting or to join a task and finish group. Any such co-optees will be agreed by the committee having reference to the agreed work plan and/or task and finish group membership.

5.5.7 The Committee with responsibility for education shall include the following co-opted education representatives, as appointed by the Council: - one representative as nominated by the diocese of Bury - one representative as nominated by the archdiocese of Bury - one parent governor as elected from the primary school sector- one parent governor as elected by the secondary school sector - one parent governor as elected by the special school sector These education co-optees may vote on items relating to education; on other items on the committee agenda they may speak but not vote.

5.5.8 Quorum

5.5.9 The quorum for an overview and scrutiny committee is one quarter of the voting membership of the committee, or three members, whichever is the greater. If the number is a part number it is rounded up.

5.5.10 Task and finish groups

5.5.11 An overview and scrutiny committee may appoint a task and finish group for any scrutiny activity within the committee's agreed work programme. A committee may determine to undertake a task and finish activity itself as a

spotlight review where such an activity may be undertaken in a single session; the procedure rules relating to task and finish groups will apply in these circumstances.

- 5.5.12 The relevant overview and scrutiny committee will approve the scope of the activity to be undertaken, the membership, chair, timeframe, desired outcomes and what will not be included in the work. It will be a matter for the task and finish group to determine lines of questioning, witnesses (from the council or wider community) and evidence requirements.
- 5.5.13 The task and finish groups will be composed of at least two members of the relevant overview and scrutiny committee, other Councillors, and may also include, as appropriate, co-opted people with specialist knowledge and or expertise to support the task. It is unlikely that voting will be necessary in task and finish groups. However, should there be a need to vote, for example on the formation of recommendations within a task and finish group report, for the avoidance of doubt any councillor appointed to a task and finish group will have the right to vote. No co-opted members of task and finish groups will have voting powers (unless they are the education co optees listed in 4.5.7 above). Matters put to the vote will be determined on a simple majority with the task and finish group chair having a casting vote.
- 5.5.14 To assist in the identification of members for task and finish groups, the chair of the overview and scrutiny committees will ensure that group leaders are provided with the committee work programme, including potential task and finish activity. Group leaders will advise overview and scrutiny chair of those members suitable for such task and finish activity.
- 5.5.15 Task and finish groups, as working groups of the committee, are not subject to the requirements of political proportionality.
- 5.5.16 Officer support will be provided to each task and finish group the level of which will be dependent on the matter being considered.
- 5.5.17 As working groups of the committee, the task and finish groups will not be making decisions, and have the discretion to meet either in public or in private. Where meeting in private there is no right of attendance by any member who is not a member of a task and finish group.
- 5.5.18 If a task and finish group chooses to meet formally in public it may need to exclude the press and public including other members in attendance from part of any such meeting in accordance with the Access to Information Rules (Part 4 section 2).
- 5.5.19 Task and finish groups will report their findings/outcomes/recommendations to the relevant overview and scrutiny committee who will decide if the findings/outcomes/recommendations should be reported to the cabinet or elsewhere.

5.5.20 At the first meeting of each task and finish project, the task and finish group will finalise:

- expert/specialist support required
- officer input required
- lines of questioning
- evidence requirements
- which aspects of the task are to be undertaken in private or public.

5.5.21 Any changes proposed by the task and finish group to the scope, timeframe or outcomes stipulated by the committee must be approved by the statutory scrutiny officer following consultation with the chair of the relevant overview and overview and scrutiny committee and will be reported to the relevant overview and overview and scrutiny committee.

5.5.22 In the event of a task and finish group being unable to agree recommendations or findings on a particular matter, a report will be made to the relevant overview and scrutiny committee for its consideration.

5.5.23 Appointment of chair and members of the overview and scrutiny committees

5.5.24 The chairs and vice chairs of the overview and scrutiny committees are appointed at the annual meeting of the Council. The Council shall determine the number of members of the overview and scrutiny committees annually or as required from time to time in compliance with the statutory rules on proportionality.

5.5.25 Meetings of overview and scrutiny committees

5.5.26 The overview and scrutiny committees will meet in accordance with the council's schedule of meetings, subject to the chair's power to cancel or postpone meetings in case of emergency or where there is no business. Where an overview and scrutiny committee feels it is appropriate to hold additional meetings it may do so. The chair of an overview and scrutiny committee may also call additional meetings if they consider it necessary or appropriate. In so doing, the chair shall have regard to the advice of the Council's Monitoring Officer and Statutory Scrutiny Officer.

5.5.27 Programme of work of overview and scrutiny committees

5.5.28 The overview and scrutiny committees will be responsible for setting their own work programmes. In setting their work programme an overview and scrutiny committee shall have regard to the resources (including officer time) available.

5.5.29 Overview and scrutiny committee agendas

- 5.5.30 At each of its ordinary meetings an overview and scrutiny committee shall consider the following business, where appropriate:
- (a) minutes of the last meeting
 - (b) questions from members of the public
 - (c) questions from members of the Council
 - (d) any matter called-in in accordance with paragraphs 4.5.61-69 below
 - (e) a review of its work programme, including requests received for inclusion of items from members of the public, ward members, the Cabinet or the Council
 - (f) consideration of any budget and policy framework items
 - (g) any response to reports of the overview and scrutiny committee
 - (h) any item requested to be placed on the agenda by a member of the committee
 - (i) any Councillor call for action
 - (j) any report from a task and finish group;
 - (k) any business otherwise set out on the agenda for the meeting including items as identified in the work programme.
- 5.5.31 Any member may give notice to the Statutory Scrutiny Officer that they wish an item relevant to the functions of a committee and not excluded by law to be included in the agenda and discussed at a meeting of that committee. On receipt of such a request the Statutory Scrutiny officer shall ensure that it is included in the agenda for and discussed at a meeting of the relevant committee.
- 5.5.32 An overview and scrutiny committee shall also respond, as soon as its work programme permits, to requests from the Council and from the Cabinet to review particular areas of Council performance or policy. On receipt of any such request from the Cabinet an overview and scrutiny committee shall firstly consider whether it wishes to conduct the review as requested. Where it does so, and in response to any request from the Council, an overview and scrutiny committee shall conduct the review as requested and report its findings and any recommendations back to the Cabinet and/or the Council.
- 5.5.33 Councillor Call for action**
- 5.5.34 Any member of the Council shall be entitled to give notice to the statutory Scrutiny Officer if they wish an item relating to a Councillor call for action to be included on the agenda for discussion at the next available meeting of the relevant overview and scrutiny committee.

5.5.35 On receipt of such a request and subject to it falling within the statutory definition of a matter that can be the subject of a Councillor call for action and it meeting the procedural and other requirements set out in the Councillor call for action code (Part 5 section 7) the Statutory Scrutiny Officer shall ensure that it is included on the next available agenda of the committee.

5.5.36 Further guidance in respect of the Councillor call for action is contained in Part 5 section 7.

5.5.37 Policy review and development

5.5.38 The role of a scrutiny committee in relation to the development of the Council's budget and policy framework is found in the rules (part 4 section 3). 5.5.39 In relation to the development of the Council's approach to other matters not forming part of its budget and policy framework, an overview and scrutiny committee may make proposals to the Cabinet for developments in so far as they relate to matters within its terms of reference.

5.5.40 An overview and scrutiny committee may hold or commission inquiries and investigate the available options for future direction in policy development and may appoint advisers to assist it in this process. A committee may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations. It may ask witnesses to attend in order to address it on any matter under consideration and may pay to advisers, assessors and witnesses a reasonable fee and expenses for doing so, having regard to the resources (including officer time) available. In determining how to conduct such activities the chair of a committee should consult with the Statutory Scrutiny Officer.

5.5.41 Reports from the overview and scrutiny committees

5.5.42 Following any investigation or review, the committee or task and finish group shall prepare a report. Any report from a task and finish group will first be considered by the relevant overview and scrutiny committee and if adopted will be dealt with in accordance with the following rules.

5.5.43 If any review is in response to a request from Council, in accordance with paragraph 4.5.32 above, the overview and scrutiny committee shall report its findings to the Council.

5.5.44 In all other cases the report will be submitted to the Chief Executive for consideration by the Executive or other body as appropriate. If the recommendations are such that a decision can be taken by an individual Cabinet member acting within his/her portfolio in accordance with the functions scheme (Part 3 Section 3), the Chief Executive shall arrange for that Cabinet member to consider the report.

- 5.5.45 If the recommendations in an overview and scrutiny committee report are contrary to or not wholly in accordance with the budget and policy framework, the Cabinet shall consider the overview and scrutiny recommendations and report the matter with its response to the overview and scrutiny recommendations to the Council.
- 5.5.46 If the recommendations in the overview and scrutiny report are in line with the budget and policy framework, the Cabinet or the Cabinet member shall consider the overview and scrutiny recommendations and report their decision to the relevant overview and scrutiny committee.
- 5.5.47 Making sure that overview and scrutiny reports are considered by the Executive**
- 5.5.48 On receipt of a report from an overview and scrutiny committee (other than on budget and policy framework items) the Chief Executive will arrange for the report to be considered either by Cabinet or an individual Cabinet member as appropriate.
- 5.5.49 If any individual Cabinet member is minded to reject all of the recommendations in a report from an overview and scrutiny committee, then the matter must be referred to the next meeting of the Cabinet to decide its response.
- 5.5.50 The Chief Executive will notify the relevant overview and scrutiny committee of the response of the Executive within two months of receipt of the overview and scrutiny report, with the exception of matters relating to statutory health overview and scrutiny and issues relating to crime and disorder overview and scrutiny which require a response from the relevant body within 28 days. If the Cabinet or Cabinet member wishes to extend the deadline a report will be made to the relevant overview and scrutiny committee explaining why this is considered necessary. Decisions of the Executive or the Council on any overview and scrutiny recommendations will be recorded in the usual way.
- 5.5.51 Recommendations from overview and scrutiny committee in relation to a budget and policy framework item will be reported to the Executive who will have regard to that report, and provide a response to any recommendations within it, in making their recommendation to the Council.
- 5.5.52 Rights and powers of overview and scrutiny committee members**
- 5.5.53 Where an overview and scrutiny committee or task and finish group conducts investigations or reviews and people attend to give evidence or otherwise assist the committee the following principles will apply:
- (a) that the investigation be conducted fairly and all members of the committee or group be given the opportunity to ask questions of attendees, and to contribute and speak

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

5.5.54 Members and officers giving account

5.5.55 An overview and scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions, or as provided by statute certain other bodies. As well as reviewing documentation, in fulfilling the overview and scrutiny role, it may require any member of the Cabinet, the Chief Executive, Committee Chair, and/or senior officers carrying out functions on the Chief Executive's behalf to attend before it to explain in relation to matters within its remit regarding:

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

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

5.5.57 Where any member or officer is required to attend an overview and scrutiny committee under this provision, the chair of the committee will inform the Statutory Scrutiny officer. The Statutory Scrutiny Officer shall inform the member or officer in writing normally giving at least ten working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that report.

5.5.58 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then an overview and scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance and/or a substitute as appropriate.

5.5.59 Unless in exceptional circumstances, any witnesses required to attend any meetings called under paragraphs 4.5.55 to 4.5.57 and 4.5.61-69 will be restricted to:-

- (a) any Cabinet member involved in the decision the subject of the call in

- (b) any officer who in the view of the chair of the meeting would be able to supply evidence materially able to assist at the meeting.

5.5.60 The Council has designated the Head of Democratic Services as the statutory scrutiny officer who is required to discharge the following functions:

- (a) to promote the role of the Council's overview and scrutiny committees
- (b) to provide support to the Council's overview and scrutiny committee and the members of the committees
- (c) to provide support and guidance to
 - (i) members of the Council,
 - (ii) members of the executive of the Council, and (
 - (iii) officers of the Council – in relation to the functions of the Council's overview and scrutiny committees

5.5.61 Call in

5.5.62 "Call in" is a statutory right for members of the Council to call in a key decision of Cabinet, an individual Cabinet member, an officer with delegated authority or under joint arrangements after it is made but before it is implemented subject to the following provisions (4.5.59, 4.5.63, 4.5.65 and 4.5.69).

5.5.63 Call in does not apply to Cabinet decisions that make recommendations to the Council because those decisions will not be implemented in any event until the matter has been considered and agreed by the Council. These are decisions such as setting the council tax and agreeing the annual revenue and capital budgets.

5.5.64 When a call in has been triggered, the call in process will be managed by the Monitoring Officer in consultation with the chair of the relevant overview and scrutiny committee and the members who have triggered the call in. The chair of the relevant overview and scrutiny committee will maintain responsibility for the conduct of any meeting at which the decision called in is considered.

5.5.65 Call in is not intended to be a mechanism for voicing objection to or dislike of any particular decision. It should only be used in exceptional circumstances and where there is evidence to show that one of the following may apply:

- (a) that there has been inadequate consultation with stakeholders prior to the decision being made;

- (b) that there was inadequate evidence or information on which to base a decision and that not all relevant matters were fully taken into account;
- (c) that the decision materially departs from the budget and policy framework;
- (d) that the decision is disproportionate to the desired outcome;
- (e) that the decision has failed to take into account the provisions of the Human Rights Act 1998 and or the public sector equality duty;
- (f) that the decision-maker has failed to consult with and take professional advice from all relevant officers including the Monitoring Officer and the Chief Finance Officer, as appropriate, or has failed to have sufficient regard to that advice; G that the decision exceeds the powers or terms of reference of the decision maker responsible for the decision; or
- (h) that the access to information rules have not been adhered to. .

5.5.66 Advice should be sought from the Monitoring Officer on these matters.

5.5.67 When a decision is made by the Cabinet or an individual Cabinet member that decision will be published widely by electronic means. This includes:

- (a) displaying it on the Council website
- (b) sending a copy of the decision electronically to all members of the Council identifying which overview and scrutiny committee's remit the decision falls within

5.5.68 The decision will be in the form of a notice and bear the date upon which it is published and will specify that the decision will come into force, and may be subsequently implemented, at the expiry of four working days after the date of publication, unless it is called in under these call in rules.

5.5.69 To call the decision in a call in notice must be received by 5.00pm on the working day before the implementation date specified on the notice of decision by the Monitoring Officer (or their nominated officer) in writing or electronically which:

- (a) clearly states the decision(s) which is/are being called in by reference to the decisions as set out on the decision notice
- (b) clearly states the grounds for the call in as laid out in rule 4.5.65 above as applied to each decision being called-in and the evidence on which the grounds are based
- (c) is signed by the Chair of the Committee or any two or more members of the Committee or any eight member of the Council (not

including cooptees). If electronic notification is being used an email in accordance with the requirements of this paragraph must be submitted by each member supporting the call in.

5.5.70 Limitations of call in

5.5.71 The call in procedure is restricted to decisions made by Cabinet or individual Cabinet members, decisions made by joint committees of the Executive and decisions made by officers under delegation from the Executive.

5.5.72 Where a decision has been taken in circumstances where the special urgency provisions apply, as set out in the access to information rules (Part 4 section 2), that decision will not be subject to call in.

5.5.73 The call in procedure will also not apply where the decision taken needs to be implemented urgently. 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.

5.5.74 In this case the record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is one that requires urgent implementation and the reasons why, and the Monitoring Officer should confirm that as such it is not subject to call in.

5.5.75 The chair of the relevant overview and scrutiny committee must agree both that the decision taken was reasonable in all the circumstances and to it being treated as a matter of urgency.

5.5.76 The consent to the decision being taken as a matter of urgency will be recorded on the published notice of the decision.

5.5.77 Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

5.5.78 Post call in

5.5.79 The Monitoring Officer will determine the validity of the call in as soon as possible. The Monitoring Officer may, if appropriate, reject a request for call in if, in their opinion, it fails to meet any of the grounds listed in 4.5.65 above, or if they consider it is in any way vexatious, frivolous or otherwise inappropriate. Examples include but are not limited to:

- (a) the cited grounds bear no relevance to the decision that is identified for call-in;
- (b) the requisition cites grounds for which no relevant evidence is produced in support;

- (c) those requisitioning the call-in signed the requisition before it was complete (e.g. signed a blank form in advance or emailed consent without detailing the grounds and evidence);
 - (d) the call-in includes material which could be defamatory;
 - (e) the requisition is being used for improper purposes (e.g. to admonish an officer); or
 - (f) the decision is in accordance with the advice or recommendations provided to the decision maker by the overview and scrutiny committee.
- 5.5.80 If the call in is determined not to be valid, the Monitoring Officer will inform those members submitting the notice of the call in of the reasons for that determination.
- 5.5.81 If accepted as valid, the Monitoring Officer will then advise the original decision maker of the call in.
- 5.5.82 The Monitoring Officer shall then call a meeting of the relevant overview and scrutiny committee on such a day as they shall determine in consultation with the relevant chair and in any event within ten working days of the Monitoring Officer accepting the validity of the call In notice, subject to paragraph 4.5.89.
- 5.5.83 Having considered the decision in light of the grounds and evidence for the call in, if the relevant overview and scrutiny committee is still concerned about it, then it may refer the decision back to the decision-maker for reconsideration, setting out in writing the nature of its concerns.
- 5.5.84 The decision maker shall reconsider any decision referred to them following call-in, take into account any views expressed by the relevant overview and scrutiny committee and may either amend or confirm the original decision or require further specified work to be undertaken before making a final determination.
- 5.5.85 If it is alleged that the decision appears to be contrary to or not in accordance with the budget and policy framework, the Monitoring Officer shall advise the Cabinet on that or any other relevant legal issues raised by or in relation to the called in decision. The Cabinet shall consider that advice and shall reconsider its decision. If the matter is outside the budget and policy framework the monitoring officer shall refer the matter to the next Council meeting for consideration or convene an extraordinary meeting of the Council whichever may be sooner and in any event within ten working days of the meeting of the Cabinet.
- 5.5.86 Having been referred to the next Council meeting the Council has two options: (i) amend the policy / budget framework to accommodate the called-in decision, in which case the decision is implemented immediately;

or (ii) require the decision maker to reconsider the decision again and refer it to a meeting of the Cabinet to be held within five working days of the Council meeting. The Cabinet may choose to amend or confirm the decision and there will be no further right of call in.

5.5.87 If an overview and scrutiny committee or the Council does not meet within the time permitted by these rules or such extended time as may be agreed in accordance with paragraph 4.5.89, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the meeting or expiry of the period in which the meeting should have been held, whichever is the earlier.

5.5.88 Extension of time limit

5.5.89 In exceptional circumstances the time limit of ten working days for convening a meeting of an overview and scrutiny committee to consider the called in decision may be extended as agreed by the original decision maker and/or the Leader where practical considerations or any unforeseen factor make such an extension appropriate.

5.5.90 Pre decision call in and the forward plan

5.5.91 The overview and scrutiny committees should consider the forward plan as the chief source of information regarding forthcoming key decisions.

5.5.92 An overview and scrutiny committee may identify a forthcoming decision on the forward plan relevant to the remit of the committee and examine the issues around it.

5.5.93 In order not to obstruct the council in its business, the overview and scrutiny committee may call in an executive decision in advance of its actually being taken. In such a situation all the time-limits apply as above, except that a key decision cannot actually be implemented any sooner than it would have been had the overview and scrutiny committee not called it in.

5.5.94 Where the overview and scrutiny committee has called-in a key decision from the forward plan before its due date, the decision cannot be called-in again after the final decision has been taken.

5.5.95 Party whip

5.5.96 Government guidance views party or group “whipping” as incompatible with overview and scrutiny functions. Whipping arrangements should not be applied to overview and scrutiny committees and members should be free to comment and vote on matters under

5.5.97 Public questions

- 5.5.98 A period of up to 30 minutes will be allocated for questions and supplementary questions from members of the public who live or work in Bury. This period may be varied at the discretion of the chair.
- 5.5.99 A question may only be asked if notice has been given by delivering it in writing to the Monitoring Officer, Bury Council, democraticservices@bury.gov.uk) to the Monitoring Officer no later than 5.00pm one working day before the day of the meeting (e.g. 5.00pm on a Monday where the meeting is on a Wednesday). Each question must give the name and address of the questioner (although only the name and town will be published) and identify who the question is addressed to. Copies of all accepted questions and answers shall be published on the council website before the start of the meeting and shall be made available to the public attending the meeting.
- 5.5.100 Questions will be answered in the order in which they are received.
- 5.5.101 A member of the public may submit only one question at any meeting of the council.
- 5.5.102
- 5.5.106 A questioner who is present at the meeting may, at the discretion of the chair, also put one supplementary question without notice. A supplementary question must arise directly out of the original question or the reply. The chair may reject a supplementary question on any of the grounds in 4.4.102 above, or if the question takes the form of a statement or more than a minute to ask.
- 5.5.107 Where more than one person wishes to raise the same issue or question, they shall be asked to agree a spokesperson to speak on that issue. If they cannot reach such an agreement, the chair may restrict the number of questions on that issue.

5.5.108 Answers to public questions

- 5.5.109 Answers to accepted questions will be provided by either the chair or the Cabinet member . An answer to a supplementary question will be provided by either the chair or the cabinet member.

If the question is asking for an item to be considered for future inclusion in the work programme the questioner will be advised by the chair that they will be informed of the outcome of the committee's consideration of the request once it has been considered as part of the overall work programme prioritisation.

If the question is asking for a substantive answer to a question the cabinet member for the area will make reasonable endeavours to attend the overview and scrutiny meeting, if the questioner confirms that they wish to ask a supplementary question at the meeting.

The answer from the Cabinet member may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot conveniently be given orally, if the Cabinet member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will normally be provided within ten working days of the meeting. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

5.5.110 Unless the chair decides otherwise, no discussion will take place on any question or a supplemental question

5.5.111 Questions from members

5.5.112 A period of up to 15 minutes will be allocated for questions and supplementary questions from members of the Council who are not members of the committee. This period may be varied at the discretion of the chair.

5.5.113 to 115 NOT USED

5.5.116 A member who has put a question in person may, at the discretion of the chair, also put one supplementary question without notice. The same procedure for public questions will be followed.

ENDS