

## **PART A of APPENDIX 1**

**Commences from page 30 of the Council's Constitution**

### **ARTICLE 6 OVERVIEW AND SCRUTINY**

#### **6.1 One overview and scrutiny committee**

Subject to the exception set out in this paragraph 6.1, the Council will appoint one overview and scrutiny committee consisting of all members of the Council who are not members of the Executive, provided that this composition complies with the political balance requirements of the Local Government and Housing Act 1989. If that is not possible, or if there is not unanimous agreement at the Annual General Meeting to such arrangements in any year, then the Council will decide on the composition of this committee so as to give the widest possible membership to the committee, but excluding members of the Executive.

Members appointed to the Executive may not sit on the Overview & Scrutiny Committee and any Member who is appointed by the Mayor to serve on the Executive for any part of a year may not thereafter serve as a member of Overview and Scrutiny Committee or its Sub Committees during that municipal year.

#### **6.2 The role of the overview and scrutiny committee**

The overview and scrutiny committee will be responsible for the overview and scrutiny of functions in accordance with the Local Government Act 2000 as amended but may not carry out any other functions unless relevant legislation is brought into effect to the contrary.

The law requires that the overview and scrutiny committee must have power to recommend that a decision which is the responsibility of the executive which has been made but not implemented be reconsidered by the decision-maker (or to arrange for the full Council to review such a decision). In this Constitution these powers are referred to as 'call-in'. The operation of call in is dealt with under the heading 'Conflict Resolution' at Article 8.

The law also requires that, subject to certain exceptions, members of the Council may refer relevant matters to the overview and scrutiny committee, or an overview and scrutiny select committee, or Business Panel. This is dealt with in Section E of Part IV below.

Any matters which must by law be carried out by an overview and scrutiny committee, but are not delegated to a select committee, shall be the responsibility of the Overview and Scrutiny Committee.

#### **6.3 Overview and scrutiny arrangements**

The overview and scrutiny committee will meet at least once per year to appoint the sub-committees set out in Column 1 of Table 1 below, each of which will have membership as set out in the corresponding entry in Column 2. With the exception of the Business Panels, the following sub committees will be known as select committees. Every member of the overview and scrutiny committee must serve on at least one of its sub-committees.

The delegation of functions by the Overview and Scrutiny Committee to its Select Committees does not prevent exercise of those functions by the Overview and Scrutiny Committee.

Table 1.

Column 1	Column 2
Public Accounts Select Committee	6 – 10 members of the Council who are not members of the Executive, the number to be determined annually by the Council
Children & Young People Select Committee	6 – 10 members of the Council (to be determined annually by the Council) who are not members of the Executive and 3 parent governor representatives elected in accordance with the Parent Governor Representatives (England) Regulations 2001 and 2 diocesan representatives appointed in accordance with Schedule A1 Local Government Act 2000 as amended. Parent and diocesan representatives have full voting rights on this select committee
Healthier Communities Select Committee	6 – 10 members of the Council who are not members of the Executive, the number to be determined annually by the Council
Sustainable Development Select Committee	6 – 10 members of the Council who are not members of the Executive, the number to be determined annually by the Council
Safer Stronger Communities Select Committee	6 – 10 members of the Council who are not members of the Executive,
Housing Select Committee	6 – 10 members of the Council who are not members of the Executive

Business Panel	<p>Consisting only of the following members of the Council:-</p> <ul style="list-style-type: none"> <li>• The chair and vice chair of the overview and scrutiny committee</li> <li>• the chair of each of the select committees appointed by the overview and scrutiny committee</li> <li>• 2 or the smallest number higher, of councillors required to ensure the political composition of the Council is reflected</li> </ul> <p>NB Members of the Council's Executive may not sit on the Business Panel or any overview and scrutiny body</p>
Education Business Panel	<p>Consisting of those members of the Council appointed to the Business Panel plus:-</p> <ul style="list-style-type: none"> <li>• 2 x Diocesan Representatives</li> <li>• 3 governor representatives i.e. one each for primary schools, special schools and secondary schools</li> </ul>

#### **6.4 The Local Petition Scheme**

The Council has an approved scheme for handling petitions. It appears at Appendix 2. The scheme provides for anyone who lives, works or studies in the borough to sign or organise a petition. The petition may be submitted to the Council either on paper or by means of e-petition. The scheme sets out the possible responses which are available to the Council.

#### **6.5 The role of the select committees and the Business Panels**

In relation to the activities within their remit, the select committees and the Business Panel will all carry out the roles set out in paragraph 6.6 (a) – (f) below.

However nothing in this Article allows the select committees to exercise any power of call in on behalf of the Overview and Scrutiny Committee. Nor are the select committees authorised to take any action permitting the Executive to take urgent decisions without call in procedures applying. These exempted functions may be exercised on behalf of the main Overview and Scrutiny Committee only by its Business Panels, (and the Chair of that Panel where the law and the

Constitution so provide) or the Education Business Panel whose terms of reference are limited to the exercise of call-in powers on matters relating wholly or partly to any education functions which are the responsibility of the Executive.

## **6.6 Roles common to select committees and the Business Panel**

The following roles are common to all select committees and Business Panel.

### **(a) *General functions***

- To review and scrutinise decisions made and actions taken in relation to executive and non-executive functions
- To make reports and recommendations to the Council or the executive, arising out of such review and scrutiny in relation to any executive or non-executive function
- To make reports or recommendations to the Council and/or Executive in relation to matters affecting the area or its residents
- The right to require the attendance of members and officers to answer questions includes a right to require a member to attend to answer questions on up and coming decisions
- To consider matters referred to it in accordance with the Council's Petition Scheme

### **(b) *Policy development***

- To assist the executive in matters of policy development by in depth analysis of strategic policy issues facing the Council for report and/or recommendation to the Executive or Council or committee as appropriate
- To conduct research, community and/or other consultation in the analysis of policy options available to the Council
- To liaise with other public organisations operating in the borough – both national, regional and local, to ensure that the interests of local people are enhanced by collaborative working in policy development wherever possible

### **(c) *Scrutiny***

- To scrutinise the decisions made by and the performance of the Executive and other committees and Council officers both in relation to individual decisions made and over time

- To scrutinise previous performance of the Council in relation to its policy objectives/performance targets and/or particular service areas
- To question members of the Executive or appropriate committees and executive directors personally about decisions
- To question members of the Executive or appropriate committees and executive directors in relation to previous performance whether generally in comparison with service plans and targets over time or in relation to particular initiatives which have been implemented
- To scrutinise the performance of other public bodies in the borough and to invite them to make reports to and/or address the select committee/Business Panel and local people about their activities and performance
- To question and gather evidence from any person outside the Council (with their consent where the law does not require them to attend).
- To make recommendations to the Executive or appropriate committee and/or Council arising from the outcome of the scrutiny process

(d) *Community representation*

- To promote and put into effect closer links between overview and scrutiny members and the local community
- To encourage and stimulate an enhanced community representative role for overview and scrutiny members including enhanced methods of consultation with local people
- To liaise with the Council's ward assemblies and/or Positive Ageing Council so that the local community might participate in the democratic process and where it considers it appropriate to seek the views of the ward assemblies and/or Positive Ageing Council on matters that affect or are likely to affect the local areas, including accepting items for the agenda of the appropriate select committee from ward assemblies and the Positive Ageing Council.
- To keep the Council's local ward assemblies and Positive Ageing Council under review and to make recommendations to the Executive and/or Council as to how participation in the democratic process by local people can be enhanced.
- To receive petitions, deputations and representations from local people and other stakeholders about areas of concern within their overview and scrutiny remit and to refer them to the Executive,

appropriate committee or officer for action, with a recommendation or report if the committee considers that necessary

- To consider any referral within their remit referred to it by a member under the Councillor Call for Action (Part IV E 10), and if they consider it appropriate to scrutinise decisions and/or actions taken in relation to that matter, and/or make recommendations/report to the Executive (for executive matters) or the Council (non-executive matters)

(e) *Finance*

- To exercise overall responsibility for finances made available to it for use in the performance of its overview and scrutiny function.

(f) *Work programme*

- As far as possible to draw up a draft annual work programme in each municipal year for consideration by the Overview and Scrutiny Business Panel. Once approved by the Business Panel, the relevant select committee will implement the programme during that municipal year. Nothing in this arrangement inhibits the right of every member of a select committee (or the Business Panel) to place an item on the agenda of that select committee (or Business Panel respectively) for discussion.
- The Council and the Executive will also be able to request that an overview and scrutiny select committee research and/or report on matters of concern and the select committee will consider whether the work can be carried out as requested. If it can be accommodated, the select committee will perform it. If the committee has reservations about performing the requested work, it will refer the matter to the Business Panel for decision.

## **6.7 Select committees – specific terms of reference**

In addition to the general terms of reference outlined above, the select committees will have the following specific terms of reference:-

### *Public Accounts Select Committee*

- To make reports and recommendations to the Council or the Executive which promote the better custodianship of the Council's finances and to make recommendations for best financial practice across the authority.
- To investigate the possibilities for improving the Council's financial management practice and to make reports and recommendations to Executive or Council as appropriate.

- To encourage the highest standards of financial custodianship where necessary overseeing training activity for all members in this area.
- To consult on and to comment on and make recommendations to the Executive in respect of the actual and proposed contents of the Council's budget and without limiting the general remit of the committee, to hold the Executive to account for its performance in respect of all budgetary matters.
- To receive reports as appropriate from the Audit Panel in respect of their overview of contract procedure rules and financial regulations.
- To make recommendations and reports for consideration by the Executive or Council to improve procurement practice.
- To scrutinise the effectiveness of the Audit Panel.

#### *Healthier Communities Select Committee*

- (a) To fulfil all of the Overview and Scrutiny functions in relation to the provision of service by and performance of health bodies providing services for local people. These functions shall include all powers in relation to health matters given to the Council's Overview and Scrutiny Committee by any legislation but in particular the NHS Act 2006 as amended, the Health and Social Care Act 2012, the Care Act 2014 and regulations made under that legislation, and any other legislation in force from time to time.
- (b) To review and scrutinise the decisions and actions of the Health and Wellbeing Board and to make reports and recommendations to the Council and/or Mayor and Cabinet.
- (c) To review and scrutinise in accordance with regulations made under Section 244 NHS Act 2006 matters relating to the health service in the area and to make reports and recommendations on such matters in accordance with those regulations
- (d) Require the attendance of representatives of relevant health bodies at meetings of the select committee to address it, answer questions and listen to the comments of local people on matters of local concern.
- (e) With the exception of matters pertaining to the Council's duty in relation to special educational needs, to fulfil all of the Council's overview and scrutiny functions in relation to social services provided for those aged 19 years old or older including but not limited to services provided under the Local Authority Social Services Act 1970, Children Act 2004, National Assistance Act 1948, Mental Health Act 1983, NHS and Community Care Act 1990, NHS Act 2006, Health and Social Care Act 2012, Care Act 2014 and any other relevant legislation in place from time to time.

- (f) To fulfil all of the Council's Overview and Scrutiny functions in relation to the lifelong learning of those 19 years or over (excluding schools and school related services).
- (g) To receive referrals from Healthwatch and consider whether to make any report/recommendation in relation to such referral (unless the referral relates solely to health services for those aged under 19 years of age, in which case the referral from Healthwatch should be referred to the Children and Young People Select Committee .
- (h) To review and scrutinise the Council's public health functions.
- (i) Without limiting the remit of this Select Committee, its terms of reference shall include overview and scrutiny functions in relation to:-
  - people with learning difficulties
  - people with physical disabilities
  - mental health services
  - the provision of health services by those other than the Council
  - provision for elderly people
  - the use of Section 75 NHS Act 2006 flexibilities to provide services in partnership with health organisations
  - lifelong learning of those aged 19 years or more (excluding schools and school related services)
  - Community Education Lewisham
  - other matters relating to Health and Adult Care and Lifelong Learning for those aged 19 years or over
- (j) Without limiting the remit of the Select Committee, to hold the Executive to account for its performance in relation to the delivery of Council objectives in the provision of adult services and health and lifelong learning.

**NB** In the event of there being overlap between the terms of reference of this select committee and those of the Children and Young People Select Committee, the Business Panel shall determine which Select Committee shall deal with the matter in question.

#### *Children & Young People Select Committee*

- (a) To fulfil all overview and scrutiny functions as they relate to the social care of children and young people up to the age of 19 years including but not limited to the following activities:-
  - (i) the social services functions of the Council under the Children Act 2004, and all functions of the Council under the National Assistance Act 1948, the Mental Health Act 1983, Children Act 1989, the NHS and Community Care Act 1990, Children Act 2004, Children and Families Act 2014 and all other relevant legislation in force from time to time

- (ii) to invite representatives of other service providers to children and young people in the area to give account of their performance and to answer questions.
- (b) In so far as they relate to the provision of services for those under the age of 19 years, the exercise of all of the Council's powers under all relevant legislation pertaining to education from time to time in force. Without limiting the generality of this, this shall include, in particular, schools and school related services.
- (c) The exercise of the overview and scrutiny powers of the Council in so far as they relate to people under 19 years of age in the provision of opportunities for education, training and learning outside the school environment, including pre-school services.
- (d) In so far as they relate to children and young people under 19 years of age, to make comments and recommendations to the Executive on the contents and proposed contents of the plans making up the Council's policy framework.
- (e) In so far as they relate to people under the age of 25 years, to make comments and recommendations on the provision of education, training and learning by those with special educational needs.
- (f) Without limiting the remit of the Select Committee, its terms of reference include the following matters:
- Child protection - covering provision for vulnerable children including children in need and children looked after, placements, foster care and adoption
  - Early years provision
  - Special needs provision
  - Schools and related services
  - Youth Service
  - Youth offending and challenging behaviour
  - Transitional services for those leaving care
  - Other matters relating to children and young people
- (g) To receive and consider referrals from Healthwatch in so far as they relate solely to people under 19 years of age. Otherwise such referrals will be made to the Healthier Communities Select Committee
- (h) Without limiting the remit of the Select Committee, to hold the Executive to account for its performance in relation to the delivery of Council objectives in the provision of services to children and young people.

**NB** In the event of there being overlap between the terms of reference of this select committee and those of the Healthier Communities Select Committee, the Business Panel shall determine the Select Committee which shall deal with the matter in question.

*Safer Stronger Communities Select Committee*

- (a) To fulfil all overview and scrutiny functions in relation to the discharge by responsible authorities of their crime and disorder function as set out in Sections 19 and 20 Police & Justice Act 2006, as amended from time to time, and all other relevant legislation. This shall include the power:
- (i) to review or scrutinise decisions made, or other action taken, in connection with the discharge by responsible authorities of their crime and disorder function,
  - (ii) to make reports or recommendations to the local authority or the executive with respect to the discharge of those functions; and
  - (iii) to make reports and/or recommendations to the local authority with respect to any matter which is a local crime and disorder matter in relation to a member of the authority. A local crime and disorder matter in relation to a member means a matter concerning crime and disorder (including, in particular, forms of crime and disorder involving anti-social behaviour or other behaviour adversely affecting the environment), or the misuse of drugs, alcohol and other substances, which affect all or part of the electoral area for which the member is elected or any person who lives or works there.
- (b) make proposals to the Executive to promote equality of opportunity within the borough, including issues of discrimination based on race, ethnic origin, gender, disability, sexuality, age and/or class, including the following matters:-
1. to recommend to the Executive, the Council or an appropriate committee, proposals for policy development in relation to equalities issues;
  2. to analyse policy options as necessary to inform the proposals to be made to the Executive or other appropriate committee;
  3. to advise the Executive or other committee on all matters relating to equality of opportunity both in terms of policy, service provision, employment and/or access to public services;
  4. to enhance and develop existing and innovative consultative and/or advisory work for equality of opportunity and to consider issues of inequality and discrimination across the borough;

5. to consider and recommend to the Executive, ways in which participation by disadvantaged and under-represented sections of the community might be more effectively involved in the democratic processes of local government;
  6. to pilot methods of consultation and involvement and to report back to the Executive or appropriate committee on their effectiveness with recommendation if appropriate;
  7. to establish links with and liaise with external organisations in the borough which are concerned with the promotion of equality of opportunity.
- (c) Overview & Scrutiny functions (excluding call-in) in relation to library provision.

#### *Sustainable Development Select Committee*

- (a) To exercise all the functions and roles of the overview and scrutiny committee in relation to the following matters:
- to examine issues relating to the protection of the environment including 'green' issues such as the conservation of natural resources, air quality, energy efficiency and conservation and/or the reduction of all types of pollution and make recommendations to the Mayor and Cabinet as appropriate;
  - to comment and consult on and make recommendations to the Mayor and Cabinet in relation to the following:
    - i. sustainable development, economic development, business support, employment and training;
    - ii. the formulation of the Council's planning policies, (including the preparation of the Council's Local Development Documents and other local plans for the use and development of land, but excluding planning control and building control functions);
    - iii. highways, parking, traffic and transport, and urban regeneration;
    - iv. the environment including waste disposal, environmental health, street and market trading (but not the granting of licences and related matters);
    - v. public protection, refuse collection and disposal, street cleaning, consumer protection, cemeteries and crematoria;
    - vi. generally to examine the performance of the Mayor and Cabinet in relation to the matters listed at (i) to (v) above.

- the review and scrutiny of the exercise by risk management authorities of flood risk management and coastal erosion risk management affecting the area.

### *Housing Select Committee*

To fulfil all overview and scrutiny functions in relation to the discharge by the authority of its housing functions. This shall include the power to:-

- review and scrutinise decisions made or other action taken in connection with the discharge of the Council of its housing function
- make reports or recommendations to the authority and/or Mayor and Cabinet with respect to the discharge of these functions
- make recommendations to the authority and/or Mayor and Cabinet proposals for housing policy
- to review initiatives put in place by the Council with a view to improving, increasing and enhancing housing in the borough, making recommendations and/or report thereon to the Council and/or Mayor and Cabinet
- To establish links with housing providers in the borough which are concerned with the provision of social housing

### **6.8 Business Panel – specific terms of reference**

The Overview and Scrutiny Business Panel will have the following terms of reference:

- the co-ordination and approval of the work programme of each overview and scrutiny select committee (subject always to the right of a member of an overview and scrutiny committee or select committee to place an item on the agenda) to secure the most effective use of committee time and Council resources and to prevent overlaps;
- where a particular issue would fall within the remit of more than one overview and scrutiny select committee, to decide on the allocation of the issue for consideration. The Business Panel may allocate to a select committee or reserve the matter to itself for consideration.
- the exercise of powers in relation to call in on behalf of the overview and scrutiny committee (except those which are within the terms of reference of the Education Business Panel) in accordance with the provisions of Part IV E18, including :-
  - within seven working days of notice of decisions being given, to refer an executive decision made but not yet implemented back

to the decision maker for reconsideration in accordance with conflict resolution procedures to be adopted by the Council;

- ii) within seven working days of notice of decision being given, to refer an executive decision made but not implemented to the Council for a decision as to whether to refer it to the decision maker for reconsideration if (on the advice of the monitoring officer or the chief finance officer) the Business Panel is of the view that the decision is contrary to the policy framework, or contrary to or not wholly in accordance with the budget;
- (d) Consideration of whether it is reasonable to take an executive decision which is urgent notwithstanding that it is contrary to the policy framework, or contrary to or not wholly in accordance with the budget, will be for the Chair of this committee to decide, or in their absence for the Speaker. The Panel will consider a report about such urgent decisions at least once per quarter and refer that report to full Council;
- (e) to make comments and recommendations to the Executive on the contents and proposed contents of the following elements of the policy framework:
  - crime and disorder reduction strategy
  - local transport plan
  - youth justice plan;
- (f) without limiting the general remit of the Business Panel, to hold the Executive to account for performance in the delivery of each of those strategies and plans listed above;
- (g) alternatively, the overview and scrutiny Business Panel may allocate the consultative and developmental role in relation to any of the plans listed above, and the scrutiny of performance against them, to any other overview and scrutiny select committee. If so requested, that select committee will fulfil those roles;
- (h) to consider any referral properly made by a Councillor/ Councillors for consideration by overview and scrutiny which relates to the remit or more than one select committee.
- (i) on behalf of the overview and scrutiny committee, to be responsible for overview and scrutiny functions in relation to all activities of the Council where that overview and scrutiny function has not been delegated elsewhere;
- (j) to recommend to full Council any changes which it thinks necessary to the number, terms of reference, composition or membership of the overview and scrutiny committees. Such changes are permitted by the

Constitution. Consultation may be necessary if the changes are significant.

### **6.9 Education Business Panel – specific terms of reference**

The terms of reference of the Education Business Panel shall be limited to the exercise of call-in powers in relation to any matter relating wholly or partly to the education functions which are the responsibility of the Executive. For the avoidance of doubt, all other overview and scrutiny functions in relation to education functions shall be the responsibility of the Children & Young People Select Committee.

### **6.10 Joint overview and scrutiny committees**

From time to time, the Council may establish and appoint members to joint overview and scrutiny arrangements including but not limited to a joint overview and scrutiny committee with other Council(s) to carry out overview and scrutiny functions in relation to health bodies under Section 245 NHS Act 2006, Section 123 Local Government and Public Involvement in Health Act 2007 regulations thereunder, amendments thereto and/or other relevant legislation

The terms of reference of such joint overview and scrutiny committees as are established from time to time will be appended to this Constitution.

The Council has established joint health and overview scrutiny committees, the Terms of Reference for which appear at Appendix 5 and 6.

### **6.11 Task and Finish Groups**

The Overview & Scrutiny Committee may from time to time appoint sub-committees to be known as task and finish groups which will exist for a period of no less than 3 months, nor more than 12 months from the date of their creation.

Any task and finish group shall consist of 5 members and be established for the purpose of examining a particular issue in depth. The terms of reference of any task and finish group shall be agreed by the Overview and Scrutiny Committee which shall also appoint members to it.

### **6.12 Changes to the overview and scrutiny arrangements**

From time to time, the Council may want to make changes to its overview and scrutiny arrangements. For example, it may wish to alter the terms of reference of existing select committees or the Business Panel, or change their composition. Changes to the overview and scrutiny arrangements will not be considered to be a change to the Constitution which would require consultation unless any of the following criteria are met:-

- (a) the number of scrutiny select committees in total would fall to less than four, or rise to more than ten;
- (b) the number of places on any select committee would fall to less than five;
- (c) the terms of reference and or composition of the Business Panel(s) would change in a manner other than to effect a change which, in the opinion of the Monitoring Officer, is minor.

### **6.13 Membership of the overview and scrutiny committee**

Members of the Executive may not be appointed to the overview and scrutiny committee or any of its select committees or the Business Panel or any joint overview and scrutiny committee. Any member who is appointed by the Mayor to serve on the Executive for part of a municipal year may not serve on the Overview and Scrutiny Committee at any time thereafter during that year.

### **6.14 Proceedings of overview and scrutiny committee**

All proceedings of the overview and scrutiny committee, its select committees and the Business Panel(s) will be conducted in accordance with the overview and scrutiny procedure rules appearing at Part IV E

### **6.15 Political balance**

The overview and scrutiny committee and its sub-committees must by law comply with the provisions of the Local Government and Housing Act 1989. The Council must ensure that the membership of its overview and scrutiny committees and sub committees reflects the political composition of the Council unless the Council agrees unanimously that this is not required – see Procedure Rule J1.

## **ARTICLE 7 THE EXECUTIVE**

### **7.1 Composition of the Executive**

By law, the Executive consists of:-

- a directly elected Mayor; and