SECTION 6

6. Scrutiny

6.1 Introduction

6.1.1 The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. A Scrutiny Committee can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.

6.1.2 Scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effectives services that meet the needs and aspirations of local inhabitants. A Scrutiny Committee should not shy away from the need to challenge and question decisions and make constructive criticism.

6.1.3 The Council has one Scrutiny Committee, the Overview and Scrutiny Committee and it is required by statute to abide by any statutory limitations placed upon it.

6.2 Overview and Scrutiny Committee

6.2.1 Membership

(a) No more than 16 Members shall be appointed to the Overview and Scrutiny Committee.

(b) Neither the Chairman of the Council nor any members of the Cabinet may be members of the Overview and Scrutiny Committee. Moreover, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

(c) The Overview and Scrutiny Committee shall be entitled to recommend to the Council the appointment of non-voting co-optees.

6.2.2 Meetings of the Overview and Scrutiny Committee

There shall be six regular meetings of the Overview and Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An extraordinary meeting of the Overview and Scrutiny Committee may be called by its Chairman (or in his or her absence, the Vice-Chairman) or by the Proper Officer, if he or she considers it necessary or appropriate.

6.2.3 Quorum

The quorum for the Overview and Scrutiny Committee will be five (5) voting members of the Committee.

6.2.4 Scrutiny Support

It is the responsibility of the Head of Paid Service to ensure appropriate officer support for the Overview and Scrutiny Committee.

6.2.5 Work Programme

The Overview and Scrutiny Committee will be responsible for setting their own Work Programme and in doing so they should take into account wishes of members of that Committee who are not Members of the largest political group on the Council. The Work Programme should retain flexibility to deal with urgent issues.

6.2.6 Annual Report

The Overview and Scrutiny Committee must report annually to the Full Council on their workings with recommendations for its future work programme and amended working methods if appropriate.

6.2.7 Terms of Reference

The Overview and Scrutiny Committee has the following functions:

(a) Discharge the statutory functions granted to the Committee by Section 21 of the Local Government Act 2000, as amended, plus consideration of any matter referred to it under Section 21A, plus any powers and functions conferred under Sections 21A, 21B and 21D of the Local Government Act 2000;

(b) To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive. This includes the power for the Overview and Scrutiny Committee to recommend that the decision be reconsidered by the person who made it, or to arrange for its function under this section, so far as it relates to the decision, to be exercised by the authority;

(c) To make reports or recommendations to the authority or the Executive with respect to the discharge of any functions which are the responsibility of the Executive;

(d) To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Executive;

(e) To make reports or recommendations to the authority or the Executive with respect to the discharge of any functions which are not the responsibility of the Executive;

(f) Pursuant to the requirements of the Police and Justice Act 2006 (as amended) review or scrutinise decisions made, or other action taken, in connection with the discharge by the Council and other bodies and persons responsible for crime and disorder strategies for the area or in relation to a local crime and disorder matter and to make reports or recommendations to the Council for the discharge of those functions and arrange for copies of any report to be sent to those bodies and

persons responsible for crime and disorder strategies for the area (and such other co-operating persons and bodies as it thinks appropriate);

(g) To consider a local crime and disorder matter, (including in particular forms of crime and disorder that involve anti-social behaviour or adversely affecting the local environment, or the misuse of drugs, alcohol and other substances), referred to it by any member of the Council or by Cabinet pursuant to the requirements of the Police and Justice Act 2006 (as amended);

(h) Question members of the Cabinet and/or Committees and/or officers about their views on issues and proposals affecting the area and to make reports or recommendations to the authority or the Executive on matters which affect the authority's area or the inhabitants of that area;

(i) Question and gather evidence from any other person (with their consent);

(j) Review and scrutinise the policies, plans, expenditure and performance of other public bodies in the area and invite reports from them by requesting them to address the Committee and local people about their activities and performance which impact upon the economic, social or environmental well-being of the authority's area or any part of it, and make recommendations to such bodies and to the Council on any such policies, plans, expenditure and performance;

(k) Liaise with external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative partnership working;

(l) Conduct research, community and other consultation in the analysis of policy issues and possible options;

(m) Consider mechanisms to encourage and enhance community participation in the development of policy options;

(n) To receive reports from the Leader annually on the Cabinet's priorities for the coming year and its performance in the previous year;

(o) Consider the impact of policies to assess if they have made a difference;

(p) Review and scrutinise the decisions by and performance of the Cabinet and/or Committees and/or Officers in relation to individual decisions, and over time;

(q) To consider the Forward Plan and comment as appropriate prior to any decision being made;

(r) Consider reports relating to the authority’s use of the Regulation of Investigatory Powers Act (2000) (RIPA);

(s) To review performance against the Council's agreed objectives / priorities and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or service areas;

(t) Receive a referral from any member of the Committee, relevant to the functions of the Committee;

(u) To appoint time limited task and finish Topic Groups to undertake detailed scrutiny work report back to the Overview and Scrutiny Committee to make recommendations to the Cabinet;

(v) To monitor the quality of task and finish group work and the implementation and impact of recommendations;

(w) To collaborate with other overview and scrutiny committees or bodies carrying out similar functions outside the Council;

(x) To scrutinise decisions prior to implementation in accordance with the Council's adopted call-in procedure.

(y) Consider reports relating to the authority's safeguarding responsibilities.

6.3 Rules for Conducting Meetings – Scrutiny Procedure Rules

6.3.1 These rules apply to the scrutiny function of Overview and Scrutiny Committee.

6.3.2 Agenda Items:

(a) The agenda shall be set in accordance with rule 4.8.5 and (b) to (e) below.

(b) Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Proper Officer that he wishes an item relevant to the functions of that Committee to be included on the agenda for the next available meeting. Ten working days' notice of the item should be given to the Proper Officer together with sufficient information to enable the Officer to advise about the nature and purpose of the item.

(c) On receipt of such a request, so long as it is within the relevant terms of reference, the Proper Officer will ensure that it is included on the next available agenda.

(d) Any five Members of the Council who are not members of the Overview and Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of that Committee. Ten working days' notice of the item should be given to the Proper Officer together with sufficient information to enable the Officer to advise about the nature and purpose of the item. If the Proper Officer receives such a notification, then he/she will include the item on the next available agenda.

(e) The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and/or, if it

considers it appropriate, the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee at their next meeting.

6.3.3 Limitations on Scrutiny

The Overview and Scrutiny Committee shall have the power to receive a Call-In made in accordance with the rules at 6.3.11, relevant to any of the functions of the Committee, other than:

(i) A planning or licensing decision;

(ii) Any matter relating to an individual or entity where there is already a statutory right to review or appeal (but not including the right to complain to the ombudsman);

(iii) Any matter which is vexatious is substantially the same as a call in previously reviewed by a meeting of the Committee in the last six months, vexatious, discriminatory or unreasonable;

(iv) The decision as to whether the call-in is valid or falls within (i)-(iii) above rests with the Proper Officer or Monitoring Officer in his/her absence.

6.3.4 Procedure at Overview and Scrutiny Committee Meetings

(a) The Overview and Scrutiny Committee shall consider the following business:

(i) minutes of the last meeting;

(ii) declarations of interest (including whipping declarations see section 6.3.12);

(iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;

(iv) responses of the Cabinet to reports of the Overview and Scrutiny Committee;

(v) the business otherwise set out on the agenda for the meeting.

(b) The Overview and Scrutiny Committee may ask people to attend to give evidence or answer questions about any items on their agenda. Meetings should be conducted in accordance with the following principles:

(i) that the business be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

(ii) that those assisting the Committee by giving evidence be treated with respect and courtesy;

(iii) that any investigation be conducted so as to maximise the efficiency of the investigation and analysis; and

(iv) that the business be conducted as efficiently as possible.

(c) Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

(d) These Scrutiny Procedure Rules shall apply to any Sub-Committees of an Overview and Scrutiny Committee as they apply to that Committee save that the functions of call-in of Executive Decisions under 6.3.11 shall be reserved to the full Overview and Scrutiny Committee.

6.3.5 Consideration of Call-Ins at Overview and Scrutiny Committee Meetings

Where a decision is subject to Call-In in accordance with the Rules set out at 6.3.11, the Overview and Scrutiny Committee shall consider the matter as follows:-

(a) The Notice of Call-In will be provided to the Overview and Scrutiny Committee, together with the Minutes (or delegated decision record) and reports relevant to the decision called in;

(b) The Members who signed the Notice of Call-In will be expected to attend the meeting and shall be invited to address the Committee on the reasons for the Call-In. Ordinarily it is expected that one Member will be nominated to present the reasons on behalf of those who called in the decision. The Overview and Scrutiny Committee shall be invited to ask questions of the Members who signed the Notice of Call-In;

(c) The Executive Member and/or relevant officers shall be invited to address the Committee on the decision taken and the grounds stated in the Notice of Call-In. The Overview and Scrutiny Committee shall be invited to ask questions of the Executive Member and/or relevant officers;

(d) The Overview and Scrutiny Committee shall debate and consider the Call-In and make recommendations on its conclusions. If the Committee decides to refer the matter back to the decision maker, the referral must be made in accordance with 6.3.11(a)(v).

6.3.6 Reports from Overview and Scrutiny Committee

(a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Cabinet or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Policy Framework).

(b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

(c) The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee at their next ordinary meeting.

6.3.7 Making sure that Scrutiny Reports are considered by the Cabinet

(a) The agenda for Cabinet meetings shall include as a referral any relevant resolutions of Overview and Scrutiny Committee. The Overview and Scrutiny Committee reports to the Cabinet shall be included on the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) as soon as practicable.

(b) Where the Cabinet has delegated decision making power to another individual member of the Cabinet the Overview and Scrutiny Committee will submit a copy of their report to him or her for consideration. At the time of doing so the Overview and Scrutiny Committee shall serve a copy on the Proper Officer. The Member with delegated decision making power must consider the report and respond in writing to the Overview and Scrutiny Committee within four weeks of receiving it. A copy of his written response to it shall be sent to the Proper Officer and the Leader. The Member, if requested to do so, will also attend a future meeting of the Overview and Scrutiny Committee to present their response. If the Member is unable to accept the recommendations of the Overview and Scrutiny Committee, he/she must refer the matter to the Cabinet for debate. After consideration by the Cabinet, the Member may exercise his/her decision-making powers and must report back to the Overview and Scrutiny Committee.

6.3.8 Rights of the Overview and Scrutiny Committee Members to Documents

(a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Rules in Section 15 of this Constitution.

(b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the relevant Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

6.3.9 Members and Officers Giving Account

(a) The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions (as set out in the Terms of Reference). As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any appropriate Officer to attend before it to explain in relation to matters within their remit:

(i) any particular decision or series of decisions;

(ii) the extent to which the actions taken implement Council policy; and/or

(iii) their performance,

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

(b) Where any Member or Officer is required to attend Overview and Scrutiny Committee under this provision, the Chairman of that Committee will inform the Proper Officer. The Proper Officer shall inform the Member or Officer, if necessary in writing, giving at least five working days' notice of the meeting at which he or she is required to attend (unless agreed otherwise). Any notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the Committee.

(c) Where the account to be given to the Overview and Scrutiny Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

(d) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance, within a maximum of ten days from the original date.

6.3.10 Attendance by Others

The Overview and Scrutiny Committee may invite other people 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.

6.3.11 Call-In

(a) Rules

(i) Where a decision is made by the Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet or under joint arrangements, or an Executive Decision is made by an Officer with delegated authority, the decision shall be published by the Proper Officer, including on the Council's web-site, and shall be available at the main offices of the Council normally within two clear working days of it being made. Notice of all decisions that are required to be published shall be sent to all Members of the Council on the Friday of the week in which the decision was taken. In the case of Individual Executive decisions, the Record of Decision will be forwarded to the Chairman of Overview and Scrutiny Committee at the same time as this is forwarded to the

Proper Officer (unless the urgency provisions apply – see below).

(ii) That notice will bear the date on which it is published by the Proper Officer. The notice 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 within that time the Proper Officer is given written notice requesting that the decision be referred to the Overview and Scrutiny Committee.

(iii) During that period the Chairman or any five Members of the Council may submit, in writing, a request to the Proper Officer to call-in a decision for scrutiny specifying the grounds for the call-in.

(iv) The Proper Officer shall then notify the decision taker of the call-in. The Proper Officer shall call a meeting of the Overview and Scrutiny Committee on such a date as he/she may determine, where possible after consultation with the Chairman or Vice-Chairman of the Committee, and in any case to be held within ten clear working days of the decision to call-in (only in exceptional circumstances will the Chairman of the Overview and Scrutiny Committee consider extending this time limit).

(v) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred to the decision maker they shall then reconsider within a further twenty clear working days, amending the decision or not, before adopting a final decision.

(vi) If following an objection to the decision, the Overview and Scrutiny Committee does not meet within 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 Overview and Scrutiny Committee meeting, or the expiry of that further ten working day period, whichever is the earlier.

(vii) If the matter was referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no power to make decisions in respect of an Executive Decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. If that is the case, the Council will refer any decisions to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, or a Committee of it, a

meeting will be convened to reconsider within five working days of the Council's request. Where the decision was made by an individual, the individual will reconsider within three working days of the Council's request.

(viii) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is earlier.

(ix) Where an executive decision has been taken by an Area Committee, then the right of call-in shall extend to any five Members of another Area Committee if they are of the opinion that the decision made but not implemented will have an adverse effect on the area to which their Committee relates. In such cases, those five Members must make a written request to the Proper Officer to call-in the decision. He/she shall call a meeting of the relevant Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Committee, and in any case within five days of the decision to call-in. All other provisions relating to call-in shall apply as if the call-in had been exercised by the Chairman of the Overview and Scrutiny Committee or any five Members of the Council.

(b) Call-In and Urgency

(i) The call-in procedure set out above shall not apply where the decision being taken is urgent, irrespective of whether the decision was taken by Cabinet, an individual member of the Cabinet, an Area Committee, or an Executive Decision made by an Officer with delegated authority. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or other public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Deputy Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent should be required. Decisions taken as a matter of urgency must be reported at the next available meeting of the Council, together with the reasons for urgency.

(ii) The operation of the provisions relating to call-in and urgency shall be monitored annually by the Proper Officer and a report submitted to Council with proposals for review if necessary.

6.3.12 The Party Whip

If a member of the Overview and Scrutiny Committee is subject to a party whip in respect of an issue to be considered by it, that member must declare the existence of the whip and the nature of it before the commencement of deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

6.3.13 Conflicts of interest - Membership of Committees and Overview and Scrutiny Committee

If the Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of a Committee of which the Councillor concerned is a Member, then the Councillor may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Monitoring Officer.

6.3.14 Councillor Call for Action

(a) The Councillor Call for Action is a mechanism for enabling elected members to bring matters of local concern to the attention of the Council via the Scrutiny process. However, it is intended that it should be an option of “last resort” and therefore used only where all other avenues and opportunities for scrutiny have been exhausted.

(b) Any member may request that an item is placed on the agenda of the Overview and Scrutiny Committee for consideration.

(c) The procedure for dealing with a Call for Action is set out in the Councillor Call for Action - Guidance for Councillors attached to this section at Appendix 1.

APPENDIX 1 TO SECTION 6

Councillor Call for Action - Guidance for Councillors

1. The Councillor Call for Action is a mechanism for enabling elected Members to bring matters of local concern to the attention of the Council, via the Scrutiny process.

2. Any Member may request that an item is placed on the agenda of the Overview and Scrutiny Committee for consideration. The Member making that request does not have to be a member of the Overview and Scrutiny Committee or any Scrutiny Sub-Committee.

3. The Call for Action should be an option of "last resort". In considering whether to refer to a matter in accordance with these provisions, Members must have regard to relevant guidance issued by the Secretary of State. A Call for Action will only be included on the Overview and Scrutiny Committee agenda if the Chairman, in consultation with the Proper Officer, is satisfied that:

   3.1 the Member has made all reasonable efforts to resolve the matter via direct liaison with council officers and/or relevant partners and the constituent(s) having exhausted other avenues, including the Council's complaints process as appropriate; and

   3.2 the issue of concern is a matter in respect of which the Council has a statutory power or duty and is not precluded by adopted Council policy or legislation; and

   3.3 the issue of concern has a demonstrable impact on a part or the whole of the Member's electoral ward

   and accordingly information to support the above matters should accompany the Call for Action request.

4. A Call for Action cannot, in any event, relate to:

   4.1 a planning decision;

   4.2 a licensing decision;

   4.3 any matter concerning an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;

   4.4 any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at a meeting of Overview and Scrutiny Committee.

   4.5 any matter which is a local crime and disorder matter for the purposes of Section 19 of the Police and Justice Act 2006

   4.6 Any matter that has already been through the Call for Action Process..

5. If the Chairman rejects the Call for Action the Member who made the request shall be provided with reasons for the decision.

6. A valid Call for Action will be considered at the next ordinary meeting of the Overview and Scrutiny Committee or at a special meeting of the Committee within 14 days of validation whichever is the sooner.

7. The subject matter of the Call for Action will be the subject of a report from the relevant Service Director to whom the power or duty has been delegated, with such supporting information and evidence as is reasonably available. If the matter also or exclusively entails consideration of information held by another public body or partner, an appropriate representative shall be invited to the Overview and Scrutiny Committee meeting to provide that information, make representations and answer questions.

8. The Call for Action will be considered by the Overview and Scrutiny Committee in public session unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Access to Information Rules of the Constitution in Section 15.

9. The Member who referred the matter under sub-paragraph 2 above may address the Overview and Scrutiny Committee in respect of the Call for Action for up to 10 minutes.

10. The Overview and Scrutiny Committee may also consider representations from any residents of the electoral ward affected by the Call for Action, subject to the discretion of the Chairman.

11. If the Call for Action concerns issues that fall within the remit of the Cabinet, the relevant Executive Member shall also attend the Overview and Scrutiny Committee to answer questions and make any representations.

12. Where the Overview and Scrutiny Committee makes a report or recommendations to the Council or the Executive as a result of a reference under paragraph 2 above, the Overview and Scrutiny Committee may publish the report, subject to the provisions of Part 5 of the Local Government Act 2000 ("the 2000 Act") in relation to confidential or exempt information.

13. The Overview and Scrutiny Committee will, by notice in writing to the Proper Officer, require the Council or Cabinet:

    13.1 to consider the report or recommendations,

    13.2 to respond to the Overview and Scrutiny Committee indicating what, if any action the Council or Cabinet proposes to take,

    13.3 if the Overview and Scrutiny Committee has published the report or recommendations, to publish the response, subject to the provisions of Part 5 of the 2000 Act relating to confidential or exempt information,

    13.4 if the Overview and Scrutiny Committee provided a copy of its report or recommendations to the Member who referred the matter to the Committee, to provide that Member with a copy of the response, subject to the provisions of Part 5 of the 2000 Act in relation to confidential or exempt information,

    and to do so within two months of the date when the Council or Cabinet received the report or recommendations or (if later) the date when the Proper Officer received the notice.