

## OVERVIEW AND SELECT COMMITTEE PROCEDURE RULES

### What will be the number and arrangements for Overview and Select Committees?

1. The Council will have an Overview Committee and three service based Select Committees set out in **section XX** of the Constitution and will appoint to them as it considers appropriate from time to time. The Council will also have a separate statutory Health Scrutiny Committee.
2. These Committees may appoint sub-committees or smaller working groups to carry out detailed examination of particular topics for reporting back to them. Working groups may be appointed for a fixed period (as determined by the relevant Committee) on the expiry of which they shall cease to exist.
3. The procedures applicable to the Overview and Select Committees shall also apply to the statutory Health Scrutiny Committee unless specifically excluded, varied or supplemented by the sections relating to the Health Scrutiny Committee.
4. Nothing in these rules prevents more detailed liaison between the Cabinet and the Overview Committee and the Select Committees as appropriate depending on the particular matter under consideration. Indeed, the aim will be to develop a positive and constructive relationship between the Cabinet and the Overview and Scrutiny function

### Who may sit on Overview and Select Committees?

5. All Councillors, except Members of the Cabinet, may be members of a Committee undertaking scrutiny work. However, no member may be involved in scrutinising a decision in which they have been directly involved or relates to a portfolio for which they provide (or did provide at the relevant time) Cabinet Member support. Any Protocol on managing conflicts of interest must be followed in the event of familial or other conflicts arising during scrutiny activity.

### Co-optees

6. Subject to the provisions below for the Children and Young People's Select Committee, the Overview or Select Committees or Health Scrutiny Committee may appoint a maximum of two non-voting co-opted members (co-optees). Co-optees may be appointed as either standing members of the Committee or on a time limited basis related to the review of a specific topic.
7. The selection and nomination of co-opted members shall be:
  - in accordance with a procedure determined by the Monitoring Officer or any formal Protocol agreed by the Overview Committee; and
  - except for Health Scrutiny Committee, subject to a requirement for

Overview Committee to approve appointees

8. Standing co-optees will be reviewed at the annual Council meeting when their term of office may be renewed for the forthcoming year.

### **Education representatives and Co-optees**

9. The Children and Young People's Select Committee in dealing with education matters shall include in its membership the following voting representatives (required under the school Standards and Framework Act 1998 and the Parent Governor Representatives (England) Regulations 2001):
  - a. 1 Church of England diocese representative;
  - b. 1 Roman Catholic diocese representative; and
  - c. 2 parent governor representatives.
10. The above faith representation reflects the current statutory requirements and the make-up of faith schools within Nottinghamshire. The faith representation will be periodically reviewed by the Children and Young People's Select Committee and may recommend to Council any further additions considered appropriate to reflect the nature and diversity of faith schools within the County Council's area.
11. Where the Children and Young Peoples Select Committee deals with matters other than education, these representatives shall not vote but they may stay in the meeting and speak.
12. In the event of any Education related matter being subject to Call-in, the voting faith and parent governor representatives may attend the Overview Committee that considers that Call – in.

### **Crime and Disorder and Flood Risk Management Scrutiny**

13. The **Place Select Committee** will include within its terms of reference the relevant powers and functions relating to the requirements set out below:

#### **a. Crime and Disorder**

The Police and Justice Act 2006 (Section 19) requires every local authority to have a "crime and disorder committee" which must scrutinise the delivery of crime and disorder strategies. Place Select Committee will fulfil this requirement. The Responsible Authorities which are delivering these strategies, and which are subject to a report from such a committee must respond to the report and have regard to it when exercising its functions. They are also subject to a requirement to provide information and attend meetings of the committee to answer questions. These committees are distinct from the 'Police and Crime Panels' that scrutinise directly-elected Police and Crime Commissioners.

## **b. Flood Risk Management**

The Local Government Act 2000 (Section 21) requires that a local authority which is a lead local flood authority for an area in England must have arrangements to review and scrutinise flood risk management functions that may affect the local authority's area. Place Select Committee will fulfil this requirement. A risk management authority must comply with a request made by a scrutiny committee for information or a response to a report.

### **Meetings of the Overview and Select Committees**

14. The Overview Committee shall hold a minimum of 6 ordinary meetings each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview Committee meeting may be called by the Chair of the Overview Committee or by the Monitoring Officer if they consider it necessary or appropriate.
15. Each Select Committee shall hold a minimum of 4 ordinary meetings each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Select Committee may be called by the Chair of the relevant Committee or by the Monitoring Officer if they consider it necessary or appropriate.
16. The Overview Committee and the Select Committees may set up ad hoc working groups to carry out specific projects and report their findings to the appointing Committee, however a maximum of one working group per Committee may be in place at one time.
17. Overview and Select Committees are subject to the Council's Committee Procedure Rules except as may be varied or supplemented within these procedures.
18. Only one review can be carried out per Committee at one time to ensure adequate resources can be applied to the review activity.

### **Meetings of the Statutory Health Scrutiny Committee**

19. The statutory Health Scrutiny Committee is a committee established under S.21 of the Local Government Act 2000, as amended by the Localism Act 2011.
20. The Health Scrutiny Committee shall hold a minimum of 8 meetings each year (approximately 6 weekly).
21. The Health Scrutiny Committee shall carry out health scrutiny in accordance with Section 244 (and Regulations under that section) of the National Health Services Act 2006 as amended by the Local Government and Public Involvement in Health Act 2007 (the 2007 Act) relating to local health service matters. Where a proposal to substantially vary a health service relates to more than one local authority area, it must be considered by a Joint Health Overview

and Scrutiny Committee appointed by each of the local authorities in question.

22. The Health Scrutiny Committee shall have all the powers of an Overview and Scrutiny Committee as set out in section 9F of the 2007 Act and Social Care Act 2001 (including associated Regulations and Guidance).
23. Although the Health Scrutiny Committee will have powers to scrutinise any functions relating to health within its area, including functions performed by the County Council, it is proposed that with the exception of substantial variations to such services, the Council's Adult Social Care and Public Health Select Committee will be responsible for general scrutiny of County Council health functions. This includes any budget and policy related matters and Councillor Calls for action following the CCfA protocol at Appendix 1.
24. In addition, the Overview Committee will be responsible for hearing any valid Call-ins relating to executive decisions of the Council in relation to any of its health functions. Should the Health Scrutiny Committee wish to make time in its work programme for any scrutiny of County Council health functions, it will first liaise with the Chairman of both the Overview Committee and the Adult Social Care and Public Health Select Committee (who may consult with the Council's Corporate Director for Adult Social care and Health and the Director of Public Health) to determine the most appropriate Committee to determine such scrutiny activity in order to avoid duplication or confusion and to ensure the most efficient use of available resources.
25. The Health Scrutiny Committee shall have enhanced review and scrutiny powers in line with provisions in the Health and Social Care Act 2012, including power of referral to the Secretary of State for Health on substantial variations to local health services. The Health Scrutiny Committee will have regard to the criteria and process for making a referral to the Secretary of State which are prescribed in the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. In the event of a proposed referral to the Secretary of State for Health by the Health Scrutiny Committee, a copy of the proposed report (or any other written communication forming part of their scrutiny activities) shall be sent to the Chairman of Overview Committee for information, and to the Leader of the Council as a matter of courtesy, prior to submission to the Secretary of State.

### **Quorum**

26. The quorum for any of the scrutiny Committees shall be as set out for Committees in the Committee Procedure Rules in **Section XX** of this Constitution (currently 3 voting members for a Committee with less than 15 voting members).

### **Who Chairs Overview and Select Committees?**

27. The Chairmen and Vice-Chairmen of the Overview Committee, each Select Committee and the statutory Health Scrutiny Committee may be appointed by the Council and the Chairman and the Vice-Chairman of the Overview

Committee shall be entitled to attend each Select Committee as a non-voting ex-officio member.

28. The Chairmen of the Overview Committee and the three Select Committees will be members of the ruling group and the Vice-Chairmen will be members of the opposition groups, as agreed by Full Council. The Health Scrutiny Committee Chairman and Vice-Chairman will be members of the ruling group.

### **Work Programme**

29. The Overview Committee and each Select Committee will be responsible for preparing its own work programme at the beginning of each municipal year and in doing so it shall consider the wishes of the relevant Committee as a whole.
30. In setting the work programmes, regard shall also be had to the work programmes of the Cabinet and Cabinet Members as well as the views of Corporate Directors and the Monitoring Officer regarding available support and resources and the prioritisation of their work.
31. These work programmes will then be submitted to the Overview Committee for approval to ensure that the overall programme of Scrutiny activity is consistent, coherent and free of duplication and can be properly resourced and supported by the Council.
32. Each Select Committee will be empowered to add further items to their work Committee's work programme, subject to approval of the revised work programme by the Chairman of Overview Committee. Overview Committee will have work programmes as a standing item on its agenda to maintain oversight of ongoing and planned work.
33. Subject to the provisions of paragraphs 19 to 25 of these procedure rules regarding the role of the Overview Committee and Adult Social Care and Public Health Select Committee in health scrutiny of County Council health functions, the Health Scrutiny Committee will set its own work programme which it will notify to the Chairman of Overview Committee for information.

### **Agenda items**

34. Any Member of the Overview Committee or any Select Committee or a relevant Sub-Committees (if any) shall be entitled to give notice to the Proper Officer that they wish an item relevant to the functions of that Committee (or Sub-Committee) to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request, so long as it is an appropriate matter to be considered, the Proper Officer will ensure that it is included on the next available agenda of the relevant Committee. The next available meeting will usually be the next meeting of the relevant Committee or the meeting following that depending on when the notice is received by the Proper Officer to provide that not less than 28 days has elapsed before it appears on the relevant Committee's agenda.

35. Taking into account the relative urgency of the issue, the Overview Committee and the Select Committees shall also respond, as soon as their work programme permits, to requests from the Council and/or the Cabinet to review particular areas of Council activity. Where they do so, the Overview Committee shall report their findings and any recommendations back to the Cabinet and/or Council as appropriate. The Council and/or the Cabinet shall consider the report of the Overview Committee or Select Committee and respond within two months of its submission to the Proper Officer.
36. **Councillor Call for Action (CCfA)** - Any member of the Council may refer a matter under the CCfA process where genuine issues of local concern have arisen, as a last resort where other methods of resolution have been exhausted. The procedure to be followed is set out in the Councillor Call for Action Protocol at Appendix 1 of these procedure rules.

### **Policy review and development**

37. The role of the Overview Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules in **Section XX** of this Constitution.
38. In relation to the development of the Council's approach to matters not forming part of its policy and budget framework, the Overview Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
39. The Overview Committee and the Select Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. Within available resources, they may go on site visits, conduct surveys, hold public meetings, commission research and do other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and if appropriate, may pay advisers and witnesses a reasonable fee and/or expenses for doing so.

### **Reports from the Overview Committee and Select Committees**

40. Once it has formed recommendations on proposals for development, the Overview Committee or the relevant Select Committee (as appropriate) will prepare a formal report and submit it via the Proper Officer to the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (i.e., if the recommendation would require a departure from or a change to the agreed budget and policy framework).
41. If a single final report cannot be agreed, any reports and recommendations made by any Scrutiny Committee will include any dissenting views.
42. The Cabinet or Council (as appropriate) shall consider the report(s) of the Overview Committee within two months of submission to the Proper Officer.

### **Ensuring consideration of Overview and Select Committee reports by Cabinet**

43. Once a report from Overview Committee or a Select Committee has been submitted to the Proper Officer it shall be considered at a meeting of the Cabinet. The reports of the Overview or the relevant Select Committee referred to the Cabinet shall be included as a separate item in the Cabinet agenda (unless they have been specifically considered in the context of the Cabinet's deliberations on another substantive item on the agenda) and shall be considered and responded to within two months of their receipt by the Proper Officer.
44. The Chairman and Vice Chair of the Overview or the relevant Select Committee shall be entitled to attend the Cabinet Meeting at which the report is considered. The Cabinet's response will be shared with the Chairman and members of the relevant Overview or Select Committee within 5 working days of the meeting at which it is considered.

### **Rights of the Overview and Select Committee Members to documents**

45. In addition to their rights as Councillors, Members of the Overview Committee and the Select Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in **Section XX** of this Constitution.

### **Attendance at Overview and Select Committees**

46. The Overview Committee and any Select Committee may scrutinise and review decisions made or actions taken in connection with the discharge of the Council's functions. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any relevant Cabinet Member, Chief Executive or relevant Corporate Director (or other Senior Officer as nominated by the relevant Corporate Director) to attend before it to explain in relation to matters within their remit on:
  - a. any particular decision or series of decisions
  - b. the extent to which actions taken implement Council policy
  - c. service performance

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

47. For this purpose, Senior Officer include the Chief Executive, Corporate and Service Directors and any other appropriate senior officer nominated by the relevant Corporate Director. Where there are concerns about the appropriateness of the officer who should attend, the relevant Corporate Director shall discuss this with the appropriate Committee Chairman or Vice Chairman with a view to achieving consensus but no officer of a status more than three tiers below the Chief Executive may be compelled to attend.

48. Where any Cabinet Member or officer is required to attend the Overview or a Select Committee as set out in paragraphs 46 and 47, the Chairman of that Committee will notify the Cabinet Member or Corporate Director in writing, giving notice of the meeting at which their attendance is required and copying the notice to the Proper Officer. Any notice shall 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 meeting.
49. Where the account to be given to the Overview Committee or Select Committee will require the production of a report, then the Cabinet Member or officer concerned will be given sufficient notice to allow for preparation of that document.
50. The minimum amount of notice required will be:
  - a. 10 working days in cases where no report or other papers are to be produced for the meeting, or
  - b. 20 working days where a report or other papers are to be produced for the meeting (unless a longer period is otherwise agreed by the Chairman of the relevant committee in exceptional cases where particularly complex or detailed information is required)
51. Where, in exceptional circumstances, the Cabinet Member or Senior Officer is unable to attend on the required date, then the Overview Committee or Select Committee shall arrange an alternative date for attendance in consultation with the Cabinet Member or Senior Officer.
52. The Overview Committee or a Select Committee may invite people other than those people referred to in paragraph 46 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend or require them to attend where relevant statutory provisions permit.
53. Any person required or invited to attend at Overview and Select Committee meetings shall be treated with the utmost courtesy and respect at all times.
54. Where the response to any question would disclose confidential or exempt information within the meanings in the Access to Information Procedure Rules, the Cabinet Member or officer shall advise the Committee, and the Chairman shall move that the answer be taken in confidential session and that the public be excluded for that purpose. The motion to exclude the public shall be put to a vote without being debated. No Cabinet Member or officer giving evidence to the Overview Committee or any Select Committee shall be under any obligation to publicly disclose personal information about any individual (e.g. an individual employee, child in care or at school, any recipient of Council services or any other person) where to make such disclosure would be contrary to data protection principles.



## **Call in**

55. Call-in is important as a mechanism for Councillors to intervene when they feel that a decision being made by the Executive needs to be revisited due to a perceived procedural error. Call-in should only be used in exceptional circumstances (various decisions, including quasi-judicial decisions and day to day management and operational decisions are exempt) and are subject to the procedures set out in the Call-in Procedure at Appendix 2 of these Procedure Rules.

## **Independence**

56. The purpose of Overview and Scrutiny activity is to hold decision-makers to account. Members of the Overview Committee or a Select Committee or the Health Scrutiny Committee should, therefore, approach any scrutiny process in an independent, open and constructive manner irrespective of political allegiance.

## **Involvement of external partners**

57. Where exercising statutory functions, the Overview or any Select Committee or the Health Scrutiny Committee may invite people to discuss issues of local concern and/or answer questions. They may for example wish to hear from residents and representatives of other organisations.
58. The 2007 Act gives scrutiny committees of the County Council greater powers to scrutinise services outside of the Council and to require a response from the providers of those services.
59. It is important that this scrutiny takes place in an atmosphere of informed trust and co-operation and with the utmost courtesy and respect.

## **Procedure at Overview and Select Committee meetings**

60. The Committee Procedure Rules shall apply to meetings of the Overview and Select Committees and the Health Scrutiny Committee, except as may be varied or supplemented by these Overview and Select Committee Procedure Rules.
61. The Overview and Select Committees shall consider the following business:
  - a. apologies for absence
  - b. minutes of the last meeting
  - c. declarations of interest (including any declarations required under any protocol for managing conflicts of interest in relation to scrutiny matters)
  - d. consideration of any matter referred to the Overview Committee for a decision in relation to "Call-in" of a decision (Overview Committee only)

- e. response of the Cabinet to reports of the Overview or relevant Select Committee
- f. the business otherwise set out on the agenda for the meeting
- g. the work programme

**NOTE** Where a meeting of the Overview Committee has been specially convened to consider a “Call-in”, the only items on the agenda will be those related to the matter(s) being called in.

- 62. The Chairman of the relevant Committee shall aim to manage the meeting effectively within the normal rules of debate (as set out in the Committee Procedure Rules) but shall permit members the opportunity to speak and/or ask a series of questions (which may be addressed to different attendees at the meeting) within their allotted timescales for debate and at the Chairman’s discretion may allow members to speak more than once for the purposes of clarification of answers given or to aid the understanding of the meeting.
- 63. Where the Overview Committee or a Select Committee conduct investigations and reviews (e.g., with a view to policy development), the Overview Committee or relevant Select Committees may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
  - a. that the investigation be conducted fairly and all Members of the Overview Committee or relevant Select Committee 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 the utmost respect and courtesy and in a non-adversarial manner.
  - c. that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 64. Any motion or amendment moved by the Overview Committee or any Select Committee shall only be valid if it falls within the powers and functions of the Committee to make such a recommendation or amendment and the motion or amendment is relevant to the topic under scrutiny or review. This shall be an additional criterion of validity to supplement those set out in the Committee Procedure Rules.
- 65. Any County Councillor wishing to attend a meeting of the Overview Committee or a Select Committee of which they are not a member, shall be entitled to do so and to speak for a maximum of 5 minutes with the consent of the Chairman, in accordance with the Committee Procedure Rules provided that:
  - a. their attendance is for an item on the agenda which is of primary importance to their electoral division or its inhabitants (rather than a general matter) and

they have sought and obtained the prior agreement of the Chairman of the relevant Committee in advance to ensure the efficient running of the meeting, or

- b. their attendance is for an item on the agenda which relates to a Councillor Call for Action which they have made and has been approved as a matter for consideration.
  - c. Their attendance is for a call-in matter which is of special relevance to their electoral division and they have notified the Proper Officer of their desire to attend and speak in accordance with the call-in procedure.
66. Any County Councillor attending in this capacity will be entitled to remain in the meeting for other items on the agenda but not to speak and will not be entitled to remain in the meeting when a resolution to exclude the public is in force (except with the consent of the Chairman if the resolution relates to the item on the agenda under paragraphs 65 a, b or c above).

**Procedures following investigation or review**

67. Following any investigation or review, the Overview Committee or Select Committee shall prepare a report, for submission to the Cabinet (or exceptionally Council, as appropriate) and shall make its report and findings public.
68. Where the Health Scrutiny Committee makes a report and recommendations on services, it will provide a copy of the report to the relevant responsible authorities, notifying them of their duty (under the Local Government and the 2007 Act) to:
- a. consider the report or recommendations,
  - b. respond to the Health Scrutiny Committee in writing within 28 days indicating what (if any) action it proposes to take, and
  - c. have regard to the report or recommendations in exercising its functions

**APPENDIX 1 – COUNCILLOR CALL FOR ACTION (CCfA) PROTOCOL****What is a Councillor Call for Action (CCfA)?**

1. Councillor Calls for Action were introduced by section 119 of the Local Government and Public Involvement in Health Act 2007 ('the 2007 Act'). Part of a range of measures aimed at empowering local people and communities, improving local democracy and accountability and underpinning the role of Councillors as community leaders and advocates.
2. A CCfA gives powers to Councillors to help them tackle local problems on behalf of their constituents by calling for consideration of any issue of concern affecting their division by the Overview Committee or relevant Select Committee.
3. The provisions enable any Member of the authority to refer any local government matter to the relevant Committee, whether or not the Member is a member of that committee, and to have this matter discussed at a meeting of the committee. A "local government matter" is defined as a matter which:
  - a. relates to the discharge of any function of the authority,
  - b. affects all or part of the electoral area for which the Member is elected or any person who lives or works there, and
  - c. is not an excluded matter (see section 5 below)
4. Section 126 of the 2007 Act makes provision for CCfAs on crime and disorder matters – see Crime and disorder matters section below.
5. It should be noted that the CCfA process:
  - a. puts division Councillors at the centre of the process for resolving issues of local concern
  - b. focuses on neighbourhood and locality issues, specifically the quality of public service provision at a local level
  - c. should only be used to represent genuine local community concerns (based on Councillors' judgements)
  - d. should only be used as a last resort when it is a persistent problem which the Councillor has been unable to resolve through local action and discussion with the relevant services, Cabinet Member or other external agencies/partners
  - e. is not appropriate for individual complaints (Councils and relevant agencies and partners will have separate complaints systems for this purpose) or Councillors' day to day casework

- f. scrutiny reviews will be 'short and sharp', focused reviews – as it is important that this is a responsive and un-bureaucratic process which delivers proportionate outcomes.

### Crime and disorder matters

6. Section 19 of the Police and Justice Act 2006, as amended by section 126 of the 2007 Act, requires every local authority to have a crime and disorder committee with the power to review and scrutinise, and make reports and recommendations, regarding decisions made or other action taken by the responsible authorities in connection with the discharge of their crime and disorder functions. For Nottinghamshire, these “responsible authorities” are:
- the County Council
  - District and Borough Councils
  - The Derbyshire, Leicestershire, Nottinghamshire and Rutland Community Rehabilitation Company
  - The Chief Constable for Nottinghamshire Constabulary
  - Health – Clinical Commissioning Groups
  - Nottinghamshire Fire and Rescue Service
7. At the County Council, the Place Select Committee will act as the designated Crime and Disorder Committee.
8. Section 126 of the 2007 Act provides for any Member to refer any local crime and disorder matter to the Crime and Disorder Committee and have it discussed at a meeting of the Committee. A “local crime and disorder matter” is defined as a matter concerning:
- crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour and other behaviour adversely affecting the local environment), or
  - the misuse of drugs, alcohol and other substances,
- which affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area.
9. Where the Place Select Committee in its capacity as the designated crime and disorder committee makes a report or recommendations in response to a CCfA, it must provide a copy to any of the responsible authorities for crime and disorder (see section 2.1. above) or any other individuals or bodies as it considers appropriate. Any organisation or individual who is provided with such a report or recommendations has a duty to:
- consider the report or recommendations
  - respond to the crime and disorder committee (Place Select Committee) indicating what (if any) action it proposes to take
  - have regard to the report or recommendations in exercising its functions

### Before making a Councillor Call for Action

10. Guidance makes it clear that CCfAs are intended as a last resort, to be used when all other means of resolving an issue have proved to be unsuccessful. As a minimum, it is expected that the Councillor concerned will have satisfied themselves that the issue is not an excluded matter (see paragraphs 11 and 12 below), and has approached at least the following to seek a resolution:
- any relevant local service manager
  - any relevant partnership bodies or local groups
  - the relevant Cabinet Member
  - the relevant District Councillor(s)
  - the relevant Police Neighbourhood Inspector (for Police and Crime CCfAs)

### What a Councillor Call for Action should NOT be used for

11. The following matters are “excluded matters” that cannot be the subject of a Community Call for Action:
- Any matter relating to a licensing or planning decision.
  - A matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Commission for Local Administration in England – otherwise known as the Local Government and Social Care Ombudsman).
  - A matter which is vexatious, discriminatory or not reasonable to be on the agenda for, or discussed at, a meeting of the Scrutiny Committee.
12. However, a matter which consists of an allegation of systematic failure of an authority to discharge a function for which the authority is responsible may be referred to the Overview or the relevant Select Committee as appropriate, notwithstanding the fact that the allegation specifies matters which are outlined in paragraph 11 above.

### The CCfA process at Nottinghamshire County Council

13. The same process will apply irrespective of whether the CCfA concerns a “local government matter” or “a crime and disorder matter”.
14. Notice of a CCfA should be sent in writing to the Proper Officer via the Statutory Scrutiny Officer. Such notice should include the following information as a minimum (using the designated CCfA form):
- A summary of the issue involved
  - What outcomes the local Member is hoping to achieve
  - Action already taken, including details of people and organisations already contacted and why this has failed to resolve the issue
  - Key dates or timescales, if relevant

The CCfA should be accompanied by any other supporting information, having regard to confidentiality, data protection and Freedom of Information issues.

15. On receipt of a CCfA, the Statutory Scrutiny Officer will, as appropriate (taking advice as necessary) make the following checks:
  - a. Does the issue relate to a "local authority function" or a "local crime and disorder matter"?
  - b. Are the concerns individual complaints (or should be pursued as such)?
  - c. Is the issue a genuine local community concern (i.e. a neighbourhood or locality issue rather than a policy type issue affecting the whole area)?
  - d. Does the issue affect all or part of the referring Councillor's area or any person who lives or works in it?
  - e. Is the subject of the CCfA is an excluded matter?
  - f. Has the same or largely similar matter been considered previously under the CCfA protocol?
16. If the matter is not eligible for consideration as a CCfA the Statutory Scrutiny Officer will advise the Member concerned and suggest other possible means of resolving the issue or other information requirements, as appropriate.
17. Eligible CCfA's will be referred by the Statutory Scrutiny Officer to the Chairman of the Overview Committee with a copy to the relevant Select Committee and the relevant Corporate Director(s). The referring Councillor will then receive an invitation to discuss the CCfA with the Chairman of the Overview Committee, the Statutory Scrutiny Officer, the relevant Select Committee Chairman and the Corporate Director (or appropriate nominees).
18. Subject to the outcome of the meeting above, if the matter cannot be otherwise resolved, the referring Councillor will be advised by the Statutory Scrutiny Officer when the matter will be placed on an agenda for the next appropriate Overview Committee meeting and given advice on their role at that meeting.
19. The Overview Committee will give initial consideration to the CCfA and will either resolve an appropriate outcome at that meeting or refer it for further consideration (review) to the relevant Overview or Select Committee, as the Committee considers appropriate. The referring Councillor may attend the meeting to give an outline of the issue and any other information relevant to the Committee's deliberations.
20. When a CCfA has been approved for review on the relevant Committee's work programme, it will be considered as a scrutiny item and the usual processes will be followed e.g. the relevant Cabinet Member(s) and any other internal or external stakeholders will be invited, and reports requested, as appropriate.
21. Whilst it is not a requirement, it is expected that the Member making the CCfA will attend the committee meeting to introduce the issue and answer any questions.

22. Copies of any reports or recommendations made by the Committee undertaking scrutiny in response to a CCfA must be provided to the Member who initiated it, to the Cabinet Member responsible for the relevant Council functions and to the relevant Corporate Director and will be submitted to the Proper Officer for consideration by Cabinet in accordance with paragraph 13 above. Where a Committee decides not to make a report or recommendations, it must notify the Member concerned of its decision and the reasons for it.

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## APPENDIX 2 – CALL-IN PROCEDURE

1. Following this Call-in procedure, the Overview Committee has the power to call in executive decisions (*relevant decisions*) made but not yet implemented by the Cabinet or Cabinet Members or Key Decisions made by officers. The purpose is to consider whether to recommend that a decision be reconsidered by the Cabinet/decision maker, or that it be implemented. In line with statutory guidance, the Call-in Procedure should usually be reserved for Key Decisions.
2. Members considering submitting a formal call-in notice are required to discuss the nature of their concerns with the relevant decision maker and the Leader or their nominee to determine if alternative action may be possible to avoid the need for call-in and optimise the efficiency of decision making for the benefit of the Council and the inhabitants of its area. This discussion process is referred to as the pre-call-in procedure and may be amended and further developed by Overview Committee.
3. If the concerns of members cannot be resolved by the pre-call-in procedure, call-in may be used where Members have evidence which suggests that the relevant executive decision maker did not take a relevant decision in accordance with the decision-making principles set out in [Section 1] of the Constitution, to the extent that they fall within the permitted grounds for call-in.
4. A *relevant decision* is when a decision is made by:
  - (i) the Cabinet,
  - (ii) an individual Cabinet Member with delegated powers,
  - (iii) a Committee of Cabinet,
  - (iv) an Executive Joint Committee (unless separate joint overview and scrutiny arrangements for that Committee have been established),  
or
  - (v) a Key Decision is made by an officer with delegated authority to carry out executive functions
5. Relevant decisions shall be published in the Council's Decision Record on the Council website, within 3 working days of being made.
6. The Chairman and Vice Chairman of Overview Committee and Select Committees will be able to access copies of the records of all relevant decisions relevant to those Committees immediately upon their publication by the Proper Officer/other person responsible for their publication.
7. The Decision Record will bear the date on which it is published and the date each decision will come into force, and may then be implemented, which shall be on the expiry of 5 working days after the date of its publication, unless the decision is called in under the provisions set out below. The period between publication and implementation is referred to as the call-in period.
8. No later than 12 noon on the last working day of the call-in period, any seven County Councillors may sign a call-in notice in the prescribed form (at the end

of this procedure) requesting that the decision is called in and submit the notice to the Monitoring Officer.

9. The notice must identify a lead member for the call-in, give reasons for the request for call-in, specifying the grounds for call-in being which of the relevant principles of decision making set out in **Section XX** of this Constitution has not been followed and provides reasonable evidence in support of those grounds for call-in. The notice must also specify those aspect(s) of the decision the members wish to question or challenge. This is important because it will allow those summoned to the call-in meeting the opportunity to understand the nature and extent of the concerns, to prepare adequately beforehand and to provide further information as necessary to clarify or explain the reasons for the decision.
10. On receipt of the notice the Monitoring Officer will, as soon as possible, consult with the Chairman or in their absence, the Vice-Chairman of the Overview Committee, or in the absence of both, a Chairman or Vice-Chairman of the relevant Select Committee regarding the request before determining its validity.
11. The Monitoring Officer will consider whether the request is reasonable and may reject a request for call-in if it fails to meet the grounds set out above or is vexatious, frivolous or otherwise improper. The Monitoring Officer will take account of whether a case has been made out for calling in the decision and whether delaying the implementation of the decision would be likely to cause significant damage to the Council's interests. They will have regard to the advice of the Chief Executive, the relevant Corporate Director and Chief Finance Officer, where appropriate, in conjunction with the Scrutiny Officer, on this point.
12. If it is considered that the request for call-in is reasonable and proper, the Monitoring Officer will notify the relevant decision maker and the Business Manager of the Majority Group, together with the members who submitted the call-in request and the relevant Corporate Director and will convene a meeting of the Overview Committee within 10 working days, after consulting the Chairman of the Overview Committee about the date. Where more than one valid call-in request notice is received in respect of the same decision, the call-in will be determined at a single meeting and the Chairman of the meeting will determine how the 20 minutes allowed for speeches by the call-in members will be fairly divided. The meeting of the Overview Committee will then proceed as in paragraph 14 below.
13. If the Monitoring Officer considers that the request is unreasonable by failing to meet the grounds set out above or is otherwise improper, the decision will not be called in. The Monitoring Officer's decision will be communicated to the signatories to the Call-in request within 5 working days. The Monitoring Officer will submit a report to the next available meeting of the Overview Committee giving details of the request and reasons for refusal.
14. Where the Overview Committee considers a call-in request, the format of the meeting will be as follows (and subject to the maximum overall time limits set

out for each section):-

- (i) The proceedings at the call-in meeting shall be non-adversarial, and all participants shall afford other speakers the utmost courtesy, respect and consideration at all times. All questions must be put openly and constructively.
- (ii) The Chairman shall manage the meeting in a way to ensure that a constructive discussion of the issues relating the grounds for the call-in and any relevant observations are the focus of the meeting and that it does not become a forum for admonishing or berating decision makers or professional officers or may otherwise create a breach of the Councillor's Code of Conduct or the Protocol for Councillor and Officer relationships.
- (iii) after the Chairman opens the meeting the members who asked for the decision to be called in will be asked to explain their reasons for the request and what they feel should be reviewed. Each call-in member may speak for a maximum of 5 minutes or where a Lead Member speaks on behalf of the call-in group as a whole, for a maximum of 15 minutes. Where a Lead Member is not nominated to speak for the call-in group as a whole, every effort should be made to avoid duplication of issues within call-in member speeches. After making their speech, call-in members will take no further part in the discussion (unless requested to by the Chairman) or vote. (maximum overall time limit: 20 minutes).
- (iv) on matters of particular relevance to a particular electoral division, the relevant electoral division member/s who are not signatories to a call-in notice have the opportunity to make comments on the call-in at the meeting, for a maximum of 5 minutes each. This right will not apply to matters of relevance to all members or to the Council's area and residents as a whole. Electoral division members will take no further part in the discussion or vote. Electoral division members must register their request to speak by contacting the Monitoring Officer by 12 noon 5 working days prior to the relevant call-in meeting.
- (v) the relevant Cabinet Member(s) will then be invited to make any comments (maximum overall time limit: 15 minutes).
- (vi) the relevant Corporate Director (or their Senior Officer nominee) will advise the Committee on the background and context of the decision and its importance to achieving Service priorities (maximum overall time limit: 15 minutes).
- (vii) Overview Committee members will ask questions of members and officers in attendance (maximum overall time limit: 30 minutes).
- (viii) the Cabinet Member(s) will be invited to make any final comments on the matter (maximum overall time limit: 10 minutes).

- (ix) The Overview Committee, after considering the evidence presented to the meeting, will make one of the following decisions:
- (a) to take no further action, in which case the decision will take effect immediately.
  - (b) to refer the decision back to the decision-maker for reconsideration, setting out the nature of the Overview Committee's concerns; the decision-maker must then re-consider the matter with a further 10 working days, taking into account the concerns of the Overview Committee, before making a final decision.
  - (c) in exceptional cases, but only where the Overview Committee considers that a decision is contrary to the policy framework or is contrary to or not wholly in accordance with the budget it may refer the matter to full Council, in which case paragraph 17 below will apply.
15. If, following a request for call-in, the Overview Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision maker or to full Council, the decision will take effect on the date of the relevant Overview Committee meeting, or the expiry of the period in which the Overview Committee meeting should have been held, whichever is the earlier.
16. If, exceptionally, the matter is referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be immediately effective.
17. If the Council does object and the decision is within its terms of reference or it is contrary to the policy framework, or contrary to or not wholly consistent with the budget, the decision will be amended according to the Council's wishes. However, it should be noted that the Council has no locus to make decisions in respect of an executive function unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision maker, together with the Council's views on the decision.
18. That decision maker shall consider any comments of the Council and the Overview Committee and choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, a meeting will be convened to reconsider within 15 working days of the Council meeting referring the matter back to the Cabinet. Where the decision was made by an individual, the individual will reconsider within 15 working days of the Council meeting.
19. If the Council does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

## Exceptions and Limitations

20. In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

(a) that the Overview Committee may only call-in a maximum of 3 decisions during each of the following 4-month periods:

- 1<sup>st</sup> September to December 31<sup>st</sup>
- 1st January to April 30<sup>th</sup>
- 1st May to 31st August

except, in exceptional circumstances, where the Monitoring Officer may determine that an additional call-in will be accepted.

Call-in meetings will not take place during school holidays unless absolutely essential and the time periods for holding call-in meetings will be adjusted accordingly unless the relevant decision maker (or in the case of a Cabinet decision, the Leader of the Council) determines that any delay to the decision requires an urgent meeting to be held due to any adverse impact on the Council or its inhabitants where the decision has not otherwise been certified as urgent under these procedure rules or the Access to information Procedure Rules.

(b) that call-in can be invoked in respect of a decision only once.

(c) that call-in will apply only to relevant decisions of the executive as set out in paragraph 4 above and for the avoidance of doubt shall not apply to the following types of decisions:

- (i) Day to day operational and management decisions
- (ii) Decisions affecting individuals
- (iii) Consultation responses
- (iv) Administration of estates or trusts
- (v) Decisions relating to legal matters, including legal proceedings
- (vi) Decisions of Council or any Ordinary Committee, Sub-Committee or non-executive Joint Committee
- (vii) Key Decisions which have been determined to be urgent under the Council's Special Urgency procedures in the Access to information Procedure Rules or pursuant to these procedure rules
- (viii) A regulatory or quasi-judicial decision
- (ix) A decision which has already been the subject of consideration under the call-in procedure
- (x) Matters relating to the conduct of individual Members or Officers which are being dealt with under the ethical framework established by part III of the Local Government Act 2000 and the Council's Employment Procedure Rules, respectively.

**Call-in and urgency**

21. Key Decisions which have been certified as urgent under the Special Urgency procedure in the Access to information Procedure Rules cannot be called in.
22. In all other circumstances, the call-in procedure set out above shall not apply where an executive decision being taken by the Cabinet or under delegated authority is urgent.
23. A decision shall be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interests of the Council or the public. After the decision has been taken, 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 an urgent one and therefore should not be subject to call-in. The Chairman of the Overview Committee 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 Chairman of the Overview Committee, the Chairman of the County Council or their Vice-Chairman's consent shall be required. In giving their agreement advice shall be taken from the Council's Chief Executive, Monitoring Officer and/or Section 151 Officer regarding the nature and extent of the impact of any delay on the interests of the Council or the public. Decisions taken as a matter of urgency must be reported to the next meeting of the Council, together with the reasons for urgency.
24. The operation of the provisions relating to call-in and urgency shall be monitored annually by the Governance and Ethics Committee, and a report submitted to Full Council with proposals for review if necessary.

## Nottinghamshire County Council - Call-in request Notice

### 1. Decision to be called in: (required)

<b>Title:</b> <b>Decision Record Ref No:</b> <b>Date published:</b> <b>Date due to be implemented:</b>
<b>Please confirm that the pre-call-in protocol has been followed:</b> <b>Date of meeting:</b> <b>Attendees at meeting:</b>

### 2. Which of the principles of decision making in **Section XX** of the Constitution has NOT been applied? (required)

Required by Paragraph 9 of the Call-in Procedure - identify all that apply:

(a) Compliance with the law (including procedures relating to Key Decisions)	
(b) proportionality (i.e. the action must be proportionate to the desired outcome);	
(c) due consultation and the taking of professional advice from officers;	
(d) respect for human rights;	
(e) compliance with the Council's public sector equality duty;	
(f) where required by law or this Constitution, describing options considered and giving reasons for the decision;	
(g) in accordance with the Council's Budget and Policy Framework	

### 3. Desired outcome

**Paragraph 14 (ix)** of the Call-in procedure of the constitution provides the following options for Overview Committee.

Please select one but note that the decision regarding the outcome is a matter for the Overview Committee to determine:

(a) The Committee refers the decision back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns.	
(b) The Committee refers the matter to full Council where Committee determines that the decision is contrary to the Policy and/or Budget Framework (requires evidence of decision being contrary to the Budget and Policy Framework, or not wholly in accordance with the Budget)	
(c) The Overview Committee decide not to refer the matter back to the decision-making person or body *	
* If you select (c) please explain the purpose of calling in the decision.	

4. Evidence which demonstrates each of the alleged breach(es) indicated in 2 above (Required by paragraph 9 of the Call-in procedure):

e.g.  
 Breach 1 – [set out evidence]  
 Breach 2 – [set out evidence]

5. Specific aspects of the decision which members wish to question or challenge (required by paragraph 9 of the Call-in procedure)

6. Any documents requested

7. Names of the Councillors Signing the Call-in Notice:  
 (minimum of 7 Councillors)

No.	Name of Councillor	Signature
1	(Lead Councillor)	
2		
3		
4		
5		
6		
7		



8. Notes – see **Paragraph 8** of the Call-in procedure

Call-ins must be supported by at least 4 members of the Council from more than one political group or one political group and at least one non-aligned member.

The call-in form and supporting requests must be received by the Monitoring Officer by **12 Noon no later than the fifth working day** following the publication of the decision and a copy must be sent to the Leader of the Council and the Chairman of the Overview Committee.

The form and/or supporting requests must be sent:

- **EITHER** by email from a Councillor's NCC email account (no signature required) or by another email (electronic signatures required) to [monitoring.officer@nottscc.gov.uk](mailto:monitoring.officer@nottscc.gov.uk)
- **OR** as a signed paper copy to the Monitoring Officer, Chief Executive's Department, County Hall, West Bridgford Nottingham, NG2 7QP

For further information or advice contact the Council's Statutory Scrutiny Officer or Team Manager, Democratic Services