

### CRIME AND DISORDER (OVERVIEW AND SCRUTINY) COMMITTEE PROTOCOL

'Crime and disorder' is defined as including forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment or the misuse of drugs, alcohol and other substances.

#### Introduction

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

#### Terms of Reference

To review and scrutinise, and make reports or recommendations, regarding the functioning of the responsible authorities which comprise the Dartford Community Safety Partnership (the CSP):

Dartford Borough Council [a responsible authority]  
Kent Police [a responsible authority]  
Kent County Council [a responsible authority]  
Kent Fire and Rescue Service [a responsible authority]  
Kent and Medway Clinical Commissioning Group [a responsible authority]  
Probation Service [a responsible authority]

#### 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/Home Office 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 act unlawfully.

#### Compliance principles

- The Committee will:
- Comply with the Council's crime and disorder aims as stated from time to time in 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.

**Frequency of meetings**

No less than once in every twelve month period, the Committee will meet to review or scrutinise decisions made, or other action taken by the CSP and the responsible authorities (acting collectively or individually), in connection with their crime and disorder functions, as the Committee considers appropriate.

**Membership**

Committee membership cannot include any member of the Council's Cabinet.

**The Overview and Scrutiny Process**

**In accordance with its Terms of Reference, the Committee can only discharge overview and scrutiny functions relating to crime and disorder/community safety.**

**1.What may be scrutinised**

- 1.1 decisions and/or actions of the CSP and the responsible authorities (either collectively or individually);
  - 1.2 the CSP's annual strategic assessment to inform the Community Safety Plan;
  - 1.3 the CSP's partnership plan;
  - 1.4 Councillor Calls for Action (CCfAs);
  - 1.5 crime and disorder/community safety related local improvement targets;
  - 1.6 subject to section U. of this Protocol, any other local crime and disorder matter related to the Council's/Cabinet's crime and disorder/community safety functions;
  - 1.7 items related to crime and disorder/community safety referred to in the Members' Information Bulletin;
- NB: Overview and scrutiny of the CSP's crime and disorder functions will not focus on day to day operational performance, which is the proper concerns of managers of the responsible authorities.
- 1.8 matters related to the systemic failure in the discharge of crime and disorder functions irrespective of the fact that there is a right of recourse to a review or right of appeal conferred by or under any enactment (see section E.3).

## 2. What may be reviewed

### 2.1

The matters referred to in sections 1.1 – 1.3 and 1.6 – 1.8 of this Protocol.

### A. Draw downs

**Draw downs for the purposes of scrutinising/reviewing decisions/actions of the CSP, responsible authorities, Cabinet etc. and/or the scrutiny/review of the effects/outcomes of a decision post implementation**

#### A.1

For each meeting of the Committee:

through the 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'.

In cases of genuine urgency, the Chairman may authorise more than the allocated number of draw downs per Political Group on the Council, referred to this section A.1

#### A.2

Each Committee meeting may draw down for overview and 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 overview and scrutiny of decision(s)/actions of the CSP and the responsible authorities (either collectively or individually), Cabinet/Officers, local improvement targets etc. Whatever combination is applied, the Committee is restricted to the overview and 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 participants (CSP representatives, Members, Officers, and other external participants) 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 review/scrutinise an item for the purposes of examining the effect and outcomes of the CSP and/or the responsible authority, Cabinet etc. decision post implementation, drawing down the item may need to be delayed to a future date.

NB: The focus of the review/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** The Director of Housing and Public Protection will make the final decision on the rejection of a draw down, with reasons recorded in writing. In the absence of the Director of Housing and Public Protection, the Director of Growth and Community 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 from the CSP, background information, research, data, statistics, etc.;
- if applicable, identify the need for participants (CSP representatives, 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 Director of Housing and Public Protection and link officers of the CSP and responsible authorities. Where the request for information relates to a Cabinet decision/action, the Director of Housing and Public Protection 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 CSP and the responsible authorities, whether acting collectively or individually.
- 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 and reg.5 of the Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2012 and Standing Order 46(2) as regards confidential information, will apply to the proceedings of the Committee.
- B.8** The overview and 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 overview and scrutiny process, the CSP and responsible authorities are 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, C.15 and C.16 of this Protocol.
- C.2** (a) Call-in will be by three 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 decision(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 Director of Housing and Public Protection 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 review/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 overview and scrutiny:

#### **Council participants**

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

#### **CSP participants**

Representatives of the CSP, responsible authorities and co-ordinating body invited (but cannot be compelled) to attend Committee meetings (Section 21(13)(b) of the Local Government Act 2000).

### **D.3**

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

Subject to the rules on participation at section D.7 of this Protocol, 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.4**

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

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

### **D.5**

#### **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.5A**

#### **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 overview and 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 Director of Housing and Public Protection.
- (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 Director of Housing and Public Protection 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)
  - (i) Subject to pars.(i) and (iii) below, the Chairman reserves the right (supported by detailed reasoning to the Cabinet Chairman or Director of Housing and Public Protection (as appropriate)), to strongly request the attendance of a named Cabinet member(s)/Lead Member(s), Council Officer(s), representatives of the CSP and/or responsible authorities 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).
  - (ii) The CSP's representative will be its Chairman or Vice-Chairman.
  - (iii) The nomination/appointment by the responsible authorities of representatives as participants in the overview and scrutiny process, and substitutions, will be at the discretion of their governing bodies or as detailed in their constitutions.
- (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.(h) and (i) 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, CSP etc.

NB:As 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, E.7 and E10 of this Protocol, any ward Member may refer to the Committee for scrutiny, any crime and disorder matter.
- The flowchart at Annex 1 describes the CCfA procedure.
- 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 (reg.4. the Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012).
- 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 interests 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 (section 19(5) of the Police and Justice Act 2006).
- 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 CSP and the responsible authorities (either collectively or individually), GAC and/or the Cabinet. 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 CSP's and the responsible authorities' (either collectively or individually), GAC's or the Cabinet'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) of the 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 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).

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

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

**G.1** The CSP, responsible authorities and co-ordinating body may be required by the Committee to have regard to the Committee's Overview or Scrutiny Report and/or recommendations (Section 9FF(2) of the Local Government Act 2000).

**G.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.

#### **H. Co-option**

**H.1** The Committee may recommend to the GAC, the appointment/co-option of additional persons to serve on the Committee or its sub-committee, subject to the following:

- (i) a person co-opted to serve on the Committee/sub-committee will not be entitled to vote on any particular matter, unless the Committee so determines and subject to the GAC's permission in advance, on voting rights.
- (ii) a co-opted person's membership may be limited to the exercise of the Committee's/sub-committee's powers in relation to a particular matter or type of matter.
- (iii) the Committee will only co-opt an employee, officer or member of the responsible authorities comprising the CSP to serve on the Committee/sub-committee, providing this person:

- (a) is not the chairman or vice chairman of the CSP or the nominated representative/member or substitute of the responsible authorities ;  
and
  - (b) is not a Cabinet member (or an executive member of Kent County Council).
- (iv) the membership of a person co-opted to serve on the Committee/sub-committee, may be withdrawn at any time by the Committee.
- (v) [Voting] Co-optees will comply with the Council's [Member] Code of Conduct set out in Part 5 of the Constitution.
- (vi) Co-optees will have access to exempt/confidential information considered/to be considered by the Committee. The rules detailed in section Q.4 of this Protocol, will apply.

**J.2** Co-optees will count towards establishing a quorum.

## **K. Work programme**

**K.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.

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

**K.3** The CSP and the responsible authorities will be informed in advance, of overview and scrutiny exercises (including their scope).

**K.4** The Committee will receive an annual report on its workings and may make recommendations for future work programmes.

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

**L.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.

**L.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 CSP, responsible authorities or co-ordinating body.

- L.3** Independent experts, advisers and assessors will be expected to follow the principles referred to in the [Member] Code of Conduct, including the requirement to declare interests and respecting confidentiality.
- L.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.
- L.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.
- L.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.

## **M. Overview or Scrutiny reports and/or recommendations**

- M.1** All comments, conclusions and recommendations to the CSP, responsible authorities, GAC and/or Cabinet (referred to in this part of the Protocol as the 'relevant body' will be accompanied by an Overview or 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.
- M.2** The Overview or Scrutiny Report will include:
- (a) an explanation of the matter reviewed or scrutinised;
  - (b) a summary of the evidence considered;
  - (c) a list of the participants involved in the overview and scrutiny exercise;
  - (d) any recommendations on the matter reviewed or 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).
- M.3** All motions (whether passed, rejected, opposed etc.) by the Committee will be detailed in the Overview or Scrutiny Report.
- M.4** The Overview or Scrutiny Report and/or recommendations will be published and sent to the link officer of the relevant body.

- M.5** The CSP, responsible authorities and co-ordinating body are under a legal obligation to consider the Overview or Scrutiny Report and/or recommendations and respond to the Committee within 28 days (or as soon as reasonably possible) of the date of the Overview or Scrutiny Report, indicating what (if any) action the body proposes to take (see section H.1 above). The same principles shall be applied to Cabinet and GAC.
- Relevant bodies may fully accept, partially accept or reject the Overview or Scrutiny Report and/or recommendations. If the relevant body partially accepts or rejects the Overview or Scrutiny Report and/or recommendations, the body must detail its reasons.
- M.6** The Committee Chairman, may at the request of the relevant body, attend its meeting and present the Overview or Scrutiny Report and answer questions.
- M.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.
- M.8** If at all possible, Overview or 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 Overview or 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 Overview or Scrutiny Report and/or recommendations. In such circumstances, the Committee's Overview or 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.
- M.9** Only one Overview or Scrutiny Report per meeting of the relevant body may be submitted by the Committee for consideration.
- M.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.
- M.11** Overview or Scrutiny Reports and/or recommendations to the GAC will be copied to the Cabinet Chairman. The GAC will not consider an Overview or Scrutiny Report and/or recommendations until the Cabinet has had the opportunity to comment.
- M.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.

#### **N. Cabinet Key Decisions**

Where the Cabinet has decided not to include a particular decision in the forward plan, 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.

#### **P. 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.

#### **Q. Consideration of items at meetings Q.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 CSP and the responsible authorities (either collectively or individually);
- the CSP's annual strategic assessment;
- the CSP's partnership plan;
- Draw downs;
- CCfA;
- Key Decisions;
- any other local crime and disorder matter related to the Council's/Cabinet's crime and disorder/community safety 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 Director of Housing and Public Protection.
- 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 in accordance with its Terms of Reference 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 groups**

- 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 overview and 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 Director of Housing and Public Protection 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 Director of Housing and Public Protection.
- S.10** The Committee will refer the task group's report and/or recommendations to the relevant body i.e. CSP, responsible authorities, GAC and/or Cabinet with a note of the debate and any changes arising from the debate.
- The rules detailed in sections G, H and M of this Protocol will apply.
- 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 overview and scrutiny.

## **U. Regulatory bodies**

### **U.1**

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 in accordance with section M. of this Protocol.

### **U.2**

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

### **U.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.

## **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 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.

The Committee's policy development and/or review work may draw directly from the outputs of its scrutiny functions (scrutiny of Cabinet decisions and/or proposed decisions). It may also involve the consideration of policy themes and matters of local concern, which may have potential implications for the policies of the Council. In the circumstances, subject to the rules detailed in section V.6 of this Protocol, Committee members and Lead Members who have been directly involved in policy development, may participate in the Committee's policy development and/or review work.

### **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.

**W. 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

