

PART 5 - OVERVIEW AND SCRUTINY FUNCTION

1. Introduction

- 1.1 There are Select Committees which support the work of the Cabinet and the Council as a whole. They allow local people to have a greater say in Council matters by enquiring into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Select Committees and to a degree the Performance and Governance Committee also monitor the decisions of the Cabinet. They can “call-in” a key decision which has been made by the Cabinet but has not yet been implemented. This enables them to consider whether the decision is appropriate.
- 1.2 They may recommend that the Cabinet should reconsider the decision and may also submit a report direct to the Council. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

2. Terms of Reference - General

- 2.1 The Council will appoint the overview and scrutiny committees (known as Select Committees) set out below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters also set out below. The number and Terms of Reference of the Select Committees will be reviewed from time to time by the Modern Local Government Group which may report to the Council.
- 2.2 The Select Committees may form advisory groups from time to time to assist with their work, especially with the review of, or additions to, a policy within the Policy Framework. These advisory groups will be constituted on the basis of political proportionality and may include a member or members of the Cabinet to which they may also report direct. Advisory groups should be set a specific task and/or function and should as a result be time limited on completion of the set task/function.
- 2.3 The terms of reference of the Select Committees set out below will be in addition to the following general powers in respect of the overview function (which will include policy development) and scrutiny (which will include reviewing policy implementation):
 - (a) to monitor and review all Council Services in respect of Best Value and Internal Service Inspections (ISIs) and make any recommendations to Council and/or the Cabinet that may be considered appropriate especially in respect of ISIs, reviewing the progress of Action Plan and the implementation of recommendations; bearing in mind the Council’s budgetary constraints; and
 - (b) to consider and report on any matter referred by the Council or the Cabinet.

3. General Role

3.1 Within their terms of reference, the Select Committees may:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the full Council and/or the Cabinet and/or any joint Committee in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants; and
- (d) exercise the right either to call for Cabinet papers in advance of decisions being made in order to provide timely advice to the Cabinet **or**, if this has not been done, to call-in for reconsideration decisions made but not yet implemented by the Cabinet.

4. Specific Functions

Policy Development and Review

4.1 The Select Committees may:

- (a) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- (b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (c) consider and recommend to Council mechanisms to encourage and enhance community participation in the development of policy options;
- (d) question relevant members of the Cabinet and/or Committees and Directors on relevant issues and proposals affecting the area relevant to the review in question; and
- (e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

Scrutiny

4.2 The Select Committees may:

- (a) review and scrutinise the decisions made by, and performance of, the Cabinet and/or Committees and Council Officers both in relation to individual decisions and over time;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

- (c) question members of the Cabinet and/or Committees and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (d) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process bearing in mind the Council's budgetary constraints;
- (e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Select Committees and local people about their activities and performance; and
- (f) question and gather evidence from any person, with their consent.

Report to Council on Overview and Scrutiny Matters

- 4.3 The Chairmen of the Select Committees to submit a report on the work of the Select Committees since the last meeting of the Council, to each ordinary meeting of the Council. Members may ask questions on any matter contained in the report, of the Chairmen (or in their absence, the Vice-Chairman) of the Select Committees without notice.

Proceedings of the Select Committees

- 4.4 The Select Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in paragraph 5 below.

5. Overview and Scrutiny Procedure Rules

Number and Arrangements for Overview and Scrutiny Committees

- 5.1 The Council will have the Select Committees set out in this part of the Constitution and will appoint to them as it considers appropriate from time to time. The Select Committees may appoint Sub-Committees (advisory groups) which may be appointed for a fixed period, on the expiry of which they shall cease to exist.
- 5.2 The Select Committees will:
- (a) approve an annual work plan for itself ensuring that there is efficient use of the Committee's time, and that the potential for duplication of effort is minimised;
 - (b) ensure that matters considered are managed efficiently and within any limits set out in this Constitution; and
 - (c) have the powers of an "Overview and Scrutiny Committee" in relation to Cabinet decisions made but not implemented as set out in section 21(3) of the Local Government Act 2000.

Membership of the Select Committees

- 5.3 All Members except members of the Cabinet may be members of a Select Committee. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

Co-optees

- 5.4 The Select Committees shall be entitled to recommend to Council the appointment of a number of co-opted non-voting members not exceeding two for each Committee.

Meetings of the Select Committees

- 5.5 There shall be at least six ordinary meetings of each Select Committee in each year. In addition, other meetings may be called from time to time as and when appropriate. A meeting of a Select Committee may be called by the Chairman of the relevant Select Committee, by a quarter of the members of the relevant Committee or by the Chief Executive (in consultation with the relevant Chairman or Vice-Chairman, if available) if he considers it necessary or appropriate.

Quorum

- 5.6 The quorum for a Select Committee shall be as set out for Committees in the Council Procedure Rules in Part 2 of this Constitution.

Work Plan

- 5.7 The Select Committees will be responsible for setting their own Work Plan and in doing so they shall take into account the wishes of all members on that Committee.

Agenda Items

- 5.8 Any member of a Select Committee shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda and the appropriate Chairman will be informed.
- 5.9 The Select Committees shall also respond, as soon as work plans permit, to requests from the Council and if it considers it appropriate, the Cabinet to review particular areas of Council activity. The Council and/or the Cabinet shall consider the report of the Select Committee within two months of receiving it.

Councillor Call for Action

- 5.10 Under the Councillor Call for Action process, the public may raise issues of local concern with their ward Councillors. Members will try to resolve the

issue themselves first by contacting the relevant Head of Service or Partner organisation. However, if the matter cannot be resolved, then the Member can ask the relevant Select Committee to consider the issue.

- 5.11 Any member may give written notice to the Chief Executive that they wish a local government matter affecting their ward, or a person who lives or works in their ward, to be included on the agenda of the relevant Select Committee. This notice will set out the Member's reasons for making the request. If the Chief Executive receives such a notification, then he/she will include the item on the first available agenda of the Select Committee for consideration by the Committee and the appropriate Chairman will be informed.
- 5.12 The Chief Executive will exclude any request that does not meet the requirements of the legislation, regulations or the most recent guidance. If the request is not accepted, the Chief Executive shall inform the member who made the request of the rejection and the reasons for it.

Policy Review and Development

- 5.13 Select Committees will consider petitions as required, in accordance with the Council's Petitions Scheme – Appendix Y of the Constitution.
- 5.14 The role of the Select Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules. (Appendix B - Budget and Policy Framework Procedure Rules)
- 5.15 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Select Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- 5.16 The Select Committees may, subject to budgetary constraints, enquire into and investigate the available options for future direction in policy development. They may recommend to the Council the commissioning of research, undertaking of surveys etc.

Reports from the Select Committees

- 5.17 Once it has formed recommendations on proposals which may be developed further, a Select Committee will prepare a formal report and submit it to the Chief Executive for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- 5.18 If the Select Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then no more than one minority report may be prepared by the Members concerned and submitted for consideration by the Council or Cabinet with the majority report.
- 5.19 The Council or Cabinet shall whenever possible consider the report of the

Select Committee within one month of it being submitted to the Chief Executive.

Ensuring that Overview and Scrutiny reports are considered by the Cabinet

- 5.20 Once a Select Committee has completed its deliberations on any matter the Chief Executive will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Chief Executive refers the matter to Council, he/she will advise the Leader that the matter is to be referred to Council and supply a copy of the report to the Leader. The Cabinet will have four weeks in which to respond to the report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from a Select Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the Overview and Scrutiny proposals.
- 5.21 The Select Committees will in any event have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Select Committee following consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

Rights of the Select Committee Members to documents

- 5.22 In addition to their rights as Members of the Council, members of the Select Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules (Appendix A - Access to Information Procedure Rules).
- 5.23 Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Select Committees as appropriate depending on the particular matter under consideration.

Members and Officers Giving Account

- 5.24 The Select Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Chief Executive, any Director and/or any Head of Service to attend before it to explain in relation to matters within their remit:
- (a) any particular decision or series of decisions;
 - (b) the extent to which the actions taken implement Council policy; and/or
 - (c) their performance.

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

- 5.25 Where any Member or Officer is required to attend a Select Committee under this provision, the Chairman of that Committee will inform the Chief Executive. The Chief Executive shall inform the Member or Officer in writing giving at least five clear working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 5.26 Where the Member or Officer is unable to attend on the required date, then the Select Committee shall in consultation with the Member or Officer arrange an alternative date for attendance to take place usually within 21 days from the date of the original request.

Attendance by Others

- 5.27 The Select Committee may invite people other than those people referred to in paragraphs 5.26, 5.27 and 5.28 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from local people, stakeholders and Member and Officers in other parts of the public sector and shall invite such people to attend.

Call-in

- 5.28 When a key decision is made by Cabinet the decision shall be published and shall be available at the main offices of the Council normally within two clear working days of being made.
- 5.29 All Members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- 5.30 That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless the Committee objects to it and calls it in. This notification is included on each set of Cabinet minutes.
- 5.31 During that period, the Chief Executive shall call-in a key decision for scrutiny by a Committee if so requested by the Chairman or any three members of the a Select Committee, and shall then notify the decision-taker of the call-in. The Chief Executive shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chairman of the appropriate Committee, and in any case within five clear working days of the decision to call-in or may, in consultation with the decision-taker, refer the matter direct to the next meeting of the Council for consideration. Please refer to "Shadow Call-In" dates included on the Council's Calendar of meetings.
- 5.32 If, having considered the decision using the Call-In Protocol (Appendix C -

Protocol for Call In of Key Decisions), the Committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further ten clear working days, amending the decision or not, before adopting a final decision.

- 5.33 If following an objection to a key decision, the Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the Committee meeting, or the expiry of that further five clear day period, whichever is the earlier.
- 5.34 If the matter was referred to full Council and the Council does not object to a key decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole, or a Committee of it, a meeting will be convened to reconsider within ten clear working days of the Council request. Where the decision was made by an individual, the individual will reconsider within ten clear working days of the Council request.
- 5.35 If the Council does not meet, or if it does but does not refer the key decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- 5.36 The relevant Committee shall consider the parts of the Forward Plan within that Committee's terms of reference after it is published and may give notice to the Chief Executive that it wishes to be consulted on any matter included within it. In such an event, the Chief Executive shall advise the Leader of the Council and shall arrange for the report to the Cabinet to be sent to every Member of the relevant Committee as soon as it is ready for publication.
- 5.37 The Chairman or any five members of the relevant Committee may call a meeting of the Committee within five clear working days of the despatch of the report to consider the matter. The Cabinet shall not then make a decision on the matter until the Committee has had an opportunity to consider the report and make recommendations to the Cabinet.
- 5.38 If a meeting of the relevant Select Committee is not summoned within five clear working days of the despatch of the report or on the nearest most appropriate "Shadow Call-In" date, the Cabinet shall be free to make a decision on the matter.
- 5.39 If the procedure in paragraphs 5.37 and 5.38 have been invoked by a Select Committee, the call-in provisions set out in paragraphs 5.32 to 5.35 shall not

apply and any decision of the Cabinet shall not be subject to call-in.

Exceptions to Call-In

5.40 In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limits are to be placed on its use. These are:

(a) only key decisions (the definition of which is set out below) may be called in; and

(A "key decision" means an executive decision which is likely:

(i) to result in the District Council incurring expenditure which is, or the making of savings which are, significant having regard to the District Council's budget for the service or function to which the decision relates i.e. decisions which exceed £50,000 in value (but procurement decisions within the budget e.g. refuse vehicles can be undertaken within delegated powers); or

(ii) to be significant in terms of its effects on communities living or working in an area comprising 2 or more wards in the area of the District Council.)

(b) Three members of a Select Committee or the Performance and Governance Committee from at least two political parties are needed for a decision to be called in.

Call-in and Urgency

5.41 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in.

5.42 The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required.

5.43 In the absence of both the Chairman and the Vice-Chairman of the Council, the consent of the Chairman or Vice-Chairman of appropriate Select Committee shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

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

Procedure at Meetings of the Select Committees

- 5.45 The Select Committee shall consider the following business:
- (a) minutes of the last meeting;
 - (b) declarations of interest;
 - (c) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
 - (d) responses of the Cabinet to reports of the Select Committee; and
 - (e) the business otherwise set out on the agenda for the meeting.
- 5.46 Where the Select Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the Kent Protocol on Overview and Scrutiny Inter-Authority Co-operation (Appendix P - Protocol of Overview and Scrutiny Inter-Authority Co-Operation) (if they apply) and the following principles:
- (a) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (b) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 5.47 When discussing any matter under investigation, the members of the Select Committee shall not normally resort to formal debate unless and until it becomes clear that a recommendation can only be reached on the basis of a majority vote. It shall be the duty of each Chairman of a meeting of the Select Committee to ensure, so far as is possible, that a consensus is reached on any matter, provided that this would not have the effect of minimising the effectiveness of the recommendation.
- 5.48 Following any investigation or review, the Select Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

Matters within the remit of more than one Select Committee

- 5.49 Where a matter for consideration by the Committee also falls within the remit of one or more other Committees, the decision as to which Committee will consider it will be resolved by the appropriate Chairmen of the Committee(s) and the relevant Director.

6. Membership of the Select Committees

- 6.1 Each Select Committee will each be made up of 19 Members that follow the

political proportionality of the Council. The membership of the Select Committees can be found at Appendix H - Membership of Cabinet, Committees etc.

7. Terms of Reference of the Environment Select Committee

7.1 When referring to these terms of reference please take into account the general terms of reference as set out in Part 5 – paragraphs 1, 2, 3 and 4 of this Constitution.

7.2 The Environment Select Committee's terms of reference are to perform the policy development, review and scrutiny role in relation to the following matters:

- (a) The development of the Council's planning policies, including the Development Plan and other plans for use and development of land;
- (b) the built environment of the District, including both development control and building control, contaminated land, air quality, land drainage, sewerage and sewage disposal;
- (c) highways and traffic, including public rights of way;
- (d) transport, including vehicle parking;
- (e) economic development and tourism;
- (f) to scrutinise decisions of the Cabinet and to exercise the use of the Council's "Call-in" (of key decisions) procedure when appropriate;
- (g) to ensure that the Council's business is subject to effective scrutiny;
- (h) at the Cabinet's and the Chairman of the Select Committee's request to carry out specific research and development projects and to submit recommendations to Cabinet; and
- (i) to advise the Council and Cabinet, at their request, on any other matter affecting the Council.

8. Terms of Reference of the Services Select Committee

8.1 When referring to these terms of reference please take into account the general terms of reference as set out in Part 5 – paragraphs 1, 2, 3 and 4 of this Constitution.

8.2 The Services Select Committee's terms of reference are to perform the policy development, review and scrutiny role in relation to the following matters:

- (a) The Council's management of Information Technology and Communications technology;
- (b) the development and retention of staff;

- (c) public relations;
- (d) the development of the Housing Strategy, including partnerships with social landlords, the improvement of private housing the provision of housing to meet identified needs, assistance to owner/occupiers, landlords, tenants and developers, and homeless people as well as arrangements for dealing with itinerants and gypsies;
- (e) waste and recycling;
- (f) the development of policies in relation to the Council's licensing functions;
- (g) consideration of payments or benefits under section 92 of the Local Government Act 2000 to persons who have been adversely affected by maladministration (whether or not the subject of a formal report by the Commissioner for Local Administration);
- (h) to scrutinise decisions of the Cabinet and to exercise the use of the Council's "Call-in" (of key decisions) procedure when appropriate;
- (i) to ensure that the Council's business is subject to effective scrutiny;
- (j) at the Cabinet's and the Chairman of the Select Committee's request to carry out specific research and development projects and to submit recommendations to Cabinet; and
- (k) to advise the Council and Cabinet, at their request, on any other matter affecting the Council.

9. Terms of Reference of the Social Affairs Select Committee

- 9.1 When referring to these terms of reference please take into account the general terms of reference as set out in Part 5 – paragraphs 1, 2, 3 and 4 of this Constitution.
- 9.2 The Social Affairs Select Committee's terms of reference are to perform the policy development, review and scrutiny role in relation to the following matters:
 - (a) The maintenance and regeneration of communities in the area including:
 - (i) personal health (such as arrangements for medical treatment in and for the District and health education); and
 - (ii) public health (such as pest control, food hygiene, water supply, public nuisances, public conveniences, cemeteries and crematoria, and animal welfare:
 - (b) the means of facilitating greater social inclusion and integration, especially amongst groups such as young people or elderly people;

- (c) the cultural life of the District (including the theatre known as “The Stag”);
- (d) the provision and use of leisure facilities throughout the District;
- (e) the operation of Sencio Community Leisure;
- (f) financial and other assistance to organisations in the District;
- (g) crime and community safety matters, including police initiatives and closed-circuit television;
- (h) to scrutinise decisions of the Cabinet and to exercise the use of the Council’s “Call-in” (of key decisions) procedure when appropriate;
- (i) to ensure that the Council’s business is subject to effective scrutiny;
- (j) at the Cabinet’s and the Chairman of the Select Committee’s request to carry out specific research and development projects and to submit recommendations to Cabinet;
- (k) to undertake the over view and scrutiny role and in particular in relation to the Community Plan;
- (l) to advise the Council and Cabinet at their request, on any other matter affecting the Council.

