



CONSTITUTION WORKING PARTY

Date: TUESDAY, 17 MARCH 2020 at 6.30 pm

**Committee Room 3
Civic Suite
Lewisham Town Hall
London SE6 4RU**

**Enquiries to: Sarah Assibey
Telephone: 0208 3148975 (direct line)**

MEMBERS

Councillor Obajimi Adefiranye	L
Councillor Kevin Bonavia	L
Councillor Bill Brown	L
Councillor Sophie Davis	L
Councillor Alan Smith	Indepen dent
Councillor James-J Walsh	Labour
	Co-op
Councillor Susan Wise	Labour
	Co-op

ORDER OF BUSINESS – PART 1 AGENDA

Item No		Page No.s
1.	Declarations of Interest	1 - 4
2.	Minutes	5 - 8
3.	Local Democracy Review/Constitutional Changes	9 - 47

CONSTITUTION WORKING PARTY		
Report Title	Declarations of Interests	
Key Decision	No	Item No. 1
Ward	n/a	
Contributors	Chief Executive	
Class	Part 1	Date:17 March 2020

Declaration of interests

Members are asked to declare any personal interest they have in any item on the agenda.

1 Personal interests

There are three types of personal interest referred to in the Council's Member Code of Conduct :-

- (1) Disclosable pecuniary interests
- (2) Other registerable interests
- (3) Non-registerable interests

2 Disclosable pecuniary interests are defined by regulation as:-

- (a) Employment, trade, profession or vocation of a relevant person* for profit or gain
- (b) Sponsorship –payment or provision of any other financial benefit (other than by the Council) within the 12 months prior to giving notice for inclusion in the register in respect of expenses incurred by you in carrying out duties as a member or towards your election expenses (including payment or financial benefit from a Trade Union).
- (c) Undischarged contracts between a relevant person* (or a firm in which they are a partner or a body corporate in which they are a director, or in the securities of which they have a beneficial interest) and the Council for goods, services or works.
- (d) Beneficial interests in land in the borough.

- (e) Licence to occupy land in the borough for one month or more.
- (f) Corporate tenancies – any tenancy, where to the member’s knowledge, the Council is landlord and the tenant is a firm in which the relevant person* is a partner, a body corporate in which they are a director, or in the securities of which they have a beneficial interest.
- (g) Beneficial interest in securities of a body where:-
 - (a) that body to the member’s knowledge has a place of business or land in the borough; and
 - (b) either
 - (i) the total nominal value of the securities exceeds £25,000 or 1/100 of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person* has a beneficial interest exceeds 1/100 of the total issued share capital of that class.

*A relevant person is the member, their spouse or civil partner, or a person with whom they live as spouse or civil partner.

(3) Other registerable interests

The Lewisham Member Code of Conduct requires members also to register the following interests:-

- (a) Membership or position of control or management in a body to which you were appointed or nominated by the Council
- (b) Any body exercising functions of a public nature or directed to charitable purposes , or whose principal purposes include the influence of public opinion or policy, including any political party
- (c) Any person from whom you have received a gift or hospitality with an estimated value of at least £25

(4) Non registerable interests

Occasions may arise when a matter under consideration would or would be likely to affect the wellbeing of a member, their family, friend or close associate more than it would affect the wellbeing of those in the local area generally, but which is not required to be registered in the Register of Members’ Interests (for example a matter concerning the closure of a school at which a Member’s child attends).

(5) Declaration and Impact of interest on members' participation

- (a) Where a member has any registerable interest in a matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must take no part in consideration of the matter and withdraw from the room before it is considered. They must not seek improperly to influence the decision in any way. **Failure to declare such an interest which has not already been entered in the Register of Members' Interests, or participation where such an interest exists, is liable to prosecution and on conviction carries a fine of up to £5000**
- (b) Where a member has a registerable interest which falls short of a disclosable pecuniary interest they must still declare the nature of the interest to the meeting at the earliest opportunity and in any event before the matter is considered, but they may stay in the room, participate in consideration of the matter and vote on it unless paragraph (c) below applies.
- (c) Where a member has a registerable interest which falls short of a disclosable pecuniary interest, the member must consider whether a reasonable member of the public in possession of the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.
- (d) If a non-registerable interest arises which affects the wellbeing of a member, their, family, friend or close associate more than it would affect those in the local area generally, then the provisions relating to the declarations of interest and withdrawal apply as if it were a registerable interest.
- (e) Decisions relating to declarations of interests are for the member's personal judgement, though in cases of doubt they may wish to seek the advice of the Monitoring Officer.

(6) Sensitive information

There are special provisions relating to sensitive interests. These are interests the disclosure of which would be likely to expose the member to risk of violence or intimidation where the Monitoring Officer has agreed that such interest need not be registered. Members with such an interest are referred to the Code and advised to seek advice from the Monitoring Officer in advance.

(7) Exempt categories

There are exemptions to these provisions allowing members to participate in decisions notwithstanding interests that would otherwise prevent them doing so. These include:-

- (a) Housing – holding a tenancy or lease with the Council unless the matter relates to your particular tenancy or lease; (subject to arrears exception)
- (b) School meals, school transport and travelling expenses; if you are a parent or guardian of a child in full time education, or a school governor unless the matter relates particularly to the school your child attends or of which you are a governor;
- (c) Statutory sick pay; if you are in receipt
- (d) Allowances, payment or indemnity for members
- (e) Ceremonial honours for members
- (f) Setting Council Tax or precept (subject to arrears exception)

Agenda Item 2

CONSTITUTION WORKING PARTY		
Report Title	Minutes	
Key Decision		Item No. 2
Ward	ALL	
Contributors	CHIEF EXECUTIVE	
Class	Part 1	Date: 17 March 2020

Recommendation

It is recommended that the Minutes of the meeting of the Working Party, which was open to the press and public, held on 29 October 2019 (copy attached) be confirmed and signed.

MINUTES OF THE CONSTITUTION WORKING PARTY

Tuesday 29 October 2019 at 6pm

Present: Councillor Wise (Chair), Councillor Bonavia (Vice Chair), Councillor Davis, Councillor Walsh

Also Present: Councillor Rathbone, Kath Nicholson (Head of Law), Sarah Assibey (Committee Officer)

Apologies: Councillor Adefiranye, Councillor Brown

1. Election of Chair and Vice-Chair

Councillor Wise was elected as Chair and Councillor Bonavia was elected as Vice Chair of the Constitution Working Party for the municipal year 2019/20

2. Declarations of Interest

No interests were declared

3. Minutes

The Minutes of the last meeting were agreed as an accurate record.

4. Constitution Update

The Head of Law presented the report. The report outlined proposed changes to the Constitution to be considered at full Council for adoption.

The following updates were proposed alongside the report:

A Speaker

Out of the Democracy Review, titles Chair and Vice Chair be amended say Speaker and Deputy Speaker, as referenced in the report. Statutory duties are to remain the same.

Approved Duties

Changes to Schedule 2 to the Scheme of Allowances was proposed. The list outlining the bodies entitled to these allowances be replaced with the list of those falling under the succinct definition outlined in the report, which is used by the LGA. There has to be a recommendation to Council if this change is agreed.

Change to Schemes of Delegation

It is proposed that the Council and Mayor agree both relevant parts of the Scheme of Delegation. The changes in responsibilities between directorates is reflected in the report.

The issuing of contracts for services to vulnerable individuals

Decisions whereby an arrangement for vulnerable individuals is above the limit, should not be deemed as a key decision as circumstances usually dictate that it is not feasible for the procedure for key decision to be followed.

Urgency Committee

As the Committee sits in the capacity of the Full Council it is proposed that Chair of the Urgency Committee is the Speaker, and should be stated explicitly in the Constitution.

Limits on chairing Sub Committees

The general provision is that there is one Chair. Members were asked to consider if a change to this provision would be appropriate or not.

Members questioned if chairing both Strategic Planning and Planning Committees is agreeable as it changes the functioning of how these committees operate, although the Constitution does not currently prohibit it.

There is an upcoming Democracy Review which will consider the number of planning committees, which may subsequently be reduced.

It was proposed that this decision is reviewed at the next Constitution meeting.

Young Mayor

There is no current formal recognition of the Young Mayor position in the Constitution. The proposal is reflection in new Article 21 and the report.

It was suggested that the same rights of an assembly are extended to the Young Mayor, i.e. the ability to make referrals. There is, however, nothing that precludes the YM from doing this. The Party agreed to propose an allowance of one referral per annum from the YM team.

Audit Panel

To ensure referrals are made to the appropriate decision maker it is proposed that the AP refer to CE/ED for Corporate Services. Currently referrals must go to PAC first then referred to M&C. This is a slow process as it means it could sometimes take up to 6 months to get a response from M&C, based on scheduled meetings, on first instance. It also falls out of line with CIPFA guidance which states that AP should be fully independent of the Overview and Scrutiny function and causes a replication of work as AP is a sub-committee of PAC.

Correction of error in terms of reference of Safer Stronger Select Committee

The words “in relation to equalities issues” have been proposed to be inserted to correct an error of omission and provides clarity.

SACRE

At the request of the SACRE, expanding the membership to include a representative from the African-Caribbean churches and another from the Pentecostal church is proposed.

The current membership also permits under Teachers’ Professional Associations; one representative from the Association of Teachers and Lecturers and two representatives from the National Union of Teachers. Due to the incorporation of those professional associations to form the National Education Union, it is proposed that the Lewisham SACRE Constitution be amended to reflect the incorporation of the NEU and retains the same number of representatives from the new union as there were previously shared between the two predecessors to that union.

Other Business

It has been proposed by the Local Government Group that in Council documents that a clause, by way of precautionary warning given that the law would be in flux if and when the UK leaves the European Union.

RESOLVED the proposals are agreed as above, but to specify an allowance for the Young Mayor to make 1 referral per year to Mayor and Cabinet.

The meeting finished at 6.45pm



Constitution Working Party

Report title: Proposed changes to the Council's Constitution.

Date: March 2020

Key decision: No.

Class: Part 1

Ward(s) affected: All

Contributors: Kath Nicholson, Director of Law

Outline and recommendations

This report suggests that the Council should change its Constitution to reflect the findings of the Local Democracy Review, along with minor changes to the Health & Wellbeing Board to reflect the creation of a new regional Clinical Commissioning Group from 1 April 2020.

Timeline of engagement and decision-making

The Local Democracy Working Group, following extensive consultation with local people, members, staff and stakeholders made a recommendation on 18 December 2019 that Constitution Working Party should consider the proposed changes to overview and scrutiny set out in this paper. Details of that extensive engagement were set out in the paper considered by the Local Democracy Working Group.

1. Summary

- 1.1 This report suggests that the Council should change its Constitution to reflect the findings of the Local Democracy Review. In particular it suggests that Overview & Scrutiny task and finish groups should be set up.
- 1.2 The report also suggests minor changes to the membership of the Council's Health and Wellbeing Board which are needed because of the creation of a new regional Clinical Commissioning Group from 1 April 2020.

2. Recommendations

- 2.1 CWP is recommended to propose to Council that:
 - (a) The current Article 6 of the Constitution, which relates to Overview and Scrutiny be replaced with that appearing at Part A of Appendix 1.
 - (b) The current Overview and Scrutiny Rules appearing at Part E of the Council's Constitution be replaced with those appearing at Part B of Appendix 1
 - (c) that the current paragraph 15 (c) of the Council's Executive Procedure Rules be replaced with that appearing at Part C of Appendix 1
 - (d) That the membership of the Health and Wellbeing Board (HWB) be changed with effect from 1 April 2020 so that the representative of Lewisham Clinical Commissioning Group (CCG) is replaced by the representative of the South East London CCG and the Constitution amended accordingly

3. Policy Context

- 3.1. The proposals relating to the changes to overview and scrutiny are consistent with the Council's commitment to openness and transparency as set out in the Corporate Strategy. Those relating to the changes to the Health and Wellbeing Board are a response to the national agenda to create regional CCGs.

4. Background

- 4.1. The Constitution sets out the procedures for conducting Council business. Its

Is this report easy to understand?

Please give us feedback so we can improve. Page 10

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

contents are set out in law. The Council must have arrangements in place for overview and scrutiny though it has some discretion about how it organises its overview and scrutiny activities.

4.2. **Overview and Scrutiny**

Briefly, the Council's overview and scrutiny arrangements are:-

- All members, other than members of Mayor and Cabinet, sit on the main Overview and Scrutiny Committee
- There are 6 standing sub committees known as select committees, consisting of between 7 and 11 members, which can make recommendations and reports to the Mayor and Cabinet and hold executive members and senior officers to account
- Two of these select committees have some legal responsibilities for the overview and scrutiny of health and crime and disorder issues
- The Business Panel and the Education Business Panel carry out the statutory role of "call in" which means that they can ask the Mayor and Cabinet to reconsider decisions made but not yet implemented.

4.3. Following in depth review of these arrangements, the Local Democracy Review Working Group recommended that the Council should change the focus of its overview and scrutiny work to enable members to make a contribution other than through the standing select committees. The Group recommended that the Overview and Scrutiny Committee should be able to set up time limited task and finish groups to carry out in depth reviews of particular issues. This would allow more focused contribution by overview and scrutiny members alongside the work of the standing select committees.

4.4. To free up members to participate in this time limited work it was recommended that the numbers serving on select committees should be reduced from between 7 and 11 members, normally to 6 members, with flexibility, if required, to appoint up to 10 members.

4.5. The Working Group suggested that the membership of any time limited task and finish group should be limited to 5, and that such groups should only last for a period of between 3 and 12 months. Any report a task and finish group prepares should be submitted to the appropriate decision making body within the Council and then the response should be considered by the full Overview and Scrutiny Committee.

4.6. These proposals are reflected in the proposed amended Article 6 and Procedure Rules appearing in Part A of Appendix 1.

4.7. **Health and Wellbeing Board**

4.8. By law, the Council must have a Health and Wellbeing Board. Its terms of reference are set out in law, as is its composition. These legal requirements are reflected in the Council's Constitution now.

4.9. Currently one of the members on the HWB is a representative of the Lewisham CCG. From 1 April 2020 that will no longer exist. From then it will be replaced by the South East London CCG. We therefore need to reflect this in the Constitution and replace the reference to the Lewisham CCG with the South East London CCG.

5. Financial implications

5.1. There are no financial implications arising from this report.

6. Legal implications

- 6.1. It is a legal requirement to have and maintain a constitution which reflects statutory requirements. The current Constitution complies with this requirement and will still do so if the amendments are accepted.
- 6.2. It is also a legal requirement that the Constitution must be publicly available and if Council agrees the amendments, an amended version will be placed on the Council's website as soon as possible.
- 6.3. Only the full Council can agree changes to the Constitution.
- 6.4. The constitution allows changes to be made to the overview and scrutiny arrangements without consultation save in exceptional circumstances which do not apply in this case. In any event there has been consultation in the course of the work of the Local Democracy Working Group.
- 6.5. The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.6. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 6.7. It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed in the paragraph above.
- 6.8. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances
- 6.9. The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

Is this report easy to understand?

Please give us feedback so we can improve.

Page 12

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

6.10 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- [The essential guide to the public sector equality duty](#)
- [Meeting the equality duty in policy and decision-making](#)
- [Engagement and the equality duty: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

6.11 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

7. Equalities implications

7.1. There are no equalities implications.

8. Climate change and environmental implications

8.1. There are none.

9. Crime and disorder implications

9.1. There are none.

10. Health and wellbeing implications

10.1. There are proposals to amend the composition of the HWB slightly, but only to reflect national organisational changes affecting CCGs.

11. Background papers

11.1. There are none.

12. Glossary

Term	Definition
Constitution	The rules which govern how council business is done

Term	Definition
Constitution Working Party (CWP)	A group of councillors set up to advise the Council about whether to change its Constitution
Clinical Commissioning Group (CCG)	Clinically-led NHS bodies responsible for the planning and commissioning of health care services for their area.
Health and Wellbeing Board (HWB)	A Council Committee consisting of councillors, health representatives and others to consider and assess local health and wellbeing needs and joint plans
Local Democracy Working Group	A group of councillors set up to advise the Council on how to make its decision making more open and effective
Overview and Scrutiny	The role of helping the Council with policy development, holding to account and asking the Mayor and Cabinet to reconsider decisions

13. Report author and contact

13.1. Kath Nicholson

13.2. Director of Law, Legal Services, 4th Floor Laurence House, Catford SE6 4RU

Is this report easy to understand?

Please give us feedback so we can improve. **Page 14**

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

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"> • The chair and vice chair of the overview and scrutiny committee • the chair of each of the select committees appointed by the overview and scrutiny committee • 2 or the smallest number higher, of councillors required to ensure the political composition of the Council is reflected <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"> • 2 x Diocesan Representatives • 3 governor representatives i.e. one each for primary schools, special schools and secondary schools

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

PART B of APPENDIX 1

Commences from page 124 of the Council's Constitution

E - OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Arrangements for overview and scrutiny

The Council will have an overview and scrutiny committee as set out in Article 6 of the Constitution and will appoint to it as it considers appropriate from time to time. The Overview and Scrutiny Committee will appoint the select committees, Business Panel, Education Business Panel and any task and finish groups as set out in Article 6. The Council may also establish and appoint joint select committees in accordance with Article 6. The Council may amend its overview and scrutiny arrangements from time to time in accordance with that Article.

2. Constitution and terms of reference

The constitution and terms of reference for the overview and scrutiny committee and its select committees and Business Panel will comply with the law and will be as set out in Article 6 or as amended from time to time. At its first meeting the overview and scrutiny committee will establish those select committees and Business Panels set out in Article 6. The Overview & Scrutiny Committee may appoint task and finish groups in accordance with Article 6 at any time.

3. Who may sit on overview and scrutiny committee?

All councillors except members of the Executive may sit on the overview and scrutiny committee. However, any member who is appointed by the Mayor to serve on the Executive for any part of a year may not serve as a member of Overview and Scrutiny Committee or its Sub Committees thereafter during that year. No member may be involved in scrutinising a decision which he/she has been involved in making.

4. Co-optees

Save for the Safer & Stronger Communities Select Committee, the Council's arrangements for overview and scrutiny do not currently provide that co-optees may be appointed to its overview and scrutiny committee, its select committees or Business Panel. Subject to legislation to the contrary, co-optees on any overview and scrutiny committee or sub-committee or Business Panel, may not vote, unless the Council approves a scheme permitting co-optees to vote in accordance with paragraphs 11 of Schedule A1 Local Government Act 2000 as amended or other relevant legislation in force from time to time.

Diocesan and governor representatives are appointed to the Education Business Panel and the Children & Young People Select Committee. By law they have voting rights.

Voting co-optees (where appointed in accordance with a scheme) and the education and parent representatives on Education Business Panel and the Children and Young People Select Committee may not chair those bodies.

The Council will secure the involvement of the local community and other stakeholders by other means such as taking evidence from them, and by a variety of consultative methods. The Council may amend its arrangements to provide for co-optees to be appointed at any time.

5. Education representatives

The Council will appoint to its Children & Young People Select Committee, the Education Business Panel and to any relevant overview and scrutiny body dealing with education matters the voting representatives set out in the table appearing in Article 6.3 of the constitution

6. Meetings – where and when

There will be at least 1 meeting of the main overview and scrutiny committee per year, and generally at least 3 and no more than 5 meetings of the select committees per year. Meetings will take place at such times and locations as the proper officer thinks fit. Meetings of the overview and scrutiny committee, a select committee, Business Panel and the Education Business Panel or a task and finish group may be called by:-

- (a) The chair of that committee, select committee or Business Panel
- (b) Any five members of the relevant committee, select committee, task and finish group, or Business Panel by request in writing to the proper officer
- (c) The Head of Paid Service, Chief Finance Officer or Monitoring Officer

7. Quorum

The quorum for an overview and scrutiny committee, select committee, Business Panel or Education Business Panel is one quarter of the entire membership or three, whichever is the larger.

8. Who chairs overview and scrutiny committees

At the first meeting in the municipal year, the Overview and Scrutiny Committee will appoint a Chair to preside at its meetings for the coming year, and that person shall also chair the Business Panel and the Education Business Panel. The Committee will also appoint a Vice-Chair who will

preside in the absence of the Chair. The Vice-Chair will also be Vice Chair of the Business Panel and the Education Business Panel.

The Chairs and Vice Chairs of the Overview and Scrutiny Select Committees will be allocated in accordance with the proportion of seats held by the political groups on the Council.

In the absence of the Chair and Vice Chair at any meeting of the Overview and Scrutiny committee, its select committees or the Business Panels, the meeting will appoint a Chair for that meeting from amongst those members present.

Neither the Speaker nor the Deputy Speaker, education and parent/representatives nor any co-optee may chair the overview and scrutiny committee, a select committee or the Business Panels.

9. Work programme

- (a) At the beginning of the municipal year, each select committee will draw up a draft work programme for that year. In doing so it will specifically take into account the views of members of that select committee who are not members of the largest political group. The select committee will submit the draft to the Business Panel for consideration normally by the end of May each year.
- (b) The Business Panel will then consider the proposed work programmes of each of the select committees and devise a co-ordinated overview and scrutiny work programme which avoids duplication of effort and facilitates the effective conduct of business. The Business Panel may amend the work programme of any of the select committees but will not normally do so unless it is necessary to ensure the effective conduct of Council business. Once the Business Panel has approved the select committee work programme, the select committee will implement it.

10. Agenda items

(a) Members of the Committee/Sub-Committee/Business Panel

Each member of the Overview and Scrutiny Committee, select committees and Business Panels is entitled to refer a matter relevant to the work of that committee/sub-committee or Business Panel to be placed on the agenda for, and discussed at, a meeting of the overview and scrutiny committee/select committee/Business Panel of which they are a member. Requests for items to be placed on the relevant agenda should be made to the proper officer, who will comply.

(b) The Council and/or the Executive

The Council and/or the Executive may request that an overview and scrutiny committee/select committee or Business Panel investigate and/or

review and/or report on any particular area of Council activity or matter of concern to local people. The overview and scrutiny committee, select committee or Business Panel will respond to such requests as soon as their work programme permits. Where the overview and scrutiny committee/select committee/Business Panel produces a report to the Executive and/or the Council, the Council and/or the Executive will consider the report within 2 months of receiving it.

- (c) Local Assemblies may ask the overview and scrutiny committee to address issues of concern in their locality. Where they do so, the matter will be referred by the Business Panel to the appropriate select committee for response if the Business Panel considers that it is appropriate to do so.
- (d) Members who are not members of the Overview and Scrutiny Committee/Sub-Committee/Business Panel - The Councillor Call for Action

Any member may refer to an overview and scrutiny select committee or Business Panel of which they are not a member, any matter relevant to its work, provided it is not an excluded matter. In deciding whether to do so, the member must first have regard to any guidance issued by the Secretary of State.

For the purpose of this paragraph, excluded matters are those:-

- (a) relating to Planning decisions;
- (ii) relating to Licensing decisions;
- (iii) relating to a matter in respect of which the person has a right of recourse to review or a right of appeal under any enactment;
- (iv) which are vexatious, discriminatory or not reasonable to be included on the agenda, or discussed at, a meeting of the overview and scrutiny committee/sub-committee/Business Panel.
- (v) A local crime and disorder matter (which is subject to separate provisions see paragraph 22 below).

However where the matter consists of an allegation that a Council function has not been discharged at all, or that the Council has failed/is failing on a systemic basis, it is not an excluded matter notwithstanding that it relates to a Planning or Licensing decision, or a decision where there is a right of recourse to review or a right of appeal under any enactment.

11. Councillor Call for Action procedure

- (a) In deciding whether to exercise its powers in relation to a referral under paragraph 10(d) above, the overview and scrutiny committee/select

committee/Business Panel may have regard to any powers exercisable by the member under Section 236 Local Government and Public Involvement in Health Act 2007 (exercise of functions by councillors) and any representations by the member as to why it is appropriate for the committee/sub-committee/Business Panel to exercise its powers.

- (b) If the committee/sub-committee/Business Panel decides not to exercise its power in relation to the matter, it must notify the member of its decision and the reasons for it.
- (c) Subject to the provisions relating to confidential and exempt information in place from time to time, the committee/sub-committee/Business Panel must give the referring member a copy of any report/recommendations it provides to the Council/Executive.

12. Duty of Executive/Council to respond to Councillor Call for Action

- (a) When the overview and scrutiny committee or a select committee or Business Panel makes a report and/or recommendations to the Council or to the Executive under the Councillor Call for Action, the overview and scrutiny committee/select committee/Business Panel may publish its report and/or recommendations and must give notice in writing to the Council or the Executive requiring the Council or the Executive, within 2 months of receipt by the Council or Executive of the report/recommendations, or (if later) the notice:-
 - 1) to consider the report or recommendations
 - 2) to respond to the overview and scrutiny committee/sub committee/business panel indicating what (if any) action it intends to take
 - 3) if the overview and scrutiny committee/sub committee/business panel has published its report/recommendations to publish its response, and
 - 4) if the overview and scrutiny committee/sub committee/business panel provided a copy of its report/recommendations to a member referring a matter to it, to provide a copy of the response to that member.
- (b) It shall be the duty of the Executive or Council served with a notice to respond to comply with the notice within 2 months of receipt of the report/recommendations or if later, the notice.
- (c) Requirements in relation to publication in this paragraph are subject to the provisions relating to confidential/exempt information in place from time to time.
- (d) The Secretary of State may amend the requirements relating to the referral of matters to the Executive or Council by overview and scrutiny bodies, and the publication of reports and responses. Where such amendments

are made, they shall supersede the provisions of the Constitution and shall be deemed to be incorporated into it.

- (e) There are specific provisions relating to referral made under Section 19 and 20 Police and Justice Act 2006

13. Confidential and exempt information in overview and scrutiny reports and responses

This paragraph applies to

(1) the publication of any document which is:-

- an overview and scrutiny committee/select committee report/business panel and/or recommendations to the Executive and/or the Council, or
- the Executive and/or Council response to that report/recommendations

(2) the provision of any such document to

- a member who referred the matter to the overview and scrutiny committee committee/select committee/Business Panel,; or
- the provision of such a document to a partner authority.

The overview and scrutiny committee/select committee/business panel or Council/Executive in publishing the document or providing it to a partner authority must exclude confidential information and may exclude exempt information.

If information is excluded on the grounds that it is confidential or exempt, the overview and scrutiny committee/select committee/ business panel/Council may replace so much of the document as has been excluded with a summary which does not disclose that information, and must do so if as a consequence of excluding the information the published document would be misleading or not reasonably comprehensible.

For the purpose of this paragraph 13, exempt and confidential information have the meaning set out in Section 100A and 100I and Schedule 12A Local Government Act 1972 as amended.

14. Information from and reports concerning partner authorities

- 14.1 The overview and scrutiny committee, select committees and the Business Panel may request in writing such information of relevant partner authorities as is reasonably required to discharge their functions in relation to the area and its inhabitants. Subject to certain exceptions set out by law from time to time, the relevant partner authority must respond.

- 14.2 The overview and scrutiny committee, its select committees and/or Business Panel may make a report/recommendations to the Council/Executive about the functions of a relevant partner authority exercisable in the area or in relation to its inhabitants.
- 14.3 Where it does so, the overview and scrutiny committee/select committee/Business Panel may give written notice to the partner authority requiring it to have regard to the report/recommendations in exercising its functions. Such notice must be accompanied by a copy of the report/recommendations and it will be the duty of the partner authority to comply with the notice.
- 14.4 'Relevant partner authority' means any person which is a partner authority for the purposes of Chapter 1 Part 5 Local Government and Public Involvement in Health Act 2007 other than a chief officer of police.
- 14.5 Paragraph 14.2 does not apply to a health body (ie NHS Trust, NHS foundation trust or a primary care trust) if the report has been given to that body under provisions relating to the scrutiny of health (see paragraph E23 below).
- 14.6 This paragraph 14 does not apply to a report/recommendations about a crime and disorder matter under Section 19 Police and Justice Act 2006 about which there are separate provisions applying to overview and scrutiny (see E 22 below).

15. Policy review and development

- (a) The role of the overview and scrutiny committee and its select committees and the Business Panel in relation to the development of the Council's budget and policy framework is set out in detail at Section F of this Part IV, the Budget and Policy Framework Procedure Rules.
- (b) The overview and scrutiny committee, or as appropriate its select committees and/or the Business Panel may also make proposals to the Executive for development of strategic policy matters that do not form part of the policy and budget framework in so far as they relate to matters within their terms of reference.
- (c) Overview and scrutiny select committees and the Business Panel may make enquiries and investigate the options for future direction in policy development and may appoint advisors and assessors to assist them in that process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things they reasonably consider to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and pay advisors, assessors and witnesses a reasonable fee and expenses for doing so.
- (d) Once the overview and scrutiny select committee or Business Panel has formed recommendations for development of policy, it will submit that report

to the Executive for consideration. As soon as reasonably practicable after receiving the report (usually within 6 weeks) the Executive will consider the report together with a report from the relevant Executive Director(s), or their nominee(s), setting out officers' comments on the recommendations or proposals and their proposed response to the select committee or Business Panel. The referring Select Committee or Business Panel will be advised at their next meeting of the date upon which the Executive is programmed to consider the proposed response. The formal response approved by the Executive will then be referred back to the next available meeting of the Select Committee or Business Panel. If the recommendations would entail a change to the policy framework or the budget, then those changes can only be effected with the approval of Council.

- (e) The agenda for each Executive meeting will include an item "Issues referred by Overview and Scrutiny". Reports from the select committees and/or the Business Panel will be included at this point, unless they have been considered in relation to a substantive item on the agenda within one month of the receipt of the report from overview and scrutiny.
- (f) If the Mayor has not delegated powers in relation to the matter which is the subject of an overview and scrutiny report, or where he/she has delegated power to the Executive acting collectively, a committee of the Executive or to an individual Executive member, then the report will be submitted to the Mayor and the relevant Executive member(s) and to the proper officer. The relevant individual member(s) / the Mayor will consider their response in accordance with the Mayoral scheme of delegation, taking appropriate advice including service, legal and financial advice and will respond to the report in writing, copies of which will be given to the proper officer and reported to the Executive.
- (g) The overview and scrutiny committee will in any event have access to the Executive's key decision plan in accordance with Rule G 17. Even where an item has not been the subject of a detailed review, a select committee and/or Business Panel may have views which it wishes to express on an up and coming matter. Where this is the case, a copy of those views will be given to the proper officer at least 10 days before the Executive is due to make a decision on the matter in question. The proper officer will ensure that those views are brought to the attention of the decision maker before the decision is made. The record of the decision will specifically deal with the decision maker's response to the overview and scrutiny comments.

16. Rights of overview and scrutiny committee members to documents

- (a) In addition to their rights as councillors, members of the overview and scrutiny committee have additional rights to documents, and to notice of meetings set out in the Access to Information Rules at part G.
- (b) Nothing in these Rules prevents liaison between the Executive and select committees/Business Panels as appropriate.

17. Members and officers giving account

(a) The overview and scrutiny committee, its select committees and Business Panel may scrutinise and review decisions made or actions taken in connection with the discharge of Council functions within their overview and scrutiny remit. They may review documentation and may require the Mayor, Deputy Mayor and any other member of the Executive, ward member exercising delegated decision making powers, or the Chief Executive and/or any Executive Director to attend before it to explain in relation to matters within their remit:-

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

and it is the duty of those persons, if requested, to attend.

(b) In addition, those officers listed in the Council's Petition Scheme (appearing at Appendix 2 to the Constitution) may also be required to attend before a relevant overview and scrutiny committee, sub-committee or Business Panel in accordance with that scheme.

(c) Where a member or officer is requested to attend under this rule, the relevant Chair will inform the proper officer. The proper officer will inform the person concerned in writing giving at least 7 working days notice of the meeting at which they are asked to attend. The notice will give detail of the item on which they are required to attend and whether any papers are required for the committee. If the account to be given requires the production of a report, then the member or officer required to attend will be given enough time to prepare it.

(d) Where exceptionally the member or officer is unable to attend as required, an alternative date will be arranged.

(e) The overview and scrutiny select committees and the Business Panels may invite people other than members and officers to address them on matters of local concern and/or answer questions. It may, for example, wish to hear from other service providers, local residents and stakeholders, and may invite them to attend.

18. Call In

(a) Executive decisions made at a meeting of the Executive; and

Executive decisions made by an individual member:

will be deemed to have been made only when made in the presence of either the Head of Paid Service, Chief Finance Officer, Monitoring Officer or their

duly authorised nominees and the decision has been recorded and published.

(b) When an executive decision is made by

- the Mayor
- the Executive
- a committee of the Executive
- an individual member of the Executive
- an individual ward member
- an officer (if it is a key decision)
- an area committee
- joint arrangements

the decision will be published by the proper officer on the Council's website, including where possible by electronic means, and will in any event be available at the Council's main offices, within two days of being made. Copies of the decisions will be sent to all members of the Council's Business Panel within the same timescale by the proper officer. If the decision relates wholly or partly to an education function of the Executive such notice will be sent to all Members of the Education Business Panel. The requirements of this paragraph shall however not apply to decisions taken by Council officers relating to the provision of services to individual service users, (for example when a service user goes into residential care or child into a residential special school)

(c) The notice will bear the date on which it is published and will specify that the decision will come into force on the expiry of seven working days after the publication of the decision unless the relevant Business Panel objects to it and within that period resolves to ask the decision maker to re-consider (call in). However if the decision has been taken in accordance with Rule 19 below, it will be effective on publication of notice that it has been made.

(d) The proper officer shall convene a meeting of the relevant Business Panel to take place normally once every 15 working days. He/she will refer executive decisions to the next meeting for consideration if so requested in writing by the Chair or Vice Chair of the relevant Business Panel, any three members of it, or any five members of the overview and scrutiny committee. All such requests must be received by the proper officer by noon on the working day before the meeting. If no such request is made then the arranged meeting of the Business Panel or Education Business Panel will be vacated unless there is other business to be conducted at it. The proper officer will notify members of any vacated meeting by electronic means and arrange for the publication of a cancellation notice on the Council website and at the Council's main offices. Decisions that are not referred to the relevant Business Panel will automatically become effective on the expiry of the seven working day period. The Mayor (or other decision maker) will be entitled to attend the meeting of the Business Panel at which a decision made by them is under consideration for call in.

(e) If an executive decision is called in within the seven day period, then the decision shall not be implemented pending the conclusion of the call in procedure.

(f) When the relevant Business Panel considers the Executive decision it may either:-

- Take no action, in which case the decision becomes effective on the conclusion of the Business Panel meeting at which it was considered; or
 - Refer the matter back to the decision maker for reconsideration.
 - If the Business Panel does not wish the decision maker to reconsider but nonetheless wishes to make comments to the decision maker which fall short of a request to reconsider, it may do so. However the referral of such comments to the decision maker will not require them to reconsider their original decision which will be effective at the close of the Business Panel meeting.
 - Refer the matter to full Council, if it appears that the decision which the Executive has taken is contrary to the policy framework, or contrary to or not wholly consistent with the budget.
- (g) When the Business Panel meets to consider whether to call in an executive decision it may request the decision maker to attend to explain the decision. Wherever possible, the decision maker will attend.
- (h) Where the relevant Business Panel refers the matter back to the decision maker for reconsideration or to the Council, it must set out its reasons for doing so in writing. The proper officer will ensure that these reasons are brought to the attention of the Council or the decision maker when they consider the matter.
- (i) If the matter is referred back to the decision maker for reconsideration, they will then reconsider their decision usually within seven working days of the date on which it is referred back to them in writing by the proper officer. The decision maker may amend the decision or not, before adopting a final decision. The final decision will be recorded by the proper officer and published. This decision is not subject to call in. The Chair (or in his/her absence the Vice-Chair) of the Business Panel calling in any decision will be entitled to attend and speak at any meeting of the Mayor and Cabinet at which the original decision is being re-considered. If the decision was made by the Mayor acting alone, or by an individual member of the Mayor and Cabinet, or an individual officer, the Chair (or in his/her absence the Vice-Chair) of the relevant Business Panel may attend when that person reconsiders their decision, to address them before their further decision is made.
- (j) If the matter is referred to Council, then:-
- the Council must meet within 10 working days of the decision of the relevant Business Panel to refer it to Council, to consider the matter. If the Council does not meet, then the decision becomes effective on expiry of the 10 day period, unless the Monitoring Officer advises that the decision would be ultra vires, in which case the decision will not be effective until the Executive has formally considered the advice of the Monitoring Officer.

- If, when the Council meets, it does not object to a decision made by the Executive, (either because it is of the view that the original decision was consistent with the budget and policy framework or it has amended the budget and/or policy framework to accommodate it,) the decision will become effective immediately on the conclusion of the Council meeting at which it is considered
 - If, when the Council meets, it does object to the Executive decision, but it is not contrary to the policy framework or contrary to or wholly inconsistent with the budget, the Council has no power to change the Executive's decision. It must refer the matter back to the decision maker with its comments in writing. The decision will not be effective pending reconsideration by the decision maker, who may or may not amend the original decision in the light of Council comments before making a final decision.
- (k) The Council will put in place call-in arrangements in relation to executive decisions made by area committees if the Council appoints such bodies and the Mayor decides to delegate to them, and those call-in arrangements once agreed will form part of this Constitution.

19. Call In and Urgency

- (a) The call in procedure set out in Rule 18 above shall not apply where the decision being taken is urgent. A decision will be urgent if the delay likely to be caused by the call in process would seriously prejudice the interests of the Council or the public. The Speaker, and in his/her absence the Deputy Speaker, must agree in writing 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 Speaker and Deputy Speaker, the consent of the Chief Executive, or his/her nominee is required. Decisions taken as a matter of urgency under this Rule must be reported to the next ordinary meeting of the Council together with the reason for urgency.
- (b) The operation of these provisions relating to call in and urgency shall be monitored annually and a report submitted to the Council with proposals for review if appropriate.

20. The party whip

When considering any matter in respect of which a member of the overview and scrutiny committee is subject to a party whip, members must declare the existence of the whip and the nature of it before the commencement of the deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

21. Procedure at overview and scrutiny meetings

- (a) The business to be conducted at meetings of the overview and scrutiny committee, its select committees and the Business Panels will be:-

- Minutes of last meeting
 - Declarations of interest (including whipping declarations)
 - Responses of the Executive to reports from that committee, select committee or panel
 - The business set out in the agenda for the meeting.
- (b) In addition the Business Panels will consider, immediately after the declarations of interest, any matters referred to it for call in.
- (c) When the select committees or a Business Panel conduct investigations (for example with a view to policy development), the select committee/Business Panel may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:-
- The investigation will be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees and to contribute and speak;
 - Those assisting the committee/select committee/panel will be treated with respect and courtesy;
 - The investigation will be conducted so as to maximise the efficiency of the investigation or analysis.

22. Overview & Scrutiny of Crime and Disorder Issues

22.1 Definitions

For the purposes of these procedure rules:-

“responsible authority” means those defined as such by S5 of the Crime and Disorder Act 1998 and any amendments thereto from time to time, including the Council and the police; and

“co-operating person or body” means those defined as such by S 5 and 38 of the Crime and Disorder Act 1998 and any person prescribed as such by the Secretary of State from time to time (currently the probation service)

22.2 Remit

The Council appoints an overview and scrutiny committee or sub committee to fulfil the overview and scrutiny function in relation to the discharge by responsible and co-operating persons/bodies of their crime and disorder functions, as required by S19 Police & Justice Act 2006 as amended from time to time, and all other relevant legislation. The overview and scrutiny select committee with these functions is the Safer Stronger Communities Select Committee (see art 6.6).

22.3 Co-optees

The Safer Stronger Communities Select Committee may co-opt additional members to serve on that select committee. Any such co-optee is not entitled to vote on any particular matter unless the Select Committee so decides and it may only do so in accordance with a co-option scheme agreed by the Council. A co-optee's membership may be limited to the exercise of the select committee's powers in relation to a particular matter or type of matter.

22.4 Withdrawal of co-option

Membership of a person co-opted to serve on the Safer Stronger Communities Select Committee may be withdrawn at any time by the select committee.

22.5 Request for information

The Safer Stronger Communities Select Committee may make a written request to a responsible body or co-operating person or body for information relating to

- (a) the discharge, or decisions made or other action taken in connection with the discharge of their crime and disorder functions, or
- (b) local crime and disorder matters in respect of which the select committee has overview and scrutiny functions by virtue of s19 of the Police and Justice Act 2006.(see para 22.10 below)

22.6 Supply of information

Where a written request is made for information, the responsible authority/co-operating person or body must provide the requested information. It should be supplied no later than the date indicated in the request, but if some or all of the information cannot reasonably be provided by such date, it must be provided as soon as reasonably possible.

22.7 Nature of information to be provided

The information provided

- (a) must be de-personalised unless the identification of an individual is necessary or appropriate to enable the Safer Stronger Communities Select Committee to properly exercise its powers; and
- (b) shall not include information that would be reasonably likely to prejudice legal proceedings or current or future operations of the responsible authorities, whether acting together or individually, or of the co-operating person or bodies.

22.8 Attendance

The Safer Stronger Communities Select Committee may require the attendance before it of an officer or employee of a responsible authority or of a co-operating person or body in order to answer questions. The select committee will give reasonable notice of the intended date of attendance. In the absence of reasonable notice, the person will not be required to attend.

22.9 Reports and Recommendations

If the Safer Stronger Communities Select Committee makes a report or recommendation to a responsible authority or to a co-operating person/body, that person or body must respond to the report/recommendation in writing within 28 days of the date of making the report/recommendation, or if this is not reasonably possible, as soon as reasonably possible after that.

22.10 Agenda Items

- (a) Any member of the Council may refer a local crime and disorder matter to the Committee for inclusion on the agenda and for discussion at a meeting of the select committee.
- (b) In deciding whether to exercise its powers in response to the referral, the select committee will have regard to any powers available to the referring member by virtue of Section 236 Local Government in Health Act 2007 (exercise of functions by councillors) and any representations made by the referring member as to why it would be appropriate for the select committee to exercise its powers.
- (c) If the select committee decides not to exercise its powers it will inform the referring member and give reasons for its decision.
- (d) Where the select committee makes a report/recommendations, it must supply a copy to the referring member and a copy to the responsible authorities and co-operating bodies/persons as it considers appropriate. It must inform those authorities/bodies that they must respond indicating what action (if any) they intend to take and that they must have regard to the report/recommendations in exercising their functions. A response must be made within 28 days or if that is not possible as soon as is reasonably possible thereafter.
- (e) For the purposes of paragraph 22.9, a “local crime and disorder matter” means a matter concerning crime and disorder, in particular forms of crime and disorder that involve antisocial behaviour or other behaviour adversely affecting the local environment or the misuse of drugs, alcohol or other substances affecting all or part of the ward for which the member was elected or any person who lives or works in that area.

23 Scrutiny of health matters

- 23.1 The Council has appointed the Healthier Communities Select Committee to carry out, among other things, the scrutiny of health bodies under the Local Authority (Public Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 and other relevant legislation in place from time to time.
- 23.2 The Healthier Communities Select Committee may review and scrutinise any matter relating to the planning, provision and operation of health services in the area.
- 23.3 If a matter is referred to it by Local Healthwatch, or a local Healthwatch organisation, the Select Committee must invite interested parties to comment and consider the matter having regard to relevant information, including that provided to it by Healthwatch. The Council will acknowledge the referral within 20 days and keep the referrer informed of action taken.
- 23.4 The Healthier Communities Select Committee may make reports and recommendations to local NHS bodies and to the Council/Executive on any matter reviewed or scrutinised by it. Such reports will contain an explanation of the matter reviewed, a summary of the evidence considered, a list of participants involved in the review and any recommendations made.
- 23.5 The Healthier Communities Select Committee may request a response from the NHS body to whom it has made a report and the NHS body is under a duty to provide one within 28 days of the request.
- 23.6 NHS bodies must, subject to certain exceptions, consult the Healthier Communities Select Committee about any proposal for substantial variation in, or substantial development of, a service in the area, and where consulted the Select Committee is entitled to comment, and in appropriate cases the Select Committee may make referrals to the Secretary of State under the 2013 Regulations
- 23.7 The Healthier Communities Select Committee may require a local NHS body to provide such information about the planning, provision and operation of health services in the Borough as the Select Committee reasonably requires and the NHS body is under a duty to provide it subject to certain exceptions set out in regulation.
- 23.8 Subject to any directions made by the Secretary of State, the Healthier Communities Select Committee may require an officer of a local NHS body to attend before it to answer questions, and it shall be the duty of such an officer to comply, provided reasonable notice of the requirement to attend has been given.
- 23.9 The Council may from time to time appoint joint committees to discharge the overview and scrutiny function in relation to local health bodies and may delegate relevant overview and scrutiny functions to another authority's overview and scrutiny committee where it considers that that other authority would be better placed to undertake the function and that other Council agrees to do so.

24. Task and Finish Groups

24.1 The conduct of meetings at task and finish groups shall be a matter for the Chair of the task and finish group, subject to:-

- i) any legal requirements; and
- ii) provisions and principles set out in paragraph E 21(c) which shall also apply to the conduct of task and finish groups

24.2 When the task and finish group completes an investigation it shall produce a report detailing its findings and any recommendations which it shall refer to Mayor & Cabinet and/or an appropriate Council decision making body for consideration.

24.3 The Mayor & Cabinet and/or other appropriate Council decision making body, shall refer their response back to the full Overview & Scrutiny Committee

On page 120 of the Council's Constitution

15 What business is to be conducted at Executive meetings?

At each meeting of the Executive the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) declaration of interests if any;
- (c) matters referred to the Executive (whether by the Overview and Scrutiny Committee, its Business Panel, a select committee, a joint select committee, any task and finish group or the Council) for reconsideration or response by the Executive in accordance with the rules relating to call in or the councillor's call for action or any other provisions contained in the Overview and Scrutiny Procedure Rules, or the Budget and Policy Framework Procedure Rules set out in Part IV of this Constitution;
- (d) consideration of reports from overview and scrutiny select committees or the Business Panel(s);
- (e) consideration of reports from local assemblies and/or from Positive Ageing Council.
- (f) matters set out in the agenda for the meeting, which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part IV of this Constitution at Section G.