

# Part 3: Chapter 3

## Select (Overview and Scrutiny) Committees

### Scrutiny Procedures

#### 1.1 Background

The County Council will have the Select (Overview and Scrutiny) Committees set out in Part 1, Chapter 13 of the Constitution, and it will appoint Members to them in such numbers in political proportionality as it considers appropriate from time to time. The membership of the Policy and Resources Select Committee shall include the Chairmen of the other Select (Overview and Scrutiny) Committees. The Policy and Resources Select Committee, having a corporate overview, may agree the appointment of working groups of Members and Officers to advise relevant select (Overview and Scrutiny) Committees. Such working groups may be appointed for a fixed period, if appropriate, on the expiry of which they shall cease to exist;

#### 1.2 Membership of Select (Overview and Scrutiny) Committees

Members of (Overview and Scrutiny) Select Committees – all Members (except members of the Executive) may be members of any Select (Overview and Scrutiny) Committee. No Member may be involved in scrutinising a decision in which he or she has been directly involved;

#### 1.3 Co-optees

Co-optees – each Select (Overview and Scrutiny) Committee or working group may include in its membership any person or persons as non-voting co-optees where the Committee or working group considers this would be advantageous to their work;

#### **1.4 Children and Young People Select (Overview and Scrutiny) Committee**

The Children and Young People Select (Overview and Scrutiny) Committee, when dealing with the education Functions of the Executive shall include in its membership the following voting representatives:

1.4.1 one Church of England Diocese representative;

1.4.2 one Roman Catholic Diocese representative;

1.4.3 three Parent Governor representatives.

#### **1.5 Health and Adult Social Care Select (Overview and Scrutiny) Committee**

The Health and Adult Social Care Select (Overview and Scrutiny) Committee, when dealing with health scrutiny matters shall include in its membership four district, city and borough Council Members (nominated via the Hampshire and Isle of Wight Local Government Association) who shall be voting members of the Committee on health scrutiny matters in accordance with a Scheme of Voting Rights for Co-opted Members of the Health and Adult Social Care Select (Overview and Scrutiny) Committee approved by the County Council;

#### **1.6 Meetings of Select (Overview and Scrutiny) Committees**

Select (Overview and Scrutiny) Committees will normally meet four times a year (except the Health and Adult Social Care Select (Overview and Scrutiny) Committee which shall normally meet six times a year), in accordance with a timetable to be published by the Chief Executive. In addition, extraordinary or ad hoc meetings may be called from time to time as and when appropriate. A Select (Overview and Scrutiny) Committee meeting may be called by the chairman of the relevant Select (Overview and Scrutiny) Committee, by a quorum of the members of the committee or by the Chief Executive if he or she considers it necessary or appropriate;

#### **1.7 Chairing Select (Overview and Scrutiny) Committees**

The Chairman and Vice-Chairman of each select committee shall be appointed by the County Council at its Annual General Meeting. In the absence of the Chairman, the Vice-Chairman will preside. In the event that neither the Chairman or the Vice-Chairman are present within 10 minutes from the time appointed for any meeting to begin, the Committee may appoint a person to chair it from amongst the members sitting on it. Sub-Committees and working groups shall appoint their own Chairman from among their membership. An officer of the County Council may not chair a working group;

## 1.8 **Work programme**

Select (Overview and Scrutiny) Committees will be responsible for proposing their own work programme of activities within their planned meetings structure and, in doing so, shall take into account wishes of members on that Committee who are not members of the largest political group on the County Council. The Policy and Resources Select Committee will oversee and determine the overall work programme of working groups;

## 1.9 **Agenda items**

- 1.9.1 Any member of a Select (Overview and Scrutiny) Committee shall be entitled to give notice to the Chief Executive that they wish an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next convenient meeting (Section 9 FC (1) (a) and (b) of Part 1A of the 2000 Act). On receipt of such a request, the Chief Executive will ensure that it is so included;
- 1.9.2 Any member of the County Council may refer to any Select (Overview and Scrutiny) Committee, of which they are not a member, any matter which is relevant to the function of that Committee in accordance with Section 9 FC (1) (c) of Part 1A of the Local Government Act 2000, and which is not an excluded matter under Section 9 FC (5) of Part 1A of the 2000 Act (crime and disorder matters and excluded matters within the meaning of the Overview and Scrutiny (Reference by Councillors) (Excluded Matter) (England) Order 2012). In considering whether to exercise this power, the member must have regard to any relevant statutory guidance;
- 1.9.3 Any member of the County Council who is not a member of the Policy and Resources Select (Overview and Scrutiny) Committee may refer to that Committee a local crime and disorder matter affecting all or part of their division, or any person who lives or works in that area (Section 19 (3) (b) of the Police and Justice Act 2006);
- 1.9.4 A local health watch organisation or local health watch contractor may refer any matter relating to the planning, provision and operation of health services or social care service to the Health and Adult Social Care Select (Overview and Scrutiny) Committee and any such referral shall be acknowledged by the Committee within 20 working days of the referral being made and the referrer shall be kept informed of any action taken in regard to the matter;

1.9.5 A matter referred to a Select (Overview and Scrutiny) Committee under paragraph 1.9.2 or to the Policy and Resources Select (Overview and Scrutiny) Committee under paragraph 1.9.3 shall be included in the agenda for, and discussed at, a meeting for the Committee. Arrangements for the handling of a matter so referred shall be in accordance with the 'Councillor Call For Action' protocol agreed by the County Council (and the provisions of the 2000 Act and the Police and Justice Act 2006 as appropriate);

1.9.6 The County Council or the Executive may request a Select (Overview and Scrutiny) Committee to consider matters referred by it or them. Where this occurs, the matter shall be placed on the agenda of the next convenient meeting of the Committee and the Committee will decide what further action should be taken.

#### **1.10 Review and Scrutiny**

The Health and Adult Social Care Select (Overview and Scrutiny) Committee must, when reviewing or scrutinising any health matter, invite interested parties to comment on the matter and take account of relevant information available to it and in particular information provided by the Local Healthwatch organisation or a Local Healthwatch contractor pursuant to paragraph 1.9.4.

#### **1.11 Reports from Select (Overview and Scrutiny) Committees**

1.11.1 Once it has formed recommendations on a particular matter, the Select (Overview and Scrutiny) Committee will request the Chairman of the relevant Committee to report to the Executive (if the recommendations are consistent with the existing budgetary and policy framework), or to the County Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework). Where members of a Select (Overview and Scrutiny) Committee cannot agree on a single report, the report to the County Council or the Executive shall contain a paragraph giving brief details of where there is dissent from the majority finding. In accordance with Section 9 FE (3) of Part 1A of the 2000 Act, the Committee must notify the Executive or the County Council of the Committee's requirement in respect of its report. The Policy and Resources Select (Overview and Scrutiny) Committee in regard to its review and scrutiny of crime and disorder matters is exempt from the provision of Section 9 FE (3) of Part 1A of the 2000 Act but must comply with the requirement of Section 19 of the Police and Justice Act.

1.11.2 The County Council or Executive will consider the report of the Select (Overview and Scrutiny) Committee as soon as

practicable after the report has been submitted to it or them, and will provide at least an initial response within 2 months of receipt of the report (Section 122 of the Local Government and Public Involvement in Health Act 2007);

1.11.3 In the event of any dispute between the Executive, the County Council, and/or any Select (Overview and Scrutiny) Committee, it shall be resolved by the County Council. If there is any issue as to whether a matter is a dispute that needs to be resolved by the County Council, the Chief Executive shall advise, and if necessary, will place the matter on the County Council agenda for the next convenient meeting.

## 1.12 **Reports on Health Matters from the Health and Adult Social Care Select (Overview and Scrutiny) Committee**

1.12.1 The Health and Adult Social Care Select (Overview and Scrutiny) Committee may in addition make reports and recommendations on health matters to relevant NHS bodies or relevant health service providers. Such reports and recommendations shall include:

- An explanation of the matter reviewed or scrutinised:
- a summary of the evidence considered;
- a list of the participants involved in the review or scrutiny:  
and
- an explanation of any recommendations on the matter reviewed or scrutinised.

1.12.2 Where the Health and Adult Social Care Select (Overview and Scrutiny) Committee requests a response from a relevant NHS body or relevant health service provider to whom it has made a report or recommendation, that body must respond to the request within 28 calendar days of the date of the request.

1.12.3 Where the Health and Adult Social Care Select (Overview and Scrutiny) Committee has completed its review and made reports and recommendations to relevant NHS bodies or relevant health service providers scrutinised, the Scrutiny Officer will copy the report to:

- The Cabinet;
- The Local MPs and MEPs;
- The relevant Clinical Commissioning Groups;

- The local health watch organisation; and
- Other bodies or organisations that have expressed an interest in the inquiry.

The Scrutiny Officer will also place a copy of the report on the County Council's website.

### **1.13 Consultation**

1.13.1 Each relevant NHS body or relevant health service provider has a duty to consult the Health and Adult Social Care Select (Overview and Scrutiny) Committee on any proposals for any substantial development of the Health Service in Hampshire or any proposals to make any substantial variation in the provision of such services.

1.13.2 When consulting the Health and Adult Social Care Select (Overview and Scrutiny) Committee the relevant NHS body or relevant health service provider must provide the Committee with the proposed dates by which the relevant NHS body or relevant health service provider intends to make a decision to proceed with the proposal and the date by which the Health and Adult Social Care Select (Overview and Scrutiny) Committee is required to comment on the proposal.

1.13.3 The relevant NHS body or relevant health service provider must inform the County Council of any change in the dates provided under Paragraph 1.13.2 and publish those dates, including any change to those dates.

1.13.4 The relevant NHS body or relevant health service provider may undertake a substantial development or substantial variation to the health service in Hampshire without consulting the Health and Adult Social Care Select (Overview and Scrutiny) Committee where it is satisfied that the decision had to be taken without consultation because of a risk to safety or welfare of patients or staff subject to notifying the County Council immediately of the decision and the reason why no consultation has taken place.

1.13.5 The Health and Adult Social Care Select (Overview and Scrutiny) Committee may make comments and recommendations on the proposal consulted on by the specified date.

1.13.6 When the Health and Adult Social Care Select (Overview and Scrutiny) Committee's comments include a recommendation and the relevant NHS body or relevant health service provider

disagrees with that recommendation.

1.13.6.1 the relevant NHS body or the relevant health service provider must notify the Health and Adult Social Care Select (Overview and Scrutiny) Committee of the disagreement

1.13.6.2 the relevant NHS body or relevant health service provider and the Health and Adult Social Care Select (Overview and Scrutiny) Committee must take such step as are reasonably practicable to try to reach agreement in relation to the subject at the recommendation.

1.13.7 When the Health and Adult Social Care Select (Overview and Scrutiny) Committee has not commented or when it has commented but its comments do not contain a recommendation the Health and Adult Social Care Select (Overview and Scrutiny) Committee must inform the relevant NHS body or the relevant health service provider whether or not it intends to report the matter to the Secretary of State and if applicable the date by which it proposes to make the report or the date by which it proposes to make a decision as to whether to report the proposal to the Secretary of State.

1.13.8 Subject to Paragraph 1.13.9 the Health and Adult Social Care Select (Overview and Scrutiny) Committee may report to the Secretary of State in writing when:

1.13.8.1 the Health and Adult Social Care Select (Overview and Scrutiny) Committee is not satisfied that that consultation on a proposal has been adequate in relation to the content or time allowed

1.13.8.2 in a case where Paragraph 1.13.4 applies the Health and Adult Social Care Select (Overview and Scrutiny) Committee is not satisfied that the reasons given are adequate

1.13.8.3 the Health and Adult Social Care Select (Overview and Scrutiny) Committee considers that the proposal would not be in the interests of the health service in Hampshire

1.13.9 The Health and Adult Social Care Select (Overview and Scrutiny) Committee may not make a report to the Secretary of State unless the Health and Adult Social Care Select (Overview and Scrutiny) Committee is satisfied that:

- 1.13.9.1 the steps specified in Paragraph 1.13.6.1 and 1.13.6.2 have been taken but agreement has not been reached in a reasonable time
  - 1.13.9.2 the relevant NHS body or relevant health service provider has failed to comply with its duty under Paragraph 1.13.6.2 within a reasonable time
  - 1.13.9.3 in a case where Paragraph 1.13.7 applies unless the Health and Adult Social Care Select (Overview and Scrutiny) Committee has complied with its duty under Paragraph 1.13.7 and that
  - 1.13.9.4 it has obtained the agreement of the County Council to the making of the report to the Secretary of State
- 1.13.10 A report made under Paragraph 1.13.8 must include:
- 1.13.10.1 an explanation of the proposal to which the report relates
  - 1.13.10.2 the reason why the Health and Adult Social Care Select (Overview and Scrutiny) Committee believes the consultation to have been inadequate or the reasons why the Health and Adult Social Care Select (Overview and Scrutiny) Committee does not agree that the proposal should be implemented without consultation
  - 1.13.10.3 in the case of a report under Paragraph 1.13.8.3 a summary of the evidence considered including evidence of the effect or potential effect of the proposal on the sustainability or otherwise of the health service in Hampshire
  - 1.13.10.4 an explanation of the steps the Health and Adult Social Care Select (Overview and Scrutiny) Committee has taken to try to reach agreement with the relevant NHS body or relevant Health service provider in relation to the proposal
  - 1.13.10.5 in a case falling within Paragraph 1.13.6 evidence to demonstrate that the Health and Adult Social Care Select (Overview and Scrutiny) Committee has complied with the conditions in Paragraph 1.13.9



1.13.10.6 an explanation of the reasons for the making of the report

1.13.10.7 any evidence in support of those reasons

1.13.11 A relevant NHS body or relevant health service provider undertaking a consultation should be prepared to attend the Health and Adult Care Select (Overview and Scrutiny) Committee, if so requested, to explain the rationale behind the proposals and the options for change being considered.

#### **1.14 Co-ordinating role**

As provided for in its terms of reference, the Policy and Resources Select (Overview and Scrutiny) Committee, will co-ordinate the scrutiny function so as to ensure effective resource allocation, and that review reports are consistent and take account of corporate issues;

#### **1.15 Members' and Officers' attendance at Select (Overview and Scrutiny) Committees or working groups**

1.15.1A Select (Overview and Scrutiny) Committee or working group may scrutinise and review decisions made or actions taken in connection with the discharge of Executive functions. A Select (Overview and Scrutiny) Committee also has an advisory role in respect of any County Council functions within its terms of reference. As well as reviewing documentation, it may require any member of the Executive, the Chief Executive, and/or any other Senior Officer to attend before it to explain, or give evidence, in relation to matters within their remit and it is the duty of those persons to attend if so required.

1.15.2 Where any Member or Officer is required to attend a Select (Overview and Scrutiny) Committee or Sub-Committee under this provision, they shall be given reasonable notice of the meeting they are required to attend. The notice will state the nature of the matter on which they will be asked to explain or answer, and they will also be given notice of whether any papers are required to be produced. Where attendance is likely to require the production of a report, the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

1.15.3 The Health and Adult Social Care Select (Overview and Scrutiny) Committee may require the attendance of an officer from a relevant NHS Body or relevant health service provider to answer question the relevant Body or relevant health service provider are under a duty to comply with such a request. Any request for an officer from a relevant NHS Body or relevant

health service provider to attend must make clear the nature of the information requested, its relevance to its review, and must give the officer requested to attend reasonable notice.

#### **1.16 Attendance by others**

A Select (Overview and Scrutiny) Committee or Sub-Committee may invite people other than those referred to in the previous paragraph, to address it, discuss issues of local concern, and/or answer questions. This could include, for example, residents, external experts, stakeholders, and members and officers in other parts of the public sector. In the case of these people, unless required by law attendance will be optional.

#### **1.17 Call-in**

1.17.1 Where a decision of the Executive has been made but not yet been implemented, a quorum of members of the relevant Select (Overview and Scrutiny) Committee(s) may require by way of notice in writing to the Chief Executive that a meeting of the Committee is held to consider whether or not to exercise the Committee's powers under Section 9 F (4) of Part 1A of the 2000 Act (referred to in this Constitution as 'call-in'). These powers are to arrange that the decision be reconsidered by the Executive, or arrange for its powers in respect of review or scrutiny of the decision to be exercised by the County Council. Where a decision materially affects more than one Select Committee (i.e. it is cross-cutting) a call-in must be made by at least two of the Select (Overview and Scrutiny) Committees;

1.17.2 A decision can only be called-in within 5 clear working days of the date the decision was notified to all members of the appropriate Select (Overview and Scrutiny) Committee(s), in accordance with Part 3, Chapter 2, Paragraph 4.8 of the Constitution.

1.17.3 When a valid call-in request is made, the Select (Overview and Scrutiny) Committee(s) must meet to consider the request, make a decision and communicate to the Executive any recommendations it wishes to make within 14 clear calendar days of the request being made. When it meets the Committee(s) must consider whether or not to recommend;

- i) that the decision be reconsidered by the relevant decision making body who made the decision; or
- ii) that the County Council consider whether the relevant decision making body should reconsider the decision (this recommendation shall not be made when the decision is in line with the budget, or the Policy Framework, or statutory

requirements regarding notice procedures in respect of publicity for Key Decisions)

1.17.4 Any decision of the Executive which is not in line with the Budget or the Policy Framework, or the notice procedure in respect of Key Decisions as set out at Part 3 Chapter 2 Paragraph 3.2 of the Constitution, if called-in, shall not be implemented until the request has been disposed of by;

- i) The withdrawal of the request
- ii) The rejection of the request by the Select (Overview and Scrutiny) Committee(s) or by the County Council
- iii) The relevant decision-making body rejecting the recommendation for reconsideration or;
- iv) The relevant decision-making body reconsidering and confirming the original decision.

1.17.5 Call-in shall not prevent the decision from being acted on where the decision is in line with the Policy Framework and other policies approved by the County Council but when the views of the Select Committee differ from, or are critical of, the Executive decision, the facts shall be reported to the next County Council meeting and be debated without changing the previous decision although the County Council may request the Cabinet or relevant Executive Member(s) to review the decision in question.

## **1.18 Call-in and urgency**

1.18.1 The call-in procedure set out above shall not apply where the decision being taken by the Executive is an urgent Key Decision (see Chapter 2, Paragraphs 3.3 and 3.4 of this Part).

1.18.2 The record of the urgent Key Decision, and the notice by which it is made public, shall state whether (in the opinion of the decision-making person or body) and confirmed by the Chairman of the relevant Select (Overview and Scrutiny) Committee the decision is an urgent one. If it is considered urgent, the decision will not be subject to call-in. The Chief Executive, or his or her nominee, will have to advise on the issue of urgency in all cases.

1.18.3 Decisions taken as a matter of urgency must be reported by the Chief Executive to the members of the relevant Select (Overview and Scrutiny) Committee, together with the reasons for the urgency. If considered appropriate, the Select (Overview and Scrutiny) Committee may refer the matter to the next

appropriate Meeting of the County Council.

1.18.4 The operation of the provisions relating to call-in and urgency shall be monitored by the Policy and Resources Select (Overview and Scrutiny) Committee and a report submitted to the County Council with proposals for review, if necessary.