

Report of the Strategic Director of Resources

Scrutiny Briefing

SUMMARY

- 1.1 The Regeneration and Culture Board will be presented with a brief overview of the scrutiny process.
- 1.2 The Board will have an opportunity to study its Terms of Reference and Remit for the forthcoming municipal year and the relevant rules of the constitution (see Appendix 2).
- 1.3 Following the briefing presentation members of the Board will have an opportunity to consider any items or topics for inclusion in the work programme. Following the meeting and further consultation with Board members, Strategic Directors and the Chair and Vice Chair of the Board a work programme will be developed for the forthcoming year.

RECOMMENDATION

- 2.1 To receive a briefing presentation on the scrutiny process from the Scrutiny Officer.
- 2.2 To agree the Board's Terms of Reference, reproduced at section 4.1 of the report.
- 2.3 To suggest future items for the work programme and identify any topic(s) for review during for the forthcoming year.

REASONS FOR RECOMMENDATION

- 3.1 To ensure that members are aware of the scrutiny process and how this fits in to the Council's decision-making process.
- 3.2 To make the Board aware of their Terms of Reference and the Overview and Scrutiny Rules as set out in the Council's Constitution.
- 3.3 To enable the Board to suggest any items for inclusion within the work programme.
- 3.4 To enable work to commence on any identified in-depth topic review as identified by the Board.

SUPPORTING INFORMATION

4.1 Terms of Reference of Overview and Scrutiny Boards

Within the scope of their terms of Reference set out in Article 6 of the Constitution to:

1. review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions
2. make reports or recommendations to Council or the Council Cabinet or any joint or Neighbourhood Board/Forum in connection with the discharge of any functions
3. consider any matter affecting the area or its inhabitants
4. consider decisions that have been called-in for reconsideration, and decide whether to ask the decision maker to reconsider the decision or to refer it to full Council
5. carry out policy development and review functions as shown in Article 6 of the constitution that they consider to be necessary
6. provide an annual report to full Council on their workings and make recommendations for future work programmes
7. carry out any other statutory duties and responsibilities allocated to local authority scrutiny committees.

4.2 The Terms of Reference of the remit for this board covers the below service areas, and fully encompasses the Planning, Environment and Regeneration and Leisure and Culture Cabinet Member portfolios:

Within the responsibilities of the Cabinet Member for Planning, Environment and Regeneration:

- Inward Investment and Regeneration
- Environmental Health and Licensing
- Trading Standards
- Crematorium and Cemeteries
- Climate Change
- Development Control
- Spatial Planning
- Maintenance and Energy
- Facilities Management

Within the responsibilities of the Cabinet Member for Leisure and Culture:

- Derby Live
- Museums and Libraries
- Parks and Open Spaces
- Livewell
- Leisure facilities

- 4.3 This item gives members an opportunity to discuss potential work plans and topic reviews for the forthcoming municipal year, and develop the basis for a work programme. The reviews may cover anything within their remit and could include internal as well as external facing services.
- 4.4 The work programme is not restrictive, and board members can identify and introduce items for scrutiny throughout the year. Items for scrutiny will be discussed at pre-meetings with the Chair and Vice Chair, and will be added to the Scrutiny Board Agenda at the Chair's discretion.
- 4.5 The Council Constitution limits one topic review report to be submitted to the Council Cabinet every six months from Scrutiny Boards. It is possible for each Board to conduct two reviews in each municipal year if there is capacity for this. Topic reviews are not mandatory, but if the board wishes to conduct in-depth reviews in the current year, it is suggested that members should aim to agree a topic for review at the earliest opportunity.
- 4.6 If a working group is formed for the purpose of conducting topic reviews, they should only exist for the duration of the review and be dissolved upon completion of the review. Individuals outside of the scrutiny board can be invited to join the working group, as the group has no formal scrutiny powers. The purpose of the working group is to investigate, gather evidence and make recommendations to the scrutiny board in an advisory capacity.

OTHER OPTIONS CONSIDERED

- 5.1 None

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Phil O'Brien
For more information contact: Background papers: List of appendices:	Clare Harrison 01332 643648 Clare.Harrison@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Extract from Part 4 Derby City Council Constitution Overview and Scrutiny Procedure Rules

IMPLICATIONS

Financial and Value for Money

- 1.1 None arising directly from this report.

Legal

- 2.1 Section 21 (3) of the Local Government Act 2000 requires that the power of an overview and scrutiny committee 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.

Personnel

- 3.1 None arising directly from this report.

IT

- 4.1 None arising directly from this report.

Equalities Impact

- 5.1 Effective scrutiny benefits all Derby people.

Health and Safety

- 6.1 None arising directly from this report.

Environmental Sustainability

- 7.1 None arising directly from this report.

Property and Asset Management

- 8.1 None arising directly from this report.

Risk Management

- 9.1 None arising directly from this report.

Corporate objectives and priorities for change

- 10.1 Our aim is to work together so that Derby and its people will enjoy a thriving sustainable economy, good health and well-being and an active cultural life. The work of this board contributes to the Council's ambitions to give people in Derby an inspiring working life by improving skills and creating jobs, and to make the city an inspiring place to live by improving the inner city. The work of the board also

contributes to the Council's priority outcome of promoting good health and well-being and preventing ill health.

Appendix 2

PART 4 Rules of Procedure

Overview and Scrutiny Procedure Rules

Overview and scrutiny boards

- OS1 The Council will have the overview and scrutiny boards. Overview and scrutiny boards may also be appointed for a fixed period, on the expiry of which they shall cease to exist.
- OS2 Boards may set up sub-boards, to which these procedure rules apply equally.
- OS3 Boards may also set up time-limited working groups to discuss particular issues, but without formal scrutiny powers.

Membership

- OS4 All councillors except members of the Council Cabinet may be members of an overview and scrutiny board. However, no member may be involved in scrutinising a decision in which s/he has been directly involved.

Co-optees

- OS5 Each overview and scrutiny board shall be entitled to recommend to Council the appointment of non-voting co-optees, provided that the number of Councillors on the Board shall be greater than the number of co-optees.

Education representatives

- OS6 The overview and scrutiny board dealing with education matters shall include in its membership the following voting representatives:
 - a. one Church of England diocese representative;
 - b. one Roman Catholic diocese representative;
 - c. two parent governor representatives; and
 - d. one representative of other faiths or denominations.
- OS7 A relevant overview and scrutiny board in this paragraph is an overview and scrutiny board of a local education authority, where the board's functions relate wholly or in part to any education functions which are the responsibility of the authority's

Executive. If the overview and scrutiny board deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

Meetings of the overview and scrutiny boards

- OS8 There shall be at least five ordinary meetings of each overview and scrutiny board in each year. In addition, special meetings may be called from time to time as and when appropriate. An overview and scrutiny board meeting may be called by the chair of the relevant overview and scrutiny board, by any three members of the board or by the proper officer if s/he considers it necessary or appropriate.

Quorum

- OS9 The quorum for an overview and scrutiny board shall be as set out for boards in the Council Procedure Rules in Part 4 of this Constitution.

Chairs of overview and scrutiny boards

- OS10 The Council will appoint the Chairs and Vice-Chairs of Overview and Scrutiny Boards.
- OS11 The Council will appoint the Chair and Vice-Chair of the Scrutiny Management Board. If they are not members of the Scrutiny Management Board, chairs of overview and scrutiny boards will be invited to attend meetings of the Scrutiny Management Board, and to speak but not vote.
- OS12 Chairs and Vice-Chairs of Sub-Boards will be appointed by the Board establishing them.
- OS13 All Chairs and Vice-Chairs of Boards and Sub-Boards will be Members of the Council. Where the Board establishes a Working Group, the Board will appoint a Chair (and, if necessary, a Vice-Chair) who need not be a Member of the Council.

Work programme

- OS14 The overview and scrutiny boards will, subject to approval from the Scrutiny Management Board be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that board who are not members of the largest political group on the Council.

Agenda items

- OS15 Any member of the Council may give written notice to the proper officer that they wish an item to be included on the agenda of an overview and scrutiny board. If the proper officer receives such a notification, then s/he will include the item on the first available agenda of the relevant overview and scrutiny board for consideration by the board.

- OS16 Where an issue is being raised as a Call for Action the member will use the agreed Protocol on Calls for Action. When assessing which is the appropriate board the proper officer shall consider whether the issue is primarily in relation to a local government or crime and disorder matter. Where the board decide not to make a report or recommendations it shall notify the member of its decision and the reasons for it.
- OS17 The overview and scrutiny boards shall also respond, as soon as their work programme permits, to requests from the Council and, if it considers it appropriate, the Council Cabinet or Neighbourhood Boards and Neighbourhood Forums, to review particular areas of Council activity. Where they do so, the overview and scrutiny board shall report their findings and any recommendations back to the Council Cabinet, Neighbourhood Boards and Neighbourhood Forums or Council. The Council, Neighbourhood Boards and Neighbourhood Forums or the Council Cabinet shall consider the report of the overview and scrutiny board within one month of receiving it.

Policy review and development

- OS18 The role of the overview and scrutiny boards 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.
- OS19 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, overview and scrutiny boards or sub-boards may make proposals to the Council Cabinet for developments in so far as they relate to matters within their terms of reference.
- OS20 Overview and scrutiny boards 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, board 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.

Reports from overview and scrutiny boards

- OS21 Once it has formed recommendations on proposals for development, the overview and scrutiny board will prepare a formal report and submit it to the proper officer for consideration by the Council Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- OS22 If an overview and scrutiny board cannot agree on one single final report to the Council or Council Cabinet as appropriate, then up to one minority report may be

prepared and submitted for consideration by the Council or Council Cabinet with the majority report.

- OS23 The Council or Council Cabinet shall consider the report of the overview and scrutiny board within one month of it being submitted to the proper officer.

Making sure that overview and scrutiny reports are considered by the Council Cabinet

- OS24 Once an overview and scrutiny report on any matter which is the responsibility of the Council Cabinet has been completed, the board may by notice require the Council Cabinet:

- (a) to consider the report and/or recommendations,
- (b) to respond to the board indicating what, if any, action the Council Cabinet proposes, to take, and
- (c) if the board published its report or recommendations, to publish its response

and the Council Cabinet must do so within two months of receipt of the report or, if later, the notice.

Where a board copied its report to a member in connection with a Call for Action, the Council Cabinet shall also provide a copy of its response to that member.

If for any reason the Council Cabinet does not consider and respond to the overview and scrutiny report within two months then the matter will be referred to Council for review, and the proper officer will call a Council meeting to consider the report and make a recommendation to the Council Cabinet.

- OS25 Only one major report every six months may be submitted by each overview and scrutiny board to the Council Cabinet, other than reports on matters i) referred to the boards by the Council Cabinet, or ii) resulting from a Call for Action.
- OS26 Overview and scrutiny boards will in any event have access to the Council Cabinet's forward plan and timetable for decisions and intentions for consultation. Where an item is not the subject of detailed proposals from an overview and scrutiny board following a consideration of possible policy/service developments, the board will be able to respond in the course of the Council Cabinet's consultation process in relation to any key decision.

Making sure that overview and scrutiny reports are considered by the partner organisations

- OS26a Where an overview and scrutiny board report or recommendations:

a) relate to a target specified in the Local Area Agreement, the board may in writing by notice require a relevant partner authority to have regard to the report and recommendations;

b) are made by the designated crime and disorder board, the board shall provide a copy to each of the appropriate responsible authorities and/or co-operating persons and bodies. Each such recipient shall provide a written response to the crime and disorder board within a period of one month from the date of the report or recommendations or, if not reasonably possible, as soon as possible thereafter.

The board shall review responses and monitor the action, if any, taken by the relevant organisation.

Rights of overview and scrutiny board members to documents

OS27 In addition to their rights as councillors, members of overview and scrutiny boards have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

OS28 Nothing in this paragraph prevents more detailed liaison between the Council Cabinet and overview and scrutiny boards as appropriate depending on the particular matter under consideration.

Members and officers giving account

OS29 Any overview and scrutiny board may scrutinise and review decisions made or actions taken in connection with the discharge of Council functions, within its remit. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Council Cabinet, any member to whom powers have been delegated under section 236 of the Local Government and Public Involvement in Health Act 2007, the head of paid service and/or any senior officer to attend before it to explain in relation to matters within their remit:

- any particular decision or series of decisions;
- the extent to which the actions taken implement Council policy; and/or
- their performance.

and it is the duty of those persons to attend if so required. For these purposes, a senior officer is defined as a first, second or third tier officer. Members of Overview and Scrutiny Boards will limit their enquiries of officers to questions of fact and questions relating to the financial, legal, professional and technical aspects of the matter under consideration; political questions will be reserved for Council Cabinet Members.

OS30 Where any member or officer is required to attend an overview and scrutiny board under this provision, the Chair of that board will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least five working days notice of the meeting at which s/he is required to attend. The notice

will state the nature of the item on which s/he is required to attend to give account and whether any papers are required to be produced for the board. Where the account to be given to the board 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.

- OS31 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview and scrutiny board shall in consultation with the member or officer arrange an alternative date for attendance to take place within a maximum of 15 working days from the date of the original request.

Attendance by others

- OS32 An overview and scrutiny board may invite people other than those people referred to in Rule OS29 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.

Call-in

- OS33 Call-in should only be used in exceptional circumstances. These are where members of the Council are of the opinion that the Council Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making), namely,
- a. proportionality (i.e. the action must be proportionate to the desired outcome)
 - b. due consultation and the taking of professional advice from officers
 - c. respect for human rights
 - d. a presumption in favour of openness
 - e. clarity of aims and desired outcomes
 - f. a record of what options were considered and giving the reasons for the decision.
 - g. or where relevant issues do not appear to have been taken into consideration.

Procedure for Call-in

- OS34 When a key decision is made by the Council Cabinet or a committee of the Council Cabinet, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. All Members of the Council will be sent copies of the records of all such decisions within the same timescale, by the Monitoring Officer.

- OS35 That notice 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 five clear days after the publication of the decision, unless it is called in.
- OS36 During that period, the Monitoring Officer shall call-in a decision for scrutiny by the appropriate board if so requested by written notice by any three members of the Council. The written notice must specify which principle in Rule OS33 has allegedly been infringed. The Monitoring Officer must then notify the Council Cabinet of the call-in. S/he shall call a meeting of the board on such date as s/he may determine, where possible after consultation with the chair of the board, and in any case within ten working days of the decision to call-in.
- OS37 If, having considered the decision, the overview and scrutiny board is still concerned about it then it may refer it back to the Council Cabinet for reconsideration, setting out in writing the nature of its concerns. If the Board concludes that the decision is outside the budget and policy framework it may, subject to Rule BPF10, refer the matter to full Council. If referred to the Council Cabinet, they shall then reconsider it at their next meeting, amending the decision or not, before adopting a final decision.
- OS38 If following an objection to the decision, the overview and scrutiny board does not meet in the ten day period set out above, or does meet but does not refer the matter back to the Council Cabinet or to Council, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of the ten day period, whichever is the earlier.
- OS39 If the matter is referred to full Council and the Council does not object to a decision that has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object and also concludes that the decision is outside the budget and policy framework, the provisions for this event in the Rules BPF 10-12.
- OS40 Where a Council Cabinet decision has been taken by an Ward Committee, then the right of call-in shall extend to:
- any three elected members of another Ward Committee if they are of the opinion that the decision made but not implemented will have an adverse effect on the area to which their panel relates; and/or
 - any three members of the Council if they consider that the decision is contrary to the principles of decision-making set out In these rules.

In either case, those three members may request the Monitoring Officer by written notice to call-in the decision. The written notice must specify which principle in Rule OS33 has allegedly been infringed. S/he shall call a meeting of the relevant overview and scrutiny board on such a date as s/he may determine, where possible after consultation with the chair of the board, and in any case within ten days of the decision to call-in.

- OS41 All other provisions relating to call in shall apply as if the call in had been exercised in respect of a decision of the Council Cabinet.

Call-in and urgency

- OS42 The call-in procedure set out above shall not apply where the decision is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would prejudice the Council's or the public's interests, and has been identified as urgent under the Access to Information Procedure Rule AI27.
- OS43 The Council Cabinet must decide that no call in may be made on the grounds of urgency at the time the decision is made, and not subsequently. This will be indicated at a set point on the agenda.
- OS44 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 not subject to call-in. The Chair of the relevant Overview and Scrutiny Board must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. If the Chair of the relevant Overview and Scrutiny Board is unable to act, then the agreement of the Mayor or, in his/her absence, the Deputy Mayor will suffice. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- OS45 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

The party whip

- OS46 The party whip is defined as "any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council, board, or other body appointed by it, or the application or threat to apply any sanction by the group in respect of that councillor should s/he speak or vote in any particular manner."
- OS47 When considering any matter in respect of which a member of an overview and scrutiny board is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the board's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

Procedure at overview and scrutiny board meetings

- OS48 Overview and scrutiny boards shall consider the following business:
- a. minutes of the last meeting

- b. declarations of interest (including whipping declarations)
- c. consideration of any matter referred to the board for a decision in relation to call in of a decision
- d. responses of the Council Cabinet to reports of the overview and scrutiny board; and
- a. the business otherwise set out on the agenda for the meeting.
- b. Petitions in accordance with the Petitions Scheme

OS49 Where the overview and scrutiny board conducts investigations e.g. with a view to policy developments, the board may also ask people to attend to give evidence at board meetings which are to be conducted in accordance with the following principles:

- a. that the investigation be conducted fairly and all members of the board be given the opportunity to ask questions of attendees, and to contribute and speak;
- b. that those assisting the board 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.

OS50 Following any investigation or review, the board shall prepare a report, for submission to the Council Cabinet and/or Council as appropriate and shall make its report and findings public.

Matters within the remit of more than one overview and scrutiny board

OS51 The Scrutiny Management Board will have overall responsibility for co-ordinating the discussion of matters within the remit of more than one overview and scrutiny board. It can either elect to consider the matter itself, or determine which of the relevant overview and scrutiny boards shall consider it. In either case, it may invite the Chair of the other board(s) (or his/her nominee) to attend the relevant meeting(s) and speak thereon and/or may refer its report to the other overview and scrutiny board(s) for comment before it is finalised.

Proceedings of overview and scrutiny board meetings

OS52 Meetings of the overview and scrutiny boards will be conducted in accordance with the Council Procedure Rules insofar as is practicable, except that where the Overview

and Scrutiny Procedure rules differ from the Council Procedure Rules, the Overview and Scrutiny Procedure rules shall take precedence