

APPENDIX A

AMENDMENTS REQUIRED TO THE CONSTITUTION TO IMPLEMENT COUNCILLOR CALL FOR ACTION (CCFA)

Note: The proposed changes to the articles and the rules of procedure are shown as underlined in this appendix.

Article 5 – Overview and scrutiny committee and subcommittees

5.1 The council will appoint an overview and scrutiny committee to discharge the functions conferred by section 21 of the Local Government Act 2000. The overview and scrutiny committee will appoint sub-committees and determine their themes and terms of reference.

5.2 General role

Within their terms of reference, the overview and scrutiny committee and its sub-committees will:

- a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions
- b) make reports and/or recommendations to council assembly and/or the executive in connection with the discharge of any functions
- c) consider any matter affecting the area or its inhabitants.

5.3 Specific functions

Crime and disorder

- a) act as the crime and disorder committee within the meaning of section 19 of the Police and Justice Act 2006.
- b) review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions
- c) make reports or recommendations to the local authority with respect to the discharge of those functions
- d) make recommendations to the executive and/or council assembly with respect to any matter which is a local crime and disorder matter in relation to a member of the authority.
- e) consider any crime and disorder matters referred by any member of the council

Policy development and review

Overview and scrutiny committee and its sub-committees may:

- a) assist council assembly and the executive in the development of its budget and policy framework by in-depth analysis of policy issues
- b) conduct research, community and other consultation in the analysis of policy issues and possible options
- c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options
- d) question members of the executive and chief officers about their views on issues and proposals affecting the area
- e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working

f) decide whether to consult with community councils as part of the consideration of the budget and policy framework.

Scrutiny

Overview and scrutiny committee and its sub-committees may:

- a) review and scrutinise the decisions made by and performance of the executive and council officers both in relation to individual decisions and over time
- b) review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas

c) consider referrals on local government matters from members on any of the functions of the committee

d) question members of the executive, chief officers and partner authorities about their decisions and performance, whether generally in comparison with local area agreements, service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects

e) make recommendations to the executive and/or council assembly arising from the outcome of the scrutiny process or refer entire reports produced as the result of the scrutiny process to be debated and noted at council assembly

f) give notice to the executive and/or council assembly and publish recommendations

g) give notice to the relevant partner authority

h) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee/sub-committee and local people about their activities and performance

i) question and gather evidence from any person (with their consent).

5.4 Annual report

The overview and scrutiny committee will report annually to council assembly on the workings of the overall scrutiny function, and may make recommendations for future work programmes and amended working methods if appropriate.

5.5 Key tasks of chairs of overview and scrutiny committee and subcommittees

Overview and scrutiny committee and sub-committee chairs will:

- a) lead the scrutiny function
- b) propose to the appropriate committee/sub-committee a programme of work devised in consultation with senior management
- c) achieve a balance of service interests
- d) achieve broad coverage across all services over time
- e) propose arrangements for the involvement of community or other non-councillor representatives
- f) own and present the resulting reports (to the council assembly or the executive, including any minority views which might be reported separately).

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Arrangements for overview and scrutiny

1.1 The council will appoint an overview and scrutiny committee. The overview and scrutiny committee will appoint five scrutiny sub-committees and determine their terms of reference.

1.2 The overview and scrutiny committee and its sub-committees may appoint informal member working groups to undertake specific tasks. While such bodies cannot substitute for the scrutiny committees, or exercise the powers associated with scrutiny (which are the preserve of the scrutiny committees) they can contribute to or inform the scrutiny process.

2. Membership of overview and scrutiny committees and its sub-committees

2.1 All councillors except members of the executive may be members of the overview and scrutiny committee and sub-committees. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

2.2 The overview and scrutiny committee will consist of:

- a) a chair, appointed by council assembly
- b) a vice-chair, appointed by council assembly
- c) the chairs of the five scrutiny sub-committees, provided that the proportionality rules are not compromised and provided that each political group is permitted to nominate non-executive members should this be necessary to maintain proportionality
- d) education representatives as set out at paragraph 4.

2.3 Overview and scrutiny committee will appoint the chairs, vice-chairs and remaining members of the scrutiny sub-committees, in accordance with the statutory rules relating to proportionality.

2.4 Each political group is entitled to nominate reserve members to overview and scrutiny committee and its sub-committees. The number of reserve member seats that each political group is entitled to nominate is equal to the number of places each group holds on overview and scrutiny committee and one fewer than the number of places each group holds on each of the subcommittees, subject to a minimum of one.

3. Co-optees

3.1 Overview and scrutiny committee may recommend to council assembly the appointment of a number of people as non-voting co-optees. The sub-committees may recommend to overview and scrutiny committee the appointment of non-voting co-optees on the sub-committees.

3.2 In the event that a co-opted member does not attend a meeting of the committee on which they serve for a period of six consecutive months, without the approval of the council, they shall cease to be a member of the authority.

4. Education representatives

4.1 Overview and scrutiny committee and any sub-committee dealing with education functions shall include in its membership the following voting representatives:

- a) one Church of England diocese representative
- b) one Roman Catholic diocese representative
- c) two duly elected parent governor representatives

4.2 Overview and scrutiny committee and any sub-committee dealing with

education functions may also contain the following co-opted, non-voting members:

a) up to three representatives of other faiths or denominations, of which at least two should be from non-Christian faiths

b) up to two co-opted non-voting representatives of community groups.

4.3 If the committee/sub-committee deals with any matters outside education functions, the representatives outlined in 4.1 above shall not vote on these matters, though they may stay in the meeting and, with the discretion of the chair, speak.

4.4 Education representatives may only sign a call-in request when the matter called-in relates to an education function.

5. Terms of reference of the overview and scrutiny committee

5.1 The terms of reference of the overview and scrutiny committee will be:

a) act as the crime and disorder committee within the meaning of section 19 of the Police and Justice Act 2006

b) to appoint five sub-committees

c) to agree the committee's annual work programme and to approve the programmes of the sub-committees

d) to consider requests from the executive and/or council assembly and community councils for scrutiny reviews

e) to exercise the right to call-in for reconsideration executive decisions made but not yet implemented

f) to comment on scrutiny reports that propose policy change or that have resource implications

g) to arrange for relevant functions in respect of health scrutiny to be exercised by an overview and scrutiny committee of another local authority where the council considers that another local authority would be better placed to undertake those relevant functions, and that local authority agrees to exercise those functions

h) if appropriate, to appoint a joint overview and scrutiny committee with two or more local authorities and arrange for the relevant functions of those authorities to be exercised by the joint committee

i) to periodically review overview and scrutiny procedures to ensure that the function is operating effectively

j) to report annually to council assembly on the previous year's scrutiny activity

k) to determine major funding requests from sub-committees in respect of particular reviews

l) to scrutinise matters in respect of:

the council's policy and budget framework

human resources and the council's role as an employer and

corporate practice generally

customer access issues, including e-government, information technology and communications

the council's equalities and diversity programmes.

6. General terms of reference of all scrutiny committees/sub-committees

6.1 Within their terms of reference, all scrutiny committees/sub-committees will:

a) produce a one year rolling work programme, which will be approved by the overview and scrutiny committee

b) review and scrutinise decisions made or actions taken in connection with

the discharge of any of the council's functions

- c) review and scrutinise the decisions made by and performance of the executive and council officers both in relation to individual decisions and over time in areas covered by its terms of reference
- d) review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas
- e) question members of the executive and officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects and about their views on issues and proposals affecting the area
- f) assist council assembly and the executive in the development of its budget and policy framework by in-depth analysis of policy issues
- g) make reports and recommendations to the executive and or council assembly arising from the outcome of the scrutiny process
- h) consider any matter affecting the area or its inhabitants
- i) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working
- j) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the scrutiny committee and local people about their activities and performance
- k) conduct research and consultation on the analysis of policy issues and possible options
- l) question and gather evidence from any other person (with their consent)
- m) consider and implement mechanisms to encourage and enhance community participation in the scrutiny process and in the development of policy options
- n) conclude inquiries promptly and normally within six months.

7. Matters within the remit of more than one scrutiny sub-committee

7.1 Where a matter for consideration by a scrutiny sub-committee also falls (whether in whole or in part) within the remit of one or more other scrutiny sub-committees, then the sub-committee conducting the review shall either:

- a) invite the chair of the other sub-committee (or his/her nominee) to attend meetings when the matter is being reviewed
- b) invite the other sub-committee to comment on findings prior to submitting its report to the executive/council assembly.

7.2 If necessary, overview and scrutiny committee will determine which subcommittee will assume responsibility for any particular issue and resolve any issues of dispute between sub-committees.

8. Policy review and development

8.1 The executive is required to make arrangements for consultation in respect of any proposals to the council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework. The role of the overview and scrutiny committee and its sub-committees in relation to consultation is set out in detail in the budget and policy framework procedure rules.

8.2 In relation to council policy, the overview and scrutiny committee/subcommittees may make proposals to the executive for developments insofar as they relate to matters within their terms of reference.

9. Meetings of the overview and scrutiny committee and its subcommittees

9.1 There shall be at least eight ordinary meetings of the overview and scrutiny

committee in each year. In addition, there shall be at least two ordinary meetings of the overview and scrutiny committee acting as the crime and disorder committee (or sub-committee if appropriate) in each year. In addition, extraordinary meetings may be called by the chair of the committee, by two-thirds of the committee's voting membership or by the proper officer if he or she considers it necessary or appropriate.

9.2 The chair of the committee may also cancel a meeting for lack of business, or reschedule a meeting, having first consulted with the designated representatives of all political groups recognised by the council.

9.3 The sub-committees shall determine their own arrangements for meetings.

9.4 A schedule of meetings will be published at the beginning of each municipal year.

10. Quorum

10.1 The quorum for the overview and scrutiny committee and its sub-committees shall normally be 25% of the voting membership of the relevant committee/sub-committee but no fewer than two.

11. Prohibition of party whip over voting on overview and scrutiny committee/sub-committees

11.1 The party whip does not apply to meetings of overview and scrutiny committees or sub-committees.

11.2 The expression "party whip" is taken to mean "any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner."

12. Procedure at overview and scrutiny committee/sub-committee meetings

12.1 The overview and scrutiny committee and its sub-committees shall consider the following business (with the exception of c) which only applies to overview and scrutiny committee):

- a) minutes of the last meeting
- b) declarations of interest
- c) consideration of any matter referred to the committee for a decision in relation to call-in of a decision
- d) responses of the executive to reports of the committee
- e) business otherwise set out on the agenda for the meeting.

13. Formal records to be maintained

13.1 No meeting of overview and scrutiny committee or any of its sub-committees shall commence or conduct business unless the monitoring officer or their representative is present. All meetings are to be clerked by a representative of the monitoring officer, with minutes to be produced including details of members attending and details of decisions taken. Copies of all agendas and minutes are to be maintained by the monitoring officer.

14. Work programmes

14.1 Each of the scrutiny committees will develop an annual work programme.

14.2 The overview and scrutiny committee will approve and review the individual work programmes of the sub-committees.

14.3 Five members of the council may request the overview and scrutiny committee to consider an individual addition or subtraction to the work programme of a sub-committee.

15. Agenda items

15.1 Any member of the overview and scrutiny committee or a sub-committee shall be entitled to give notice to the proper officer that he/she wishes an item relevant to the functions of the committee/sub-committee of which they are a member to be included on the agenda for the next available meeting. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.

15.2 Any two members of the council who are not members of the overview and scrutiny committee or a sub-committee may give written notice to the proper officer that they wish an item to be included on the agenda of that committee/sub-committee. If the proper officer receives such a notification, then he/she will include the item on the first available agenda of the committee/sub-committee for consideration. This rule will apply where the call for action procedure set out in paragraph 15.3 does not apply

15.3 Any member of the council [who is not a member of the overview and scrutiny committee or a sub-committee] may give written notice to the proper officer that they wish to refer a councillor call for action to be included on the agenda of a committee/sub-committee. If the proper officer receives such a notification then he/she will include the item on the agenda of the first available sub-committee for consideration as to whether it is valid in accordance with the call for action protocol.

16. Overview and scrutiny budget

16.1 Within the agreed budget for overview and scrutiny, the overview and scrutiny committee/sub-committees may:

- a) hold enquiries and investigate the available options for future direction in policy development
- b) appoint advisers and assessors to assist them in this process
- c) go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations
- d) ask witnesses to attend to address them on any matter under consideration
- e) pay any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

16.2 The overview and scrutiny committee will have responsibility for monitoring the budget for additional scrutiny research and determining funding requests from its sub-committees in respect of particular reviews.

17. Members and officers giving account

17.1 Overview and scrutiny committee or a sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. In fulfilling the scrutiny role, a committee may require any member of the executive, the head of paid service and/or any senior officer to attend before it to explain, in relation to matters within their remit:

- a) any particular decision or series of decisions
- b) the extent to which the actions taken implement council policy
- c) their performance

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

17.2 Where any member or officer is required to attend a scrutiny committee/subcommittee

under this provision, the chair of the committee/sub-committee will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least five clear working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on

which he/she is required to attend to give account, the specific area of inquiry and whether any papers are required to be produced for the committee/subcommittee.

17.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the proper officer in consultation with the committee/sub-committee and the member or officer shall arrange an alternative date for attendance.

18. Attendance by others and public attendance

18.1 A scrutiny committee may invite people other than those people referred to in paragraph 17 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance by these people is optional.

18.2 Where people attend to give evidence as part of an investigation, meetings are to be conducted in accordance with the following principles:

a) that the investigation be conducted fairly and all members of the committee/sub-committee be given the opportunity to ask questions of attendees, and to contribute and speak

b) that those assisting the meeting by giving evidence be treated with respect and courtesy

c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

18.3 Members of the public may attend open meetings of scrutiny committees and request to speak.

19. Reports from the overview and scrutiny committee and its subcommittees

19.1 Once it has formed recommendations on proposals for development, the overview and scrutiny committee or a sub-committee will prepare a formal report and submit it to the proper officer for consideration by the executive.

The committee/sub-committee will also report to council assembly as appropriate (in respect of the budget setting process, relevant scrutiny reports should be forwarded with executive recommendations to council assembly).

19.2 If the overview and scrutiny committee or a sub-committee cannot agree on one single final report, then any member of the committee/sub-committee may prepare a minority report to be submitted for consideration by the executive or council assembly with the majority report.

19.3 The executive shall consider and provide a written response to a scrutiny committee's/sub-committee's report within two months.

19.4 Management of the flow of reports to the executive will be the responsibility of the overview and scrutiny committee. Reports that propose policy change or that have resource implications (as opposed to comments on performance) are formally routed via the overview and scrutiny committee so that it can add its own comments.

20. Call-in

20.1 The overview and scrutiny committee can "call-in" an executive decision which has been made but not yet implemented. This enables the overview and scrutiny committee to consider whether the decision is appropriate. The committee may recommend that the decision maker reconsider the decision.

20.2 Requests for call-in should normally only be made if there is evidence that the decision maker did not take the decision in accordance with the principles of decision making as set out in the constitution:

a) proportionality (i.e. the action must be proportionate to the outcome)

b) due consultation and the taking of professional advice from officers

- c) respect for human rights
- d) presumption in favour of openness
- e) clarity of aims and desired outcomes
- f) the link between strategy and implementation must be maintained
- g) decision making generally should have reference to the policy framework and be in accordance with the budget.

21. Procedure to call-in a decision

21.1 When a decision is made by the executive or an individual member of the executive, or a committee of the executive, or an executive decision is taken by a community council, or a key decision is made by an officer with delegated authority from the executive or under joint arrangements, the decision shall be published, normally within two clear working days of being made. All members will be sent copies of the records of all such decisions within the same time scale, by the person responsible for publishing the decision.

21.2 That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless the overview and scrutiny committee objects to it and calls it in.

21.3 During that period, the proper officer shall call-in a decision for scrutiny if so requested by the chair or vice-chair of the overview and scrutiny committee, plus three members of the committee, including education co-optees for the purpose of education decisions only.

21.4 A member serving on a community council (who is also a member of the overview and scrutiny committee) who participates in taking an executive decision shall not sign a call-in request on the same decision (thus avoiding any conflict of interests).

21.5 In the event that the chair or vice-chair of overview and scrutiny decides not to support a call-in request received within deadline and signed by three members of the committee, they are required to set out their reasons in writing, and this letter will be circulated to members and other interested stakeholders.

21.6 A valid request for call-in must contain the requisite number of signatures and give reasons for the call-in. In particular, the request must state whether or not the members believe that the decision is outside the policy or budget framework.

22. Decisions not subject to call-in

22.1 The following categories of urgent decision are not subject to call-in:

- a) recommendations on the budget and policy framework
- b) decisions for urgent implementation (Rule 19, access to information procedure rules)
- c) urgent decisions outside the budget or policy framework (Rule 4, budget and policy framework procedure rules)
- d) non-key decisions relating to contract standing orders.

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

23. Procedure following call-in

23.1 If the head of overview and scrutiny is of the opinion that a request for a call-in may not be valid, because of a breach of procedure or other reason under this constitution, they shall inform the relevant members (this must always include the chair and vice chair) within one clear working day of receipt of the

request. In the event of dispute, the decision of the monitoring officer shall be final.

23.2 Following call-in of a decision, the head of overview and scrutiny shall notify the decision maker and the relevant chief officer, who shall suspend implementation of the decision. If the request for call-in states that the reason for call-in is that the decision is outside the budget or policy framework, the head of overview and scrutiny shall also notify the monitoring officer or finance director in order for a report to be prepared for the overview and scrutiny committee.

23.3 Within five clear working days of the call-in request, and where possible in consultation with the chair of the overview and scrutiny committee, the head of overview and scrutiny shall either:

- a) refer the called-in decision to the next meeting of the overview and scrutiny committee, if that meeting is within ten clear working days of the receipt of the call-in request, or
- b) call an extraordinary meeting of the overview and scrutiny committee to consider the called-in decision, to take place as soon as possible and in any case within ten clear working days of the call-in request, or
- c) arrange, where a called-in decision cannot reasonably be considered within the timescale in clauses a) or b) above, an extraordinary meeting of the overview and scrutiny committee to consider the matter outside the normal timetable, unless in the view of the monitoring officer and/or the finance director, in consultation with the relevant chief officer, the matter cannot wait and in which case it shall be considered in accordance with the timescale set out above.

23.4 If the overview and scrutiny committee does not meet within the constitutional timescale set out for call-ins, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the scrutiny meeting, or the expiry of 15 clear working days after the decision was published, whichever is the earlier, unless the provisions of 23.3(c) are applied.

24. Call-in meeting and action required of decision-makers

24.1 On meeting, the overview and scrutiny committee will consider the call-in request and in particular whether or not the decision might be contrary to the policy framework or not wholly in accordance with the budget. Advice should be sought from appropriate chief officers, the monitoring officer or the finance director. The monitoring officer's report and/or finance director's report shall be copied to every member of the council.

24.2 If, having considered the decision and all relevant advice, the overview and scrutiny committee is still concerned about it, then it may either:

- a) refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or
- b) refer the matter to council assembly if the decision is deemed to be outside the policy and budget framework.

24.3 If referred to the decision maker, with the exception of community councils they shall then reconsider their decision within a further seven clear working days. If referred back to a community council, reconsideration will wait until the next scheduled meeting of the community council, unless the monitoring officer determines, following consultation with the relevant chief officer and chair of the relevant community council (or in his or her absence the vicechair), that the matter can not wait in which case it will be considered within

seven working days. If it is the view of the monitoring officer or the finance director that the decision falls within the policy and budget framework, the decision maker may amend the decision or not, before adopting a final decision.

24.4 If referred to council assembly, the decision is further suspended pending a meeting of council assembly, which must take place within seven clear working days of the decision to refer to council. Within this time, the decision maker must decide what action to take in respect of the monitoring officer's and/or finance director's advice and to prepare a report to council assembly.

24.5 If the council assembly does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the council assembly meeting, or the expiry of 15 clear working days after the decision was published, whichever is the earlier.

24.6 The council assembly will receive details of the decision, the advice of the monitoring officer and/or the finance director, the comments of the overview and scrutiny committee and the report from the decision maker.

24.7 Where the council assembly accepts that the decision is within the budgetary and policy framework it may either:

- a) endorse a decision or proposal of the decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the council assembly be minuted and circulated to all councillors in the normal way, or
- b) if it objects to the decision on grounds other than it falling outside the budget or policy framework, refer the decision back to the decision making person or body, together with the council assembly's views on the decision. The decision maker will reconsider the decision within five clear working days and choose whether to amend the decision or not before reaching a final decision and implementing it, reporting this to overview and scrutiny committee.

24.8 Where the council assembly accepts that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget, it may either:

- a) amend the council's budget or policy framework to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the council assembly be minuted and circulated to all councillors in the normal way, or
- b) require the decision maker to reconsider the matter in accordance with the advice of either the monitoring officer or finance director within five working days to reconsider/amend the decision and this will be reported to the overview and scrutiny committee.