

PART 5 - OVERVIEW AND SCRUTINY RULES

1. What will be the number and arrangements for Overview and Scrutiny Committees?

- 1.1 The Council will have four Overview and Scrutiny Committees and one joint NHS Scrutiny Committee with Kent County Council as set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such Committees may appoint Sub-Committees. Overview and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

2. Who may sit on Overview and Scrutiny Committees?

All Councillors except members of the Cabinet may be members of an Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision with which he/she has been directly involved.

3. Co-optees

Each Overview and Scrutiny Committee or Sub-Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees as set out in the terms of reference for Overview and Scrutiny Committees at the end of this procedure rule.

4. Education representatives

- 4.1 Each relevant Overview and Scrutiny Committee/Sub-Committee dealing with education matters shall include in its membership the following voting representatives:

- (a) 1 Church of England diocesan representative;
- (b) 1 Roman Catholic diocesan representative;
- (c) 2 parent governor representatives.

- 4.2 A relevant Overview and Scrutiny Committee/Sub-Committee in this paragraph is an Overview and Scrutiny Committee or Sub-Committee of a local education authority, where the Committee or Sub-Committee'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 Committee/Sub-Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

5. Meetings of the Overview and Scrutiny Committees

There shall be at least six meetings scheduled for each Overview and Scrutiny Committee in each year which can be cancelled by the chair in consultation with the Chief Executive. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the chair of the relevant Overview and Scrutiny Committee, by a third of the members of the Committee or by the proper officer if he/she considers it necessary or appropriate.

6. Quorum

The quorum for an Overview and Scrutiny Committee shall be as set out for Committees in the Council procedure rules in part 1 of this chapter of the constitution.

7. Who chairs Overview and Scrutiny Committee meetings?

Overview and Scrutiny Committees/Sub-Committees will be chaired by a Councillor who is a member of that Committee/Sub-Committee.

8. Work programme

The Overview and Scrutiny Committees/Sub-Committees will be responsible for setting their own work programme and submitting it on an annual basis to the Council. In doing so they shall take into account the wishes of all members on that Committee.

9. Agenda items

9.1 Any member of an Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the proper officer that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.

9.2 Any six members of the Council who are not members of the Overview and Scrutiny Committee may give written notice to the proper officer that they wish an item to be included on the agenda of a relevant Overview and Scrutiny Committee. If the proper officer receives such a notification, then he/she will include the item on the first available agenda of the relevant Overview and Scrutiny Committee for consideration by the Committee. A representative of those members shall be entitled to address the Committee.

9.3 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits but within the set timescales; to requests from the Council and if appropriate the Cabinet, to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committees shall report their findings and any recommendations back to the Leader/Cabinet (as appropriate) and/or Council. The Council and/or the Leader/Cabinet (as

appropriate) shall consider the report of the Overview and Scrutiny Committee within one month of receiving it.

- 9.4 Any member of the Council who is not a member of the relevant Overview and Scrutiny Committee has the right to refer a local government or crime and disorder matter affecting his or her ward to the relevant Overview and Scrutiny Committee. The power to do this is known as raising a Councillor Call for Action (CCfA) but must be exercised in accordance with the guidance and procedures set out in section 23 of the Overview and Scrutiny rules. Any Councillor who is already a member of the relevant Overview and Scrutiny Committee and who wishes to refer a local government or crime and disorder matter to the Committee may do so under 9.1 but must have regard to the guidance in section 23 if the matter being raised is a CCfA.
- 9.5 If the relevant Overview and Scrutiny Committee decide not to review or scrutinise a matter or not to make a report or recommendations to the Council or Cabinet (as appropriate) following the referral of a local government or crime and disorder matter to the Committee in accordance with paragraph 9.4 of these Rules the Committee must notify the Councillor who made the referral of its decision and the reasons for its decision.

10. Policy review and development

- 10.1 The role of the Overview and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the budget and policy framework procedure rules in part 3 of this chapter.
- 10.2. 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 Committees or Sub-Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- 10.3 Overview and 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, in so far as budget provision has been made by the Council for these purposes.

11. Reports from Overview and Scrutiny Committee

- 11.1 Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the proper officer for consideration by the Leader/Cabinet (as appropriate) (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).

- 11.2 If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Leader/Cabinet (as appropriate), then a minority report which is supported by the largest minority, but at least three members, may be prepared and submitted for consideration by the Council or Leader/Cabinet (as appropriate) with the majority report. The names of those who dissent may, at a member's request, be recorded on the main report.
- 11.3 Where the Overview and Scrutiny Committee makes a report or recommendations to the Council or Leader/Cabinet (as appropriate) the Committee may publish its report or recommendations and must by notice in writing require the Council or Leader/Cabinet (as appropriate) to consider the report or recommendations, and to notify the Overview and Scrutiny Committee what (if any) action it proposes to take. This must be done within two months of the Council or Leader/Cabinet (as appropriate) receiving the report or recommendations or (if later) the notice. For crime and disorder matters (including crime and disorder CCfAs) the Council or Leader/Cabinet (as appropriate) and any of the other responsible authorities or co-operating bodies to whom the report or recommendations have been sent must respond in writing and within 28 days from the date of the report or recommendations, or if this is not reasonably possible, as soon as reasonably possible thereafter. The Overview and Scrutiny Committee must provide the Councillor who made the referral of the local government or crime and disorder matter in accordance with paragraph 9.4 of these Rules a copy of any report or recommendations made to the Council or Leader/Cabinet (as appropriate) after consideration of that referral by the Overview and Scrutiny Committee. If the Overview and Scrutiny Committee has published its report then Leader/Cabinet will publish its response.

12. Making sure that overview and scrutiny reports are considered by the Leader/Cabinet (as appropriate)

- 12.1 Once an Overview and Scrutiny Committee has completed its deliberations on any matter, the Committee, advised by the proper officer, will forward a copy of its final report to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. When the matter is referred to Council, the proper officer will also serve a copy on the Leader and the chair of the relevant Overview and Scrutiny Committee with notice that the matter is to be referred to Council. The Leader/Cabinet (as appropriate) will have one month in which to respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from an Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the cabinet to the overview and scrutiny proposals and shall respond to the Overview and Scrutiny Committee within two months of receiving the report or recommendations. For crime and disorder matters (including crime and disorder CCfAs) the Council or Leader/Cabinet (as appropriate) and any of the other responsible authorities or co-operating bodies to whom the report or recommendations have been sent must respond in writing and within 28 days from the date of

the report or recommendations, or if this is not reasonably possible, as soon as reasonably possible thereafter.

12.2 Where an Overview and Scrutiny Committee or Sub-Committee prepares a report for consideration by the Cabinet in relation to a matter where the Leader or Council has delegated decision making power to another individual member of the Cabinet, then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the proper officer and the Leader. If the member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Cabinet member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within four weeks of receiving it. A copy of his/her written response to it shall be sent to the proper officer and he/she will attend a future meeting to respond.

12.3 Overview and Scrutiny Committees will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

13. Rights of Overview and Scrutiny Committee members to documents

13.1 In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the access to information rules in part 2 of this chapter of the constitution.

13.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

14. Members and employees giving account

14.1 Any Overview and Scrutiny Committee or Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Chief Executive and/or any director, assistant director and service manager to attend before it to explain in relation to matters within their remit:

- (i) any particular decision or series of decisions;
- (ii) the extent to which the actions taken implement Council policy;
- (iii) their performance.

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

- 14.2 Where any member or employee is required to attend an Overview and Scrutiny Committee under this provision, the chair of that Committee will inform the proper officer. The proper officer shall inform the member or employee in writing giving at least five 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 employee concerned will be given sufficient notice to allow for preparation of that documentation.
- 14.3 Where, in exceptional circumstances, the member or employee is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or employee arrange an alternative date for attendance to take place normally within a maximum of 15 working days from the date of the original request.

15. Attendance by others

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 14 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 employees in other parts of the public sector and shall invite such people to attend.

16. Call-in

- 16.1 When a decision is made by the Leader, Cabinet, an individual member of the Cabinet or a Committee of the Cabinet, or a key decision is made by an employee with delegated authority from the Leader/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 Councillors will be sent copies of the records of all such decisions within the timescale, by the person responsible for publishing the decision.
- 16.2 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 working days after the publication of the decision, unless the call-in procedure is triggered.
- 16.3 During that period, the proper officer shall call-in a decision for scrutiny by the relevant Overview and Scrutiny Committee if so requested in writing and signed by one third of the whole number of members of an Overview and Scrutiny Committee or any six members of the Council. The proper officer shall then notify the decision-taker of the call-in. (Note: Any one parent governor or diocesan representative on the Overview and Scrutiny Committee(s) dealing with education matters may also provide written notice of a request for call-in on education matters).

- 16.4 Once a decision has been called in it will be considered by the next available meeting of the relevant Overview and Scrutiny Committee which will be meeting on a cycle of six weeks.
- 16.5 If, in the view of the Chief Executive, the matter falls within the remit of more than one Overview and Scrutiny Committee the proper officer shall refer the request to the most relevant Overview and Scrutiny Committee following consultation with the relevant Committee chairs.
- 16.6 If, having considered the decision, the relevant Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision-maker they shall then reconsider the decision within a further six working days, amending the decision or not, before adopting a final decision. The relevant Overview and Scrutiny Committee may make representations to the decision-maker during reconsideration of the matter.
- 16.7 If following receipt of a request for a matter to be called-in the Overview and Scrutiny Committee does not meet as scheduled, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the scheduled date of the overview and scrutiny meeting.
- 16.8 To avoid the possibility of very many emergency Council meetings Overview and Scrutiny Committees should normally only use the power to refer a matter to the full Council for consideration with a request for referral back to the decision-maker if it considers either:
- (i) that the decision is contrary to the policy framework or contrary or not wholly in accordance with the budget;
 - (ii) where a request for call-in is signed by six or more members representing at least two political groups.
- 16.9 If a matter is referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council'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 Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider the matter within six working days of the Council request. Where the decision was made by an individual, the individual will reconsider within six working days of the Council request.

16.10 If the Council meets but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.

16.11 Call-in and urgency

The call-in procedure set out above shall not apply where the decision being taken by the Leader/Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. 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 Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the relevant overview and scrutiny chair, the vice-chair's consent shall be required. The chair or vice-chair of more than one Overview and Scrutiny Committee shall be consulted if the proper officer considers that an urgent decision falls within the remit of more than one Overview and Scrutiny Committee. In the absence of these consultees the head of paid service or his/her nominee's consent shall be required. All members of a relevant scrutiny Committee will be notified in writing (including electronic communication) as soon as it is practicably possible to do so when agreement to waive call-ins is given under this rule.

Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

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.

17. The party whip

When considering any matter in respect of which a member of an Overview and Scrutiny Committee 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 Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

18. Procedure at Overview and Scrutiny Committee meetings

18.1 Overview and Scrutiny Committees and Sub-Committees shall consider the following business:

- (i) minutes of the last meeting;
- (ii) declarations of interest (including whipping declarations);
- (iii) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;

- (iv) responses of the Leader/Cabinet (as appropriate) to reports of the Overview and Scrutiny Committee;
 - (v) the business otherwise set out on the agenda for the meeting.
- 18.2 Where the Overview and Scrutiny 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:
- (i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy;
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 18.3 Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Leader/Cabinet (as appropriate) and/or Council as appropriate and shall make its report and findings public.
- 19. Procedure for handling petitions at Overview and Scrutiny Committees**
- 19.1 Overview and Scrutiny Committees have an important role in relation to petitions submitted to the Council. Petitions must be handled in accordance with the Council's petition scheme which is attached as appendix A to the Council Rules in part 1 of chapter 4 of the constitution.
- 20. Matters within the remit of more than one Overview and Scrutiny Committee**
- 20.1 Where a matter for consideration by an Overview and Scrutiny Committee or Sub-Committee also falls within the remit of one or more other Overview and Scrutiny Committee or Sub-Committee the decision as to which Overview and Scrutiny Committee will consider it will be resolved by the proper officer in consultation with the relevant Committee chairs.
- 20.2 Alternatively the relevant Overview and Scrutiny Committee may establish a time-limited, politically balanced task group comprising members from each of the relevant Overview and Scrutiny Committee to deal with the matter.
- 20.3 Before submitting its findings to the Leader/Cabinet (as appropriate) and/or Council for consideration, the report of the reviewing Overview and Scrutiny Committee shall be considered by the other relevant Overview and Scrutiny Committee for comment. Those comments shall be incorporated into the report which is then sent to that body for consideration within the set timescales.

21. Joint arrangements

- 21.1 There will be one Joint NHS Scrutiny Committee with Kent County Council comprising members appointed by Medway Council and members appointed by Kent County Council. The rules set out below apply to the joint Committee and any Sub-Committee established by it.
- 21.2 The Committee will appoint a chairman at its first meeting in each municipal year, and that chairman will normally be drawn in rotation from Kent members and Medway members. Where a review is unfinished at the end of a municipal year, members may agree that the previous year's chairman (if still a member of the Committee) may continue to preside over consideration of matters relating to that review.
- 21.3 If the joint Committee cannot agree a single response to an NHS consultation then a minority response which is supported by the largest minority, but at least three members, may be prepared and submitted for consideration by the NHS body with the majority response. The names of those who dissent may, at a member's request, be recorded on the main response.
- 21.4 The response of the joint Committee to a consultation will normally be submitted to the chair and spokespersons of the relevant Overview and Scrutiny Committees of Kent and Medway prior to its submission to the NHS body and at least ten working days before the closing date of the consultation.
- 21.5 Following receipt of the joint Committee response by the chair and spokespersons of the relevant Overview and Scrutiny Committee, either of those Committees (or an appropriately empowered Sub-Committee thereof) may meet and resolve to inform their proper officer of views or comments they wish to have incorporated in the joint Committee's response. If such a request is received by a proper officer before the closing date of the consultation, those views or comments will be appended to the joint Committee's response and that appendix will form part of the joint Committee's response.
- 21.6 These rules will take precedence over the rules in the constituent authorities constitutions, which will otherwise apply to the joint Committee. Where the rules of the constituent authorities' constitutions are in conflict the chairman's ruling will determine which applies.
- 21.7 Kent and Medway NHS Joint Overview and Scrutiny Committee terms of reference
- (i) To receive evidence in relation to consultations initiated by local NHS bodies regarding proposals for substantial development or variation of the health service which effect both Medway and a substantial part of Kent.
 - (ii) To make comments on behalf of the relevant Overview and Scrutiny Committees of Medway and Kent on any such proposals to the NHS body undertaking the consultation.

- (iii) To undertake other scrutiny reviews of health services if requested to do so by the relevant Overview and Scrutiny Committees of both Medway and Kent.
- (iv) To report on such other scrutiny reviews to the relevant Overview and Scrutiny Committees of Medway and Kent.

22. Terms of reference of Overview and Scrutiny Committees

22.1 General Terms of reference

Each Overview and Scrutiny Committee shall have the following general terms of reference in relation to their specific areas of responsibility:

- (i) To consider any matter affecting the area or its inhabitants;
- (ii) To exercise the right to call-in, for consideration, decisions made but not yet implemented by the executive and other statutory functions including, but not limited to, pre-decision scrutiny and holding the executive to account;
- (iii) To exercise overall responsibility for the finances made available to them;
- (iv) To report annually to the Full Council on their workings;
- (v) To exercise overall responsibility for the work programme of the employees employed to support their work;
- (vi) To submit a work programme on an annual basis, including recommendations on amended working methods and taking account of the concerns of the church and parent governor representatives where applicable;
- (vii) To consider any petitions within their remit received by Full Council which do not relate to a matter falling within the remit of an executive Committee, and report as appropriate;
- (viii) To put in place and maintain a system to ensure that referrals from overview and scrutiny to the Cabinet either by way of report or for reconsideration are managed efficiently;
- (ix) In agreement with other relevant overview and scrutiny to appoint time limited overview and scrutiny panels to consider specific matters which cut across the terms of reference of two or more Overview and Scrutiny Committees and to determine their terms of reference;
- (x) At the request of the Cabinet, to make decisions about the priority of referrals made by that Overview and Scrutiny Committee to the Cabinet if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business;

- (xi) To conduct service reviews;
- (xii) To scrutinise and review partnership working including the performance of partners;
- (xiii) To scrutinise and review the operation of risk management in the Council.
- (xiv) To deal with any local government matter referred to the Committee under the provisions for raising a Councillor Call for Action subject to the guidance and procedures set out in section 23 of the Overview and Scrutiny rules.
- (xv) To deal with petitions referred to the Committee under and in accordance with the Council's petition scheme.

22.2 Specific terms of reference

(a) **Business Support Overview and Scrutiny Committee**

To fulfil all the functions of an Overview and Scrutiny Committee in relation to support services, and in particular (but not limited to):

- (i) matters concerning the employment of staff, terms and conditions of employment and staff development;
- (ii) equalities in the community and the workplace;
- (iii) monitoring and assessing access to Council services including being the scrutiny Committee with responsibility for the Customer First initiative;
- (iv) the management of all matters in connection with the media, public relations and communications and the consultation process;
- (v) the management and provision of legal contract/strategic procurement and property services (including licensing, strategic enforcement and local land charges);
- (vi) the management and provision of building maintenance and the design and surveying services;
- (vii) corporate sponsorship and bidding;
- (viii) the provision of ICT;
- (ix) the planning and co-ordination of service delivery;
- (x) the function and duties of the Council in relation to the conduct of elections;

- (xi) the provision of members' support;
- (xii) to fulfil the overview and scrutiny role in relation to the Council's Council Plan and Sustainable Community Plan;
- (xiii) all matters pertaining to the governance of the Council including the review of the constitution, executive arrangements, Council rules and members' allowances;
- (xiv) to consider the effectiveness of partnership working, including the Local Strategic Partnership;
- (xv) to assist the Cabinet in the development of the Council's annual budget and to review and scrutinise the Council's performance in relation to budgetary management;
- (xvi) to assist the Council in the development of a three-year budget strategy;
- (xvii) to review the management of resources made available to the Council and to scrutinise its financial management, property and asset acquisition and disposal and capital programme;
- (xviii) to assist the Cabinet in the development of a Council wide property and asset strategy;
- (xix) to scrutinise the Council's treasury management, investment strategy, minimum revenue provision policy statement along with treasury management practices and associated schedules;
- (xx) to promote procedures which ensure proper custodianship of Council finances, making recommendations to the Cabinet for best financial practice across the Council;
- (xxi) to review the operation of the Council's financial regulations making proposals to the Cabinet and/or Council for their development;
- (xxii) to receive reports from the Council's internal and external auditors and the Council's internal auditor making suggestions for improvement in practice to the Council and/or Cabinet as required, as a result of those reports;
- (xxiii) in particular to fulfil the overview and scrutiny role in relation to the development of the Council's budget, capital strategy, corporate (strategic) plan, corporate asset management plan, e-government strategy and equal opportunities statement;

- (xxiv) to provide guidance and leadership on the development and co-ordination of the scrutiny function for all Overview and Scrutiny Committees, including guidance on priorities for scrutiny activity;
- (xxv) the operational management of the Council's housing stock;
- (xxvi) the development of partnerships with external organisations to meet housing need and regenerate unsatisfactory housing;
- (xxvii) the improvement of private sector housing;
- (xxviii) grants and loans to owner occupiers, tenants, landlords and/or developers;
- (xxix) homelessness and rehousing;
- (xxx) special needs housing;
- (xxxi) housing strategy;
- (xxxii) Registrars and Bereavement Services;
- (xxxiii) scrutiny of work areas within the remit of the Chief Executive;
- (xxxiv) the provision and management of libraries;
- (xxxv) adult learning

(b) **Children and Young People Overview and Scrutiny Committee**

To fulfil all the functions of an Overview and Scrutiny Committee in relation to children and in particular (but not limited to):

- (i) School services and all of the functions of the Council as an education authority under the Education Acts, School Standards and Framework Act 1998 and all other relevant legislation in force from time to time;
- (ii) the provision of opportunities for education, training and learning outside the school environment including pre-school, community learning and youth justice issues;
- (iii) to fulfil the overview and scrutiny role in relation to the development of the Council's asset management plan for schools, behaviour support plan, early years development and childcare plan, education development plan, lifelong learning and development plan, policy framework for admission to schools, school organisation plan, special educational needs action plan and youth justice plan;

- (iv) fostering and adoption and family placements;
- (v) children and family services including all functions and duties of the Council under all relevant legislation in force from time to time relating to children's social work and social services;
- (vi) in particular to fulfil the overview and scrutiny role in relation to the children and young people's strategic plan;
- (vii) youth health promotion;
- (viii) youth strategy;
- (ix) mental and physical disabilities in young people;
- (x) quality protects;
- (xi) inclusion;
- (xii) collaborative working with health and voluntary agencies;
- (xiii) scrutiny of work areas within the remit of the Director of Children and Adults, excluding adult social care.

The review and scrutiny of matters relating to the health service including National Health Service (NHS) scrutiny in accordance with the provision of the Health and Social Care Act 2001, insofar as it relates to children's health; in particular

- (i) the review and scrutiny of local NHS Bodies, in particular (but not limited to) any matter relating to the planning, provision and operation of health services for children in Medway;
- (ii) supporting the improvement of health services and the reduction of health inequalities for the children of Medway;
- (iii) considering and responding directly to consultations from the NHS on any proposal for a substantial development or substantial variation in the provision of health services for children in Medway.

NOTE:

The Children and Young People Overview and Scrutiny Committee will have responsibility for health scrutiny in relation to children (defined for this purpose as young people aged 0-18 years).

The Health and Adult Social Care Overview and Scrutiny Committee will be the lead on scrutiny of health insofar as it relates to the transition between childhood and adulthood or where consultation by the NHS bridges services for children and adults, with participation by

representatives of the Children and Young People Overview and Scrutiny Committee when such matters are discussed.

(c) Health and Adult Social Care Overview and Scrutiny Committee

To be responsible for:

- (i) the review and scrutiny of matters relating to the health service in the area, including NHS scrutiny, in accordance with the provisions of the Health and Social Care Act 2001 (with the exception of matters relating to children's health which shall be within the remit of the Children and Young People Overview and Scrutiny Committee) as follows:
 - the review and scrutiny of local National Health Service Bodies (NHS), in particular (but not limited to) any matter relating to the planning, provision and operation of health services in Medway,
 - supporting the improvements of health services and the reduction of health inequalities for the people of Medway,
 - considering and responding directly to consultations from the National Health Service on any proposal for a substantial development or substantial variation in the provision of health services in Medway,
 - any other matters within the remit of the Community Services Overview and Scrutiny Committee that the committee may wish to delegate to the sub-committee;
- (ii) health promotion;
- (iii) all the functions and duties of the Council under relevant legislation in force from time to time and relating to residential and day care, domiciliary care and respite care and social work for elderly people, adults with physical disabilities, people with mental health problems and learning difficulties, home care service, staffing and emergency response for elderly persons in sheltered housing and hospital social workers;
- (iv) social care procurement;
- (v) collaborative working with health and voluntary sector agencies in the area;
- (vi) the promotion of good health and the Council's specific initiatives to support this.

NOTE:

The Children and Young People Overview and Scrutiny Committee will have responsibility for health scrutiny in relation to children (defined for this purpose as young people aged 0-18 years).

The Health and Adult Social Care Overview and Scrutiny Committee will be the lead on scrutiny of health insofar as it relates to the transition between childhood and adulthood or where consultation by the NHS bridges services for children and adults, with participation by representatives of the Children and Young People Overview and Scrutiny Committee when such matters are discussed.

(d) Regeneration, Community and Culture Overview and Scrutiny Committee

To fulfil all the functions of an Overview and Scrutiny Committee in relation to regeneration, community and culture, and in particular (but not limited to):

- (i) all of the functions and duties of the Council insofar as they relate to environmental health, including street cleansing, recycling and refuse collection and air quality management and pollution control;
- (ii) strategic planning;
- (iii) community safety;
- (iv) the wardens' service;
- (v) travellers;
- (vi) CCTV and enforcement;
- (vii) emergency planning;
- (viii) landscape, urban design and conservation;
- (ix) all of the functions and duties of the Council in relation to development and building control;
- (x) the preparation, implementation and maintenance of traffic management and highway schemes and initiatives;
- (xi) matters in relation to LA 21;
- (xii) in particular to fulfil the overview and scrutiny role in relation to the development of the Council's air quality action plan, development plan, food law enforcement service plan, local transport plan and waste strategy;

- (xiii) the development of the Council's rural strategy;
- (xiv) the regeneration of communities in the area and the physical regeneration of the area including being the scrutiny Committee for matters within the remit of the Medway Renaissance Partnership;
- (xv) the provision and management of community services and participation;
- (xvi) economic development and social regeneration including to fulfil the overview and scrutiny role in relation to the development of the Council's economic development strategy;
- (xvii) the management of events and heritage attractions;
- (xviii) the development and promotion of tourism;
- (xix) the development of the Council's cultural strategy;
- (xx) the provision and management of castles, museums, art galleries, theatre, archives and local history activities, leisure centres, swimming pools and other like facilities;
- (xxi) leisure, arts, sport and recreational activities to enhance the quality of life for local people;
- (xxii) the provision and management of trees, parks, grounds and other like facilities;
- (xxiii) all of the functions of the Council in relation to European matters;
- (xxiv) social inclusion, community development and neighbourhood renewal and the Council's specific initiatives to promote them;
- (xxv) scrutiny of work areas within the remit of the Director of Regeneration, Community and Culture;
- (xxvi) scrutiny of the work of the Community Safety Partnership and the partners who comprise it, insofar as their activities relate to the partnership itself and to consider crime and disorder CCfAs (in accordance with the guidance and procedures on the CCfA as set out in section 23 of the Overview and Scrutiny rules);
- (xxvii) the review and scrutiny of flood and coastal erosion risk management functions under the Flood and Water Management Act 2010.

23. Guidance and procedures for Councillor Call for Action

23.1 What is a Councillor Call for Action?

Councillor Call for Action (CCfA) is a process for a Councillor to act on behalf of residents to resolve a local issue of concern, acting **as a last resort** for people who cannot get issues resolved through any other means. Ward Councillors should be looking to identify CCfAs in their community, but CCfAs can also be raised by local people directly with their ward Councillors. It will still be up to Councillors to recognise whether an issue is a CCfA and whether it is appropriate to champion that issue.

The decision to raise and champion a CCfA lies with individual Councillors. The CCfA, alongside proposals which will require a much wider range of agencies to formally cooperate with scrutiny in the future, is intended to provide greater emphasis to the work undertaken by Councillors in their communities as community advocates and champions, and to further increase the accountability of public service providers to local communities.

CCfA is a legal requirement from April 2009 and Councillors are under a **duty** to consider requests from members of the public on certain issues.

23.2 What's new about the CCfA?

What distinguishes the CCfA from items and topics already raised by Councillors for consideration by scrutiny is:

- **Any** member can raise a CCfA issue for scrutiny to consider
- The focus of the CCfA is on **neighbourhood** or **locality** issues and specifically the **quality** of public service provision at a locality level.
- The CCfA represents a genuine local **community** concern (based on local Councillors' judgements) and
- It is a **persistent** problem which the local Councillor has been **unable to resolve** through local action and discussion with relevant services and agencies.

Scrutiny reviews resulting from CCfA will be undertaken by Overview and Scrutiny Committees with an invitation to Councillors from the affected locality to contribute to the discussion. There is an expectation that any scrutiny reviews resulting from CCfA on the **ward-based scrutiny issues** will be 'short and sharp', focused reviews - it is important that the public see this as a responsive and un-bureaucratic process which delivers tangible outcomes.

23.3 What is expected of a local Councillor?

Essentially Councillor Call for Action (CCfA) is a recognition of the work undertaken by ward Councillors in taking up local issues on behalf of their communities. Councillors are expected to identify issues of local concern and act with and on behalf of their community to resolve those issues. It is up to Councillors using this guidance to decide:

- Which issues to take forward as CCfAs and champion;
- When an issue should be referred to the relevant Overview and Scrutiny Committee and
- When to reject an issue.

It is a matter of judgement for a Councillor to decide which local matters to champion and each local Councillor will be accountable to the local community for these judgements. Championing a request will mean taking the issue up on behalf of the resident(s) concerned and trying to resolve the problem by liaising with council officers, and/or outside agencies.

Councillors deal with issues of concern on behalf of their constituents as an everyday part of their constituency case work. The CCfA is not intended to add additional bureaucracy to these ward Councillor requests, which will continue to be dealt with in the same way as they are now. If a Councillor or a member of the public is uncertain about whether a request might be appropriate, the Head of Democratic Services and Head of Elections and Members Services can provide advice and assistance.

23.4 Checklist for Councillors using a CCfA

Initial consideration and actions:

- Discussion with other ward Councillors (to check their actions and intentions and whether they can help).
- Take steps to resolve the issue through existing mechanisms such as contacting Council Officers (including the Overview and Scrutiny Team), liaising with other organisations, use of the Council's complaints procedure or petitions procedure, or checking whether it can be fed into an existing Task Group.
- If the issue is resolved, inform the resident of the outcome and the steps taken, including any difficulties or learning points.
- If the issues remain unresolved, consult the Overview and Scrutiny Team and if appropriate formally request that the item be considered by the relevant Overview and Scrutiny Committee.
- A Councillor must take in to account government guidance on CCfA in determining whether to refer a matter to the relevant Overview and Scrutiny Committee

[A flow chart of the CCfA process is attached to this guidance and takes you through each step of the process].

Reject if it is any of the following:

- An individual complaint (unless it is a series of individual complaints demonstrating “systematic failure” in a particular area)
- An issue relating to an “excluded” matter such as planning or licensing matter or another issue where individuals or entities have a right of appeal (other than a complaint to the Ombudsman)
- Vexatious, discriminatory or not reasonable (see notes at end).

- It is being used as a “second bite of the cherry” e.g. where a previous call-in has failed, or a petition has already been considered.

Accept if it is:

- An issue of genuine local concern; and
- All other avenues for resolution have been followed, and
- this now seems to be the most appropriate way to deal with it.

23.5 **How does CCfA fit with the Overview and Scrutiny Committee Work Programmes?**

Currently any member of an Overview and Scrutiny Committee (or 6 other members) can put an item on the relevant Committee agenda using the arrangements set out in the Councils Overview and Scrutiny rules. These arrangements remain unchanged.

The aim of Scrutiny is to be as strategic as possible, championing issues on behalf of the community so it is possible that a CCfA topic may already be included in an Overview and Scrutiny Committee work programme.

It is valuable for CCfA issues to feed into overview and scrutiny work programmes, and vice versa. The purpose of CCfA is to give members more of a voice, and scrutiny itself is a member-led process. CCfA can sit comfortably alongside existing methods for placing items on the scrutiny work programme. CCfA should make the work programme more relevant and timely.

Each Overview and Scrutiny Committee has the power to deal with CCfAs within its terms of reference. The Committee will be asked to identify if a CCfA is appropriate for scrutiny ensuring that the issues scrutinised and reviewed are of genuine community concern.

The Committee receiving a CCfA will receive an initial report and relevant ward Councillors will be invited to take part in the meeting if they are not members of the Committee. The Committee will then take a view on next steps which may include a Task Group to review the issues in some detail. In deciding whether to take any further action the Committee will take in to account any representations made by the Councillor as to why further investigation or review is appropriate.

23.6 **Consideration of a CCfA by an Overview and Scrutiny Committee**

Ward Councillors and where possible representatives of the community concerned will be notified of the date of the meeting and invited to attend along with any other relevant bodies. The Chairman will provide a short introduction and the Councillor bringing the CCfA will be invited to outline their objectives and to answer questions from other members. The discussion will be structured to focus on the issue raised.

Overview and Scrutiny Checklist for determining a CCfA

The Committee will review the actions taken to date to resolve the issue and all of the criteria set out in paragraph 4 above. It may determine that no action should be taken, for example because:

- The applicant is a vexatious complainant and the issue is being or has been dealt with under the Council's Complaints procedure.
- The issue is currently going through the complaints procedure, and it is appropriate for this to be concluded.
- Ward Councillors have not explored the issue fully and exhausted all avenues.

Alternatively, it may conclude that the public interest is best served by setting up a Task Group to consider the matter in more detail. The Committee should endeavour where possible to identify an appropriate "resolution" of the issue.

Where a Committee decides not to take any further action in respect of a CCfA (such as to carry out a review of the matter) it will inform the member who referred the matter, in writing, of its decision and its reasons for that decision.

Notes

Definition of a Complaint

For the purpose of the Council's procedure the Council accepts the Local Government Ombudsman's definition.

"An expression of dissatisfaction by one or more members of the public about the Council's action or lack of action or about the standard of a service, whether the action was taken or the service provided by the Council itself or a person or body acting on behalf of the Council."

Statutory Regulations state that *any matter which "is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee is to be excluded"*.

The relevant Guidance states as follows in regard to these terms:

"Vexatious" and "persistent" – it is probably best to refer to the guidance to the Freedom of Information Act which states that:

Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easier to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid – it may relate to a systematic problem that has

not been effectively resolved. A request which some members may regard as vexatious, for political reasons, may actually be entirely reasonable.

Councils should not see politically motivated CCfAs, and CCfAs on subjects of high-profile political controversy, as a threat. They should be used as an opportunity for Members to defuse political rows and, jointly, to develop solutions that are satisfactory to all.

“Discriminatory” – a modern interpretation of the word “discrimination” is provided at section 45 of the Equality Act 2006, in relation to religion and belief, as follows:

A person (“A”) discriminates against another (“B”) for the purposes of this Part if on grounds of the religion or belief of B or of any other person except A (whether or not it is also A’s religion or belief) A treats B less favourably than he treats or would treat others (in cases where there is no material difference in the relevant circumstances).

“Not reasonable” – it is suggested that, in the interests of transparency, authorities do not interpret “not reasonable” as being the same as the legal word “unreasonable”. It is best to consider it as a qualifier to the word “vexatious”, as a vexatious request is likely not to be reasonable, and a request that is not reasonable is likely to be vexatious.

Other exclusions – Regulations also state that issues should be excluded from CCfA when they relate to a planning decisions, licensing decisions and all other areas where a person has an alternative avenue to resolve an issue (that is, through a statutory review or appeal process). The Guidance also advises that individual complaints (i.e. a complaint made by an individual which relates to the individual service that the Council provides to him or her) should be excluded, as a complaints process already exists. This does not apply, however, where a series of individual complaints demonstrate a “systematic failure” in a particular service area.

Specific criteria for “automatic rejection” of CCfAs under certain circumstances will not be the best way forward, because each CCfA will need to be looked at on its own merits.

Definition of a local crime and disorder matter for the purposes of CCfA

A matter concerning

- (a) crime and disorder (including in particular, forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) or
- (b) the misuse of drugs, alcohol and other substances

which affects all or part of the ward for which the member is elected or any person who lives or works in that area.

(c) Councillor Call for Action Flow Chart

