

**SOUTH WEST WALES CORPORATE JOINT COMMITTEE
OVERVIEW AND SCRUTINY COMMITTEE**

23RD SEPTEMBER 2022

REPORT OF THE MONITORING OFFICER

Report Title: Terms of Reference of Overview and Scrutiny Committee

Purpose of Report	To note the terms of reference of the South West Wales Corporate Joint Committee Overview and Scrutiny Committee.
Recommendation	It is recommended that (a) members note the terms of reference of the South West Wales Corporate Joint Committee Overview and Scrutiny Committee. (b) Members agree the content of their Forward Work Programme
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Finance Officer	N/A
Legal Officer	Craig Griffiths

Background:

1. The Local Government and Elections (Wales) Act 2021 (“the LGE Act”) created the framework for a consistent mechanism for regional collaboration between local government, namely Corporate Joint Committees (CJCs). The LGE Act provides for the establishment of CJCs through Regulations (CJC Establishment Regulations).
2. The CJC will exercise functions relating to strategic development planning and regional transport planning. They will also be able to do things to promote the economic well-being of their areas. In contrast to other joint committee arrangements, CJCs are separate corporate bodies which can employ staff, hold assets and budgets, and undertake functions.
3. The South West Wales Corporate Joint Committee will comprise Carmarthenshire County Council, the City and County of Swansea Council, Pembrokeshire County Council and Neath Port Talbot County Borough Council (“the Constituent Councils”). In respect of some functions (strategic planning), both Pembrokeshire National Park and Brecon Beacons National Park will also be members

Role of Scrutiny

4. Working with its Constituent Councils the South West Wales Corporate Joint Committee (“CJC”) will be required to put in place appropriate overview and scrutiny arrangements. Scrutiny will be an important part of the democratic accountability of the CJC.
5. In considering the most effective and efficient approach to scrutiny, Welsh Government require Constituent Councils and CJs to give thought to the benefits of a joint overview and scrutiny committee made up of the constituent councils. The clear aim and ambition however must be to create, facilitate and encourage a clear democratic link back to the constituent councils.
6. Accordingly, at the meeting of the CJC in January 2022 and subsequently in July 2022, the CJC established the CJC Overview and Scrutiny Committee comprising three elected members from each constituent council be established to fulfil the Overview and Scrutiny Functions associated with the CJC. The functions of the Overview and Scrutiny Committee (enshrined in the CJC Constitution) are:
 - (a) To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the CJC;
 - (b) To make reports or recommendations to CJC respect to the discharge of any functions which are the responsibility of the CJC;
 - (c) To make reports or recommendations to the CJC on matters which affect the CJC (insofar as the CJC is not, or CJC is not, under a duty to do those things by virtue of Section 22A of the Local Government Act 2000);
7. CJC members and staff (including those working under the terms of a secondment or service level agreement) will have a duty to provide information to the scrutiny committee; attend committee meetings if requested to do so; and consider or respond to any report or recommendations made by a committee within the agreed arrangements and which relate to the CJC.
8. It will be important that there is no overlap in scrutiny but ultimately members of constituent authorities will still be able to scrutinise the impact of the CJC on their locality. In essence, although not directly scrutinising the decisions of the CJC, the constituent councils will be looking at the impact of the CJC on their locality and how the decisions of the CJC are impacting the constituent council. Recent Welsh Government guidance failed to refer to the role of constituent council overview and scrutiny arrangements and representations have been made that guidance should be clearer in terms of expectations of both joint scrutiny as well as Constituent Councils’ member scrutiny, it being considered that the establishment of joint scrutiny arrangements should be addressed from the outset when governance issues are addressed to avoid potential drift. This would reflect the importance attached to Overview and Scrutiny rather than it appearing as a governance add-on.
9. It is proposed that the following representatives be appointed to the CJC Overview and Scrutiny Committee:

Chairperson	To be determined by the Committee
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Vice Chairperson	To be determined by the Committee
City and County of Swansea	Cllr P Black Cllr W Lewis Cllr M White
Carmarthenshire County Council	Cllr R James Cllr E Schiavone Cllr R Sparks
Neath Port Talbot County Borough Council	Cllr S. Pursey Cllr T Bowen Cllr R Davies
Pembrokeshire County Council	Cllr M John Cllr D Howlett Cllr M Tierney

10. Attached at Appendix 1 are the Terms of Reference of the Overview and Scrutiny Sub Committee and Procedural Rules that the committee will operate under.

Forward Work Programme

11. As indicated above, the role of the Overview and Scrutiny Sub Committee is set out in the aforementioned procedural rules, as being:
- a) Assist the CJC in reviewing service delivery and performance through in-depth analysis;
 - b) Review and scrutinise the decisions made by and the performance of the CJC and/or any Chief Officers both in relation to individual decisions and over time;
 - c) Review and scrutinise the performance of the CJC in relation to its policy objectives, performance targets and/or particular service areas;
 - d) Conduct research, community and other consultation in the analysis of service or policy issues and possible options;
 - e) Consider and implement mechanisms to encourage and enhance community participation in the development of policy or the improvement of services;
 - f) Question Members of the CJC or any Sub-Committee about their proposed policies, decisions and performance;
 - g) Make recommendations to the CJC and/or appropriate Sub-Committee and/or other constitutional bodies arising from the outcome of the overview & scrutiny process;
 - h) Review and scrutinise the performance of other public bodies in the area and invite reports from them about their activities and performance;
 - i) Question and gather evidence from any person outside of the Authority (with their consent);
 - j) Assist the CJC in the review of its budget and policies by in-depth analysis of policy issues;
 - k) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that collaborative working enhances the interests of local people.
12. Accordingly, it will be necessary for the Overview and Scrutiny Committee to agree their Forward Work Programme in line with these functions.

13. It should be noted that the implementation of any regional plans and policies will fall within the purview of the subject related sub-committees that the CJC have established. A key question the Overview and Scrutiny Committee may wish to determine is whether monitoring implementation of these policies will add value, given it will duplicate what in essence is the role of the sub-committees. Similar principles would apply to the work of the Governance and Audit Committee.
14. Members, for example, may wish to consider some pre-scrutiny work on the Regional Transport Plan that will shortly be prepared. In addition, they may wish to consider the evolving governance and offer a view, or query how the implementation of the Regional Energy and Economic Development plans are to be organised?

Financial Impacts:

15. The financial impacts of adopting this Constitution and associated documents will be incorporated into the budget for 2022/2023 and future reports to the CJC.

Integrated Impact Assessment:

16. The CJC is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:
 - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
 - Deliver better outcomes for those people who experience socio-economic disadvantage
 - Consider opportunities for people to use the Welsh language
 - Treat the Welsh language no less favourably than English.
 - Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
17. The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.
18. There is no requirement for an Integrated Impact Assessment for this report as the setting up of the CJC is underpinned by legislation and that this report is to establish governance arrangements in accordance with legislation. This will be kept under review with any future reports considering whether impacts require consideration.

Workforce Impacts:

19. There are no workforce impacts associated with this report.

Legal Impacts:

20. Part 5 of the LGE Act provides for the establishment, through regulations, of CJsCs and compliance will be had with this and other legislative obligations in the establishment of CJsCs. In particular the South West Wales Corporate Joint Committee Regulations came into force on 1st April 2021 and set out an initial framework for example, that the CJC should be established and the timeframes for the discharging of specific functions. However a series of further Regulations are being drafted and consulted on by Welsh Government. The Welsh Government has concluded its consultation on the Corporate Joint Committees (General) (No.2) (Wales) Regulations 2021. The Welsh Government is also currently consulting on draft statutory guidance. A third stage of Regulations will put in place further legislation for the operation of the CJsCs and its functions, which Welsh Government are currently being consulted on. A fourth stage will put in place any remaining provisions that a CJC might need.

Risk Management Impacts:

21. Failure to establish an Overview and Scrutiny Committee would be in breach of the legal requirements imposed under the Local Government and Elections (Wales) Act 2021 (exposing each constituent council to challenge) along with the reputational risks that such non compliance will bring.

Consultation:

22. There is no requirement for consultation in respect of this report.

Reasons for Proposed Decision:

23. To ensure appropriate scrutiny arrangements are in place for the CJC to make decisions and compliance is had to the legislative requirements that are applicable to the CJC.

Implementation of Decision:

24. This decision is proposed for immediate implementation

Appendices:

25. Appendix 1 - Terms of Reference and Procedural Rules

List of Background Papers:

26. None

APPENDIX 1

ARTICLE 7 OF SOUTH WEST WALES CORPORATE JOINT COMMITTEE CONSTITUTION

Overview and Scrutiny Sub-Committees

7.1 General Roles

The CJC will appoint an Overview and Scrutiny Sub-Committee to discharge the following functions:-

- (a) To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the CJC;
- (b) To make reports or recommendations to the CJC with respect to the discharge of any functions which are the responsibility of the CJC;

The power of an Overview and Scrutiny Sub Committee under (a) above, to review or scrutinise a decision made but not implemented, includes power to recommend that the decision be reconsidered by the person who made it, or to arrange for its function under (a) above so far as it relates to the decision, to be exercised by the authority. This is known as the “call-in” power, the details of which are covered in the Scrutiny Procedure Rules.

7.2 The Sub-Committees and Specific Roles

In discharging the functions conferred by Section 21 of the Local Government Act 2000 and Section 35 of the Well-being of Future Generations (Wales) Act 2015, the CJC will appoint an Overview and Scrutiny Sub-Committee with the specific roles and terms of reference as set out herein.

- a) Assist the CJC in reviewing service delivery and performance through in-depth analysis;
- b) Review and scrutinise the decisions made by and the performance of the CJC and/or any Chief Officers both in relation to individual decisions and over time;
- c) Review and scrutinise the performance of the CJC in relation to its policy objectives, performance targets and/or particular service areas;
- d) Conduct research, community and other consultation in the analysis of service or policy issues and possible options;
- e) Consider and implement mechanisms to encourage and enhance community participation in the development of policy or the improvement of services;
- f) Question Members of the CJC or any Sub-Committee about their proposed policies, decisions and performance;
- g) Make recommendations to the CJC and/or appropriate Sub-Committee and/or other constitutional bodies arising from the outcome of the overview & scrutiny process;
- h) Review and scrutinise the performance of other public bodies in the area and invite reports from them about their activities and performance;
- i) Question and gather evidence from any person outside of the Authority (with their consent);

- j) Assist the CJC in the review of its budget and policies by in-depth analysis of policy issues;
- k) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that collaborative working enhances the interests of local people.

7.3 Proceedings of Overview and Scrutiny Sub-Committee

The Overview and Scrutiny Sub-Committee will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out at Appendix A to this Article and the CJC Procedure Rules

7.4 Membership and Quorum

The Overview and Scrutiny Sub-Committee shall comprise 12 elected members, with three from each constituent council comprising the CJC.

The quorum for the Overview and Scrutiny Sub-Committee shall be at least 4 members of which there must be one from each constituent Council.

Appendix A

Scrutiny Procedure Rules

1. The number and arrangements for Scrutiny Committees

- 1.1 The CJC will have the Overview and Scrutiny Sub Committee set out in this Constitution with the roles and terms of reference as set out therein and will appoint to them as it considers appropriate from time to time. Such a Committee may appoint sub-committees.
- 1.2 References in these procedure rules to an Overview and Scrutiny Sub Committee and include any sub-committees or working groups of such Committees.

2. Members of Scrutiny Committees

- 2.1 No members of the CJC may be members of a Scrutiny Committee.
- 2.2 The quorum for the Overview and Scrutiny Sub-Committee shall be at least 4 members of which there must be one from each constituent Council.

3. Co-opted members

Each Overview and Scrutiny Sub Committee shall be entitled to recommend to CJC the appointment of a number of people as non-voting co-optees.

4. Meetings of the Scrutiny Committees

- 4.1 Unless otherwise agreed by the Chair and Vice Chair there shall be at least 4 ordinary meetings of each Overview and Scrutiny Sub Committee in each year. In

addition, extraordinary meetings may be called from time to time by the Chief Executive in consultation with the Chair.

- 4.2 An extraordinary meeting of the Overview and Scrutiny Sub Committee may be called by the Chair of the Committee, by any 5 members of the Committee giving written notice of a requisition to the Chief Executive or by the Chief Executive if they consider it necessary or appropriate.

5. Appointment of Chairs of Scrutiny Committees

- 5.1 The Chair of an Overview and Scrutiny Sub Committee shall be appointed to that Committee by the members of that Scrutiny Committee. The chair shall not be from the authority that hosts the Joint Scrutiny function or from the Chair of the CJC.
- 5.2 Where the Chair is appointed by the Chairman and Overview and Scrutiny Sub Committee itself the appointment shall be made by simple resolution of the Committee.
- 5.3 Where there has been a failure to make appointment of Committee Chairs under Section 70 of the Local Government (Wales) Measure 2011 the appointment falls to be made by the Overview and Scrutiny Sub Committee under Section 71(5) and (6) of the Measure.

6. Functions of Scrutiny Committees

- 6.1 The functions of an Overview and Scrutiny Committees are:-
- (a) To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the CJC;
 - (b) To make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the CJC;
 - (c) To make reports or recommendations to the CJC on matters which affect the CJC or the inhabitants of that CJC area (insofar as the CJC is not, or CJC is not, under a duty to do those things by virtue of Section 22A of the Local Government Act 2000;

7. Forward Plan and Other Information

- 7.1 The Overview and Scrutiny Sub-Committee will be responsible for setting its own work programme and in doing so it shall take into account the wishes of members on that Committee.
- 7.2 The Scrutiny Committees shall comply with regulations made by the Welsh Ministers in relation to the provision of prescribed information about the exercise of Scrutiny functions.

8. Agenda Items

- 8.1 Any member of an Overview and Scrutiny Sub Committee shall be entitled to give 8 clear working days written notice before the date of the next meeting to the Chief Executive that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for, and be discussed at, a meeting of the Committee or Sub-Committee.
- 8.2 On receipt of such a request, the Chief Executive shall ensure that it is included on the agenda for the next or subsequent meeting (the determination as to which meeting to rest with the Committee chair).
- 8.3 Any elected member of the CJC constituent councils who is not a member of a Overview and Scrutiny Sub Committee may give 8 working days written notice before the date of the next meeting to the Chief Executive that he/she wishes a matter which is relevant to the functions of the Overview and Scrutiny Sub-Committee to be included on the agenda of the Overview and Scrutiny Sub-Committee. If the Chief Executive receives such a notification, then it will be included on the agenda for the next or a subsequent meeting (the determination as to which meeting to rest with the Overview and Scrutiny Sub-Committee Chair). Such member may then attend the Committee to speak, but not vote, nor move, second or amend any motion on that item.
- 8.4 In exercising his or her power to give notice requiring an item to be placed on an agenda under paragraph 8.3 the member must have regard to any guidance issued by the Welsh Ministers.
- 8.5 A “CJC” matter means a matter:-
- (a) Which relates to the discharge of any function of the CJC; or
 - (b) Affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area.
 - (c) and in either case is not an “excluded matter”.
- 8.6 An “excluded matter” is a matter which comes under Section 19 of the Police and Justice Act 2006 or a matter of a description specified by order of the Welsh Ministers.
- 8.7 When a Overview and Scrutiny Sub Committee has considered a requisition to place an item on the agenda of a Committee under paragraph 8.3 above, the Member(s) concerned shall be advised of the outcome of the Sub-Committee’s deliberations.
- 8.8 Any non-Sub-Committee Member may also as of right (subject to any relevant Code provisions) attend in respect of a particular item (or items) of interest/concern with prior notification to the Chief Executive and Chair. The Member may speak, but not move second or amend a motion. The attendance in the latter context is not meant to relate to attendance and participation for all or most of the items on the agenda, and if such a request is made, the decision on attendance shall rest with the Sub-Committee.

8.9 The agenda of the Overview and Scrutiny Sub Committee may include a schedule of forthcoming or other CJC issues, and any member of the Committee is entitled to raise any of those issues at the meeting.

8.10 The Overview and Scrutiny Sub-Committees shall also respond, as their work programme permits, to requests from the CJC and if it considers it appropriate the executive, to review particular areas of CJC activity. Where they do so, the Overview and Scrutiny Sub Committee shall report their findings and any recommendations back to the CJC and/or executive.

9. Policy Review and Development

9.1 The CJC has the responsibility for proposing the annual budget, and the policies under the policy framework to the CJC.

9.2 In relation to the development of other matters not forming part of its policy and budget framework, Overview and Scrutiny Sub Committee or Sub-Committees may make proposals to the executive for developments in so far as they relate to matters within their terms of reference, but there shall be consultation with the executive to avoid any duplication of work.

9.3 Scrutiny 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. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all 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 may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

9.4 Once it has formed proposals for development, the Overview and Scrutiny Sub Committee shall submit these for consideration by the CJC (if the proposals are consistent with the existing budgetary and policy framework), or to the CJC as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework). These recommendations shall be considered at the next available meeting of the executive or the CJC, or at such later meeting with the agreement of the Chairman and Vice Chairman of the Committee, or CJC, as the case may be.

9.5 If a Overview and Scrutiny Sub Committee cannot agree on one single proposal to the CJC as appropriate, then up to one minority proposal may be prepared and submitted for consideration by the CJC or executive with the majority proposal.

9.6 Scrutiny Committees will have access to the CJC's forward work programme for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a Overview and Scrutiny Sub Committee following a consideration of possible policy/service developments, the committee will be able to respond in the course of the executive's consultation process.

9.7 Both the CJC and Overview and Scrutiny Sub Committee shall draw up co-ordinated

work programmes where:-

- (a) An Overview and Scrutiny Sub Committee will consider appropriate draft policies or plans being drawn up by the CJC under the policy framework.
- (b) An Overview and Scrutiny Sub Committee will have a direct involvement in a review of existing policies/procedures and make recommendations to the executive.
- (c) An Overview and Scrutiny Sub Committee may be asked by the CJC to join with it in a policy development task, which may not form part of the policy and budget framework.

10. Rights of Overview and Scrutiny Sub Committee Members to Gain Access to Documents

- 10.1 In addition to their rights as Councillors, elected members from constituency councils of the Overview and Scrutiny Sub Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules. The same shall apply to the NPAs
- 10.2 Nothing in this paragraph prevents more detailed liaison between the CJC and Overview and Scrutiny Sub Committee as appropriate depending on the particular matter under consideration.

11. Members and Officers Giving Account

- 11.1 The Overview and Scrutiny Sub Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any CJC functions. As well as reviewing documentation in fulfilling the scrutiny role, it may require any other member of the CJC or Officers of the CJC to attend before it to explain in relation to matters within their remit:
 - (a) Any particular decisions or proposed decisions or series of decisions; and/or
 - (b) The extent to which the actions taken implement CJC policy; and/or
 - (c) Their performance

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

- 11.2 Where any member or officer is required to attend a Overview and Scrutiny Sub Committee under this provision, the chair of that Committee will inform the Chief Executive who shall inform the member or officer in writing giving at least 8 clear working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- 11.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date then the Overview and Scrutiny Sub Committee shall in consultation with the member or officer arrange an alternative date for attendance.
- 11.4 It is ultimately the CJC members which will be required to answer questions about its policies and decisions. Officers contributions should as far as possible be confined to questions of fact and explanation relating to policies and decisions, though they can be asked to explain and give reasons for decisions they themselves have taken under delegated authority.

12. Attendance by CJC Members

- 12.1 There would also be attendance by the relevant CJC members as a standing arrangement on policy, budget or other forthcoming issues, in order to provide evidence and information for the Scrutiny Committee, and to ensure the “executive” and “scrutiny” works constructively and inclusively together in the best interests of the CJC and its communities.
- 12.2 In particular CJC Members may attend any meeting of a Overview and Scrutiny Sub Committee which is undertaking pre-scrutiny of any proposed executive decision.

13. Attendance by Others

- 13.1 A Overview and Scrutiny Sub Committee may invite people other than those people referred to in paragraph 12 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. Attendance is entirely voluntary.
- 13.2 A Overview and Scrutiny Sub Committee shall make arrangements to enable all persons who live or work in the area of the CJC to bring to the attention of the Committee their views on any matter under consideration by the Committee.
- 13.3 These arrangements shall include the publication on the CJC’s website of the forward work programme of the Committee and any agenda for a meeting of the Committee and or the publication of the agenda in accordance with the statutory rules contained in the Local Government Act 1972 and Local Government and Elections (Wales) Act 2021.
- 13.4 Persons who live or work in the CJC’s area may submit written representations on any matter under consideration by the Committee by submission to the Chief Executive up until one working day before any relevant meeting of the Committee and these representations shall be reported to the Committee either in full or in summary at the discretion of the Chair. Where matters relate to the strategic planning function additional provisions may require consideration in accordance with those legislative requirements.
- 13.5 In making any report or recommendations the Committee shall comply with Section 21F of the Local Government Act 2000.

13.6 The Chief Executives (or any so officers nominated by them) of Constituent Councils and National Park Authorities shall be entitled to attend meetings of the Overview and Scrutiny Sub-Committee in an advisory capacity, irrespective of whether the meeting is to be considered in public or private.

14. Call-in

14.1 When a decision is made by the CJC, a committee of the CJC or an individual member of the CJC, a summary of the decision shall be circulated by the Chief Executive (normally within 2 days of the decision being made and where possible by electronic means) to all members of the relevant Overview and Scrutiny Sub Committee (with copies to all other members of CJC).

14.2 That notice containing the decision summary will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 3 calendar days after the publication of the decision, unless the Overview and Scrutiny Sub-Committee, or the requisite number of members thereof (referred to in paragraph 14.3 below) objects to it and calls it in.

14.3 Except as provided in Paragraph 14.11 if the Chief Executive shall receive during the call in period a request:-

- (a) by virtue of a decision of a relevant Scrutiny Committee, or
- (b) by three or more members of a relevant Overview and Scrutiny Sub Committee together with the Chair (or in the absence of the Chair the Vice Chair), or
- (c) by one third or more of the Members of a relevant Scrutiny Committee

The Chief Executive shall convene a meeting of the relevant Overview and Scrutiny Sub Committee on such date as it agreed with the Chair (or Vice Chair in the absence of the chair) (but in any case not later than seven working days of the decision or request for call in

14.4 Where it is not possible in the time available for the requisite number of members to call-in the decision, the Chair (or in absence the Vice Chair) may allow the call-in if it is considered that the circumstances so warrant a call-in.

14.5 For the purposes of Paragraph 14.3 a member for the above purposes shall be a voting member of the Overview and Scrutiny Sub Committee

14.6 Having considered the decision, the Overview and Scrutiny Sub Committee may refer it back to the decision making body or person for reconsideration, setting out in writing the nature of its concerns or refer the matter to full CJC. If referred to the decision maker, that body or person shall then reconsider within a further 10 working days (or such other time as may be agreed the decision maker with the Chair – or in absence Vice Chair – of the Scrutiny Committee) amending the decision or not, before adopting a final decision.

- 14.7 If following the call-in, the Overview and Scrutiny Sub Committee decides not to refer the matter back to the decision making body or person; the decision shall take effect on the date of the Scrutiny Meeting.
- 14.8 If the matter was referred to full CJC and the CJC does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the CJC does object, the CJC will refer any decision to which it objects back to the decision making person or body, together with the CJC's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the executive as a whole or a committee of it, a meeting will be convened to reconsider within 10 working days of the CJC request. Ultimately, a decision which is within the definition of executive functions, and which is in accordance with the policy and financial framework agreed by the CJC, will be one for the executive to take.
- 14.9 If the CJC does not refer the decision back to the decision making body or person, the decision will become effective on the date of the CJC meeting.
- 14.10 There can only be one call-in of the particular executive decision. If the decision is reconsidered by the decision maker under the procedures above, the decision then made after reconsideration shall be final and may be implemented immediately.
- 14.11 **Exceptions to call-in**

The call in procedures above shall not apply in the following cases:-

- (a) Where the decision being taken by the CJC is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would prejudice the interests of the CJC or the public interest. The formal record of the decision, and the summary sent to Scrutiny members shall state the opinion of the decision making body that the decision is an urgent one, and therefore not subject to call-in. The other provisions in the Access to Information Rules shall apply to the decision record. However, the decision may only be taken if the chair of the relevant Overview and Scrutiny Sub Committee (or in absence the Vice Chair) decides to allow the decision to proceed for implementation as a matter of urgency. Decisions taken as a matter of urgency must be reported to the next available meeting of the relevant Scrutiny Committee.
- (b) In respect of Officers executive decisions under their delegated urgency powers. A decision will be urgent if any delay likely to be caused by the call-in process would prejudice the interests of the CJC or the public interest. The formal record of the decision shall state the opinion of the officer that the decision is an urgent one, and therefore not subject to call-in. The other provisions of the Access to Information Rules shall apply to the decision record. However, the decision may only be taken if the chair of the relevant Overview and Scrutiny Sub Committee (or in the absence the Vice Chair) decides to allow the decision to proceed for implementation as a matter of urgency. Where an Officer takes a decision under his delegated urgency powers there shall be consultation and in

respect of the decision with the CJC Chair. Decisions taken as a matter of urgency must be reported to the next available meeting of the CJC and the Overview and Scrutiny Sub Committee. The urgency action shall include the standard compliance statement.

- (c) In respect of other (non-urgency) Officer decisions under delegated powers.
- (d) Where the CJC take a decision, implementation of which is deferred pending consultation with the relevant Overview and Scrutiny Sub Committee and whereby subsequently there are no objections or alternative proposals raised at the Committee under that consultation process by a majority of the Committee members present. On this basis, the call-in procedure will not apply to the executive decision which can be implemented immediately following the Scrutiny meeting. However, if there are any objections or alternative proposals by a majority of the Committee members present, the matter will be referred back to CJC to consider those views.
- (e) Where the CJC, a Committee of the CJC or an officer take an decision which is contrary to the CJC's policy framework or contrary to or not wholly in accordance with the budget approved by full CJC if the decision is a matter of urgency. A decision will be urgent if any delay likely to be caused by the call-in process would prejudice the CJC's or the public's interests. However, the decision may only be taken if it is not practical to convene a quorate meeting of the full CJC; and if the chair of the relevant Overview and Scrutiny Sub Committee decides to allow the decision to proceed for implementation as a matter of urgency. Where an Officer takes a decision here under his delegated urgency powers, there shall be consultation in respect of the decision with the CJC Chair (or in the absence of either or both, any two CJC members). The reasons why it is not practical to convene a quorate meeting of full CJC and the agreement to allow the decision to proceed for implementation as a matter of urgency must be noted on the record of the decision. Following the decision, the decision taker will provide a full report to the next available CJC meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

14.12 Members who have requested that a decision be called in shall be advised of the outcome of that call-in.

14.13 The operation of the provisions relating to call-in and urgency shall be monitored, and a report submitted to CJC with proposals for review if necessary.

15. The Party Whip

15.1 Section 78(1) of the Local Government (Wales) Measure 2011 provides that a Member of an Overview and Scrutiny Sub Committee must not vote on a question at a meeting of that Committee if before the meeting the Member has been given a party whip relating to the question (known as prohibited party whip) where they are a member of a political party.

15.2 The statutory definition of a party whip is reproduced at paragraph 15.6.

- 15.3 Any vote is given in breach of the rule declared in paragraph 15.1 must be disregarded.
- 15.4 It is for the person chairing the meeting of the Overview and Scrutiny Sub Committee to determine whether a member of the Committee has been given a prohibited party whip in relation to the meeting.
- 15.5 At each meeting of an Overview and Scrutiny Sub Committee each Member must declare any prohibited party whip which the Member has been given in relation to the meeting and the minutes of the meeting shall record all such declarations.
- 15.6 The definition of party whip in Section 81(10) of the Local Government (Wales) Measure 2011 is:

“party whip means an instruction (however expressed) which:-

- (a) is given on behalf of a political group on a local authority;
- (b) is given to a person (P) who is:-
 - (i) a member of the political group, and
 - (ii) a member of a Overview and Scrutiny Sub Committee of the Local Authority;
- (c) is an instruction as to how P should vote on a question falling to be decided by the committee; and
- (d) if not complied with by P, would be likely to make P liable to disciplinary action by the political group which gives the instruction;

“political group” means a group of members of a local authority that is a political group for the purposes of Part 1 of the Local Government and Housing Act 1989.”

16. Procedure at Overview and Scrutiny Sub Committee Meetings

- 16.1 Scrutiny Committees and sub-committees shall consider the following business:-
- (a) Minutes of the last meeting;
 - (b) Consideration of any matter referred to the committee for a decision in relation to call-in of a decision;
 - (c) Responses of the executive to proposals of the Scrutiny Committee; and, in the case of the committee designated with the powers contained in Section 35 of the Well-being of Future Generations (Wales) Act 2015, and
 - (d) the business otherwise set out on the agenda for the meeting.

- 16.2 Where the Overview and Scrutiny Sub Committee conducts investigations (e.g. with a view to policy development), the committee 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 is conducted fairly and all members of the 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 respect and courtesy; and
 - (c) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 16.3 Following an investigation or review, the committee/sub-committee shall prepare a proposal for submission to the executive and/or CJC as appropriate, and shall make its proposal and findings public.
- 16.4 No member may be involved in scrutinising a decision in which he/she has been directly involved and the Members Code of Conduct rules will be applicable here.

17. Publication of Reports Recommendations and Responses Confidential and Exempt Information

In publishing any report recommendation or responses an Overview and Scrutiny Sub Committee shall comply with the provisions of Section 21D of the Local Government Act 2000.