

### SCRUTINY COMMITTEE PROTOCOL

A 'local government matter' is defined as a matter which relates to the discharge of any function of the authority, affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area and is not an 'excluded matter'

#### Introduction

This Protocol recognises the division of executive and non-executive roles and responsibilities, the scrutiny role performed by non-executive Councillors and the part played by all Councillors in representing local communities.

#### Terms of Reference

To contribute to improving Council services by holding decision makers to account which ultimately benefits residents of the Borough of Dartford.

#### Guidelines

- (a) Terms of Reference agreed by the General Assembly of the Council (the GAC);
- (b) Standing Orders and Financial Regulations;
- (c) Codes of Conduct;
- (d) Secretary of State guidance issued from time to time.

#### Committee accountability

To the Council as the ultimate decision making body from which all of the other elements in the decision-making process derive their authority.

#### Elected Member accountability

Individual elected Members have a collective responsibility for the Council's functions. This collective responsibility extends to a duty to ensure that the Council complies with the law and does not knowingly act unlawfully.

#### Compliance principles

The Committee will:

- Scrutinise and monitor the performance of the Cabinet, Officers and partner authorities in implementing decisions in line with the Council's Strategic and Policy Framework;
- Recognise the legitimate right of the Cabinet to provide political and operational leadership to the Council and will not attempt to usurp the power vested in the Cabinet by the GAC;
- Recognise that Officers continue to owe a duty to all Members of the Council;
- Guarantee the right of Officers to express their advice on matters within their areas of responsibility, particularly (but not exclusively) on technical professional issues. Officers must not be pressurised to change their advice to suit political aspirations. Questions to Officers must be within Officers' remit and will as far as possible be confined to questions of fact and explanation relating to policies and decisions within Officers' remit;
- Will not criticise or adversely comment on any individual Officer by name;
- Not attempt to thwart the Cabinet by engaging in vexatious or unnecessarily repetitive overview and scrutiny activities.

## **Membership**

Committee membership cannot include any Cabinet member.

## **The Scrutiny Process**

To perform the scrutiny functions on behalf of the Council within the guidelines detailed in the Committee's Terms of Reference and this Protocol and specifically, the following overarching principles:

The scrutiny of any matter:

- (a) relating to the provision of and/or delivery of Council services to the local community;
- (b) in which the Council has an interest, subject to the Council being in a position to reasonably influence the outcome for the benefit of the local community;
- (c) which has an adverse impact on the delivery of Council services.

## **1. What may be scrutinised**

- 1.1** decisions made and/or actions taken in connection with the discharge of any of the Council's and/or Cabinet's functions;
- 1.2** performance of the Cabinet, Officers, Committees, Boards and Panels whether generally or in relation to service plans and targets, or in relation to particular decisions, initiatives or projects;  
  
NB: scrutiny will not focus on day to day management and operational decisions, which are the proper concerns of Council managers and Officers.
- 1.3** performance of the Council in relation to policy and budgetary objectives, performance targets and/or particular service areas;
- 1.4** the planning, provision, operation and performance of public bodies/organisations including local health services, subject to the Council being in a position to reasonably influence the outcome for the benefit of the local community;
- 1.5** Councillor Calls for Action (CCfAs);
- 1.6** local improvement targets.

## **A.Draw downs**

### **Draw downs for the purposes of scrutinising decisions/actions of the Council, Cabinet etc. and/or the scrutiny/of the effects/outcomes of a decision post implementation**

#### **A.1**

For each meeting of the Committee:

through the Shadow Chairman of the Committee, up to two items in total for the Political Group on the Council forming the administration on the Council;

through the Chairman of the Committee, up to two items in total for the Political Group on the Council forming the largest party in opposition on the Council;

through the Chairman of the Committee, one item only for any other Political Groups on the Council, dealt with on a 'first come first served basis'.

#### **A.2**

Subject to section A.6 of this Protocol, each Committee meeting may draw down for scrutiny purposes, no more than five items in total. These five items may comprise a combination of items relating respectively, to a Call-in, CCfA, the scrutiny of decision(s)/actions of the Cabinet/Officers, local improvement targets, local health service body etc. Whatever combination is applied, the Committee is restricted to the scrutiny of five items in total, per Committee meeting.

#### **A.3**

- (a) A draw down(s) must be on written notice to Member Services by no later than noon on the 16th day before a Committee meeting i.e. 16 clear days' (sixteen weekdays i.e. 16 periods of 24 hours running from midnight to midnight excluding bank and public holidays and the day on which the meeting is held).
- (b) The need (if any) for participant representatives to appear before the Committee will be notified to Member Services by no later than noon on the 16th day before a Committee meeting i.e. 16 clear days' (sixteen weekdays i.e. 16 periods of 24 hours running from midnight to midnight excluding bank and public holidays and the day on which the meeting is held).

#### **A.4**

Where the Committee wish to scrutinise an item for the purposes of examining the effect and outcomes of a decision/action etc. post implementation, drawing down the item may need to be delayed to a future date.

NB: The focus of the scrutiny in such circumstances will be concerned with the effects and outcomes of the decision whether or not reference was made to effects or outcomes (potential or perceived) in any background document before the Committee.

**A.5** When more than one Political Group on the Council notifies a draw down of the same item, the Political Group which first gave notice in accordance with section A.1 of this Protocol, will lead at the meeting, on the discussion of the item and the Chairman will exercise his/her discretion about the right of the Political Groups to sum up.

**A.6** Although Scrutiny Committee and the Policy Overview Committee have different roles and responsibilities, the remit of the Committees may on occasions overlap. Whilst draw downs and work programmes will need to have flexibility and their own broader topics and focus, the Scrutiny Committee will avoid any duplication in work programme activities and draw downs.

**A.7** The relevant Director will make the final decision on the rejection of a draw down, with reasons recorded in writing. In the absence of the relevant Director, the other Director will make the final decision.

## **B. Requests for information**

**B.1** Any Committee member may make requests for information, on written notice to Member Services by no later than noon on the 16th day before the Committee meeting i.e. 16 clear days' (sixteen weekdays i.e. 16 periods of 24 hours running from midnight to midnight excluding bank and public holidays and the day on which the meeting is held) and the following will apply. The request for information will:

- detail the item(s) to be drawn down, supported by reasons for the draw down(s);
- the nature of the information requested e.g. a full report, background information, research, data, statistics, etc.;
- if applicable, identify the need for participants (Members, Officers and/or other external participants) to appear before the Committee (refer to the general principles on participation detailed in section D of this Protocol);
- provide an indication if at all possible, of the questions and the likely topics to be raised on the item(s);
- provide an indication if at all possible, of whether the request for information is for the purposes of informing the debate or for the purposes of putting questions to participants.

**B.2** On receipt of a request for information, Member Services will notify the relevant Director and link officer of the partner organisation. Where the request for information relates to a Cabinet decision/action, the relevant Director and the Cabinet Chairman will be notified accordingly.

- B.3** Where information requested is readily available and routinely collected, it will be provided within 14 days of receipt of the request, save that if some or all the information cannot reasonable be provided within the 14 day period, the information will be provided as soon as reasonably possible and in any event, no later than 7 clear days' (seven weekdays i.e. 7 periods of 24 hours running from midnight to midnight excluding bank and public holidays and the day on which the meeting is held).
- B.4** Information will be depersonalised, unless the identification of an individual is necessary or appropriate in order to enable the Committee to properly exercise its powers or disclosure is permitted by or under the Data Protection Act 2018.
- B.5** Information will not include matters reasonably likely to prejudice legal proceedings or current or future operations of the Council, Cabinet etc.
- B.6** Information will not include matters reasonably likely to constitute a breach of confidence actionable by any person.
- B.7** Schedule 12A, Parts 1-3 of the Local Government Act 1972 as regards the categories of exempt information, reg.5 of the Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2012, reg.26 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013) and Standing Order 46(2) as regards confidential information, will apply to the proceedings of the Committee.
- B.8** The scrutiny of an item may need to be deferred pending the receipt of information, particularly where requests for additional information are made or where the information requested is voluminous and/or where there are costs implications associated with providing the information. In these circumstances, Member Services will advise the Committee Chairman accordingly.
- B.9** To facilitate the scrutiny process, a partner authority (as defined in Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007 (as amended) is under a duty to pro-actively provide information to the Committee on request (reg.4 of the Local Authorities (Overview and Scrutiny Committees) (England) (Regulations 2012).

### **C. Call-in of Cabinet decisions**

- C.1** This Call-in procedure will be operated in such a way as not to have a concomitant negative effect on the efficiency of Cabinet decision-making.
- This Call-in procedure will only apply to Cabinet decisions/actions, subject to the restrictions/limitations detailed in sections C.8, C.9, C.11, C.13, C15 and C.16 of this Protocol.
- C.2** (a) Call-in will be by five Members of the Committee (involving representation of at least two political groups), in writing, to Member Services by no later than noon on the day before the Cabinet meeting. Member Services will notify the Cabinet Chairman of the Call-in.

- (b) Once a member of the Committee has signed a Call-in, he/she may not do so again until a period of six months has expired.

### C.3

A special meeting of the Committee may be called in accordance with the rules detailed in Standing Order 27 (Special Meetings of the Cabinet, Committees and Boards) and will be held before the next meeting of the Cabinet (Cabinet meetings are scheduled on a four weekly basis), with a view to reporting to the next Cabinet meeting. Where it is not possible for the Committee to report to the next Cabinet meeting, the Committee Chairman will consult with the Cabinet Chairman and agree a date for referring the Call-in back to the Cabinet for consideration/reconsideration.

Referring the Call-in back to the Cabinet will not be delayed by more than 4 weeks from the date of the notice of Call-in.

### C.4

Once a Call-in has been effected, the Cabinet may at its discretion, either:

- (a) defer consideration of the proposed decision and/or action (the Deferred Decision) to its next scheduled meeting or where it is not possible for the Committee to report to the next scheduled meeting of the Cabinet, defer consideration until receipt of the Committee's report; or
- (b) take the decision and/or action which decision/action will stand as suspended (the Suspended Decision) until the next scheduled meeting of the Cabinet or where the Call-in is referred to the GAC by the Committee, until referred back to the Cabinet by the GAC for reconsideration.

### C.5

Following consideration of the Call-in, the Committee will, on a report (setting out the Committee's concerns, recommendations, conclusions, suggestions and/or comments), either refer the Deferred Decision/Suspended Decision back to the Cabinet for consideration/reconsideration, or request a debate on the Call-in at the next ordinary meeting of the GAC, or if necessary, at an extraordinary meeting of the GAC, but subject to the rules detailed in Standing Order 1.(3) on the convening of extraordinary meetings.

### C.6

On receipt of the Committee's report;

- (a) the Cabinet will consider/reconsider the Deferred Decision/ Suspended Decision and the contents of the Committee's report before coming to a final decision. Providing the Deferred Decision/Suspended Decision is not contrary to the budget or policy framework, the Cabinet may or may not amend the Deferred Decision/Suspended Decision before reaching a final decision and implementing it; or
- (b) the GAC will consider the Call-in and may object to the Deferred Decision/Suspended Decision in which case the Deferred Decision/Suspended Decision will be referred back to the Cabinet (with the GAC's views) for consideration/reconsideration. Unless the Deferred Decision/Suspended Decision is contrary to the budget or policy framework, the Cabinet may choose whether to amend the Deferred Decision/Suspended Decision or not before reaching a final decision and implementing it.

NB: The GAC has no locus to make a decision in respect of a Cabinet decision unless the Cabinet decision is contrary to or not wholly consistent with the budget or policy framework agreed/adopted by the Council.

- C.7** Following the Cabinet's consideration of a Deferred Decision or reconsideration of a Suspended Decision, the decisions(s) will take effect i.e. be implemented immediately. In addition, a Suspended Decision will become effective:
- (a) on the date of the GAC meeting where the Call-in has been referred to the GAC and the GAC does not object to the Suspended Decision and/or does not refer the Suspended Decision back to the Cabinet.
  - (b) on the date of the Committee meeting, where the Committee does not refer the Suspended Decision back to the Cabinet or to the GAC.
- C.8** A Call-in (i.e. the decision itself) cannot be the subject of further scrutiny after implementation, pursuant to the draw down mechanism detailed in section A of this Protocol.
- NB: This restriction does not preclude a subsequent draw-down of the subject matter of the decision for purposes related for example, to topic scrutiny or reporting on matters of local concern.
- C.9** This Call-in procedure will not apply to urgent Cabinet decisions and/or action to be taken by the Cabinet which need to be implemented urgently. The definition of 'urgency' means any matter of immediate urgency (i.e. where any delay likely to be caused by the Call-in would prejudice the Council's or the public's interest), making the prompt exercise of the powers of the Cabinet, in consultation with the relevant Director desirable and/or necessary and which cannot await the next meeting of the Cabinet, or the next ordinary meeting of the GAC.
- NB: The definition of 'urgency' as detailed above, excludes urgent key decisions under Standing Order 54(8) (Special Urgency) and urgent departure decisions under Standing Order 55(3) (Decisions outside the Budget or Policy Framework).
- C.10** Cabinet decisions and/or actions to be taken which are not subject to Call-in will take effect, i.e. be implemented immediately.
- C.11** Subject to the draw down rules in section A.2 of this Protocol, the Committee may only Call-in two decisions per three-month period.
- C.12** Key decisions of Officers, area committees/joint arrangements (referred to in the Cabinet's Forward Plan) may be subject to individual Call-in in accordance with the procedure detailed in this Protocol.
- C.13** Call-in will not apply to urgent departure decisions (refer to Standing Order 55(3)) and urgent key decisions (refer to Standing Order 54(8)).
- C.14** The rules detailed in sections B and D of this Protocol will apply to an individual Call-in.
- C.15** A CCfA does not provide an additional opportunity for a Cabinet decision to be challenged. A previous Call-in will only be relevant, if the circumstances of the Call-in and the CCfA are clearly different.
- C.16** The operation of this Call-in procedure will be monitored annually by the Monitoring Officer and if necessary, a report submitted to the GAC with proposals for review.

## **D.Participants**

### **D.1**

The nature of a Call-in, the item to be drawn down or the nature of the topic under scrutiny will generally determine who participates in the proceedings of the Committee.

### **D.2**

#### **Persons required to attend if summoned**

Subject to the rules on participation at section D.7 of this Protocol, the giving of 14 clear days' notice, (fourteen weekdays i.e. 14 periods of 24 hours running from midnight to midnight excluding bank and public holidays and the day on which the meeting is held) and information being provided as to the nature and scope of the scrutiny:

#### **Cabinet members and Council Officers**

Cabinet members and Council Officers may be required to attend Committee meetings, to give evidence, make representations and/or answer questions ((Section 21(13) Local Government Act 2000).

#### **Health Service scrutiny**

The Committee may require the attendance of any member or employee of a Responsible Person at the meeting of the Committee to answer questions (reg.27 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013).

### **D.3**

#### **Members of the community and other organisations/stakeholders etc.**

Members of the community and other organisations/stakeholders etc. may be invited (but cannot be compelled) to attend the Committee, to make representations, answer questions or give evidence.

Where the Committee seeks to engage with the third sector (voluntary and community groups), it will respect the principles of the Council's Compact.

### **D.3A**

#### **Lead Members**

Subject to the rules detailed in section D.7(a) to (c) of this Protocol, Lead Members who are members of the Committee may be requested (but cannot be compelled) to make representations, answer questions or give evidence on their respective portfolios.

### **D.4**

#### **Expert advisors and assessors**

The Committee may consider the available options for future direction in the development of policies and may appoint experts, advisors and assessors to assist the Committee in the process.

### **D.5**

#### **Councillors who are not members of the Committee**

The rules detailed in Standing Order 36, will apply to the attendance at Committee meetings, of Councillors who are not members of the Committee.

### **D.6**

The scrutiny of an item may need to be deferred pending the availability of a participant to attend, when summoned or invited. In these circumstances, Member Services will advise the Committee Chairman accordingly.

### **D.7**

#### **Participation Rules**



- (a) The nomination of specific Cabinet members and Lead Members as participants and any necessary substitutions, will be within the discretion of the Cabinet Chairman and, in relation to Officer participants, within the discretion of the relevant Director.
- (b) Subject to paras. (a) and (c) of this section D.7 and section V.6 of this Protocol, any Lead Member(s) may attend meetings of the Committee and with the consent of the Chairman, make representations, answer questions or give evidence on the subject matter of their relevant portfolio.
- (c) Lead Members who are members of the Committee cannot be involved in the scrutiny process of their relevant portfolio unless they are substituted on the Committee and in doing so, the Lead Member's role is limited to making representations, answering questions or giving evidence on the subject matter. Once substituted, the Lead Member, as an ordinary member of the Committee, cannot vote at the meeting even if he/she is able to attend at a later stage of the meeting and can only speak with the permission of the Chairman.
- (d) The relevant Director may restrict the attendance of Council Officers to above a certain grade or in accordance with other criteria to ensure that junior Officers are not put under undue pressure. This restriction is consistent with the European Convention on Human Rights.
- (e) The Chairman and Shadow Chairman (collectively), reserve the right (supported by detailed reasoning to the Cabinet Chairman or relevant Director (as appropriate)), to strongly request the attendance of a named Cabinet member(s), Lead Members, Council Officer(s), and representative of the Responsible Person or relevant body, as participants in the proceedings of the Committee, subject to written notice to Member Services by no later than noon on the 16th day before the Committee meeting i.e. 16 clear days' (sixteen weekdays i.e. 16 periods of 24 hours running from midnight to midnight excluding bank and public holidays and the day on which the meeting is held).
- (f) Council Officers who are subject to disciplinary proceedings and/or investigation will not be called as participants.
- (g) When questioning participants, due regard will be had to the Compliance Principles referred to in this Protocol and to paras.(f) and (g) below. Participants may leave the meeting on the conclusion of their particular issues.
- (h) Participants may decline to answer questions in open session of the Committee on the grounds that the answer might disclose information that would be exempt or confidential under the access to information provisions. In that event, the Committee may resolve to exclude the public and the press in accordance with Standing Orders in order that the question may be answered in private session.
- (i) Participants are not obliged to answer any question which they would be entitled to refuse to answer in a court of law for example any question relating to a participant's past conduct/actions which could not be answered without acknowledging or referring to possible inappropriate conduct/actions/inactions.

- (j) To better inform the Committee, participants may be required to provide their evidence in writing and may be questioned by the Committee on that evidence.
- (k) The substance (rather than the detail) of oral evidence and participants' responses will be documented by the Committee Co - ordinator and circulated to them for comment, before the next meeting of the Committee.
- (l) Participants may be asked to explain:
  - (i) what the policies are;
  - (ii) the justification and objectives of those policies;
  - (iii) the extent to which those objectives may have been met;
  - (iv) how administrative factors may have affected both the choice of the policy measures and the manner of their implementation.
- (m) Participants may be asked explain and justify;
  - advice they have given prior to decisions being taken;
  - decisions they themselves have taken under delegations from the Cabinet etc.

NB: far as possible, Council Officers should avoid being drawn into discussions on the merits of alternative policies where this is politically contentious. Any comment by Council Officers on the Cabinet's policies and actions should always be consistent with the requirement for Officers to be politically neutral.

## **E. Councillor Calls for Action (CCfA)**

### **E.1**

Subject to the 'excluded matters' rule detailed in section E.2 and the restrictions detailed in sections E4, E5, E7 and E10 of this Protocol, any ward Member may refer to the Committee for scrutiny, any local government matter.

The flowchart at Annex 1 describes the CCfA procedure.

### **E.2**

#### **Excluded matters**

A CCfA cannot be championed in relation to matters associated with crime and disorder, licensing, planning, or a matter where there is already a statutory right of review or appeal (other than the right to complain to the Local Government Ombudsman), or a matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Committee (reg. 3. of the Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012).

### **E.3**

A matter does not fall within a description of an 'excluded matter' if it consists of an allegation that a function for which the Council is responsible has not been discharged at all or that its discharge has failed or is failing on a systematic basis, notwithstanding the fact that the allegation specifies or refers to an excluded matter.

### **E.4**

Referral of a genuine, significant and persistent local community concern by the local ward Member as a CCfA for scrutiny is a measure of last resort, once other approaches for informal resolution have been exhausted. Local ward Members are advised to seek advice from the relevant Director before agreeing to champion a CCfA.

### **E.5**

The CCfA may be referred for scrutiny on behalf of a constituent, or on the local ward Member's own initiative, providing the local ward Member has the support of the local community and the Member does not have a disclosable pecuniary interest or prejudicial interest in the matter.

- E.6** The Committee may receive a CCfA via the Cabinet in circumstances where the local ward Member has declined to champion the CCfA and the constituent has then referred the issue to the Cabinet.
- E.7** Subject to the draw down rules at section A.2 of this Protocol, the referral of a CCfA to the Committee will be limited to one CCfA per meeting.
- E.8** The referral of a CCfA to the Committee by a local ward Member will be on written notification to Member Services, by no later than noon on the 16<sup>th</sup> day before a Committee meeting, i.e. 16 clear days' (sixteen weekdays i.e. 16 periods of 24 hours running from midnight to midnight excluding bank and public holidays and the day on which the meeting is held).
- E.9** The rules relating to provision of information and request for participant attendance, at sections B and D of this Protocol will apply.
- E.10** The acceptance of a CCfA will be at the discretion of the Committee. In considering whether or not to accept a CCfA, the Committee may have regard to any representations made by the local ward Member as to why it would be appropriate for the Committee to accept the CCfA.
- E.11** If the Committee decides not to accept the CCfA, Member Services will within 5 days' of the meeting, formally notify the ward Member of the Committee's decision and the reasons for it. The Committee's decision is final. There is no right of appeal.
- E.12** The local ward Member may address the Committee (but not vote) on the matter raised.
- E.13** Following consideration of a CCfA, the Committee may report or recommend accordingly to the GAC and/or the Cabinet, the Responsible Person, Kent County Council etc. The rules detailed in sections H and M of this Protocol, will apply.
- E.14** The Committee may submit a copy of its report or recommendations to the local ward Member or await the GAC's/Cabinet's and/or other relevant body's response before doing so.

**F. Committee member business** Subject to the rules on draw down detailed in section A.2 of this Protocol, any Committee or (sub-committee) member has the legal right [Section 21A(1) Local Government Act 2000] to place any matter relevant to the Committee's functions on the agenda. This right will be exercised by giving written notice to Member Services by no later than noon on the 16<sup>th</sup> day before a Committee meeting i.e. 16 clear days' (sixteen weekdays i.e. 16 periods of 24 hours running from midnight to midnight excluding bank and public holidays and the day on which the meeting is held).

The rules relating to provision of information and request for participant attendance, at sections B and D of this Protocol, will apply.

## **G. The duty to have regard to reports/ recommendations**

**G.1** When reviewing a decision made but not implemented, the Committee may recommend that the decision be reconsidered by the body that made it.

**G.2** The Committee may by notice require the Responsible Person to respond to its Scrutiny Report and/or recommendations within 28 days (or as soon as reasonably possible) of the date of the Scrutiny Report, indicating what (if any) action the body proposes to take (reg. 22(7) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. The same principles shall be applied to Cabinet and the GAC.

**G.3** Where the Committee's recommendations have not been accepted by the body concerned, clear reasons will be given. Where recommendations have been agreed, but expectations have not been met, the issue may be re-addressed fully by the Committee.

## **H. Health Service Scrutiny**

- 'Local Healthwatch organisation and 'Local Healthwatch contractor have the meaning in sections 222 and 223 of the Local Government and Public Involvement in Health Act 2007 (as amended);
- 'Referrer' means a Local Healthwatch organisation or 'Local Healthwatch contractor;
- 'Responsible Person' means a NHS body or a relevant health service provider as defined in the National Health Service Act 2006.

**H.1** The Committee may scrutinise any matter relating to the planning, provision and operation of the health service in the Borough of Dartford (reg.21(1) Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013).

- H.2** When scrutinising the planning, provision and operation of the health service, the Committee must:
- invite interested parties to comment (reg.21(2)(a) Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013); and
  - take account of relevant information available to it and in particular, relevant information provided by a Referrer (reg.21(2)(b) Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013).
- H.3** Where a matter is referred to the Committee by a Referrer, the Committee must acknowledge receipt of the referral within 20 working days beginning with the date on which the referral was made and keep the Referrer informed of any action taken in relation to the matter (reg.21(3) Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013).
- H.4** The Responsible Person must provide the Committee with such information as the Committee may reasonably require (reg.26 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013).
- H.5** Subject to reasonable notice in accordance with section D.2 of this Protocol of this Protocol, the Committee may require the attendance of any member or employee of a Responsible Person at the meeting of the Committee to answer questions (reg.27 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013).
- H.6** The Committee may make reports and recommendations to a Responsible Person on any matter it has reviewed (reg.22(1) Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013).
- Reports and recommendations must under reg.22(6) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 include:
- (a) an explanation of the matter reviewed;
  - (b) a list of participants involved in the review; and
  - (c) an explanation of any recommendations on the matter reviewed.
- H.7** Where the Committee requests a response from the Responsible Person, the Responsible Person must respond in writing within 28 days of the request (reg.22(7) Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013).
- H.8** Other than in circumstances where there is a risk to the safety or welfare of patients or staff, a Responsible Person is required to consult with the Committee on any proposal for a substantial development or variation to the health service in the Borough of Dartford (reg.23 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013).

**H.9** The Committee may comment on the Responsible Person's proposal by the date specified by the Responsible Person (reg.23(4) Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013).

**H.10** In addition to commenting, the Committee may recommend accordingly to the Responsible Person in accordance with section J.6 of this Protocol. Where the Responsible Person disagrees with the Committee's recommendation, the Responsible Person must notify the Committee and the Committee and the Responsible Person must take such reasonable steps to try to reach agreement on the recommendation (reg.23(5) Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013).

**H11** Where the Committee is not satisfied that the Responsible Person has adequately consulted or the reasons given by it are not adequate, subject to complying with regs. 23(7), (8), (10) & (11) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, the Committee may report to the Secretary of State, who may direct accordingly (regs.23(9) and 25 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013).

## **J. Work programme**

**J.1** The Committee will be responsible for setting its own work programme and in doing so, will take into account wishes of Committee members who are not members of the largest political group on the Council.

**J.2** Duplication of activities or major additions to the Committee's work programme will be avoided.

**J.3** The Committee will receive an annual report on its workings and may make recommendations for future work programmes.

## **K. Appointment of independent experts, advisers/assessors**

**K.1** Subject to available resources and GAC authority, the Committee may invite independent experts, advisers and assessors to contribute to the overview and scrutiny process undertaken by it, its sub-committees or task groups. Independent experts, advisers and assessors will have no voting rights and will not count for the purposes of establishing a quorum.

**K.2** The criteria for selection will be;

- (a) candidates must be able to demonstrate to the Chairman an expert knowledge of the subject in question;
- (b) candidates will have no contact with the Borough Council, which could be seen as prejudicial to their independence;
- (c) candidates will not be employees of the Council, a person/organisation contracted to provide services on behalf of the Council or an employee, officer or member of the Kent County Council or the Responsible Person.

- K.3** Independent experts, advisers and assessors will be expected to comply with the principles in the [Member] Code of Conduct, including the requirement to declare interests and respecting confidentiality.
- K.4** Independent experts, advisers and assessors will receive payment in accordance with a standard scale of fees, to be agreed by the Cabinet, plus travel and other reasonable/legitimate expenses.
- K.5** Independent experts, advisers and assessors may at the Committee's discretion, remain in the meeting room when confidential and/or exempt information is being discussed.
- K.6** In considering independent experts', advisers' and assessors' recommendations, the Committee will have regard to the advice of the Council's Statutory Officers (Chief Finance Officer/Section 151 Officer and Monitoring Officer) who are legally bound respectively, to report to the GAC on inter alia:
- the corporate approach of the Council;
  - contravention of law and/or Standing Orders, Financial Regulations;
  - unlawfulness, maladministration or injustice;
  - vires and propriety of expenditure;
  - overall integrity of the budget, capital and revenue and the fiduciary duty and responsibility of all Members (Section 112 and 114 Reports).

NB: The GAC retains the ultimate responsibility of censure.

## **L. Scrutiny reports and/or recommendations**

- L.1** All comments, conclusions and recommendations to the Responsible Person, GAC and/or Cabinet (referred to in this part of the Protocol as the 'relevant body' will be accompanied by a Scrutiny Report prepared by the Committee Co-ordinator, in consultation with the appropriate Officer and the Committee Chairman under the existing rules for the preparation of committee reports.
- L.2** The Scrutiny Report will include:
- (a) an explanation of the matter scrutinised;
  - (b) a summary of the evidence considered;
  - (c) a list of the participants involved in the scrutiny exercise;
  - (d) any recommendations on the matter scrutinised, including where applicable, an indication of the costs associated with implementing the recommendations;
  - (e) a summary of the views of Members dissenting from the majority recommendation(s);
  - (f) the mechanism for monitoring progress in implementing the recommendation(s).



- L.3** All motions (whether passed, rejected, opposed etc.) by the Committee will be detailed in the Scrutiny Report.
- L.4** The Scrutiny Report and/or recommendations will be published and sent to the link officer of the relevant body.
- L.5** Where requested by the Committee, a 'relevant body' is under an obligation in accordance with section H of this Protocol to consider the Scrutiny Report and/or recommendations and respond to the Committee within 28 days (or as soon as reasonably possible) of the date of the Scrutiny Report, indicating what (if any) action the body proposes to take.
- L.6** The Committee Chairman, may at the request of the 'relevant body', attend its meeting and present the Scrutiny Report and answer questions.
- L.7** If in disagreement with the decision of the Committee, any Councillor(s) who expresses a minority view, may through the Committee Chairman, refer a 'minority view' report to the 'relevant body' for consideration and provided they do not have a disclosable pecuniary interest or prejudicial interest in the matter under discussion, the Councillor may be requested to attend the body's meeting and present their views and answer questions.
- L.8** If at all possible, Scrutiny Reports and/or recommendations should be included on the agenda of the next available meeting of the 'relevant body' unless the matter which is the subject of the Scrutiny Report and/or recommendations is scheduled to be considered by the 'relevant body' within a period of four weeks from the date the Committee issues the Scrutiny Report and/or recommendations. In such circumstances, the Committee's Scrutiny Report/recommendations will be considered by the 'relevant body' in the context of their deliberations on the substantive item on the body's agenda.
- L.9** Only one Scrutiny Report per meeting of the 'relevant body' may be submitted by the Committee for consideration.
- L.10** Following receipt of the 'relevant body's' response, the Committee may, by motion, move 'that the matter be referred back to the [named] 'relevant body' either 'for further information' or 'for further consideration' or as the case may be, with an instruction that some specified action be taken or that the Committee considers that no further action is necessary.
- L.11** Scrutiny Reports and/or recommendations to the GAC will be copied to the Cabinet Chairman. The GAC will not consider a Scrutiny Report and/or recommendations until the Cabinet has had the opportunity to comment.
- L.12** Local ward Members and other non - executive Councillors will have the opportunity at GAC meetings, to raise issues either through questions, motions or through policy and other debates.

### **M. Cabinet Key Decisions**

Where the Cabinet has decided not to include a particular decision in a Regulation 9 Notice, but the Committee believes that it should have been included, the Committee may require the Cabinet to make a report on the decision to the GAC in accordance with Standing Order 54(9). The Committee's consideration of any such matter will be in public, but subject to the rules on confidential and exempt information.

### **N. Monitoring Officer reports**

The Committee may consider whether it would be appropriate, following receipt of a Monitoring Officer report to the Cabinet (and copied to all Members of the Council), to hold a short enquiry into the matter which is the subject of the report prior to the Cabinet's consideration of it and to recommend accordingly to the Cabinet.

### **P. Consideration of items at meetings P.1**

Without prejudice to the rules detailed in Standing Orders on the consideration of urgent items, items will not be considered at a meeting of the Committee unless included on the agenda for the meeting. The order of business will be as set out in Standing Order 58(10)(a)(i) to and including (iii) and the business as otherwise set out in the agenda in accordance with Standing Order 58(10)(a)(iv) will be in the order of:

- Call – in;
- decisions and/or actions of the Council, Cabinet and Officers; local health service body, Kent County Council;
- local improvement targets;
- MAA economic strategy action plans;
- Draw downs;
- CCfA;
- Key Decisions;
- any other local government matter related to the Council's/Cabinet's functions;
- Officer decisions pursuant to Standing Order 38 (Delegation of Urgent and Routine Matters);
- Minority member business;
- Scrutiny Committee member business;
- Monitoring progress of agreed actions;
- Members' Information Bulletin.

- Q.2** The order of business may be altered by the Committee in accordance with the rules detailed in Standing Order 58(10)(b).
- Q.3** Cabinet decisions and Officer decisions under Standing Order 38 (Delegation of Urgent and Routine Matters) and under the Scheme of Delegations to Officers, cannot be reversed or amended.
- Q.4** Voting Committee members have a right of access to exempt or confidential information considered by the Cabinet, but only if it is relevant to an issue(s) before the Committee (Standing Order 51(4)).
- Q.5** In exercising its powers, the Committee must respect, support and not compromise the duties and responsibilities of other Committees, Boards and Panels of the Council. If a scrutiny investigation reveals potential disciplinary and probity issues, the Committee will refer the matter to the relevant Director.
- Q.6** Litigation proceedings by or against the Council must not be prejudiced by any scrutiny investigation. In the circumstances, it may be necessary to defer further consideration of the matter until the proceedings have been dispensed with.
- Q.7** Consultation undertaken by the Committee will not compromise/prejudice consultations undertaken by any other Committee/Board of the Council.

## **R. Conduct of meetings**

- R.1** Meetings will be open to the public and the press unless confidential and/or exempt information is being considered. The Access to Information Procedure Rules detailed in Standing Orders will apply.
- R.2** The access to information provisions relating to access to and inspection of agenda and connected reports and minutes as detailed in Standing Orders will apply.
- R.3** Minutes will be drawn up and recorded in accordance with the rules detailed in Standing Order 15.

## **S. Task groups/ informal Member working group**

- S.1** Task groups (or informal Member working groups) may be appointed at any time by the Committee to examine specific issues in detail. Task groups will be time limited and will tend to work more flexibly and informally.
- S.2** The Committee may appoint any of its Members to work informally with other bodies or authorities etc., particularly in relation to external or cross-authority scrutiny matters, where this will contribute to the Committee's functions.

- S.3** Whilst a task group cannot substitute for the Committee or exercise the formal powers associated respectively with overview and scrutiny (which is the preserve of the Committee and its sub-committees), the task group may contribute to or inform the overview or scrutiny process.
- S.4** Task groups will be made up of no less than 3 Committee members. The political balance rules need not apply.
- S.5** Because of the relative informality of task group meetings, and the evidence gathering nature of much of the discussion, chairing the meetings will involve different skills from those required by traditional committee meetings. The task group Chairman will need to be sure that all task group members are clear about the purpose of the meeting and are given the opportunity to pursue a line of questioning – via a number of supplementary questions if necessary.
- S.6** The task group may obtain information through different media, including face-to-face interviews; questionnaires; focus groups; site visits; reports; and written submissions from participants.
- S.7** Participants will be offered the opportunity to comment on the accuracy of the record of their attendance.
- S.8** Once the evidence is taken, the Committee Co-ordinator will draft a report and recommendations to reflect the preliminary views of the task group. The draft report and recommendations will be agreed by the task group Chairman before it is circulated to the Cabinet Chairman and the Strategic Director for comment.
- S.9** The Committee will consider the task group's report and/or recommendations and any comments from the Cabinet Chairman and/or relevant Director.
- S.10** The Committee will refer the task group's report and/or recommendations to the relevant body i.e. Kent County Council, Responsible Person, GAC and/or Cabinet with a note of the debate and any changes arising from the debate.
- S.11** The Committee may refer the issue back to the task group for further consideration.

## **T. Sub-committees**

- T.1** The Committee may appoint sub-committees in accordance with the rules detailed in Standing Order 58(1)(4) and may delegate any of its functions to its sub-committees.
- T.2** Sub-committees may exercise the formal powers associated respectively with the scrutiny function.

## **U. Monitoring agreed actions**

### **U.1**

Agreed actions will form the basis against which performance of the Council, Cabinet etc. will be measured. Progress against action plans will be monitored through Covalent [the Council's performance management system] and reported to the Committee annually.

### **U.2**

Where the Committee's recommendations have not been accepted by the body concerned, clear reasons will be given. Where recommendations have been agreed, but expectations have not been met, the issue may be re-addressed fully by the Committee.

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## **V. Declarations of interest**

### **V.1**

Elected Councillors and voting co-optees are subject to the [Member] Code of Conduct.

### **V.2**

Representatives from the responsible authorities, co-operating body and other partner organisations are subject to their respective professional codes of conduct.

### **V.3**

Participants who are not bound by codes of conduct will be subject to the Nolan principles of transparency and accountability.

### **V.4**

All participants (including Council Officers) summoned or invited to attend Committee meetings, will declare any interests and the nature of the interests at the beginning of the meeting or as soon as the interests become apparent to them.

### **V.5**

No Committee members may be involved in scrutinising a decision in which they have been directly involved.

### **V.6**

With the exception of Cabinet members who are required to attend the Committee to give evidence in accordance with section D of this Protocol, any Member at the meeting (not restricted to members of the Committee) with a disclosable pecuniary interest or prejudicial interest in a matter, may not take part in the discussion or remain in the meeting room or public gallery to observe the vote on the matter.

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## **W. Regulatory bodies**

### **W.1**

The Council discharges a number of regulatory functions such as development control, licensing and other quasi-judicial functions, which cannot be the responsibility of the Cabinet.

### **W.2**

The Committee will not scrutinise individual decisions made by the Committees, Boards and Panels entrusted to discharge the Council's regulatory functions (the Regulatory Bodies). Scrutiny of decisions of Regulatory Bodies is clearly not an alternative to normal appeals procedures. However, the Committee may make reports and/or recommendations to the GAC relating to the discharge of any Regulatory Body's functions.

### **W.3**

Scrutiny of the discharge of a Regulatory Body's functions will be restricted to one per Committee meeting on notice by the Committee Chairman and the Shadow Chairman. The rules detailed in section A. of this Protocol will apply.

## **X. Review of this Protocol**

This Protocol will be reviewed on an annual basis or more frequently, if experience, circumstances and legislation highlight that amendments are required.

## COUNCILLOR CALL FOR ACTION (CCfA) FLOWCHART

**CCfA request** – local residents have concerns about significant and persistent problems in their area – they approach the local ward Member - local ward Member may also on their initiative, initiate a CCfA and gather support from their local community

