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Date: 27 February 2013
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CONSTITUTIONAL REVIEW WORKING PARTY

7 MARCH 2013

A meeting of the Constitutional Review Working Party will be held at **10.00 am on Thursday, 7 March 2013** in the Pugin & Rossetti Rooms, First Floor, Council Offices, Cecil Street, Margate.

Membership:

Independent Members: Mr Hills (Chairman) and Mrs Frampton (Vice-Chairman);

Councillors: Hayton, Nicholson, Watkins and Wright

A G E N D A

- | <u>Item No</u> | <u>Subject</u> |
|----------------|--|
| 1. | <u>APOLOGIES FOR ABSENCE</u> |
| 2. | <u>DECLARATIONS OF INTEREST</u> |
| 3. | <u>MINUTES OF PREVIOUS MEETING</u> (Pages 1 - 4)
To approve the Minutes of the Constitutional Review Working Party meeting held on 24 October 2012, copy attached. |
| 4. | <u>REVIEW OF THANET DISTRICT COUNCIL SCRUTINY ARRANGEMENTS - AN OPTIONS REPORT</u> (Pages 5 - 64) |
| 5. | <u>PETITIONS SCHEME - REVIEW</u> (Pages 65 - 68) |
| 6. | <u>TO REVIEW CONSTITUTIONAL PROCEDURE RULES RELATING TO MOTIONS ON NOTICE, QUESTIONS AND CALL-IN</u>
Report to follow |
| 7. | <u>NOTICE OF MOTION TO COUNCIL REGARDING MEMBERSHIP OF LICENSING BOARD</u> (Pages 69 - 72) |

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CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 24 October 2012 at 10.00 am in Chairman's Office, 1st Floor, Council Offices.

Present: Mr Robin Hills (Chairman); Councillors Hayton, Nicholson, Watkins and Wright

35. APOLOGIES FOR ABSENCE

An apology for absence was received from Mrs Linda Frampton.

36. DECLARATIONS OF INTEREST

There were no declarations of interest.

37. MINUTES OF PREVIOUS MEETING

The minutes of the meeting of the Working Party held on 25 June 2012 were approved and signed as a correct record.

38. USE OF MOBILE TELEPHONES DURING PUBLIC MEETINGS

During discussion, the following points were raised:

- a) a distinction should be made between committee members, accredited journalists and members of the public;
- b) in all cases, mobile phones should be on silent and not used for recording purposes;
- c) it was extremely difficult to determine when mobile communications devices were being used for recording or for note-taking or other purposes, and, hence, to enforce a requirement not to record proceedings.

On the proposal of Councillor Nicholson, seconded by Councillor Watkins, it was **AGREED TO RECOMMEND** to Standards Committee:

1. that Committee Members and accredited journalists must ensure that their mobile communications devices are set to silent mode during all public meetings;
2. that recording of meeting proceedings by attendees is prohibited;
3. that members of the public must switch off their mobile communications devices during all public meetings.

39. THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012

A further list of suggested amendments to Annex 4 to the Report (Amended Access to Information Rules) to take account of recommendations (vii), (viii), (x) and (xii) at Para 22.1 of the report (since published on the internet as part of this meeting's details) were circulated at the meeting.

During discussion, it was noted:

- a) that the Department for Communities and Local Government (DCLG) had recently advised that officers' executive decisions, as referred to within the new regulations, were to be interpreted as decisions taken by officers in relation to functions delegated within the Scheme of Delegations to Officers;
- b) that officers' executive decisions would be published on the Council's website and all Members could be notified by means of a modern.gov email alert of each such decision immediately after publication (as what currently happens with Cabinet decisions).

On the proposal of Councillor Hayton, seconded by Councillor Watkins, it was **AGREED TO RECOMMEND** to Standards Committee that with the exception of recommendation (xi) of the report, the recommendations as contained at Para 22.1 of the report be adopted, namely:

1. that the Council publishes a document as outlined at paragraph 3.1 of the report;
2. that the document will show future key decisions for a one-year period;
3. that the document will be published exactly 28 clear days in advance of scheduled Cabinet meetings;
4. that the document will contain non-key as well as key decisions;
5. that the document will be entitled, "The Forward Plan and Exempt Cabinet Report List";
6. that the Leader delegates power to the Monitoring Officer, in consultation with the Leader, to decide on a response to any representations received based on the information as captured in the report pro forma;
7. that the timescales for allowing representations as outlined in paragraph 5.6 are agreed;
8. that the Council amends its new exemption and special urgency procedures as outlined in Section 6 of the report and that Council remains updated on the number of decisions made under the special urgency provisions on a quarterly basis;
9. that when a refusal to a request for a document from a member of the Overview and Scrutiny Panel takes place, the Cabinet Leader in consultation with the Monitoring Officer will write to all of the members of the Overview and Scrutiny Panel;
10. that the Head of Paid Service grants dispensations to Executive Members in consultation with the Council's Monitoring officer;

- 11.that the Council's constitution is amended to give the overview and Scrutiny Panel the power to require the Cabinet to submit a report to Council when a non-key decision has been taken that the Panel feels should have been a key decision;
- 12.that the Council's constitution be amended as at Annex 4 including the list of further suggested amendments which was circulated at the meeting (now published on the website).

Meeting concluded : 11.15 am

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OPTIONS FOR THE FUTURE OF OVERVIEW AND SCRUTINY IN THANET

To: **Constitutional Review Working Party – 7 March 2013**

Main Portfolio Area: **Democratic Services**

By: **Democratic Services and Scrutiny Manager**

Classification: **Unrestricted**

Ward: **N/A**

Summary: **To consider options for the future of overview and scrutiny in Thanet and the recommendations submitted by the Overview and Scrutiny Panel**

For Decision

1.0 Introduction and Background

1.1 A review of the structure and operational role of overview and scrutiny within Thanet has been undertaken over the last year or so. This culminated in a report on the Overview and Scrutiny Panel's preferred option being considered at an extraordinary Overview and Scrutiny Panel meeting on 12 February 2013.

2.0 The Current Situation

2.1 The paper presented to the Overview and Scrutiny Panel on 12 February 2013 outlined four major options:

- (a) Not to change the structure of overview and scrutiny
- (b) To establish three standing sub-committees of the Overview and Scrutiny Panel but to cease separate work involving task and finish sub-groups
- (c) To establish three standing sub-committees of the Overview and Scrutiny Panel and to continue separate work involving task and finish sub-groups
- (d) To establish three scrutiny committees to replace the Overview and Scrutiny Panel and to continue separate work involving task and finish sub-groups

2.2 The report contained a good deal of detailed information relating to the implementation of these options, and for convenience, that report is attached at Annex 1, italicised throughout to differentiate it from this main report.

2.3 The Overview and Scrutiny Panel has made the following recommendations to the Constitutional Review Working Party:

- (a) To recommend to the Constitutional Review Working Party (then Standards Committee and Council) that the Overview & Scrutiny Panel be abolished and replaced by three Overview & Scrutiny Committees as is reflected in the officer report;
- (b) To recommend that Council approach the East Kent Joint Independent Remuneration Panel for advice regarding the amendment of the Special Responsibility Allowance Scheme to reflect the new scrutiny arrangements.

- 2.4 Officers have contacted Dover District Council, which manages the East Kent Joint Independent Remuneration Panel, seeking advice on the best way of discussing with the Panel options relating to the level of Special Responsibility Allowances under the proposed arrangements.
- 2.5 Annex 2 includes the current version of the Overview and Scrutiny Procedure Rules within the Council's constitution. This report attempts to address the key issues involved in any update of these (and other) constitutional rules to reflect the proposed model for scrutiny, but the procedure rules are attached for convenience of reference.
- 2.6 It is suggested that following the Working Party agreeing recommendations on the way forward, that a draft updated set of Overview and Scrutiny Procedure Rules be submitted to the Standards Committee when it considers the matter on 27 March 2013.
- 2.7 It is recognised that some updates are required to the reports presented to the overview and Scrutiny Panel; for example, to reflect recent changes in Cabinet portfolios.

3.0 Matters for Consideration by the Constitutional Review Working Party

3.1 It is clearly open to the Working Party to take its own view on the various options that were presented to the Overview and Scrutiny Panel and to develop a set of proposals that may differ to those recommended by the Panel.

3.2 However, if the Working Party were to endorse those recommendations, it would be necessary to consider a number of detailed operational matters before any onward recommendations could be made to the Standards Committee. These are outlined below.

3.3 Terms of reference of the new Scrutiny Committees

3.3.1 One item to consider is the exact grouping of functions covered by the terms of reference of the proposed new Scrutiny Committees. The Overview and Scrutiny Panel endorsed the model set out in the reports submitted to them (and attached at Annex 1), including the frequency of meetings aiming to be in advance of Cabinet meetings, in order that scrutiny views can be reported to Cabinet. However, it may be worth discussing these in more detail.

3.3.2 In particular, it is suggested that each set of terms of reference might be amended slightly so they can replace Article 6 in the Constitution, as set out in Annex 3 to this report, which also reflects the Overview and Scrutiny Panel's preference that three new Committees replace the main Panel.

3.3.3 Another point that may be worth considering at this stage is how the "lead" Scrutiny Committee is determined if an issue emerges that seems to overlap Committee responsibilities. It may suffice to suggest that this can be resolved through discussion with the Chairmen of the relevant Scrutiny Committees. That approach might be more effective than suggesting that joint-meetings take place, because officers have some experience of joint Scrutiny Committees being difficult to manage effectively in other Councils.

3.3.4 The Working Party needs to consider how many Councillors would serve on each of these new Scrutiny Committees. Within the Council's Constitution, quorum for the Overview and Scrutiny Panel is 50% of its membership (Council Procedure Rule 10.0), and the quorum of Working Parties (task-finish groups) is 50% or a minimum of 2, whichever is higher (Overview and Scrutiny Procedure Rule 5.0). The Working Party

might wish to recommend arrangements for new Committees and any sub-committees they establish.

- 3.3.5 In suggesting a size for the new Scrutiny Committees, a balance is needed. There needs to be sufficient membership to allow the Committees to establish task and finish sub-groups that can involve several members of the Committee. On the other hand, the size should not be so large that it becomes difficult to appoint Councillors to the three Committees.

3.4 Policy consultation

- 3.4.1 It is presumed in the model preferred by the Overview and Scrutiny Panel that all forthcoming executive decisions of the Cabinet are routed via a scheduled meeting of the relevant Scrutiny Committee prior to the Cabinet meeting. Indeed, were that not done, it is questionable whether the new Scrutiny Committees could develop a meaningful work programme capable of being resourced. To put this the other way around, resourcing the work of these Scrutiny Committees becomes somewhat easier if they are to consider reports that officers are already drafting for subsequent submission to Cabinet (and possibly to Council).

- 3.4.2 Although not strictly necessary, the Working Party may wish to consider whether anything should be added to the Cabinet Procedure Rules within the Council's constitution, to reflect this anticipated relationship between the Cabinet and the Scrutiny Committees.

3.5 Task-finish groups

- 3.5.1 The Overview and Scrutiny Panel felt that the new Scrutiny Committees should continue to have the ability to establish time limited task and finish sub-groups to review policy matters that are not necessarily the subject of forthcoming executive decisions.

- 3.5.2 If there is considered to be merit in each of the Scrutiny Committees establishing these in similar ways, the Working Party may wish to suggest the method for doing so, which could eventually be built into the Overview and Scrutiny Procedure Rules within the Constitution.

- 3.5.3 Suggestions could be made, for example, regarding the range of sizes of such sub-groups, whether political proportionality should apply to them, whether members must be drawn from the relevant Scrutiny Committee, or from any Scrutiny Committee or any Councillor (but not members of the executive, of course).

3.6 Call-in

- 3.6.1 Whereas the report presented to the Overview and Scrutiny Panel suggested a number of options for handling call-ins, if the main Panel is not to be established in 2013/14, it is suggested that each Scrutiny Committee would need to deal with call-ins relating to its own terms of reference.

- 3.6.2 At present, an executive decision taken but not yet implemented can be called in by the Chairman of the Overview and Scrutiny Panel or any five Members of the Panel, so long as the five members are not from the same political Group.

- 3.6.3 To some degree, the call-in requirements of the new Scrutiny Committees may need to reflect their size. By way of example, the current Overview and Scrutiny Panel has 16 Councillors serving on it, so the number required for call-in is around one third of the membership. A similar proportion might be applied to the new Scrutiny Committees.

- 3.6.4 But the Working Party needs to consider whether, under the three-committee model, each Chairman should have the right to call-in a forthcoming executive decision relating to the

terms of reference of their individual Committee. If three individual Councillors have a right to call in executive decisions, there is a risk that if this right were to be exercised frequently, there could be a sudden increase in the volume of call-ins under the new arrangements.

- 3.6.5 The Working Party may wish to also consider whether any combination of Members exercising the right of call-in needs to be from more than one political Group. This is a well-established principle within Thanet's constitution, but is certainly not a universal requirement within other Councils.

3.7 Petitions

- 3.7.1 Under the current petitions scheme, referral to the Overview and Scrutiny Panel can take place in one of two ways:

(a) If a petition has over 650 signatories but less than 1,000, or has over 1,000 but requests that an officer gives evidence at an Overview and Scrutiny Panel meeting, it must be submitted to Council at least 25 working days in advance of a meeting of the Overview and Scrutiny Panel in order for it to be considered at that meeting

(b) If a petitioner feels that the Council has not dealt with a petition properly, the petition organiser has a right to request that the Overview and Scrutiny Panel reviews the steps that the Council has taken in response to the petition.

- 3.7.2 If the model proposed by the Overview and Scrutiny Panel were to be adopted, there would be no single committee to deal with the above. One option is to suggest that any such referrals above would be submitted to the new Scrutiny Committee with the terms of reference most closely matching the subject matter of the petition.

- 3.7.3 It may be necessary to create procedures to consult relevant Chairmen when the subject matter appears to overlap the terms of reference, to determine which Scrutiny Committee will receive the referral.

- 3.7.4 On the other hand, given such a profound change in the structure of overview and scrutiny, the Working Party may wish to reconsider the current referral procedures as outlined in paragraph 3.7.1 above. Those provisions were based upon the statutory regime introduced in the Local Democracy, Economic Development and Construction Act 2009. However, those statutory arrangements were repealed by the Localism Act 2011. Although the Council agreed in April 2012 to retain the scheme the Council had implemented under those arrangements largely without amendment, it is possible to review referral arrangements to overview and scrutiny in light of the proposed changes in the structure of that function.

3.8 Chairmanship and Vice-Chairmanship

- 3.8.1 At present, Council agrees the Chairman of the Overview and Scrutiny Panel according to the following rules (Council Procedure Rule 6.3):

"The Chairman and Vice-Chairman of any [scrutiny] panel shall not both be from the same political group. The ruling group will nominate the Chairman of the Policy Development Panel and the Vice-Chairmen of two other Panels of their choice and the largest opposition group should nominate the Chairmen of the Executive Scrutiny Panel and the Finance, Best Value & Performance Review Panel and the Vice-Chairman of the remaining Panel. In the event of two or more opposition groups having the same number of members the matter shall be decided by a majority of the opposition Members in Council and in the event of default by the Council itself."

- 3.8.2 This provision is clearly out of date in that it refers to previous Scrutiny Committee names. However, it could be adapted to suit the proposed scrutiny arrangements quite easily and with minimal change, as follows:

“The Chairman and Vice-Chairman of any Scrutiny Committee [scrutiny] panel shall not both be from the same political gGroup. The ruling Ggroup forming the Council's administration will nominate the Chairman of the xxxxx Scrutiny Committee Policy Development Panel and the Vice-Chairmen of the two other Scrutiny Committees Panels of their choice and the largest political opposition gGroup not forming the Council's administration will should nominate the Chairmen of the two other Scrutiny Committees Executive Scrutiny Panel and the Finance, Best Value & Performance Review Panel and the Vice-Chairman of the xxxxx Scrutiny Committee remaining Panel. In the event of two or more opposition gGroups having the same number of members, the matter shall be decided by a majority of the opposition Members in Council, and in the event of that not yielding a decision, default by the whole Council-itself.”

3.8.3 Clearly, however, in updating this provision, it would be possible to make further changes to it. Thus the Working Party may wish to make further recommendations to the Standards Committee.

3.9 Special Responsibility Allowances (SRAs)

3.9.1 As stated above, and in response to the recommendations of the Overview and Scrutiny Panel, officers are seeking advice from the East Kent Joint Independent Remuneration Panel in order to establish how to review the implications of these proposals.

3.9.2 At present the following SRAs apply:

- (a) Chairman of the Overview and Scrutiny Panel: £7,990 (equivalent to Cabinet portfolio holder)
- (b) Vice-Chairman of the Overview and Scrutiny Panel: £3,216 (equivalent to the Chairman of Licensing Committee)
- (c) No SRAs apply to the task-finish sub-groups established by the Panel.

3.9.3 The above yields a total SRA relating to overview and scrutiny of £11,206. If the objective were to establish new arrangements with a roughly equivalent total cost, the following could be adopted:

- (a) Chairman of an Overview and Scrutiny Committee: £3,216 (equivalent to the Chairman of Licensing Committee) x 3
- (b) Vice-Chairman of an Overview and Scrutiny Panel: £805 (equivalent to the Vice-Chairman of Licensing Committee) x 3
- (c) No SRAs apply to the task-finish sub-groups established by the Panel.

3.9.4 The above would yield a total SRA relating to overview and scrutiny of £12,063, an increase of £857, which would need to be budgeted for. The Working Party may wish to recommend alternative proposals to the Standards Committee.

3.10 Annual report of Overview and Scrutiny

3.10.1 Article 6.04 of the Constitution currently states that:

“The Overview and Scrutiny Committee may report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.”

3.10.2 The Working Party may wish to consider whether that provision should be replaced with the following, or an alternative:

“The Overview and Scrutiny Committees may report annually to full Council on its-their workings and make recommendations for future work programmes and amended working

methods if appropriate. [Such a report is to be agreed between the Chairmen of the Overview and Scrutiny Committees and may be presented to Council by the Chairman of the xxxx Scrutiny Committee.](#)”

3.11 Councillor Call for Action

3.11.1 These provisions within the Constitution outline the circumstances under which any Member of the Council can refer any local government matter, or a crime and disorder matter, to the Overview and Scrutiny Panel.

3.11.2 Being developed within an era when the Council had only one Overview and Scrutiny Panel, the protocol will require minor amendments to reflect the existence of three Scrutiny Committees, should the recommendations from the Panel be approved.

3.11.3 Such amendments will largely be limited to:

- (a) Recognising that any such referral would need to be made to the Scrutiny Committee having terms of reference that relate to the matter being referred, and,
- (b) Identifying the scrutiny Committee that would receive referrals relating to crime and disorder matters (also covered in Annex 3)

3.12 Special urgency – access to information

3.12.1 Clauses 17 and 18 of the Access to Information Rules in the Constitution outline the procedure where a forthcoming executive decision ought to have been included in a published Forward Plan and Exempt Cabinet Reports List, but has not been so included and the executive decision must be taken as a matter of urgency.

3.12.2 Clause 17 states that such a decision may only be made where:

- (a) The proper officer has informed the Chairman of the relevant Overview and Scrutiny Committee, or, if there is no such person, each member of the Overview and Scrutiny Committee by notice in writing, of the matter about which the decision is to be made: and,
- (b) The proper officer has made available at Thanet Gateway Plus, Cecil Street, Margate for inspection by the public and published on its website, a copy of the notice given pursuant to the above paragraph; and,
- (c) After five clear working days have elapsed following the day on which the proper notice made available the notice referred to in the above paragraph.

3.12.3 Clause 18 states that where the above rules cannot be complied with, the decision can only be made where the decision-maker has obtained agreement from:

- (a) The Chairman of the Overview and Scrutiny Committee; or,
- (b) If there is no such person, or if the Chairman of the Overview and Scrutiny Committee is unable to act, the Chairman of Council; or,
- (c) Where there is no Chairman of either the relevant Overview and Scrutiny Committee or Council, the Vice-Chairman of Council,

...that the making of the decision is urgent and cannot reasonably be deferred.

3.12.4 The above rules would need some degree of amendment to reflect a three Scrutiny Committee model, but it may also be prudent to reflect the fact that there would be three Vice-Chairmen under the proposed model.

3.12.5 Thus the above rules could be changed as follows:

- | |
|---|
| (a) The proper officer has informed the Chairman of the relevant Overview and Scrutiny Committee, or, if there is no such person, the Vice-Chairman of the relevant |
|---|

<p>Overview and Scrutiny Committee, or if there is no such person, each member of the relevant Overview and Scrutiny Committee by notice in writing, of the matter about which the decision is to be made: and,</p> <p>(b) The proper officer has made available at Thanet Gateway Plus, Cecil Street, Margate for inspection by the public and published on its website, a copy of the notice given pursuant to the above paragraph; and,</p> <p>(c) After five clear working days have elapsed following the day on which the proper notice made available the notice referred to in the above paragraph.</p>
<p>Where the above cannot be complied with, the decision can only be made where the decision-maker has obtained agreement from:</p> <p>(a) The Chairman of the relevant Overview and Scrutiny Committee; or,</p> <p>(b) If there is no such person, the Vice-Chairman of the relevant Overview and Scrutiny Committee,</p> <p>(b)(c) or if the Chairman and Vice-Chairman of the relevant Overview and Scrutiny Committee is are unable to act, the Chairman of Council; or,</p> <p>(c)(d) Where there is no Chairman or Vice-Chairman of either the relevant Overview and Scrutiny Committee and no Chairman of or Council, the Vice-Chairman of Council,</p> <p>...that the making of the decision is urgent and cannot reasonably be deferred.</p>

3.12.6 In the above cases, “relevant” is taken to mean the Committee with the terms of reference most closely matching the subject matter of the proposed decision.

3.12.7 The Working Party may wish to make alternative proposals.

4.0 Corporate Implications

4.1 Financial and VAT

4.1.1 There are potentially three broad sets of financial implications that would arise from the implementation of these proposals.

4.1.2 Firstly, there would be implications for the Democratic Services Team in supporting the new arrangements. The report to the Overview and Scrutiny Panel on 12 February estimated the need for additional resources in Democratic Services to support the model that was recommended by the Panel. It is suggested that if the model outlined in this report were adopted, an extra 0.5 FTE would be required. The costs of other options are outlined within the report to that meeting that is included in Annex 1.

4.1.3 Second, there could be resource implications generated by the work undertaken by the new Scrutiny Committees; that is to say, servicing the policy consultation reports presented to them and any task-finish sub-groups that continue to be established.

4.1.4 As suggested above, however, these implications will be reduced significantly if the main focus of the new Scrutiny Committees is to consider early version of reports that are already being developed for subsequent reporting to the executive.

4.1.5 On the other hand, if the existence of three Scrutiny Committees leads to an increase in the number of task-finish groups, further resources may be needed to support this, both within and outside of Democratic Services.

4.1.6 The third type of resource implication relates to Members’ Allowances as outlined above. The model set out in paragraph 3.9.3 would require additional budget provision of £857.

4.1.7 There is currently no budget provision to cover the above costs, nor is it possible to identify savings within the Democratic Services budget to cover the cost increases. If this

model were to be recommended to the Standards Committee, the source of funding to cover these costs would need to be identified.

4.2 Legal

- 4.2.1 The council's constitution would need to be amended to reflect new scrutiny arrangements, within Article 6, the Council Procedure Rules, the Overview Procedure Rules, the Petitions Scheme and the Protocol on the Councillor Call for Action.
- 4.2.2 All of the proposals within this report are consistent with local government law relating to overview and scrutiny.

4.3 Corporate

- 4.3.1 It is hoped that reviewing scrutiny arrangements would enhance the effectiveness of the contributions overview and scrutiny make to policy development and in turn will improve the quality of decisions taken by the Council.

4.4 Equity and Equalities

- 4.4.1 None Apparent

5.0 Recommendations

- 5.1 The Working Party's recommendations are requested on the following matters:
 - (a) The preferred constitutional option for the future of overview and scrutiny in Thanet; in other words, whether the recommendation from the Overview and Scrutiny Panel for a three-committee model replacing the main Overview and Scrutiny Panel is endorsed.
 - (b) The terms of reference of the proposed Scrutiny Committees, including the executive functions covered by each (as amended in Annex 3)
 - (c) The method for determining the "lead" Scrutiny Committee when a report or issue appears to overlap committee responsibilities (consultation between the Chairmen)
 - (d) The number of Councillors to sit on each Scrutiny Committee and the quorum for those committees (and the quorum for task-finish sub-groups)
 - (e) Whether any changes to the Cabinet Procedure Rules should be considered, in order to embed pre-decision consultation with the new Scrutiny Committees
 - (f) Whether any overall rules should be established for the size or membership of task-finish sub-groups (or whether that should be at the discretion of each Scrutiny Committee)
 - (g) How call-in will operate, including the number and political composition of Members required to call-in an executive decision and whether the Chairman of each Committee should also have the power of call-in
 - (h) Whether the only change to the Council's petitions scheme should be that a petition is referred to the Scrutiny Committee with the terms of reference most closely matching the subject matter of the petition or procedural complaint, and that Scrutiny Committee Chairmen are consulted where a petition or procedural complaint appears to overlap committee responsibilities. Alternatively, whether any wider changes should be made to the petitions scheme.
 - (i) Whether the Council Procedure Rules should be amended as set out in paragraph 3.8.2 in determining the Chairmen and Vice-Chairmen of the Scrutiny Committees (a minor alteration to the current constitutional provision), or an alternative arrangement should be proposed.
 - (j) Whether the Special Responsibility Allowances set out in paragraph 3.9.3 should be recommended to Council, or alternatives should be proposed.
 - (k) Whether Article 6 of the Constitution should be amended as set out in paragraph 3.10.2 (annual report of overview and scrutiny), to identify which Chairman would present the report to Council.

- (l) Whether it is sufficient to only change the Protocol on the Councillor Call for Action in respect of the matters set out in paragraph 3.11.3 (to reflect the proposed existence of multiple scrutiny committees)
- (m) Whether to support the suggested changes to the Access to Information - Special Urgency procedures outlined in paragraph 3.12.5 (to include reference to the relevant scrutiny committee and the option to refer to a Vice-Chairman of such a committee), or to suggest alternative arrangements.

6.0 Decision Making Process

6.1 Any recommendations by the Working Party that would alter the Council's constitution will be considered by the Standards Committee, which will, in turn, make recommendations to Council on 18 April 2013. Any revised arrangements for overview and scrutiny would be adopted at the Annual Meeting of Council on 16 May 2013.

Future meetings that will consider this issue:

Meeting: Standards Committee	Date: 27 March 2013
Meeting: Council	Date: 18 April 2013
Meeting: Council - Annual	Date: 16 May 2013

Contact Officer:	Glenn Back, Democratic Services and Scrutiny Manager
Reporting to:	Harvey Patterson, Corporate & Regulatory Services and Monitoring Officer

Annex List

Annex 1	Options report presented to the extraordinary meeting of the Overview and Scrutiny Panel on 12 February 2013.
Annex 2	Overview and Scrutiny Procedure Rules in the Council's constitution
Annex 3	Suggested changes to the terms of reference of individual Scrutiny Committees (replacement Article 6 in the constitution)

Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	Sarah Martin, Financial Services Manager
Legal	Harvey Patterson, Corporate & Regulatory Services Manager and Monitoring Officer

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FURTHER DETAILS ON 'OPTION A' OF PROPOSED SCRUTINY ARRANGEMENTS FOR THANET DISTRICT COUNCIL

To: **Extraordinary Overview & Scrutiny Panel – 12 February 2013**

Main Portfolio Area: **Democratic Services**

By: **Glenn Back, Democratic Services & Scrutiny Manager**

Classification: **Unrestricted**

Ward: **N/A**

Summary: **To help the Panel develop recommendations on the future structure of Overview and Scrutiny in Thanet.**

For Decision

1.0 Introduction and Background

1.1 *This report follows on from the report that was considered by the Overview & Scrutiny Panel (OSP) on 7 August 2012. At that meeting Members of the Panel discussed the initial options paper on the proposed scrutiny arrangements for Thanet District Council.*

1.2 *Members then requested a further officer report on the implications of Option A in the above report before deciding on which scrutiny arrangements to recommend. It should be noted that Option A provides for intensive pre-decision scrutiny for major policy development (similar in nature to a model that was used by Kent County Council towards the end of 2011).*

1.3 *A summary of the implications of adopting an intensive pre-decision scrutiny approach as previously reported are as follows:*

- i) Depending upon the precise model developed, this option would require a significant commitment of officer time and hence several additional FTEs to support effective scrutiny and would be dependent on the specific issues to be reviewed as drawn from the Cabinet/Council Forward Plan;*
- ii) Members may decide to establish standing sub-committees that reflect the current Cabinet Portfolio structure and review key decisions on the Forward Plan and then make recommendations to the relevant Cabinet Portfolio Holder before Cabinet makes a decision on the issue.*
- iii) The sub-committees could be reconstituted at the beginning of each municipal year, once the OSP was sure how the Cabinet portfolios would be structured.*

2.0 Option 'A' in some detail

Structure of the OSP sub-committees

2.1 *At the August 2012 ordinary meeting of the Overview & Scrutiny Panel, Members suggested that a model that consisted of a sub-committee suite that mirrored the current Cabinet portfolio and corporate service structures be explored further via consideration of additional information on Option 'A' within that report, before making recommendations on the future scrutiny arrangements for Thanet District Council.*

- 2.2 *One suggestion for working out the proposed structure is to assign the pending Cabinet and /or Council decisions on the Forward Plan to each of the OSP sub-committees. Such an approach would allocate the different Cabinet functions to each sub-committee based on grouping issues of a similar nature and this may distribute work evenly.*
- 2.3 *The model would therefore include the following standing sub-committees:*
- a) *Community Services Sub Committee;*
 - b) *Operational Services Sub Committee;*
 - c) *Corporate & Business Transformation Sub Committee.*
- 2.4 *The three corporate directorates support six portfolio areas. Community Services support three portfolio areas, Corporate & Business Transformation support two and Operational Services support one portfolio as reflected in Annex 1 of the report. Although each sub committee would review executive policy proposals and advise the portfolio holder about the Panel's view before an executive decision is made, Cabinet has the discretion on whether to adopt a pre-decision scrutiny approach for all non-policy framework executive decisions. The current practice however is that the Cabinet is agreeable to pre-decision scrutiny.*
- 2.5 *Whichever model is selected, it is recommended that the frequency of meetings for the standing sub-committees would coincide with the cycle of the Overview & Scrutiny Panel and Cabinet meetings in order to help feed any scrutiny recommendations into the Council's decision making process as seamlessly as possible. Thus, the sub-committees would meet before the Panel, which would meet before Cabinet and Council. Annex 2 illustrates the number of meetings for the Panel and Cabinet and the proposed meeting cycle for each of the sub-committees, but it should be noted that the current committee calendar cannot always accommodate the preferred cycle and may need to be reviewed in the future.*

Consultation on forthcoming executive decisions/policies

- 2.6 *Forthcoming policy framework and other executive decisions as reflected in the Forward Plan at any point in time would be the main source of policy development consultation from which the sub-committees would determine their work programme. Annex 3 of the report illustrates the current potential consultation projects for the proposed standing sub committees. This would be in the context of their respective terms of reference whose drafts are provided in Annex 4 to Annex 6 of the report. Additional review projects may emerge from delegated individual Cabinet Member or senior officer decisions. However in the case of officer decisions; it is suggested that only key decisions would be automatically referred to the appropriate standing sub-committee (otherwise they may become overwhelmed with workload).*
- 2.7 *The Panel could delegate to each of the sub committees the power to make recommendations or comment upon draft executive policy directly to Cabinet or the individual Cabinet Member or Council Officer as the case may be. Such delegation would remove the need for all sub-committee recommendations to be run past the Overview & Scrutiny Panel each time and may ensure speedier response to the development of policies.*
- 2.8 *If that option were chosen, Members may then wish to ensure that there is wide participation by members of the Panel in sub-committee policy consultation by agreeing a larger membership for each sub- committee. The alternative is to require sub-committees to provide their consultation comments to Cabinet etc via the Overview and Scrutiny Panel. If the intention is to route all significant executive policy decisions via the scrutiny sub-committees, then significant delays may occur as a result and so this variant of the model might become impractical.*

Post-Decision (Post-Hoc) Reviews

- 2.9 *In cases where an executive decision has been made before a review by the Panel or its sub committees, then the appropriate sub committee could undertake a post decision review ("post-hoc" review) and advise the executive on any learning points.*

Call-in

- 2.10 *In the case of call-in, Members of the Panel need to decide:*
- a) *whether it remains the Chairman and/or any five members of the Panel (who shall not all be from the same political group) that can call-in a decision, or whether to recommend to the Constitutional Review Working Party that the sub-committees should be able to call-in a decision relating to their assigned terms of reference. The Panel would also have to consider reducing the number of members required to call-in a decision from five to say three;*
 - b) *whether to delegate the call-in activity to each of the sub committees depending on the topic; assign one of the sub committees to receive them all, or retain that function at the Panel level.*
- 2.11 *Delegating the activity of call-in to a sub-committee would reduce the number of OSP Members directly involved in scrutinising such issues. This arrangement may also mean having an increased number of sub-committee meetings because of the possible need to arrange call-in meetings in addition to the scheduled meetings of the sub-committees. On the other hand, delegating call-in to sub-groups might ensure speedier consideration of call-in and minimise the delay of implementing executive decisions, because it may be easier to arrange extra sub-committee meetings than extra meetings of the Panel.*
- 2.12 *The alternative would be to keep the call-in function at the Panel level. There would be no changes to the frequency of OSP meetings than is currently the case, but it would remain the case that additional Panel meetings might be needed, depending upon the precise timing of any call-in. More Members are involved if the call-in resides with the Panel and not its sub-committees.*

Scrutiny policy development (scrutiny task/finish reviews)

- 2.13 *Members need to consider whether to only utilise only the new sub-committees for policy development or retain task & finish project groups as well. Whilst it may be suggested that there would no longer be a need for task-finish groups if standing sub-committees were established, in reality it is unlikely that the kinds of task-finish projects currently underway could be accommodated within the relatively inflexible timetable of standing sub-committees.*
- 2.14 *If task-finish groups were to be continued, there would be workload implications and therefore resource implications. Establishing ad-hoc task & finish groups in addition to standing sub-committees would lead to an increase in the number of meetings to be serviced by Democratic Services and would require significantly more resources than would be the case if Members opted for standing sub-committees only.*
- 2.15 *In the 2011/12 municipal year there were seven OSP ad hoc working parties as compared to eleven 2012/13. These ad hoc task & finish groups met twenty two times in 2011/12. They met twenty three times this municipal year (May 2012 to date). This number will increase as the year draws to a close. It is anticipated that the standing sub-committees would meet roughly the same number of times. It would be reasonable to assume that if ad-hoc groups were established in addition to sub-committees, the number of task & finish sub-group meetings would go considerably beyond the current twenty three. In fact there are already an additional seven meetings planned for February to March 2013 for seven of the task and finish groups. This point is illustrated in both Table 1 and Section 3.0 of the report.*
- 2.16 *In order to progress policy development matters, these sub-committee meetings would be scheduled so that any output from sub-committees would feed into the Overview & Scrutiny Panel (if there is no delegation to sub-committees), and then Cabinet to make*

the final decision on the recommendations. If any delegation were created, then the sub-committee could make recommendations directly to Cabinet.

- 2.17 *In setting up the current suite of task & finish groups for 2012/13, the Panel found it difficult to get sufficient Members to sit on these groups. This challenge may be even more apparent if Members opt to establish standing sub-committees as well as continuing the ad-hoc task & finish groups.*
- 2.18 *If the Panel still wished to undertake task-finish project work, there is again a choice as to whether such groups would report to the relevant sub-committee and in turn to the main Panel. However, it might be considered that such a two-step approval process (sub-committee, Panel) may unnecessarily delay the approval process.*
- 2.19 *Alternatively, authority for agreeing the recommendations emerging from task-finish project groups might be delegated to the sub-committees. Such delegation would remove the need for all sub-committee recommendations to be run past the Overview & Scrutiny Panel each time and may ensure speedier delivery of scrutiny projects. However Members may then wish to ensure that there is wide participation by members of the Panel in sub committee projects by agreeing a larger membership size for each group and the terms of reference would need to reflect such a function as illustrated by the draft terms of reference templates in Annexes 4-6.*

Petitions etc

- 2.20 *In the current Thanet District Council Constitution, some petitions are referred to the Overview & Scrutiny Panel (depending upon the number of petitioners). Members have two options:*
- a) *the status quo could remain whereby petitions are referred to the Overview and Scrutiny Panel*
 - b) *petitions could be referred to the relevant sub-committee depending on the topic of the petition. Assigning petitions to sub-committees may increase the number times such group(s) would need to meet.*
- 2.21 *Currently some of the Notices of Motions may be referred to the Overview and Scrutiny Panel by Council and then Cabinet. A similar choice remains; whether these should be referred to the Overview and Scrutiny Panel or be referred to the relevant sub-committee.*

Alternative Option 'A' Establishing Standing Committees and abolishing the main Panel (OSP)

- 2.22 *Members may also want to consider a more radical option for new scrutiny arrangements where the three standing Overview & Scrutiny Committees are set up as full committees, and the current Overview & Scrutiny Panel is abolished either in 2013/14 or after the local Council elections in 2015 (i.e. for 2015/16). This may be more appropriate in a situation where Members would have opted to delegate a significant number of functions to the sub-committees under Option 'A' so much that there remains very little for the main Panel to do. Abolition of the main Panel would remove an extra layer from the decision making process.*
- 2.23 *In this model the call-in would be assigned to each standing committee depending on their terms of reference. A valid call-in procedure could constitute such a request being made by the chairman or any three members of the committee who may not be from the same political Groups.*
- 2.24 *If Members agree this variant of Option 'A', it may be advisable to have a larger membership for the sub-committees. The additional seats have to be shared according to the rules of political proportionality. Each Overview & Scrutiny Sub-Committee would have a chairman and vice-chairman. There is a need to then consider the financial implications in relation to Special Responsibility Allowances for the new roles of Chairman and Vice-Chairman that would have been established. If the main Overview and Scrutiny Panel were to be abolished, there could still be a marginal increase in the total amount of Special Responsibility Allowances paid in relation to the scrutiny function.*

2.25 Any changes to the current governance arrangements would have to be forwarded to the Constitutional Review Working Party for further consideration, before being forwarded to the Standards Committee and then Council for final decision.

2.26 All of the above choices are illustrated in the following table:

TABLE 1

Option	Function	Delegations	Comment	Indicative Additional Resource Implications (on top of 0.5FTE already committed)	Special Responsibility Allowance Indicative Implications
1	<i>Current Arrangement – Ad Hoc Task & Finish Groups</i>	<i>No delegation – must report to Panel for approval</i>	<i>No change to status quo. Additional resources have already been identified in 2012/13 to support this arrangement given an increase in scrutiny task/finish projects.</i>	<i>None</i>	<i>None (currently no Chairman of a task/finish group is paid an SRA)</i>
2	<i>OSP Sub-Committee suite established for consultation on forthcoming executive decisions (as reflected in a published Forward Plan)</i>	<i>No delegation – must report to Panel for approval</i>	<i>Assumes task/finish groups continue, hence leads to an extra cycle of sub-committee meetings (at least 21 extra meetings per annum) and may necessitate extra Panel meetings to grant approvals for recommendations.</i>	<i>+1.0 FTE</i>	<i>Three Chairman and three Vice-Chairman roles could attract an SRA</i>
3		<i>Delegated power to respond to executive</i>	<i>This reduces the time needed for Panel approval of recommendations to the executive; because it may avoid the need for extra Panel meetings it offsets a little of the additional resource requirement</i>	<i>+0.5 FTE</i>	<i>Three Chairman and three Vice-Chairman roles could attract an SRA</i>

Option	Function	Delegations	Comment	Indicative Additional Resource Implications (on top of 0.5FTE already committed)	Special Responsibility Allowance Indicative Implications
4	Call-in	No delegation – function undertaken by Panel	May lead to extra Panel meetings, but is no different from current position	None	N/A
5		Delegated to sub-committees	May lead to extra meetings for sub-committees	None (though there might be a small resource implication if additional sub-committee meetings need to be set up for call-ins).	N/A
6	Scrutiny policy development (task-finish groups)	Not undertaken –delegations not applicable	If sub-committees were added but task/finish groups abandoned, the overall resource impact would be minimal compared to the current position (thus it is assumed that the 0.5 FTE currently earmarked is still needed to cover the 21 sub-committee meetings)	None. If task/finish groups were abandoned at the same time as standing sub-committees are created, the requirement at option 2 would be offset. But this would not be true if those sub-committees add to their workload over and above consultation on forthcoming executive decisions.	N/A

Option	Function	Delegations	Comment	Indicative Additional Resource Implications (on top of 0.5FTE already committed)	Special Responsibility Allowance Indicative Implications
7		<i>Undertaken – no delegation, approved by Panel</i>	<i>Additional resources required to clerk/service the groups; May be difficult to get Member volunteers to sit on all groups; Leads to extra Panel meetings</i>	<i>1.0 FTE (equivalent to option 2 above)</i>	<i>N/A</i>
8		<i>Undertaken –delegated to sub-committees</i>	<i>Additional resources required to clerk/service the groups, but some implications offset by the lack of need to route all recommendations via the main Panel.</i>	<i>0.5 FTE (akin to option 3)</i>	<i>N/A</i>
9	<i>Petitions etc</i>	<i>Undertaken by Panel</i>	<i>There are no implications associated with this arrangement as such petitions can considered at a scheduled meeting of the Panel</i>	<i>No additional requirements above those in other options</i>	<i>N/A</i>
10		<i>Delegated to sub-committees</i>	<i>May lead to extra meetings for sub-committees, but of itself is not considered sufficient to warrant extra resources.</i>	<i>No additional requirements above those in other options</i>	<i>N/A</i>
11	<i>Review of performance of Community Safety Partnership</i>	<i>No Delegation - Undertaken by Panel</i>	<i>If this involves light touch work such as deliberating on this at least at one OSP Meeting a year (that statutory minimum</i>	<i>No additional requirements above those in other</i>	<i>N/A</i>

Option	Function	Delegations	Comment	Indicative Additional Resource Implications (on top of 0.5FTE already committed)	Special Responsibility Allowance Indicative Implications
			<i>requirement); then there are no resource implications associated with this arrangement as such consideration can be undertaken at a scheduled meeting of the Panel</i>	<i>options</i>	
12		<i>Delegated to sub-committee</i>	<i>Not available: This is a statutory function bestowed upon a scrutiny committee (in our case, the Panel). Although the Panel can assign community safety partnership scrutiny projects to sub-group(s), it must approve relevant recommendations</i>	<i>No additional requirements above those in other options</i>	<i>N/A</i>

Option	Function	Delegations	Comment	Indicative Additional Resource Implications (on top of 0.5FTE already committed)	Special Responsibility Allowance Indicative Implications
13	3 Overview & Scrutiny Committees established - Overview Scrutiny Panel abolished either for 2013/14 or after local Council elections in 2015	Undertake functions that reflect the portfolio areas and directorates they would be shadowing.	The current OSP terms of reference would have to be assigned to the 3 new OSCs, depending on the portfolio area each would be shadowing	<p>If this option were adopted in 2013/14, there may be reductions of about 0.25 FTE required under each of options 2 and 3 above.</p> <p>If this option were not implemented until 2015/16, then all the above resource implications for the other options would apply until then.</p>	The current roles of Chairman and Vice-Chair of the OSP would no longer exist but would be replaced by 3 Chairman posts and 3 Vice-Chair posts for the new Overview & Scrutiny Committees being proposed.

3.0 Corporate Implications

3.1 Financial and VAT

Current Scrutiny Arrangements

- 3.1.1 There are financial implications arising from the adoption of Option 'A' as laid out in Section 2 above. It should be noted that currently there is an offer by the executive to provide an additional resource of 0.5 FTE to the work of scrutiny until the end of this financial year. External recruitment to that post is currently underway. It is understood that this resource has been built into the base budget build for 2013/14, though that has yet to be agreed by Council.
- 3.1.2 If Members opt to keep the current scrutiny arrangements then there are no changes required to resources available. It would simply mean putting in place a permanent 0.5 FTE additional resource to service the additional scrutiny workload as already agreed by the Executive.

Option 'A' Standing Sub-committees only (without ad hoc task & finish groups)

- 3.1.3 Option 'A' that only sets up the standing sub-committees as reflected in Annex 1 could be considered as sufficiently resourced with the additional 0.5 FTE already committed, because the increase in standing sub-committees would be roughly offset by the

reduction in task-finish groups. However this is dependent on whether each of the sub committees has additional delegated functions. The fewer delegated functions they have, the more likely a further resource would be needed. This issue is summarised in Table 1 above.

- 3.1.4 If Members opt to set up a sub-committee suite only but do not recommend a change in the current call-in arrangements, then the committed 0.5 FTE would be required to manage the workload.
- 3.1.5 If however Members prefer a sub-committee suite only where each sub-committee has delegated power to call-in executive decisions with the additional role in progressing petitions; then there may be 1.0 FTE resources required (0.5 FTE on top of the 0.5 FTE already committed) because of the likelihood of extra sub-committee meetings needing to be arranged for call-in meetings.

Option 'A' Standing Sub-committees and Ad Hoc Task & Finish Groups

- 3.1.6 Adopting Option 'A' that includes standing sub-committees with delegated authority to recommend directly to the executive and have call-in responsibilities and supports the work of task & finish groups, would require additional resources. That is because this option overlays an additional 21 sub-committee meetings on top of the current commitment to service task/finish groups.
- 3.1.7 If Members therefore opt for a model that establishes both a standing sub committee suite and task and finish groups, then the 0.5 FTE currently on offer would not be enough to cope with the workload. This arrangement may require an additional 1.0 FTE making 1.5 FTE in total required. Such an option would be similar to the one Kent County Council (who have a larger resource base than TDC) had up to the end of 2011/12. This KCC model was supported by the following dedicated scrutiny resources as reported in the initial report to the Panel:
- a) 1.0 FTE post supporting Cabinet Scrutiny;
 - b) 1.0 FTE post supporting Health Overview & Scrutiny Committee;
 - c) 2.5 FTE supporting Select Committees.
- 3.1.8 It is therefore possible, given this comparison, that if the sub-committees were to undertake more than the pre-decision consultation suggested in this report, that an additional 1.0 FTE may be insufficient.

General

- 3.1.9 In any event, the resource implications outlined in this report are indicative, and would need to be reviewed in the light of operational experience running any revised scrutiny arrangements.

Alternative Option 'A' Establishing Standing Committees and abolishing the main Panel

- 3.1.10 Financial implications for this model are dependent upon the numbers of Members on the Panels and the levels of any new special responsibilities that were created as a result and would need to be worked out in detail separately before being referred to the East Kent Joint Independent Remuneration Panel and then agreed by Council. However it is envisaged that there could be marginal increases in the total amounts of the Special Responsibility Allowances (SRAs) payable in this model, but inevitably this depends on the SRA regime to be agreed by Members and consulted with the East Kent Joint Independent Remuneration Panel. There would be six additional special responsibility allowance roles as shown in Table 1 above.
- 3.1.11 Currently, the OSP Chairman and Vice-Chairman have a combined Special Responsibility Allowances total of £11,206. In setting up the new scrutiny arrangements, Members may want to note that the SRAs for chairman and Vice-Chair of major committees are £5,204 and £1,216 whilst that for minor committees is ££3,216 and £805 respectively.

3.2 Legal

3.2.1 *There are no legal implications arising directly from this report. However were new governance arrangements to be agreed that may require amending the Council Constitution to reflect the changes on the recommendations of the Constitutional Review Working Party and Standards Committee and then Council approval.*

3.3 Corporate

3.3.1 *It is hoped that reviewing scrutiny arrangements would enhance the effectiveness of the contributions of the Overview and Scrutiny Panel to policy Development and in turn will improve the quality of decisions made by the Council.*

3.4 Equity and Equalities

3.4.1 *There are no equity and equalities issues arising directly from this report.*

4.0 Recommendations

4.1 *In the context of additional information provided regarding Option 'A' in Section 2.0 (including Table 1) and the financial implications alluded to in Section 3.1 of the report; guidance is sought from Members of the Overview and Scrutiny Panel;*

4.2 *In principle do Members wish to keep the current overview and scrutiny arrangements in place - without implementing any of the options for change outlined in this report?*

4.3 *In principle do Members wish to set up three permanent Overview and Scrutiny Panel sub-committees and abolish the task-finish task groups as outlined in the Options Section 2.0 and in Table 1 (Option 2) of the report; with the sub-committees considering assigned forthcoming policy framework decisions;*

4.4 *In principle do Members wish to set up the three Overview and Scrutiny Panel sub-committees and continue with ad hoc task & finish groups as set out in Option 7, Table 1 of the report;*

4.5 *In principle do Members wish to set up three Overview & Scrutiny Panel Committees and abolish the main Overview & Scrutiny Panel, as suggested in Option 13, Table 1 of the report;*

4.6 *Were Members to agree recommending changes to the current scrutiny arrangements, the Panel would need to recommend such changes to the Constitutional Review Working Party, then Standards Committee and for final approval by full Council.*

4.7 *Were Members to agree to recommendations for changing the structure of Overview & Scrutiny, then Members may wish to consider options regarding the payment of Special Responsibility Allowances and consult the East Kent Joint Independent Remuneration Panel on the Special Responsibility Allowance regime to be set up for the new arrangements.*

5.0 Decision Making Process

5.1 *The Overview & Scrutiny Panel may recommend to Council proposals for adopting new scrutiny arrangements and providing appropriate resources to support these new scrutiny arrangements for Thanet District Council. Council would then need to change the Council Constitution on the advice of the Constitutional Review Working Party and Standards Committee to reflect the new governance arrangements.*

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Reporting to:	<i>Glenn Back, Democratic Services & Scrutiny Manager, Ext 7187</i>

Annex List

<i>Annex 1</i>	<i>Current TDC Cabinet structure as mirrored by the proposed OSP suite of Sub Committees</i>
<i>Annex 2</i>	<i>Proposed OSP Sub-Committees/OSP/Cabinet Calendar of Meetings 2013/14 to 2014/15</i>
<i>Annex 3</i>	<i>Proposed OSP Sub Committee Structure in relation to Forward Plan – 21 December 2012 – 02 May 2013 – Areas of Overview</i>
<i>Annex 4</i>	<i>Community Services OSP Sub-Committee Draft Terms of Reference</i>
<i>Annex 5</i>	<i>Corporate Services & Transformation OSP Sub-Committee Draft Terms of Reference</i>
<i>Annex 6</i>	<i>Operational Services OSP Sub-Committee Draft Terms of Reference</i>

Background Papers

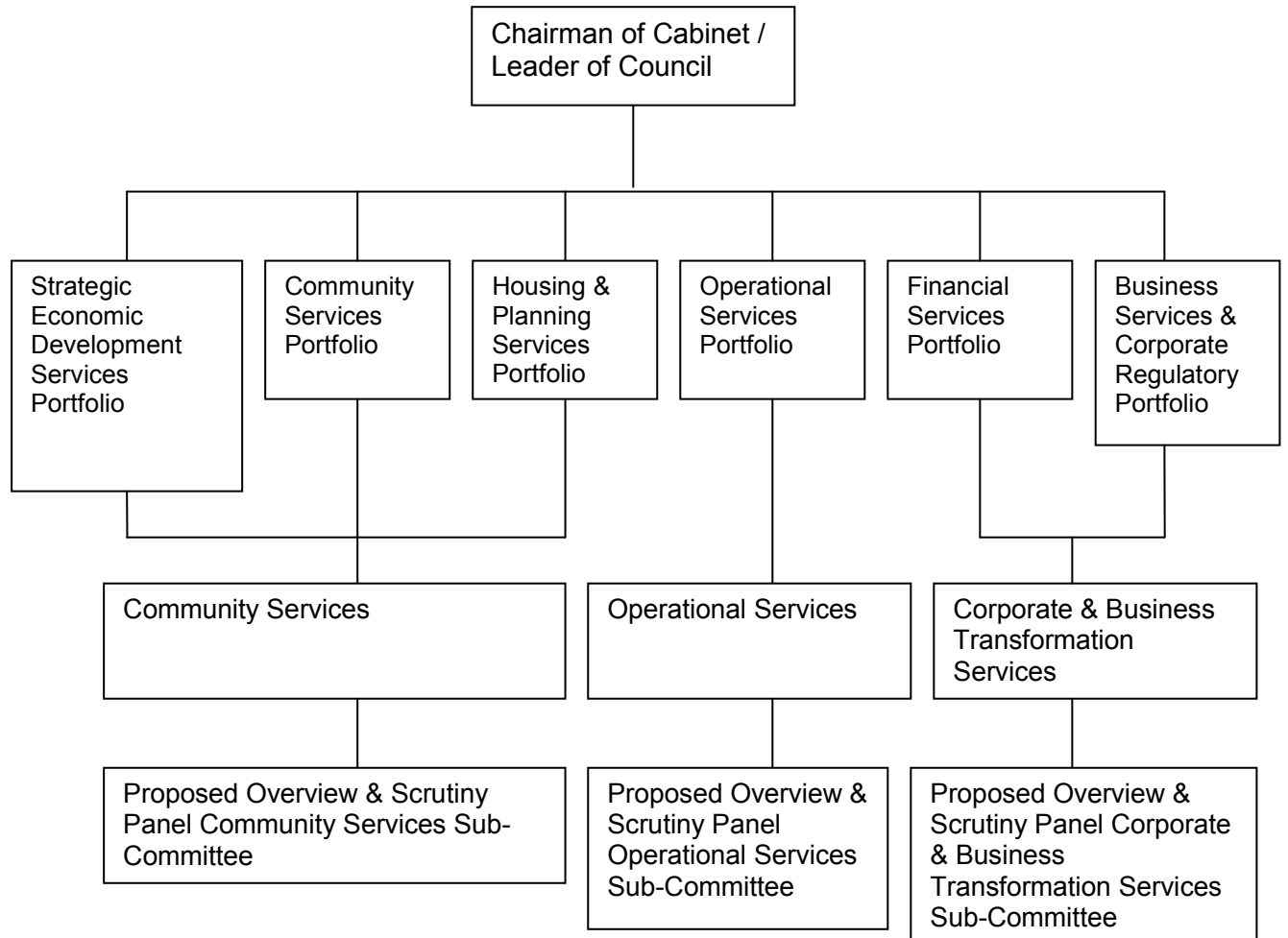
Title`	Details of where to access copy
<i>None</i>	<i>N/A</i>

Corporate Consultation Undertaken

<i>Finance</i>	<i>Sarah Martin, Financial Services Manager</i>
<i>Legal</i>	<i>Harvey Patterson, Corporate & Regulatory Services Manager</i>

Annex 1 to OSP Report

CURRENT TDC CABINET STRUCTURE AS MIRRORED BY THE PROPOSED OVERVIEW & SCRUTINY PANEL SUITE OF SUB-COMMITTEES 2012/13



KEY: CABINET PORTFOLIO STRUCTURE ROLE DEFINITIONS

Strategic Economic Development Services Portfolio

Strategic elements of Economic Development & Regeneration

Community Services Portfolio

Community Safety, Economic Development & regeneration, Margate Task Force, Events,

Community Development, Cultural Development, Indoor and Outdoor Leisure,

Safeguarding Children, Play Areas, Sport, Youth, Tourism, Thanet Leisure Force

Housing & Planning Services Portfolio

Housing Intervention, Private Sector Housing,

Housing Needs/Homelessness, Housing Strategy, Client-side East Kent Housing,

Building Control, Strategic Planning, Planning Applications, Planning Enforcement, Conservation

Operational Services Portfolio

Foreshore, Allotments, Property Management (including asset disposal, acquisition and asset management), Emergency Planning & Business Continuity, Kent Innovation Centre, Media Centre, Port of Ramsgate, Ramsgate Royal Harbour Marina, Broadstairs and Margate Harbours, Cemeteries and Crematorium, Coastal Engineering, Commercial Property, Grounds Maintenance, Parks and Open Spaces Management (including Trees), Playground Maintenance, Public Toilets, Street Cleaning, Waste and Recycling, Off Street Parking, On Street Parking including Temporary Road Closure Orders, Thanet Coast Project, Water Safety and Beach Services.

Financial Services Portfolio

Capital, Treasury Management, HRA and Insurance, Budget Setting, Monitoring and Final Accounts, Income, Payments, Systems Control and Improvement, East Kent Audit Partnership

Business, Corporate & Regulatory Services Portfolio

Business Information and Improvement, Information and Communications (including Public Relations, Marketing, Press Relations, Internal Communications, film locations and Records and Data Management), Business Support and Compliance (including Corporate Governance), Policy and Business Planning (including Performance Management), Procurement and Contracts, Business Transformation and Options

East Kent Services Client-Side, East Kent Human Resources Partnership Client-Side, covering:

Benefits, Customer Services, Human Resources (including internal Health and

Annex 2 to OSP Report

Proposed OSP Sub-Committees Calendar of Meetings 2013/14 to 2014/15

NOTES: - Policy Development Process

OSP Sub-Committees —————> Overview & Scrutiny Panel —————> Cabinet

May 2013

Thursday 2	Cabinet
Monday 6	Offices closed
Thursday 16	Annual Council
Tuesday 28	Overview & Scrutiny Panel
By Thursday 30	Community Services Sub-Committee
By Thursday 30	Corporate Services & Transformation Sub-Committee
By Thursday 30	Operational Services Sub-Committee

June 2013

Thursday 20	Cabinet
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July 2013

By Monday 1	Community Services Sub-Committee
By Monday 1	Corporate Services & Transformation Sub-Committee
By Monday 1	Operational Services Sub-Committee

August 2013

Thursday 1	Cabinet
By Monday 12	Community Services Sub-Committee
By Monday 12	Corporate Services & Transformation Sub-Committee
By Monday 12	Operational Services Sub-Committee
Tuesday 20	Overview & Scrutiny Panel
Monday 26	Offices closed

September 2013

Thursday 12	Cabinet
Thursday	Governance & Audit

26	Committee
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October 2013

By Monday 14	Community Services Sub-Committee
By Monday 14	Corporate Services & Transformation Sub-Committee
By Monday 14	Operational Services Sub-Committee
Tuesday 22	Overview & Scrutiny Panel

November 2013

Tuesday 12	Standards Assessment Sub-Committee
Thursday 14	Cabinet

December 2013

By Monday 9	Community Services Sub-Committee
By Monday 9	Corporate Services & Transformation Sub-Committee
By Monday 9	Operational Services Sub-Committee
Wednesday 25	Offices Closed
Thursday 26	Offices Closed

January 2014

Wednesday 1	Offices Closed
Thursday 2	Cabinet

February 2014

Thursday 6	Council (budget)
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March 2014

By Monday 3	Community Services Sub-Committee
By Monday 3	Corporate Services & Transformation Sub-Committee
By Monday 3	Operational Services Sub-Committee
Tuesday 11	Overview & Scrutiny Panel

April 2014

Thursday 3	Cabinet
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<i>By Monday 7</i>	<i>Community Services Sub-Committee</i>
<i>By Monday 7</i>	<i>Corporate Services & Transformation Sub-Committee</i>
<i>By Monday 7</i>	<i>Operational Services Sub-Committee</i>
<i>Friday 18</i>	<i>Offices closed</i>
<i>Monday 21</i>	<i>Offices closed</i>
<i>Tuesday 29</i>	<i>Overview & Scrutiny Panel</i>

May 2014

<i>Thursday 1</i>	<i>Cabinet</i>
<i>Monday 5</i>	<i>Offices closed</i>
<i>Thursday 15</i>	<i>Annual Council</i>
<i>By Monday 19</i>	<i>Community Services Sub-Committee</i>
<i>By Monday 19</i>	<i>Corporate Services & Transformation Sub-Committee</i>
<i>By Monday 19</i>	<i>Operational Services Sub-Committee</i>
<i>Monday 26</i>	<i>Offices closed</i>
<i>Tuesday 27</i>	<i>Overview & Scrutiny Panel</i>

June 2014

<i>Thursday 19</i>	<i>Cabinet</i>
<i>By Monday 30</i>	<i>Community Services Sub-Committee</i>
<i>By Monday 30</i>	<i>Corporate Services & Transformation Sub-Committee</i>
<i>By Monday 30</i>	<i>Operational Services Sub-Committee</i>

July 2014

<i>Thursday 30</i>	<i>Cabinet</i>
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August 2014

<i>By Monday 11</i>	<i>Community Services Sub-Committee</i>
<i>By Monday 11</i>	<i>Corporate Services & Transformation Sub-Committee</i>
<i>By Monday 11</i>	<i>Operational Services Sub-Committee</i>
<i>Tuesday 19</i>	<i>Overview & Scrutiny Panel</i>
<i>Wednesday 20</i>	<i>Planning</i>
<i>Monday 25</i>	<i>Offices closed</i>

September 2014

<i>Thursday 11</i>	<i>Cabinet</i>
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October 2014

<i>By Monday 13</i>	<i>Community Services Sub-Committee</i>
<i>By Monday 13</i>	<i>Corporate Services & Transformation Sub-Committee</i>
<i>By Monday 13</i>	<i>Operational Services Sub-Committee</i>
<i>Tuesday 21</i>	<i>Overview & Scrutiny</i>

November 2014

<i>Thursday 13</i>	<i>Cabinet</i>
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December 2014

<i>By Monday 8</i>	<i>Community Services Sub-Committee</i>
<i>By Monday 8</i>	<i>Corporate Services & Transformation Sub-Committee</i>
<i>By Monday 8</i>	<i>Operational Services Sub-Committee</i>
<i>Thursday 25</i>	<i>Offices closed</i>
<i>Friday 26</i>	<i>Offices closed</i>

January 2015

<i>Monday 1</i>	<i>Offices Closed</i>
<i>Tuesday 13</i>	<i>Overview & Scrutiny Panel</i>
<i>Tuesday 20</i>	<i>Cabinet</i>

February 2015

<i>Thursday 5</i>	<i>Council (budget)</i>
<i>Thursday 26</i>	<i>Council</i>

March 2015

<i>By Tuesday 3</i>	<i>Community Services Sub-Committee</i>
<i>By Tuesday 3</i>	<i>Corporate Services & Transformation Sub-Committee</i>
<i>By Tuesday 3</i>	<i>Operational Services Sub-Committee</i>
<i>Tuesday 10</i>	<i>Overview & Scrutiny Panel</i>

<i>By Monday 30</i>	<i>Community Services Sub-Committee</i>
<i>By Monday 30</i>	<i>Corporate Services & Transformation Sub-Committee</i>
<i>By Monday 30</i>	<i>Operational Services Sub-Committee</i>

April 2015

<i>Thursday 2</i>	<i>Cabinet</i>
<i>Friday 3</i>	<i>Offices closed</i>
<i>Monday 6</i>	<i>Offices closed</i>
<i>Tuesday 28</i>	<i>Overview & Scrutiny</i>
<i>Thursday 30</i>	<i>Cabinet</i>

May 2015

<i>Monday 4</i>	<i>Offices closed</i>
<i>Thursday 14</i>	<i>Annual Council</i>
<i>Monday 25</i>	<i>Offices closed</i>

Annex 3 to OSP Report

PROPOSED OVERVIEW & SCRUTINY PANEL SUB COMMITTEE STRUCTURE AND FORWARD PLAN 21 DECEMBER 2012 – 02 MAY 2013 AREAS OF OVERVIEW

Proposed Overview & Scrutiny Panel Community Services Sub-Committee	Proposed Overview & Scrutiny Panel Operational Services Sub-Committee	Proposed Overview & Scrutiny Panel Corporate & Business Transformation Services Sub- Committee
<p>Tenancy Strategy; Design of Future Climate Change; Excellent Homes for All (EHFA) – Signing of the Project Agreement Back to Back Agreement and Risk Sharing; Approval of Economic Development Strategy; Community Right to Bid (Assets of Community Value) – Localism Act 2011; Allocation Policy; A Disabled Facilities Grant (DFG) Policy; To bring the revised Local Development Scheme into effect; Housing Strategy; Local Authority Mortgage Scheme;</p>	<p>Refresh of Kent Joint Waste Management Strategy;</p> <p>Thanet Parking Policy 2013-14;</p> <p>Port Master Plan;</p>	<p>Localisation of Council Tax Discount Scheme; Risk Management Strategy; Budget Monitoring; Draft Budget Proposals; Revised Procurement Strategy; 2012-2013 Further report on progress against Corporate Plan; Equality Policy;</p>

Annex 4 to OSP Report

COMMUNITY SERVICES SUB-COMMITTEE TERMS OF REFERENCE

A. TERMS OF REFERENCE

General

A Sub-Committee of the Overview & Scrutiny Panel established to review and scrutinise issues related to the Community Services Portfolio and any other matters that are outside the function of Council but affect the community in Thanet.

Membership, Chairmanship and Quorum

<i>Number of Members</i>	<i>XX</i>
<i>Substitute Members Permitted</i>	<i>Yes</i>
<i>Political Balance Rules apply</i>	<i>Yes (unless unanimously waived by the Overview and Scrutiny Panel)</i>
<i>Appointments/Removals from Office</i>	<i>By the Overview and Scrutiny Panel</i>
<i>Restrictions on Membership</i>	<i>Non Executive Members only</i>
<i>Restrictions on Chairmanship</i>	<i>None</i>
<i>Quorum</i>	<i>XX</i>
<i>Number of ordinary meetings per Council Year</i>	<i>7 scheduled meetings; Ad hoc meetings will be called as required in response to emerging issues from call-in (if delegated); outside TDC and as reflected in the work programme below.</i>

Terms of Reference

- 1) To scrutinise and make recommendations upon the forthcoming executive policy decisions for the Community Services Portfolio as reflected on the current published edition of the Forward Plan;*
- 2. To review executive on a post-hoc basis, (after such decisions have been implemented) and offer advice to the executive via the Overview and Scrutiny Panel (if this is the agreed approach) on any lessons learnt;*
- 3. (If delegated the authority) To carry-out call-in functions on executive decisions (including officer key decisions) that relate to the Community Services Portfolio;*
- 4. (If delegated the authority) To consider any petitions referred to the sub-committee by Council on issues relate to the Community Services Portfolio;*
- 5. (If delegated the authority) To review the performance of the Community Safety Partnership and make appropriate recommendations to the Panel;*
- 6. (If delegated the authority) To produce final reports with findings and recommendations on ad hoc project reviews, including on matters outside the function of Cabinet and Council (but have affect the wellbeing of residents in Thanet) for consideration by the Overview & Scrutiny Panel.*

Delegations

None if Panel decides not to delegate.

Or

- 1. (If delegated the authority) To carry-out call-in functions on executive decisions (including officer key decisions) that relate to the Community Services Portfolio;*
- 2. (If delegated the authority) To consider any petitions referred to the sub-committee by Council on issues relate to the Community Services Portfolio;*
- 3. (If delegated the authority) To review the performance of the Community Safety Partnership and make appropriate recommendations*
- 4. (If delegated the authority) To produce final reports with findings and recommendations on ad hoc project reviews for consideration by the Overview & Scrutiny Panel.*

Notes

This standing sub-committee was established in principle by the decision of the Overview & Scrutiny Panel on XX XXXX XXXX. These terms of reference were approved by the Overview & Scrutiny Panel on XX XXXX XXXX.

Annex 5 to OSP Report

CORPORATE SERVICES & BUSINESS TRANSFORMATION SUB-COMMITTEE TERMS OF REFERENCE

A. TERMS OF REFERENCE

General

A Sub-Committee of the Overview & Scrutiny Panel established to review and scrutinise issues related to the Financial Services and Business Services & Corporate Regulatory Services Portfolios *and any other matters that are outside the function of Council but affect the community in Thanet.*

Membership, Chairmanship and Quorum

<i>Number of Members</i>	<i>XX</i>
<i>Substitute Members Permitted</i>	<i>Yes</i>
<i>Political Balance Rules apply</i>	<i>Yes (unless unanimously waived by the Overview and Scrutiny Panel)</i>
<i>Appointments/Removals from Office</i>	<i>By the Overview and Scrutiny Panel</i>
<i>Restrictions on Membership</i>	<i>Non Executive Members only</i>
<i>Restrictions on Chairmanship</i>	<i>None</i>
<i>Quorum</i>	<i>XX</i>
<i>Number of ordinary meetings per Council Year</i>	<i>7 scheduled meetings. Ad hoc meetings will be called as required in response to emerging issues from call-in (if delegated); outside TDC and as reflected in the work programme below.</i>

Terms of Reference

- 1) To scrutinise and make recommendations upon the forthcoming executive policy decisions for the Financial Services and Business & Corporate Regulatory Services Portfolios as reflected on the current published edition of the Forward Plan;*
- 2. Challenge the alignment of priorities and optimal use of resources to ensure value for money;*
- 3. Contribute towards the budget setting process;*
- 4. Evaluate partnerships the Council is party to in order to ensure effective use of resources and a return on investment of those partnerships;*
- 5. Review the implementation and effectiveness of the business transformation project;*
- 6. To review executive on a post-hoc basis, (after such decisions have been implemented) and offer advice to the executive via the Overview and Scrutiny Panel (if this is the agreed approach) on any lessons learnt;*

7. *(If delegated the authority) To undertake the call-in function on executive decisions (including officer key decisions) that relate to the Financial Services and Business Services & Corporate Regulatory Services Portfolios;*
8. *(If delegated the authority) To consider any petitions referred to the sub-committee by Council on issues relate to the Financial Services and Business Services & Corporate Regulatory Services Portfolios;*
9. *Provide a critical friend challenge to officers, reflecting the voice and concerns of the public in order to make an impact on corporate improvement and the effectiveness of the budget processes;*
10. *(If delegated the authority) To produce final reports with findings and recommendations on ad hoc project reviews, including on matters outside the function of Cabinet and Council (but have affect residents of Thanet) for consideration by the Overview & Scrutiny Panel.*

Delegations

None if Panel decides not to delegate.

Or

1. *(If delegated the authority) To undertake the call-in function on executive decisions (including officer key decisions) that relate to the Financial Services and Business Services & Corporate Regulatory Services Portfolios;*
2. *(If delegated the authority) To consider any petitions referred to the sub-committee by Council on issues relate to the Financial Services and Business Services & Corporate Regulatory Services Portfolios;*
3. *(If delegated the authority) To produce final reports with findings and recommendations on ad hoc project reviews, including on matters outside the function of Cabinet and Council (but have affect residents of Thanet) for consideration by the Overview & Scrutiny Panel.*

Notes

This standing sub-committee was established in principle by the decision of the Overview & Scrutiny Panel on XX XXXX XXXX. These terms of reference were approved by the Overview & Scrutiny Panel on XX XXXX XXXX.

Annex 6 to OSP Report

OPERATIONAL SERVICES SUB-COMMITTEE TERMS OF REFERENCE

A. TERMS OF REFERENCE

General

A Sub-Committee of the Overview & Scrutiny Panel established to review and scrutinise issues related to the Operational Services Portfolio and any other matters that are outside the function of Council but affect the community in Thanet.

Membership, Chairmanship and Quorum

Number of Members	XX
Substitute Members Permitted	Yes
Political Balance Rules apply	Yes (unless unanimously waived by the Overview and Scrutiny Panel)
Appointments/Removals from Office	By the Overview and Scrutiny Panel
Restrictions on Membership	Non Executive Members only
Restrictions on Chairmanship	None
Quorum	XX
Number of ordinary meetings per Council Year	7 scheduled meetings; Ad hoc meetings will be called as required in response to emerging issues from call-in (if delegated); outside TDC and as reflected in the work programme below.

Terms of Reference

- 2) To scrutinise and make recommendations upon the forthcoming executive policy decisions for the Operational Services Portfolio as reflected on the current published edition of the Forward Plan;
5. To review executive on a post-hoc basis, (after such decisions have been implemented) and offer advice to the executive via the Overview and Scrutiny Panel (if this is the agreed approach) on any lessons learnt;
6. (If delegated the authority) To carry-out call-in functions on executive decisions (including officer key decisions) that relate to the Operational Services Portfolio;
7. (If delegated the authority) To consider any petitions referred to the sub-committee by Council on issues relate to the Operational Services Portfolio;
8. (If delegated the authority) To produce final reports with findings and recommendations on ad hoc project reviews, including on matters outside the function of Cabinet and Council (but have affect residents of Thanet) for consideration by the Overview & Scrutiny Panel.

Delegations

None if Panel decides not to delegate.

Or

- 1. (If delegated the authority) To carry-out call-in functions on executive decisions (including officer key decisions) that relate to the Operational Services Portfolio;*
- 2. (If delegated the authority) To consider any petitions referred to the sub-committee by Council on issues relate to the Operational Services Portfolio;*
- 3. (If delegated the authority) To produce final reports with findings and recommendations on ad hoc project reviews, including on matters outside the function of Cabinet and Council (but have affect residents of Thanet) for consideration by the Overview & Scrutiny Panel.*

Notes

This standing sub-committee was established in principle by the decision of the Overview & Scrutiny Panel on XX XXXX XXXX. These terms of reference were approved by the Overview & Scrutiny Panel on XX XXXX XXXX.

Overview and Scrutiny Procedure Rules

1.0 What will be the Number of and Arrangements for Overview and Scrutiny Committees?

- (a) Unless the Council decides otherwise under Article 6, the Council will always have at least one Overview and Scrutiny Committee, which will perform all Overview and Scrutiny functions on behalf of the Council.

(NB. Scrutiny arrangements effective from 1st October 2002 are detailed in the Annex to Article 6.)

- (b) Unless otherwise provided in Article 6, the terms of reference of the Overview and Scrutiny Committee will be:
- (i) the performance of all Overview and Scrutiny functions on behalf of the Council;
 - (ii) the appointment of such Sub-Committees and working parties as it considers appropriate to fulfil and assist with Overview and Scrutiny functions;
 - (iii) to receive any reports from the Leader on the Cabinet's priorities for the coming year and its performance in the previous year;
 - (iv) to approve an annual Overview and Scrutiny work programme, including the programme of any Sub-Committees it appoints so as to ensure that the Committee's and Sub-Committee's time is effectively and efficiently utilised;
 - (v) where matters fall within the remit of more than one Overview and Scrutiny Sub-Committee, to determine which of those Sub-Committees will assume responsibility for any particular issue;
 - (vi) to put in place a system to ensure that referrals from Overview and Scrutiny to the Cabinet either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;
 - (vii) in the event of reports to the Cabinet exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet, to make decisions about the priority of referrals made.

(NB. Current scrutiny arrangements are detailed in the Annex to Article 6.)

- (c) Any Overview and Scrutiny Committee may discontinue any Sub-Committee and/or appoint alternative or additional Sub-Committees. The Committee may also amend the terms of reference of any Sub-Committee as appropriate.
- (d) Where any Committee seeks to discontinue or appoint Sub-Committees, it may do so provided that it has consulted with interested parties, if appropriate. The extent and nature of consultation will depend on the nature of the proposed alterations. Any change will be reported to the proper officer and then to the next meeting of the Council by the Chairman of the Overview and Scrutiny Committee, so that the Constitution may be amended accordingly.

2.0 Who May Sit on Overview and Scrutiny Committees?

- (a) All Councillors except members of the Cabinet and the Chairman and Vice Chairman of Council are eligible to be members of an Overview and Scrutiny Committee.
- (b) Any Overview and Scrutiny Committee or Sub-Committee or Working Party shall be entitled to appoint up to three people who are not Members of the Council as non-voting co-optees. Such persons shall not be disqualified from being a Member of the Council (but need not be qualified to be a Member of the Council).
- (c) They shall also be entitled to appoint up to three additional Members of the Council from among those members who are eligible to assist with their work where those additional members are considered to have particular skills, knowledge or experience relevant to the matter assigned to the Sub-Committee or Working Party. Such additional Members shall not be entitled to vote on matters arising.

3.0 Scrutiny Requirements

- (a) No member, co-optee or additional member may be involved in scrutinising a decision in which he/she has been directly involved.
- (b) Co-optees shall be required to declare any interest, pecuniary or otherwise, as if they were a Member of the Council.
- (c) Co-optees shall comply with the Council's Rules.

4.0 Meetings of the Overview and Scrutiny Committee

There shall be at least 6 ordinary meetings of each Overview and Scrutiny Committee and of each standing Sub-Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the relevant Overview and Scrutiny Committee, by any 5 members of the Committee or by the proper officer if he/she considers it necessary or appropriate.

5.0 Quorum

The quorum for an Overview and Scrutiny Committee shall be as set out in the Council Procedure Rules in Part 4 of this Constitution.

The quorum for a Sub-Committee or Working Party shall be one-half of the membership provided that a quorum shall never be less than two.

6.0 Who Chairs Overview and Scrutiny Committee Meetings?

- (a) Any Overview and Scrutiny Committee will be Chaired by a Councillor in accordance with the Council Procedure Rules.
- (b) Chairmen of Overview and Scrutiny Sub-Committees and working parties will be drawn from among the Councillors sitting on the Sub-Committee or Working Party and subject to this requirement the Sub-Committee or Working Party may appoint such a person as it considers appropriate as Chairman.

7.0 Work Programme

Any Overview and Scrutiny Committee will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.

NB. In order to allow sufficient time to adequately consider the development of the budget framework, the relevant scrutiny panel should normally ensure that any necessary Budget Working Parties are established or other arrangements made by mid-September in each year.

8.0 Agenda Items

- (a) Any member of an Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Democratic Services and Scrutiny Manager that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. In addition, any member of the Council shall be entitled to give notice to the Democratic Services and Scrutiny Manager that he/she wished a local government matter to be included on the agenda for the next available meeting of the Committee PROVIDED such notice complies with the requirements of any protocol from time to time adopted by the Council regulating the exercise of such right. On receipt of such a request not later than two weeks prior to the meeting in question identifying the subject matter and briefly stating the reasons why it is suggested it is an appropriate subject (or in the case of a local government matter briefly stating the steps that have already been taken to try to resolve the matter in question and why such steps have been unsuccessful) the Democratic Services and Scrutiny Manager will ensure that it is included on the next available agenda and copy the same as soon as practicable to the Chairman of the Committee for information.

9.0 Policy Review and Development

- (a) The role of the relevant Overview and Scrutiny Committee 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.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework the relevant Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) The relevant Overview and Scrutiny Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

10.0 Reports from Overview and Scrutiny Committees

- (a) Once it has formed recommendations on proposals the relevant Overview and Scrutiny Committee will prepare a formal report and submit it to the proper officer for consideration by the Cabinet (if the proposals are consistent

with the existing budgetary and policy framework), or to the Council as appropriate (eg, if the recommendation would require a departure from or a change to the agreed budget and policy framework).

- (b) The Council or Cabinet shall consider the report of any Overview and Scrutiny Committee within 6 weeks of it being submitted to the proper officer.

11.0 Making Sure that Overview and Scrutiny Reports are Considered by the Cabinet

- (a) Once an Overview and Scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of 6 weeks from the date the report was adopted by the Overview and Scrutiny Committee. In such cases, the report of the Overview and Scrutiny Committee shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the Overview and Scrutiny report within 6 weeks then the matter will be referred to Council for review, and the proper officer will call a Council meeting to consider the report and make a recommendation to the Cabinet.
- (b) Where an Overview and Scrutiny Committee prepares a report for consideration by the Cabinet in relation to a matter where an individual member of the Cabinet has delegated decision making power, then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the proper officer and the Leader (unless it is the Leader who has the delegated decision making power). If the member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Cabinet member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within 6 weeks of receiving it. A copy of his/her written response to it shall be sent to the proper officer and he/she may attend a future meeting to respond.
- (c) Not more than 6 reports in any three-month period may be submitted by any Overview and Scrutiny Committee to the Cabinet.
- (d) Any Overview and Scrutiny Committee 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 Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

12.0 Rights of Overview and Scrutiny Committee Members to Documents

In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution. Nothing in this paragraph prevents more detailed liaison between the Cabinet and

any Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

13.0 Members and Officers Giving Account

- (a) Any Overview and Scrutiny Committee or a Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:
- (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) their performance.

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

- (b) Where any member or officer is required to attend an Overview and Scrutiny Committee or Sub-Committee under this provision, the Chairman will inform the proper officer. The proper officer shall inform the member or officer in writing giving reasonable 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 or Sub-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.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Chairman of the Overview and Scrutiny or Sub-Committee shall in consultation with the member or officer arrange an alternative date for attendance.

14.0 Attendance by Others

- (a) An Overview and Scrutiny Committee or Sub-Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.
- (b) Working parties may invite attendance by those mentioned in 13 and 14 (a) above.

15.0 Call-In

- (a) Call-in should only be used in exceptional circumstances, for example, where members of the appropriate Overview and Scrutiny Panel have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making).
- (b) When a decision is made by the Cabinet, an individual member of the Cabinet or a Committee of the Cabinet, or a key decision is made by an officer with delegated

authority from the Cabinet, or an area Committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. The Chairman of the relevant Overview and Scrutiny Panel will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- (c) 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 5 working days after the publication of the decision, unless the relevant Overview and Scrutiny Panel objects to it and calls it in.
- (d) During that period, the proper officer shall call-in a decision for scrutiny by the Panel if so requested in writing (including e-mail) specifying the decision in question with a brief statement of reasons for the call-in by the Chairman or any five members of the Panel (who shall not all be from the same political group), and shall then notify the decision-taker in writing of the call-in.
- (e) If a decision is called-in then a meeting of the Overview and Scrutiny Panel must be called within 15 days of the decision to call in, unless the Leader of the Council (or the Deputy Leader in the Leaders absence) and the Chairman of the Overview and Scrutiny Panel have agreed that the call-in may take place at the next scheduled meeting of the Overview and Scrutiny Panel.
- (f) If, having considered the decision, the Panel 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 15 working days from the date of the meeting, amending the decision or not, before adopting a final decision.
- (g) If it has not been agreed to consider the objection at the next scheduled meeting of the Overview and Scrutiny Panel, but the Panel does not hold a valid meeting within the 15 day period (as set out in (e) 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 expiration of that period or the date of the Overview and Scrutiny meeting, whichever is the earlier.
- (h) If it has been agreed to consider the objection at the next scheduled meeting of the Overview and Scrutiny Panel (as set out in (e) above), but the Panel does not meet, 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 scheduled Overview and Scrutiny meeting at which it was due to be considered.
- (i) If the matter is referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective on the date of the Council Meeting. However, if the Council does object, it has no locus to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider within 15 working days of the Council meeting. Where the

decision was made by an individual, the individual will reconsider within 15 working days of the Council meeting.

- (j) If the Council does not meet within 15 working days of the day on which the matter was referred to full Council the decision will become effective on the expiry of that period.
- (k) Where a Cabinet decision has been taken by an area Committee then the right of call-in shall extend to any other area Committee which resolves to refer a decision which has been made but not implemented to a relevant Overview and Scrutiny Panel for consideration in accordance with these provisions. An area Committee may only request the proper officer to call-in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call-in shall apply as if the call-in had been exercised by members of a relevant Overview and Scrutiny Panel.

Call-in and urgency

- (l) 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 seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether, in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The 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. In the absence of both, the Head of Paid Service or his/her nominee's consent 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.
- (m) 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.

16.0 The Party Whip

When considering any matter in respect of which a member of an Overview and Scrutiny Committee, Sub-Committee or Working Party is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the Committee, Sub-Committee or Working Party's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

17.0 Procedure at Overview and Scrutiny Committee Meetings

- (a) Overview and Scrutiny Committees shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations);
 - (iii) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
 - (iv) responses of the Cabinet to reports of the Overview and Scrutiny Committee; and

- (v) the business otherwise set out on the agenda for the meeting.
- (b) Where any Overview and Scrutiny Committee conducts investigations (eg, with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
 - (i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public unless involving confidential or exempt information.
- (d) These rules shall apply to Sub-Committees and working parties. Their reports shall be referred to the Committee in the first instance.

18.0 Confidential and Exempt Information

Until reported to any Overview and Scrutiny Committee, the work of any Sub-Committee or Working Party dealt with when the public have been excluded from the meeting shall be treated as being subject to a requirement not to disclose the same in any way to any third party, unless there is a legal requirement to disclose such information. [For the purposes of this rule a “third party” shall not include any Member or officer of the Council nor any person co-opted as a member of a Sub-Committee or Working Party.]

Councillor Call for Action (CCFA)

Protocol

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2. How to make a CCfA
3. Potential Outcomes

Appendices

- A) CCfA Request Form
- B) Overview & Scrutiny CCfA Guidance
- C) CCfA Flowchart

Councillor Call for Action Protocol - CCfA

1.0 Introduction

Councillor Call for Action (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007 (the Act) and came into force on 1 April 2009. The statutory requirement to implement CCfA applies to all Councils in England (with the exception of Parish / Town Councils) regardless of their executive arrangements.

The Act enables any Member of the Council to refer to an Overview & Scrutiny Committee / Sub-Committee any local government matter or any crime and disorder matter which affects their ward.

1.1 Limitations

It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, trying to overcome them.

It is the responsibility of the Ward Councillor to provide evidence of the actions that have been taken so far to identify possible solutions to the issue(s).

1.2 Issues excluded from referral as a CCfA

The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:

- Individual complaints concerning personal grievances or commercial issues;
- Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:
 - Planning and licensing applications and appeals
 - Council Tax / Housing Benefits complaints and queries
 - Issues currently under dispute in a court of law
- Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview & Scrutiny Committee or any of its Sub-Committees.

A referral, provided it is not an excluded matter (see above); will ensure that the matter is included on the agenda of the Overview & Scrutiny Panel. It is then up to the Members of the Panel to decide whether or not to take the matter further.

A referral made to the Overview & Scrutiny Panel is seen as being at the end of the CCfA process (the last resort) and not the first step.

1.3 Steps to be taken, prior to making a Councillor Call for Action referral

Prior to a Councillor referring a matter as a CCfA to the Overview & Scrutiny Panel, a Councillor must have tried to resolve the issue / problem themselves using all mechanisms and resources available to them at Ward level. Councillors should:

- If a local crime and disorder matter, raise the issue through the Community Safety Partnership to find a way to resolve the issue;

- Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve the issue, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions, communication with local Members of Parliament (MPs) and Councillors in other authorities etc;
- Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with officers and / or members, questions at committees etc;
- Ensure that this is not an issue that is currently being or should be pursued via the Council's Corporate Complaints Procedure ;
- Ascertain whether or not any other form of local scrutiny is investigating the issue, e.g. Kent County Council.

2.0 How to make a Councillor Call for Action referral

If the issue / problem is still not resolved the Councillor can refer it to the Overview & Scrutiny Panel as a Councillor Call for Action. To do this the Councillor should:

- Complete a CCfA Request Form by hand or electronically, outlining what the issue is and what steps have been taken to seek a resolution. The request for a CCfA should include:
 - The name of the Councillor and Ward they represent
 - Description of the topic
 - Why the topic is being raised
 - Who it affects
 - What solutions have already been tried
 - What outcomes or solutions required
 - Evidence to support the CCfA
 - Is the CCfA currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints' process?
 - Are there any deadlines associated with the CCfA of which the Overview & Scrutiny Panel needs to be aware?
- The Democratic Services & Scrutiny Manager will receive the referral form either by post or electronically, log it to track its progress and assess the issue to ensure that it is not a matter excluded from referral to Overview & Scrutiny. In accordance with Rule 8 of the Overview and Scrutiny Procedure Rules, a referral form should be received by the Democratic Services & Scrutiny Manager at least two weeks before the date of a meeting of the Overview & Scrutiny Panel if it is to be included on the agenda for that meeting;
- The Democratic Services & Scrutiny Manager will inform the Chairman of the Overview & Scrutiny Panel and the item will be included on the next available Committee agenda. The Councillor will be informed whether or not their referral has been successful.

2.1 Decision of the Overview & Scrutiny Panel whether to take the matter further

In deciding whether or not to take the matter further the Panel will consider:

- Anything that the Councillor has done in relation to this matter; and
- Representations made by the Councillor as to why the Panel should take the matter up.

The criteria the Committee will use to decide whether or not to take the matter further will include:

- Is the Panel satisfied that all reasonable attempts have been made to resolve the issue by the Ward Councillor? Do the responses received by the referring Councillor demonstrate that the matter is not being progressed?
- Has the Panel considered a similar issue recently – if yes have the circumstances or evidence changed?
- Is there a similar or related issue, which is the subject of a review on the current scrutiny work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account;
- Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the Councillor received?
- Is this a case that is being or should be pursued via the Council's corporate complaints procedure?
- Is it relating to a 'quasi-judicial' matter or decision such as planning or licensing?
- Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the local community);
- Is this an issue currently being looked at by another form of local scrutiny, e.g. Kent County Council?
- And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring Member's ward?

If the Panel decides not to accept the CCfA referral it must inform the Councillor and provide reasons.

If the Panel decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work programme. This could include:

Before holding a formal hearing:

- Asking the service area(s)/partner organisation(s) to respond to the CCfA;
- Setting up a working party to undertake a more in-depth review

At formal hearing:

- Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the relevant Committee/partner organisation.

In considering the CCfA, the Overview & Scrutiny Panel may invite the relevant Cabinet Portfolio holder, Chief Executive, Director Service Manager or external organisation to discuss the issue with the Overview & Scrutiny Panel and answer any questions, if the Committee considers this relevant.

3.0 Potential outcomes

Following a formal hearing, there are a number of potential outcomes from the Panel meeting:

- The Panel could determine not to make a report (perhaps because it is not considered the right time to consider a particular issue), with the Ward Councillor notified in writing;
- The Panel could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;

- The Panel could write a report and make recommendations on the CCfA to the Cabinet or relevant partner(s).

Once the Panel has completed its work on the CCfA referral, the Member who made the CCfA referral will receive a copy of any report or recommendations made. The Democratic Services & Scrutiny Manager will also publish the report on Modern Gov and on the Council's website <http://www.thanet.gov.uk> unless there are reasons why the Panel considers the matter is an exempt item and as a result the report cannot be made public.

3.1 Timescales

Once a CCfA has been assessed as not being a matter that is excluded from referring to Overview & Scrutiny, the item will be included on the next available Committee agenda. (Remember- in accordance with Rule 8 of the Overview and Scrutiny Procedure Rules, a referral form should be received by the Democratic Services & Scrutiny Manager at least two weeks before the date of a meeting of the Overview & Scrutiny Panel if it is to be included on the agenda for that meeting).

If the Panel agrees to take the matter forward, the hearing will usually be held as an item on the next available agenda. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.

Should a CCfA hearing result in recommendations to the Cabinet, Cabinet must respond to the recommendations, setting out any action it intends to take at its next scheduled meeting.

Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations, although they are under no legal obligation to do so. Any response received will be reported back to the Cabinet and the Overview & Scrutiny Panel.

Appendix A

THANET DISTRICT COUNCIL

Councillor Call for Action (CCfA) Request Form

This form is for District Councillors to raise topics of concern to Thanet District Council to enable investigation by the Overview & Scrutiny Panel, or other method as appropriate. To ensure that Scrutiny’s work is most effective, Members must provide evidence of what they have previously done to try to resolve the issue. When deciding which topics to scrutinise, the primary aim is adding value to the work of the Council, focusing on the things that matter most and which make a real difference to the local community.

For this reason, Scrutiny does not get involved with individual cases or minor matters, which should be addressed through other channels, including the appropriate service area or Ward Councillor. Scrutiny does not deal with individual complaints, which should be directed through the Councils’ Complaints Procedure.

Your contact details:
Name (print);
Address:
Contact number:
Email address:

The Ward you represent:

Description of the topic
Please describe as fully as possible what the issue is with specific examples where possible.

Why are you raising the topic?

Please explain what has prompted you to raise the topic, e.g. concerns by residents, etc.

Who does it affect?

Please describe if any other wards / parishes are affected, or if it is local to your ward, how many residents are affected?






What solutions have already been tried?

Please describe what avenues to solve the issue have already been tried and the outcomes.

What outcomes are required?

Although a specific solution may not be possible, it will assist the Committee if you describe what outcomes or solutions you would prefer.

What evidence do you have in support of your CCfA?

- Letters 
- Emails 
- Agendas/Minutes of meetings 
- Photographs 
- Film 

Other (please specify)

Is the CCfA currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints' process?

What (if any) are the critical deadlines?

Please make clear if there are specific deadlines for this topic.

Would you like the opportunity to speak to the Overview & Scrutiny Panel?

Yes 

No 

Have you approached the Overview & Scrutiny Panel on the same issue in the past six months?

Yes 

No 

Would you like your response by:

Email 

Letter 

Signature:

Date of submission:

Please complete and return the form to:
 Glenn Back
 Democratic Services and Scrutiny Manager
 Thanet District Council
 Council Offices
 Cecil Street
 Margate
 Kent CT9 1XZ

Appendix B

Overview & Scrutiny Committee Councillor Call for Action (CCfA) Guidance

The following questions are intended to assist Overview & Scrutiny Committee Members in deciding whether to take up or reject a matter referred as a Councillor Call for Action (CCfA). Positive answers indicate that the matter referred should be taken up and negative answers that they should not be taken up.

Question	Yes	No
1. Does the matter referred relate to a local government function?		
2. Does the matter referred affect all or part of the Member's ward, or anyone living or working in it?		
3. Is it confirmed that the issue referred is not an excluded matter, e.g. planning, licensing or legal procedure?		
4. Is it confirmed that no other relevant body / partner organisation is taking up the matter referred to Overview & Scrutiny as a Councillor Call for Action?		
5. Does the matter referred have the potential for Overview & Scrutiny Members to produce recommendations, which could realistically be implemented, and lead to improvements for anyone living or working in the referring Member's ward?		
6. Has the referring Councillor provided evidence of the steps s/he has taken to try to resolve the issue?		
7. Do the responses received by the referring Councillor demonstrate that the matter is not being progressed?		

Explanatory Notes

1. Definition of a Local Government matter and a local Crime and Disorder matter

Local Government matter

For the purpose of the Act a local government matter, in relation to a member of a local authority is one which:

- Relates to the discharge of any function of the authority;
- Affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area (i.e. it must be specific to a particular locality); and
- Is not an excluded matter

Local Crime and Disorder matter

A local crime and disorder matter, in relation to a member of a local authority, has been defined to mean a matter concerning:

- a) Crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- b) The misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area

2. Definitions of 'vexatious', 'persistent', discriminatory' and 'not reasonable'

Statutory regulations deal with matters that can be excluded from CCfA, stating that 'any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview & Scrutiny Committee is to be excluded'.

Vexatious/Persistent

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

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid – it may relate to a systematic problem that has not been effectively resolved. Similarly, a request, which some Members may regard as vexatious, may actually be entirely reasonable.

CCfA's need to be looked at on their merits, rather than on the basis of who is bringing them, or whether someone thinks there is an ulterior motive for them being brought.

Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the Councillor concerned. There could, however, be

instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the Councillor's requirements.

Discriminatory

A modern interpretation of the word 'discrimination' is provided at Section 45 of the Equality Act 2006, in relation to religion and belief, as follows:

A person (A) discriminates against another (B) if on the grounds of the religion or belief of (B) or of any other person except (A), treats (B) less favourably than he treats others. This definition can easily be amended to deal with other forms of discrimination, such as discrimination for reasons of sex and/or race. So a discriminatory CCfA might be one which implies or states that a group of people or an area receives better, or worse, services on account of that group's predominant religion, race, sex or other characteristic, as covered by discrimination legislation.

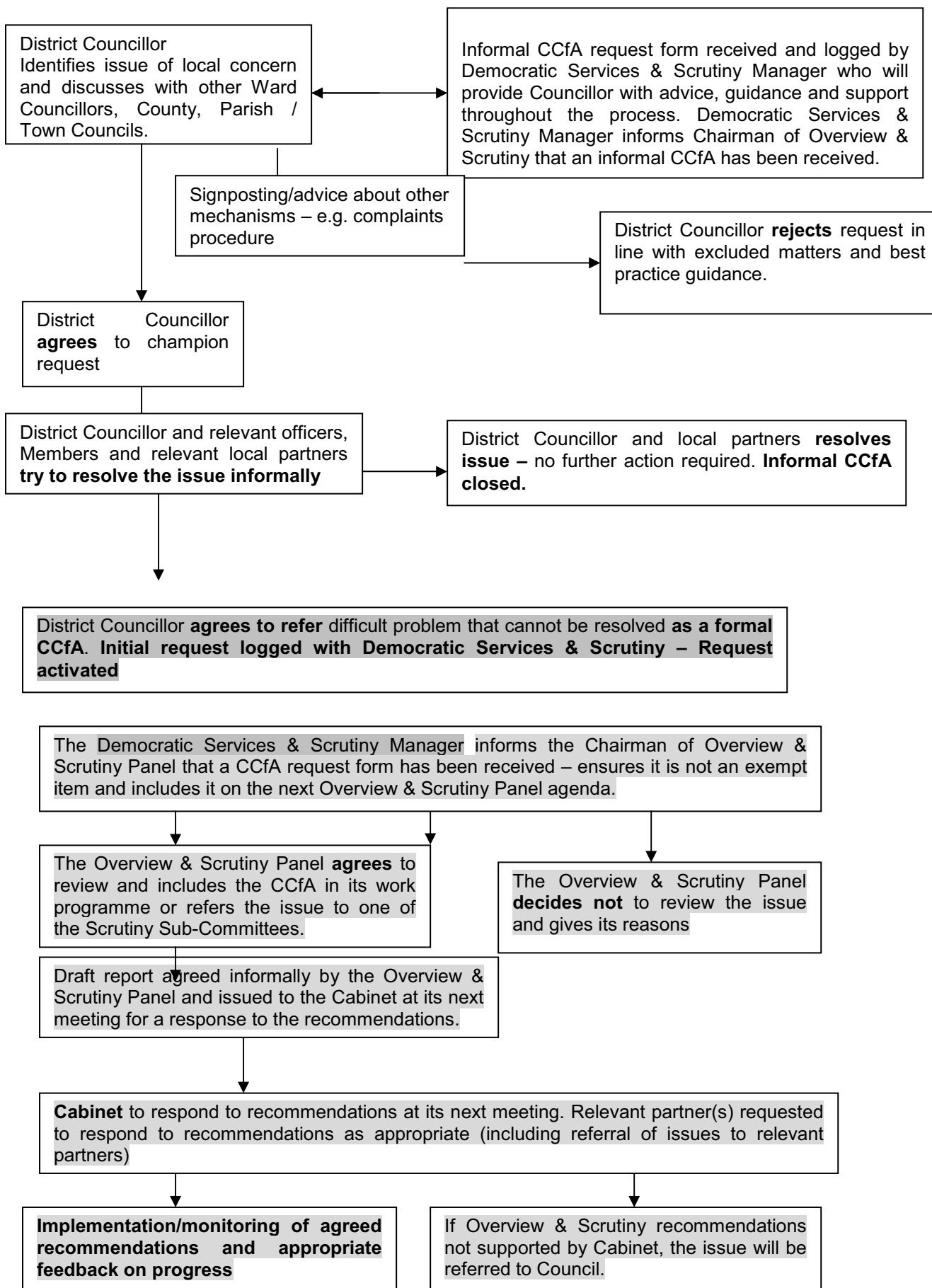
Not reasonable

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

3. Structure of the CCfA hearing

The Chairman of the Overview & Scrutiny Panel will determine the most appropriate arrangements for considering the CCfA matter.

Appendix 3
Flow Chart of CCfA Mechanism



Article 6 – Overview and Scrutiny Committees

6.01 Terms of reference

The Council will ~~always~~ appoint ~~at least one~~ three Overview and Scrutiny Committees to discharge the functions conferred by section 21 of the Local Government Act 2000. The current committee arrangement is set out in the Annex to this Article.

6.02 General powers

Within its terms of reference, the Overview and Scrutiny Committees may:

- (i) make reports or recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- (ii) 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;
- (iii) question members of the Cabinet and/or Committees and chief officers about their views on issues and proposals affecting the area
- (iv) question and gather evidence from any person (with their consent);
- (v) exercise overall responsibility for the finances made available to them;
- (vi) exercise overall responsibility for the work programme of any officers employed to support their work.

6.03 Proceedings of Overview and Scrutiny Panels

The Overview and Scrutiny Committees will conduct ~~its~~ their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

6.04 Annual Report

—The Overview and Scrutiny Committees may report annually to full Council on ~~its~~ their workings and make recommendations for future work programmes and amended working methods if appropriate. Such a report is to be agreed between the Chairmen of the Overview & Scrutiny Committees and may be presented to Council by the Chairman of the XXX Scrutiny Committee

References:

Section 21 and schedule 1 (Paragraphs 7, 8, 10 and 11), Local Government Act 2000
Chapter 3, DLTR Guidance

Annex to Article 6

Community Services Overview and Scrutiny Committee

Terms of Reference

In so far as the functions which are the responsibility of the Community Services, Housing & Planning Services and Economic Development & Regeneration Portfolios are concerned:

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Cabinet
 - (b) to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet
 - (c) to deal with all call-in matters arising under Overview and Scrutiny Procedure Rule 15 and Budget and Policy Framework Procedure Rule 6.
 - (d) to deal with all overview and scrutiny policy matters contained within the constitution, having specific regard for (i) developing new approaches to policy and making appropriate recommendations to assist the Council and the Cabinet in the development of its policy framework by in-depth analysis of policy issues, and (ii) for budget development, budget review and spending performance issues and in order to assist the Council and the Cabinet in the development of its budget framework;
 - (e) to scrutinise the work of the community safety partnership and the partners who comprise it, where their activities relate to the partnership itself
 - (f) within the constraints of officer time and budgets, conduct research, community and other consultation in the analysis of policy issues and possible options;
 - (g) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (h) 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;
 - (i) to make reports or recommendation to the authority or the Cabinet on matters which affect the authority's area or the inhabitants of the area.
 - (j) to review external partnership working and the performance of external service providers.
- ~~to undertake Best Value, Value for Money and other reviews, and review action plans arising from them, including progress on their implementation~~
- (k) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet.
 - (l) to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are not the responsibility of the Cabinet.

Corporate Services Overview & Scrutiny Committee

Terms of Reference

In so far as the functions which are the responsibility of the Business, Corporate & Regulatory and Financial Services Portfolios are concerned:

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Cabinet
- (b) to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet
- (c) to deal with all call-in matters arising under Overview and Scrutiny Procedure Rule 15 and Budget and Policy Framework Procedure Rule 6.
- (d) to deal with all overview and scrutiny policy matters contained within the constitution, having specific regard for (i) developing new approaches to policy and making appropriate recommendations to assist the Council and the Cabinet in the development of its policy framework by in-depth analysis of policy issues, and (ii) for budget development, budget review and spending performance issues and in order to assist the Council and the Cabinet in the development of its budget framework;
- (e) within the constraints of officer time and budgets, conduct research, community and other consultation in the analysis of policy issues and possible options;
- (f) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (g) 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;
- (h) to make reports or recommendation to the authority or the Cabinet on matters which affect the authority's area or the inhabitants of the area.
- (i) to review external partnership working and the performance of external service providers.
~~to undertake Best Value, Value for Money and other reviews, and review action plans arising from them, including progress on their implementation-~~
- (j) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet.
- (k) to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are not the responsibility of the Cabinet.

Operational Services Overview and Scrutiny Committee

Terms of Reference

In so far as the functions which are the responsibility of the Operational Services Portfolio are concerned:

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions. which are the responsibility of the Cabinet
- (b) to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions. which are the responsibility of the Cabinet
- (c) to deal with all call-in matters arising under Overview and Scrutiny Procedure Rule 15 and Budget and Policy Framework Procedure Rule 6.
- (d) to deal with all overview and scrutiny policy matters contained within the constitution, having specific regard for (i) developing new approaches to policy and making appropriate recommendations to assist the Council and the Cabinet in the development of its policy framework by in-depth analysis of policy issues, and (ii) for budget development, budget review and spending performance issues and in order to assist the Council and the Cabinet in the development of its budget framework
- (e) within the constraints of officer time and budgets, conduct research, community and other consultation in the analysis of policy issues and possible options;
- (f) consider and implement mechanisms to encourage and enhance community participation in the development of policy options
- (g) 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;
- (h) to make reports or recommendation to the authority or the Cabinet on matters which affect the authority's area or the inhabitants of the area.
- (i) to review external partnership working and the performance of external service providers.
~~to undertake Best Value, Value for Money and other reviews, and review action plans arising from them, including progress on their implementation-~~
- (j) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet.
- (k) to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are not the responsibility of the Cabinet.

REVIEW OF THE PETITIONS SCHEME

To: **Constitutional Review Working Party – 7 March 2013**

By: **Democratic Services Manager**

Classification: **Unrestricted**

Ward: **All Wards**

Summary: **To consider amendments to the Council's petition scheme at the request of the Overview and Scrutiny Panel.**

For Decision

1.0 Introduction and Background

- 1.1 The Council has a petition scheme that allows members of the public to submit petitions to the Council on issues that affect the District. The scheme was last reviewed and amended in April 2012, as a result of the repeal, via the Localism Act 2011, of Chapter 2 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (petitions to local authorities).
- 1.2 The Overview and Scrutiny Committee discussed a call-in of a Cabinet decision at its meeting of 12 February 2013 and as part of that discussion made a number of recommendations regarding possible changes to the petition scheme.

2.0 Suggested changes to the petition scheme from the Overview and Scrutiny Panel

- 2.1 The Overview and Scrutiny Panel made the following recommendations to the Constitutional Review Working Party at their meeting of 12 February 2013:
1. That the TDC Petition Scheme be reviewed to reflect that when a second petition is rejected on the basis that it is generally similar to the valid one accepted within twelve months of receipt of the petitions, then the Council should be made aware of the second petition;
 2. That Ward Councillor(s) should be informed of all petitions that directly affect their ward once they have been received by Council, regardless of whether they were valid or not.
- 2.2 The current petition scheme sets out that if a petition is received that is substantially the same as a petition that has been received in the previous twelve months that petition will be rejected after consultation with the Leader and Chairman of the Council and then reported to the next meeting of the Overview and Scrutiny Panel.
- 2.3 A petition was received by Democratic Services requesting a dog ban on Dumpton Gap beach. Democratic Services then received another petition that was virtually the same as the previous petition within two weeks of the original. This second petition was then rejected due to it being virtually the same as the first. However at the time the second petition was rejected, the first petition had yet to be discussed by Council

as is usual procedure for a petition receiving over 25 signatories. It was the view of the Overview and Scrutiny Panel that this disadvantaged those who had signed the second petition, as their opinions had not been heard.

- 2.4 It was also the view of the Panel that this disadvantaged Council when receiving the petition, because it was unaware that two separate petitions had raised very similar issues, and was thus unaware of the “total” support for what was a live petition before them.
- 2.5 In addition the Overview and Scrutiny Panel also felt that Ward Councillors should always be informed whenever a petition is received that directly affects their ward.
- 2.6 It would be a simple change to make to the petition scheme to specifically instruct Democratic Services to mention, when reporting to Council, whether any other petitions had been received on the same subject even if they had been rejected. It is however, worth noting that it would not be possible to add the number of signatures on a rejected petition to the original petition, in order to reach a different total to give a flavour of the total support.
- 2.7 This is for a number of reasons, including; it would be intensively resource intensive to cross check the signatures on the two petitions to ensure that people have not signed both petitions. Also, although petitions can be very similar indeed in their wording, they can also be subtly different, and it would be wrong of the Council to assume that all those who signed one petition would necessarily have signed the other.
- 2.8 It is also a simple change to inform Ward Councillors of petitions received that directly affect their ward. However this raises a number of further questions on how this should be done. Firstly, many petitions that the Council receives are not ward specific and affect a number of wards or even the whole of the Thanet District. It may this be simpler if the Working Party were to suggest that Democratic Services informs all Councillors of petitions received, whether Ward specific or not.
- 2.9 Democratic Services also receive Epetitions, these are electronic requests for petitions that are sent in by members of the public and if they meet the criteria as set out in the petitions scheme are then placed on the Councils website for members of the public to “sign”. The Working Party could recommend that Democratic Services inform Ward Councillors when an Epetition is received, even where there is no guarantee that it will achieve the number of signatures needed in order to reach one of the thresholds as set out in the petitions scheme to render it a valid petition.
- 2.10 Alternatively the Working Party could recommend that Democratic Services inform Ward Councillors of an Epetition once it has been on the Council’s website and has closed for signatures, even before it is formally submitted to Council, and before it is assessed as to whether it meets any of the thresholds.

3.0 Options

- 3.1 The Working Party may choose to make recommendations to the Standards Committee regarding amending the petition scheme as outlined within the report, or not do so, as it sees fit.

4.0 Next Steps

4.1 The Standards Committee will consider any recommendations from the Constitutional Review Working Party on 27 March 2013. The Standards Committee will then make recommendations to Council on 18 April 2013.

5.0 Corporate Implications

5.1 Financial and VAT

5.1.1 There would be no financial implications as a result of the options outlined in the report.

5.2 Legal

5.2.1 Since the repeal of Chapter 2 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (petitions to local authorities) via the Localism Act 2011, the Council is no longer required to have a petition scheme, however it was agreed at the Council meeting of 19 April 2012 to continue to maintain a scheme.

5.3 Corporate

5.3.1 The Petitions policy helps the Council to promote community involvement.

5.4 Equity and Equalities

5.4.1 None Apparent

6.0 Recommendation(s)

6.1 The Working Party's instructions are sought as to whether to make any changes to the Council's petition scheme.

7.0 Decision Making Process

7.1 This is a non-key decision to go to Council via the Standards Committee.

Future Meeting: Standards Committee: Council	Date: 27 March 2013 18 April 2013
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Contact Officer:	Nicholas Hughes, Democratic Services Manager
Reporting to:	Glenn Back, Democratic Services and Scrutiny Manager

Annex List

Annex	None
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Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	<i>N/A</i>
Legal	<i>Harvey Patterson, Corporate and Regulatory Services Manager</i>

NOTICE OF MOTION – MEMBERSHIP OF LICENSING BOARD

To: **Constitutional Review Working Party – 7 March 2013**

By: **Democratic Services & Scrutiny Manager**

Classification: **Unrestricted**

Ward: **N/A**

Summary: **To consider a notice of motion relating to the membership of the Licensing Board that was referred by full Council to the Constitutional Review Working Party on 7 February 2013**

For Decision

1.0 Introduction and Background

- 1.1 At the Council meeting held on 7 February 2013 the following motion on notice was proposed by Councillor Worrow, and seconded by Councillor Cohen:

“I ask Council to call upon the group leaders to agree in principle that any member of the Local Authority’s Licensing Board, currently serving a driving ban for an alcohol related offence, should be removed from the licensing board until the ban is fully served.”

- 1.2 It was agreed at that meeting not to debate the motion, whereupon the motion was referred to the appropriate committee; in this case, the Constitutional Review Working Party.

2.0 The Current Situation

- 2.1 Appointments to local authorities’ licensing boards or committees are governed by the Licensing Act 2003; hence the political balance rules as set out in Sections 15 and 16 of the Local Government and Housing Act 1989 do not need to apply to them.
- 2.2 However, Thanet Council, like some other Councils, has chosen to include its licensing board as one of the committees on which seats are allocated to Political Groups in accordance with the proportionality provisions of the Local Government and Housing Act 1989.
- 2.3 Effectively, that means that the number of seats held by a Political Group on the Licensing Board must be in the same proportion to the total number of seats on the Board as the number of members of that Political Group on the Council is to the total number of Members on the Council.
- 2.4 Under Section 13 of The Local Government (Committees and Political Groups) Regulations 1990, nominations to the Licensing Board, as with all committees to

which proportionality rules apply, are notified to the proper officer on behalf of a Political Group as follows:

- 2.4.1 orally or in writing by the leader or deputy leader of the Group; or
- 2.4.2 in a written statement signed by a majority of the members of the Group.
- 2.5 In the event of different wishes being notified, those expressed at 2.4.2 will prevail.
- 2.5 It is therefore within the gift of a Political Group to decide whom is appointed to the seats on the Licensing Board allocated to that Group and it is for Council to formally note those nominations.
- 2.6 The Licensing Act 2003, which stipulates that a licensing committee (*or board*) must consist of at least ten, but not more than fifteen, members of an authority [Part 2, Section 6], does not make any reference to any grounds which would disqualify a Member from membership of the Board.

3.0 Corporate Implications

3.1 Financial and VAT

- 3.1.1 None arising

3.2 Legal

- 3.2.1 The Licensing Board of the Council is governed by the Licensing Act 2003, the allocation of seats on the Licensing Board to political groups, by Sections 15 & 16 of the Local Government and Housing Act 1989, and the appointments to those seats, by Section 13 of the Local Government (Committees and Political Groups) Regulations 1990.
- 3.2.2 Therefore, it is highly questionable whether it would be legally or constitutionally enforceable to place a restriction on membership similar to the one proposed in the motion.

3.3 Corporate

- 3.3.1 None arising

3.4 Equity and Equalities

- 3.4.1 None apparent

4.0 Recommendation(s)

- 4.1 That the Working Party notes that no further action can be taken in relation to the motion on notice, on the grounds that each political group has sole responsibility for appointments to seats which have been allocated to it under the political balance rules of Sections 15 & 16 of the Local Government and Housing Act 1989.

5.0 Decision Making Process

- 5.1 Any recommendations of the Working Party will go before the Standards Committee, which, in turn, will make recommendations to Council.

Future Meetings:	Date:
Standards Committee	7 March 2013
Council	18 April 2013

Contact Officer:	<i>Glenn Back, Democratic Services & Scrutiny Manager, Ext 7187</i>
Reporting to:	<i>Harvey Patterson, Corporate & Regulatory Services Manager, Ext 7005</i>

Annex List

None	
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Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	n/a
Legal	<i>Harvey Patterson, Corporate & Regulatory Services Manager, Ext 7005</i>

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