**Constitution**

**Article Eleven: Overview and Scrutiny**

* 1. **The Role of Overview and Scrutiny**

Councillors who are not on the Executive may be appointed to one of the Council’s Overview and Scrutiny Committees. The purpose of the Overview and Scrutiny Committees is to contribute to policy development and to ensure that the Council’s Executive, and certain other partners, are publicly held to account for their decisions and actions. Overview and Scrutiny has wide remit to explore how the Council and its partners could improve services for the people of Nottingham.

* 1. Overview and Scrutiny Committees will gather evidence at their meetings and, when that evidence shows there could be a better way of doing things, Overview and Scrutiny can make recommendations for change. Overview and Scrutiny cannot make decisions or overturn the decisions of others. Instead, it aims to support improvement.
  2. Overview and Scrutiny Committees are Councillor led. They are cross-party and should conduct their business in a politically impartial manner.
  3. Overview and Scrutiny will report annually to Full Council on its activity and achievements during the previous year.
  4. The Council is required to appoint a Statutory Scrutiny Officer. This role is outlined in Article 5 – Officers and in Governance Framework Document F – Statutory Officers.

**Overview and Scrutiny Procedure Rules**

* 1. The following section outlines the rules within which Overview and Scrutiny works in Nottingham. These should be read alongside the Terms of Reference for Overview and Scrutiny Committees which can be found in Article 9 – Council (Non-executive) Functions and Committees.
  2. **Appointing Overview and Scrutiny bodies**

Full Council appoints the Children and Young People Scrutiny Committee, Communities and Environment Scrutiny Committee, Corporate Scrutiny Committee, Health and Adult Social Care Scrutiny Committee and Housing and City Development Scrutiny Committee.

* 1. **Who may sit on the Committees and Panels?**

All Councillors except members of the Executive Board may be members of Overview and Scrutiny committees. Executive Assistants may not sit on Overview and Scrutiny Committees responsible for functions within the Executive Portfolio with which they are assisting. Members of the Health and Wellbeing Board cannot sit on the Health and Adult Social Care Scrutiny Committee. If any Councillor has been directly involved in making a decision, they cannot take part in the scrutiny of that decision. A list of members of Overview and Scrutiny Committees can be found in Governance Framework Document J – Non-Executive Committee Appointments.

* 1. There is a statutory requirement to co-opt a representative of the Church of England Diocese (if the Council maintains one or more Church of England schools), Roman Catholic Diocese (if the Council maintains one or more Roman Catholic schools) and parent governor representatives (where the Council maintains one or more secondary schools) for scrutiny of education issues. These statutory co-opted members have voting rights in relation to education issues.
  2. Overview and Scrutiny committees can choose to appoint additional non-statutory co-opted members to be members of committees and can choose to give them voting rights. These co-opted members should bring relevant skills and experience in the area covered by the remit of the committee and, in-keeping with the politically impartial role of the committees, should not represent a political or lobbying organisation. The scheme of voting for co-opted members of Overview and Scrutiny Committees can be found at the end of this Article.
  3. **Work Programme**

All members of an Overview and Scrutiny committee are responsible for developing that committee’s work programmes in line with their terms of reference. Work programmes should be focused on issues of importance to the Council, relevant partners, or the city as a whole.

* 1. When developing their work programme the committees may choose to consult with other Councillors, the Executive, officers, citizens, and partners. Overview and Scrutiny committees should ensure that the work programme is focused, efficient, adds value and has impact. The Committees will review progress made in delivering their work programme on a regular basis.
  2. **Agenda items**

Any member of an Overview and Scrutiny Committee can request that a relevant item is included on the agenda for a meeting of that Committee. This can be done by giving notice to the Director of Legal and Governance who will ensure that it is included on the next available agenda.

* 1. In addition, in accordance with the Localism Act 2011, any Councillor can refer any relevant matter to an Overview and Scrutiny Committee.
  2. **Reports of Overview and Scrutiny Committees**

Overview and Scrutiny Committees are empowered to make evidence based reports or recommendations to the Council, the Executive and individual Executive members on any of the functions of the Council and the Executive and on any matters which affect the city or citizens. Recommendations can also be made to partners.

* 1. The Health and Adult Social Care Scrutiny Committee has specific powers in relation to commissioners and providers of NHS and public health funded services within the city. These are outlined in the Committee’s terms of reference which can be found in Article 9 – Non-Executive Functions and Committees.
  2. If an Overview and Scrutiny Committee cannot agree on one single final report, then up to one minority report can be prepared and submitted for consideration alongside the majority report.
  3. Reports and recommendations should be made in writing to the Executive or Council who are required, within two months of receiving the report or recommendations to:
* consider the report or recommendations
* respond to the committee on what action, if any, is to be taken in response to the report or recommendations
* if the report has been published, to publish the response.
  1. **Overview and Scrutiny Committee members’ rights to documents**

In addition to their rights as Councillors, members of Overview and Scrutiny Committees have additional rights to documents, and to notice of meetings. These can be found in Article 13 - Access to Information Procedure Rules.

* 1. **Councillors and officers giving account**

In order to collect evidence to support their reports and recommendations the Overview and Scrutiny Committees may require any member of the Executive Board, the Chief Executive and/or any Corporate Director or Director to attend a meeting to discuss the following matters within their remit:

* any decision they have taken
* the extent to which the actions taken implement adopted Council policy
* performance.

Members of the Executive Board, the Chief Executive, Corporate Directors and Directors have a duty to attend meetings if requested. Other officers may attend but are not under the same duty.

* 1. If a Councillor or officer is required to attend a meeting of an Overview and Scrutiny Committee the Chair of that Committee will inform the Director of Legal and Governance who will inform the Councillor or officer in writing, usually giving at least ten working days’ notice of the meeting. The Councillor or officer will be informed of the item that is to be discussed and whether any papers are required.
  2. If, for good reason, the Councillor or officer is unable to attend on the required date, the Chair of the relevant Overview and Scrutiny Committee will, in consultation with the Councillor or officer, arrange an alternative date.
  3. **Attendance by others**

In addition to Executive Councillors and Council officers, Overview and Scrutiny Committees can require the following:

* the Health and Adult Social Care Scrutiny Committee can require commissioners and providers of NHS services operating in the city to provide information and can require relevant officers to attend meetings to answer questions. These bodies are also required to respond to recommendations made by the Health and Adult Social Care Scrutiny Committee and must consult with the Health and Adult Social Care Scrutiny Committee about proposals for substantial service changes.
* the Communities and Environment Scrutiny Committee can also review and scrutinise the discharge, by the responsible authorities, of their crime and disorder functions. Relevant officers can be required to attend meetings of the Committee and to respond to recommendations.
  1. All Overview and Scrutiny Committees can also:
* invite people other than those referred to above to attend their meetings to discuss issues of local concern and/or answer questions
* make reports and recommendations to organisations or individuals other than those outlined above.

In both cases, the organisations or individual are under no obligation to attend or respond to recommendations.

* 1. **Principles of Overview and Scrutiny**

Overview and Scrutiny will be carried out in accordance with the following principles:

* All Overview and Scrutiny activity should, as far as possible, be politically neutral
* All Overview and Scrutiny recommendations will be based upon evidence which Councillors should consider with an open mind
* All Overview and Scrutiny activity will be constructive and focussed on improvement
* Overview and Scrutiny activity will be conducted in public wherever possible
* All reviews will be conducted fairly with all members of the Committee given the opportunity to ask questions and to contribute and speak
* Those assisting the Committee by giving evidence are treated with respect and courtesy
* Reviews adhere to the agreed scope, purpose and intended time limit
* Overview and Scrutiny Committees shall endeavour to reach consensus whenever possible
* The relationship between the Executive and Scrutiny will be based upon mutual respect for the others’ role. Any disputes will be escalated to the Chair of the Corporate Scrutiny Committee and the Leader for resolution with support from the Monitoring Officer if necessary.
  1. **Call in**

Call-in is a process which enables Overview and Scrutiny Councillors to examine and make recommendations on a decision made by the Executive that has not yet been implemented.

* 1. All executive decisions of:
* the Executive Board
* the Leader
* an individual member of the Executive Board
* a Committee of the Executive Board
* an officer when taking a specifically delegated decision that would usually be taken by a Portfolio Holder

are subject to the Call-in procedure.

* 1. The only exceptions to this are:
* decisions which have already been implemented
* decisions made under the urgency procedure set out below
* decisions which are essentially the same as a previously called-in decisions.

Decisions exempted from Call-in in these circumstances will be reported to each meeting of the Standards and Governance Committee and to Full Council.

* 1. The Executive decisions outlined above will be published on the Council’s website and made available at Loxley House, normally within three working days of being made. Actions cannot be taken to implement a decision during the five clear working days following publication. This period is known as the Call-in period.
  2. Within the Call-in period three councillors may request that the decision is Called-in. The request must be submitted to the Director of Legal and Governance and must be:
* in writing
* signed by the councillors concerned
* based on one or more of the following reasons, details of which should be given:
  + - the decision is outside of the budget or policy framework
    - the decision maker has not demonstrated that adequate consultation was carried out before the decision was taken
    - the decision maker has not demonstrated that they considered all relevant information
    - the decision maker has not demonstrated that they considered viable alternatives.
  1. If there are three or fewer non-majority group Councillors, then only two signatures are required to Call-in a decision. Signatories to a Call-in form can sit as members of Overview and Scrutiny Committee considering the call-in request provided that their view on the matter is not pre-determined.
  2. The Head of Governance shall be responsible for assessing the validity of call-ins, in consultation with the Head of Legal in cases of doubt, and where doubt remains, with the Director for Legal and Governance. Once the Call-in request has been determined to be valid implementation of the decision is suspended until the call-in request has been considered at a meeting of the relevant Overview and Scrutiny Committee.
  3. The relevant Overview and Scrutiny Committee will meet within seven clear working days of the receipt of a Call-in request, or at a later date if agreed by the Chair of that Committee, in consultation with the decision-maker. The decision-maker or the Chair of the decision making body will be invited to attend the meeting to present their reasons for taking the decision. The Councillors who signed the Call-in request will be invited to attend the meeting to present their reasons for calling the decision in.
  4. The Committee will consider the information presented to them and will determine whether the decision should be referred back to the decision maker or, in certain cases, to Council for reconsideration and whether any additional recommendations should be made.
  5. The decision-maker will re-consider the decision if requested to and will determine whether the original decision stands or will take a revised decision. If the decision-maker is Executive Board or another Executive Committee, reconsideration will be carried out by:
* the original decision making body (at a specially convened meeting, if necessary)
* the Leader of the Council or
* an individual Portfolio Holder to whom the Leader has delegated this responsibility.
  1. Further details on the operation of Call-in can be found in Governance Framework Document K – Call-in Guidance.
  2. If a decision is called-in on the basis that it is outside of the Policy or Budget Framework the procedure outlined in Article 8 – The Budget and Policy Framework shall be followed.
  3. **Call-in and urgency**

The Call-in procedure set out above does not apply where the decision taken is urgent. A decision is urgent if any delay likely to be caused by the Call-in process would seriously prejudice the Council’s or the public’s interests. Exemption from the Call-in process should only be requested in extreme circumstances and should not be a regular feature of decision making.

* 1. The record of the decision must state that, in the opinion of the decision making person or body, the decision is urgent and therefore not subject to Call-in. The Chair of the Corporate Scrutiny Committee must agree that:
* the decision proposed is reasonable in all the circumstances and
* that the reasons for urgency are valid.

The Chair of the Corporate Scrutiny Committee’s agreement must be recorded in the record of the decision being exempted.

* 1. In the absence of the Chair, the Vice-Chair’s consent shall be required. In the absence of both, the Chief Executive 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 the Standards and Governance Committee and Full Council together with the reasons for urgency.

**Scheme of voting rights for co-opted members of overview and scrutiny committees**

In accordance with Paragraph 12 of Schedule 1 to the Local Government Act 2000 (as amended by section 115 of the Local Government Act 2003) Nottingham City Council has agreed that non-statutory co-opted members of overview and scrutiny committees may be given voting rights at the discretion of the relevant Overview and Scrutiny Committee.

1. **The Scheme**

The Council would like to draw on the experience and knowledge of people within Nottingham when undertaking its Overview and Scrutiny function. While there will be occasions where non-voting co-opted members will add value to the Overview and Scrutiny process, there are benefits to giving the co-opted members voting rights, including:

* giving a more active voice on behalf of citizens in Overview and Scrutiny
* improving the quality of decision making by including broader based views
* giving co-opted members the same status as the rest of Committee and therefore encouraging an equal sense of ownership and involvement
* promoting a partnership approach to Overview and Scrutiny.

This scheme enables the Overview and Scrutiny Committees to give voting rights to non-statutory co-opted members of an Overview and Scrutiny Committee, if it so wishes. It does not mean that all non-statutory co-opted members will automatically be given voting rights.

1. **Appointments**

The Committee will agree the process for selecting and appointing the non-statutory co-opted members.

1. **When a Co-optee may vote**

Where co-optees have been appointed as voting co-optees they may exercise a vote in considering items of business on agendas for the Overview and Scrutiny Committee to which they have been appointed.

1. **General Principles**

This Scheme and arrangements made in accordance with its terms shall be subject to review by Council, including upon recommendation from the Overview and Scrutiny Committee.

Co-opted members will be subject to the Councillors Code of Conduct as set out in Article 15 and must sign a declaration of office and complete a form registering their interests.

Co-opted members will be entitled to allowances to assist with expenses in accordance with the Council’s Members’ Allowances Scheme (Governance Framework Document C).