

CABINET – 16 MARCH 2011

PRINCIPAL SCRUTINY COMMITTEE – 7 MARCH 2011

REVIEW OF CONSTITUTION – CHANGES TO OVERVIEW AND SCRUTINY
ARRANGEMENTS AND IMPACT ON OTHER COMMITTEES

REPORT OF CORPORATE DIRECTOR (GOVERNANCE)

Contact Officer: Stephen Whetnall Tel No: 01962 848220

RECENT REFERENCES:

CAB 2170 – Review of Council Overview and Scrutiny Arrangements – 19 January 2011

EXECUTIVE SUMMARY:

At their meetings in January 2011 both Cabinet and Principal Scrutiny Committee gave support to proposed changes to the Council's overview and scrutiny arrangements to take effect for the Annual Council in May 2011. It was also agreed that a further report be prepared to take account of the recommendations of these two bodies with relevant changes to the Council's Constitution for consideration by the Council in April 2011.

For ease of reference the previous report CAB2107 is attached as Appendix 1 and the detail is not repeated here. The decisions of Cabinet and Principal Scrutiny Committee are set out as Appendices 2 and 3. This report converts the proposals into specific recommendations for Council on the principles – Recommendations 1 to 2 below.

The report then outlines the principal consequential changes needed in the Constitution that have to be approved by full Council to give effect to the new structure – Recommendations 3 to 7 below.

However, the report does not deal with the detail of the informal scrutiny groups as they will be appointed by The Overview and Scrutiny Committee after the Annual Meeting in May. Similarly, Cabinet will deal with the more detailed proposals for the Cabinet (Housing) Committee and the informal policy panels. However, the recommendations below deal with some of the procedural issues to respond to points made by TACT in paragraph 9 of the Report.

RECOMMENDATIONS:

To Cabinet to recommend to Council:

- 1 That the proposed changes to the Council's overview and scrutiny and other Member level decision-making arrangements as outlined in Report CAB2107 be approved for implementation from the Annual Meeting of the Council on 18 May 2011 with the following principal elements:
 - (a) That the Principal Scrutiny Committee and four Scrutiny Panels be replaced by The Overview and Scrutiny Committee appointed in accordance with political balance requirements (excluding Cabinet members).
 - (b) That TACT co-opted members be not appointed to The Overview and Scrutiny Committee, because of its wide terms of reference, but two TACT representatives be invited to attend and address the Committee on specific Housing Revenue Account matters.
 - (c) That informal scrutiny groups be used on a task and finish basis to inform the work of The Overview and Scrutiny Committee, appointed by it from non-Cabinet members from across the Council.
 - (d) That the audit functions of the existing Principal Scrutiny Committee and the role of the Statement of Accounts Committee be undertaken by a new Audit Committee.
 - (e) That for the 2011/12 Municipal Year The Overview and Scrutiny Committee have 11 Members and the Audit Committee 9 Members.
 - (f) That Cabinet's proposals set out below be supported:
 - (i) to establish a Cabinet (Housing) Committee with a standing list of other Members and TACT representatives to attend.
 - (ii) to use Informal Policy Groups appointed by Cabinet from across the membership of the Council to assist with policy development work.

2. That the Chairman of the Audit Committee be appointed from a Group other than that of the Leader of the Council and that the Committee be appointed by Council on a party political balance basis, excluding Cabinet members.
3. That the consequential changes to the Overview and Scrutiny Procedure Rules, including the terms of reference of The Overview and Scrutiny Committee, set out in Appendix 4 be approved.
4. That the terms of reference of the Audit Committee, set out in Appendix 5 be approved.
5. That the consequential changes to the Financial Procedure Rules, set out in Appendix 6 be approved.
6. That it be noted that no consequential changes to the Budget and Policy Framework Procedure Rules are required.
7. That the changes to the Constitution take effect on 8 May 2011 and the Corporate Director (Governance) be authorised to make any additional minor consequential changes to the Constitution or other approved documents to give effect to the changes outlined above.

To Cabinet:

8. That a further report be made to Cabinet in May 2011 regarding the appointment and terms of reference of the Cabinet (Housing) Committee and Informal Policy Panels.
9. That TACT representatives attending the Cabinet (Housing) Committee be normally provided with exempt items and asked to address the Committee on these items.
10. That TACT representatives continue to be invited to address Cabinet on Housing related issues, as at present, in addition to the procedures to be adopted at the Cabinet (Housing) Committee.
11. That a revised Committee timetable be considered at the April meeting of Cabinet.

To Principal Scrutiny Committee:

12. That the Committee decides whether to make any comments on the proposals to Cabinet and/or Council.
13. That The Overview and Scrutiny Committee considers the appointment and terms of reference of informal scrutiny groups at its first meeting after the Annual Council Meeting.

CABINET – 16 MARCH 2011

PRINCIPAL SCRUTINY COMMITTEE – 7 MARCH 2011

REVIEW OF CONSTITUTION – CHANGES TO OVERVIEW AND SCRUTINY ARRANGEMENTS AND IMPACT ON OTHER COMMITTEES

REPORT OF CORPORATE DIRECTOR (GOVERNANCE)

DETAIL:

1 Introduction

- 1.1 The report follows up with further detail to develop the proposals contained in Report CAB2107 which was supported by both Cabinet and Principal Scrutiny Committee at their meetings in January 2011. This report should be read in conjunction with CAB2107, the detail of which is not repeated here and is attached as Appendix 1.
- 1.2 The supporting minutes of Cabinet and Principal Scrutiny Committee are attached as Appendices 2 and 3 respectively.
- 1.3 This report provides the next stage in the development of the proposals and much work still needs to be done. The purpose of this report is to enable Council to authorise the necessary changes to the Constitution at its meeting on April 6 to enable the new structure for scrutiny to be implemented at Annual Council on 18 May 2011.
- 1.4 It is important to note that the Constitution only provides for the Council's formal decision making structures under the Local Government Acts 1972 and 2000; together with the Local Government and Public Involvement in Health Act 2007. It does not include reference to any informal working arrangements such as the proposed informal scrutiny groups (ISGs) or informal policy panels (ISPs) – nor is it appropriate to do so. Such arrangements should still, however, be subject to public approval in reports and minutes to the relevant parent body. This would be The Overview and Scrutiny Committee for ISGs and Cabinet for ISPs. The ISPs are the replacement for the current Informal Member Officer Groups appointed by Cabinet. It is important to note that these informal working arrangements, with both Members and Officers on the membership, do not have any decision-making powers. Their purpose is to help produce reports on particular issues which then have to be considered by The Overview and Scrutiny Committee, Cabinet or both bodies – in public session, unless the item is exempt business.
- 1.5 The commentary below only highlights particular points as necessary. Proposals in the recommendations for the new arrangements and the size of Member bodies have regard to the need for the Council to secure continuous

improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

2 Overview and Scrutiny

- 2.1 The proposals in CAB2107 were to replace Principal Scrutiny Committee and the four scrutiny panels with one main standing scrutiny body. In this report this is called The Overview and Scrutiny Committee. CAB2107 envisaged that its work would mainly be supplemented by ISGs which would assist in producing reports for its consideration.
- 2.2 The necessary change to the Overview and Scrutiny Procedure Rules are attached as Appendix 4. These have been drafted flexibly, as have the changes to the Council Procedure Rules elsewhere on this agenda (CAB 2133 refers). The Overview and Scrutiny Committee is envisaged as the main standing committee for this function. If the need arose, however, and it was more appropriate for some work to be undertaken by a sub-committee in public session, rather than by an ISG, then the Rules allow the flexibility for this to happen. The Rules have also been left in the model form in the statutory guidance to allow Council to appoint additional overview and scrutiny committee(s) for task and finish purposes if it though fit. This flexibility will reduce the need to re-write the formal Rules to cover different situations.
- 2.3 The terms of reference of The Overview and Scrutiny Committee at the end of Appendix 4 combine the essential high level features of Principal Scrutiny Committee and the scrutiny panels – except for the Audit Committee role.
- 2.4 It is not proposed that TACT representatives be given formal co-opted non-voting status on the Committee – unlike their current position on Social Issues Scrutiny Panel. This is because the range of work of The Overview and Scrutiny Committee will be considerably wider than that of the current Scrutiny Panel. TACT representatives can be given the same rights to attend The Overview and Scrutiny Committee and address the meeting as currently exists at Cabinet. The agenda can be arranged to facilitate this – with Housing items earlier on the agenda.
- 2.5 Although the new Cabinet (Housing) Committee is not a scrutiny body its creation is intended to give TACT members wider input at the decision-making stage. However, as the Local Government Act 2000 only permits Cabinet members to be formally appointed to the body, co-opted status for TACT members would not be possible.

3 Audit Committee

- 3.1 This is not an overview and scrutiny committee. It is a traditional decision-making body appointed under S101 Local Government Act 1972 to undertake the audit functions of Principal Scrutiny Committee and the functions of the Statement of Accounts Committee. Its proposed terms of reference are set out in Appendix 5 and take account of CIPFA guidance.

3.2 The changes to the Council Procedure Rules in CAB 2133 elsewhere on this agenda contain proposals so that Cabinet Members should not be on the Audit Committee. This is to enhance the status of the body by having a separation of powers from the Executive. For the same reason it is proposed that the Committee is chaired by a person from a different political group from that of the Leader. This will maintain the separation of roles in the current structure when the audit function was undertaken by Principal Scrutiny Committee.

3.3 The Leader or Finance Portfolio Holder would still be expected to attend and address the Audit Committee on issues within its remit.

4 Other Procedure Rules

4.1 In the Financial Procedure Rules the only changes necessary for this purpose are to change references from Principal Scrutiny Committee to The Overview and Scrutiny Committee. This is because all the references are to matters of a policy/scrutiny nature such as call-in, rather than to audit functions.

4.2 No changes are required to the Budget and Policy Framework Procedure Rules.

4.3 Minor adjustments need to be made to the Articles – but these can be undertaken by the Corporate Director (Governance) under the delegation in recommendation 7 – to reflect the changes set out in this report.

5 Scrutiny Work Programme

5.1 The work programme will be set by The Overview and Scrutiny Committee at its first meeting and it will consider and make appointments to the Informal Scrutiny Groups. Regard will be had to any outstanding work under the current scrutiny arrangements – Report PS440 elsewhere on this agenda refers.

5.2 The Assistant Directors have been commissioned to identify possible tasks suitable for ISGs which would help towards the outcomes in the Change Plans. Members will also have their own suggestions and can then determine their priorities for work in this area.

5.3 Some initial suggestions are:

Efficient and Effective Council

IT Shared Service

Flexible Working Programme

Energy Management

High Quality Environment

Climate Change

Air Quality and Transport

Energy Management

Active Communities
Public Health

Economic Prosperity
Planning and the Rural Economy
Developing the Knowledge and Creative Industries Sector
Young People and Unemployment

OTHER CONSIDERATIONS:

6 SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLAN (RELEVANCE TO):

- 6.1 The proposals are intended to reinforce the Council's practices as an Efficient and Effective Council. The Overview and Scrutiny function forms an integral part for the Council in ensuring that it is effective and efficient in providing services.

7 RESOURCE IMPLICATIONS:

- 7.1 There are no direct additional resource implications included within this report as significant changes are not proposed. It is anticipated that the numbers of meetings under the proposed new approach would be slightly reduced than under the current arrangements. Savings could also be generated by no longer having to pay Special Responsibility Allowances to the four scrutiny panel chairmen. The Independent Panel would need to review allowances for the chairmen of the Overview and Scrutiny and Audit Committees.

8 RISK MANAGEMENT ISSUES

- 8.1 There are no direct risk implications for this report, provided any changes to the Overview and Scrutiny arrangements are accurately reflected in the Council's Constitution.
- 8.2 However, there will be a need to ensure that meetings of informal groups are properly timetabled – with sufficient time between meetings to enable officers to effectively respond to requests for support made by Members. Otherwise there is a risk that the effectiveness of the approach will be significantly reduced.
- 8.3 The number of meetings – both formal and informal – will need to be kept under control to avoid over demand on limited resources. They should not exceed the overall figure set out for 2010/11 and ideally should be reduced. Otherwise they will not achieve their desired objective.

9 TACT COMMENT

- 9.1 Due to timing TACT's comments were made on the proposals set out in the main report (CAB 2107). The comments are set out below.
- 9.2 The TACT Chairs are aware that many changes will be forth coming, in the way the Council will be organising and running things, with the self financing option looming on the horizon.
- 9.3 Any thing that can be done to prepare the way should be welcomed by TACT. However we have concerns over the effect it could have on what will have been the TACT Co-optees namely the two TACT chairs, our concerns are as follows:
- We receive Pink Papers on Housing matters at the present time, and would expect that to continue, also we stay for exempt pink papers on housing, during the period when the general public could not, and we again would expect this to continue.
 - The approach to exploring the possibilities that could lead to a Housing Board type of arrangement, TACT would like to know if this would include the right for TACT members on such a board to have the right to vote. As under self financing we believe this will have to be the case. Your comments welcome please, we appreciate this will not be the case in the initial trial period, before becoming self financing.
 - TACT will try their hardest to work along side any changes the Council, has in mind if, as you say they seek to improve on what is already in place.
 - The future will be challenging, we owe it to our tenants to do the best we can for them, and along with the Council this will be our aim.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Appendix 1 - CAB 2170 – Review of Council Overview and Scrutiny Arrangements – 19 January 2011

Appendix 2 - Minutes of Cabinet – 19 January 2011

Appendix 3 - Minutes of Principal Scrutiny Committee – 24 January 2011

Appendix 4 - Changes to Overview and Scrutiny Procedure Rules

Appendix 5 - Proposed Terms of Reference – Audit Committee

Appendix 6 - Changes to Financial Procedure Rules

Appendix 1

CAB 2107
FOR DECISION
WARD(S): ALL

CABINET

19 JANUARY 2011

PRINCIPAL SCRUTINY COMMITTEE

24 JANUARY 2011

REVIEW OF COUNCIL OVERVIEW AND SCRUTINY ARRANGEMENTS

REPORT OF CHIEF EXECUTIVE AND CORPORATE DIRECTOR (GOVERNANCE)

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RECENT REFERENCES:

[CAB2067](#) Leadership Arrangements – Outcome of Consultation, 3 November 2010

EXECUTIVE SUMMARY:

This report reviews the Council's current Overview and Scrutiny arrangements. It sets out proposals for a new approach that will bring improvements to ensure that scrutiny maintains a focus on where it can have the greatest impact on ensuring good outcomes are secured for residents and that the Council is well governed.

It was included in the Forward Plan as being submitted to Cabinet in February 2011. However, it has been possible to bring the report forward for consideration at this meeting to enable all members to have an earlier input into the proposals.

RECOMMENDATIONS

TO CABINET:

1. That Cabinet considers the proposed new approach for the Council's Overview and Scrutiny arrangements as set out in the report.
2. That a further report be prepared to take account of the recommendations from Cabinet and Principal Scrutiny Committee with relevant changes to the Council's Constitution for consideration by Council in April 2011.

TO PRINCIPAL SCRUTINY COMMITTEE:

That Principal Scrutiny Committee considers the proposed way forward for the Council's scrutiny arrangements presented in the report and considers whether to make any comments prior to consideration by Council.

CABINET

19 JANUARY 2011

PRINCIPAL SCRUTINY COMMITTEE

24 JANUARY 2011

REVIEW OF COUNCIL OVERVIEW AND SCRUTINY ARRANGEMENTS

REPORT OF CHIEF EXECUTIVE AND CORPORATE DIRECTOR (GOVERNANCE)

1. Introduction

- 1.1 The report reviews the current Overview and Scrutiny arrangements and proposes a new approach for the Council.
- 1.2 The current arrangements are detailed in Appendix 1 of the report and include brief details of the advantages and disadvantages of this arrangement.
- 1.3 Attached as Appendix 2 to the report is a proposed new approach which builds on our experience of recent years to replace the current four scrutiny panels and Principal Scrutiny Committee (PSC) with a single Overview and Scrutiny Committee which will focus on monitoring performance of services, and considering major strategic projects and programmes. It also transfers the current audit responsibilities of the PSC to a new Audit Committee.
- 1.4 The proposed new arrangements also include Informal Scrutiny Groups which will act as a forum for preparatory work on scrutiny of the Council's activities, reporting to the Overview and Scrutiny Committee. Informal Policy Panels - reporting to and led by a Cabinet Member - would provide opportunities to inform policy development. Alternatively, Informal Scrutiny Groups could also assist with policy development in suitable circumstances.

2. Background

- 2.1 The Local Government Act 2000 required all councils in England and Wales to introduce new political structures which provide a clear role for the Council, the Executive and non-executive Councillors. This meant that Winchester City Council established a Cabinet system as the Executive to manage the Council's business. Recently, Council on 3 November 2010 ([CAB 2067](#) refers) adopted the strengthened Leader with Cabinet option rather than the Elected Mayor with Cabinet model.
- 2.2 Overview and Scrutiny was established to act as a check on executive power, by holding decision makers to account and also to contribute to policy development. As Overview and Scrutiny has no decision making powers, the contribution to improved policy has to be achieved through trying to influence decision makers through inquiry, evidence and debate.

2.3 Winchester's scrutiny process is based on five Overview and Scrutiny Committees (Principal Scrutiny Committee with four Scrutiny Panels). The Principal Scrutiny Committee guides the overall scrutiny process and has developed a role in considering cross-cutting matters and some of the more high profile topics which Cabinet is asked to decide upon. It has the power to 'call in' any issue put to Cabinet involving unplanned expenditure over £50,000 and challenge any decision taken by the Leader or a Portfolio Holder and can invite both the Portfolio Holder and relevant officers to attend a meeting to explain the decision. The scrutiny panels do not have the power to 'call in' decisions unless the challenge is based upon advice from the statutory officers that a Cabinet proposal is outside the budget or policy framework and authorisation from Council is not being sought. Five or more members from either Principal Scrutiny Committee or the relevant Scrutiny Panel can also require the draft portfolio holder decision notices to be referred to Cabinet for determination. The Principal Scrutiny Committee also acts as the Council's audit committee.

2.4 The four scrutiny panels that have been set up to assist with the Council's scrutiny function are:

- Social Issues Scrutiny Panel,
- Local Economy Scrutiny Panel,
- Environment Scrutiny Panel,
- Resources Scrutiny Panel

3. Role of Overview and Scrutiny

3.1 The establishment of an Overview and Scrutiny function is to hold the Cabinet to account for its decisions and to contribute to evidence-based policy making by the Council.

3.2 Fundamentally, the roles that are required to be fulfilled by the Overview and Scrutiny function are for Members to be able to:

- Scrutinise progress of key corporate projects,
- Input into the annual budget process,
- Scrutinise whether the outcomes included in the Sustainable Community Strategy have been delivered by the Council, partners and partnerships,
- Consider Cabinet proposals under the Council's call-in processes or at the request of Cabinet,
- Assist with the scrutiny of Council service performance issues,
- Provide Overview and Scrutiny of the Council's governance (i.e. audit and risk),
- Provide assistance with policy development,
- Assist with in-depth review of issues of concern,

- Hold Cabinet and Portfolio Holders/senior officers to account,
 - Make recommendations to Cabinet or portfolio holders arising from the work of Informal Scrutiny Groups,
 - Raise issues of concern to their local Ward or to the people who live or work in that Ward, with Principal Scrutiny Committee or the relevant Scrutiny Panel under the 'Councillor Call for Action' provided within the Local Government and Public Health Act 2007 (LGPIH Act),
 - To act as the Crime and Disorder Committee for the purposes of Section 19 of the Police and Justice Act 2006 and associated regulations.
- 3.3 Generally, the Principal Scrutiny Committee meets on a monthly basis with the four scrutiny panels meeting four times in a municipal year.
4. Weaknesses of Current Arrangements
- 4.1 At a time when the Council faces significant budget pressures, there are insufficient resources to support both the formal committee requirements of scrutiny and the Informal Scrutiny Groups (ISG's), which undertake preparatory work to enable specific issues to be examined in depth. It is also unclear whether the current system for identifying issues for review, either by an ISG or formally by a panel, is ensuring that the topics which are chosen will make the most impact. Informal Scrutiny Groups or ISG's are scrutiny led and set up to review a particular issue. This group usually consists of members of the relevant Scrutiny Panel or Committee with officer representation. Cabinet Members are not able to sit on an ISG, but may be called to give evidence. For resource reasons the Panels have been limited to two ISGs per year, normally running consecutively.
- 4.2 By having four separate Scrutiny Panels, an artificial distinction is created between the outcomes which the Panels cover. This means that issues are generally considered in isolation and without reference to other services or partners which may also have an impact. It can also lead to uncertainty within Panels over their remit, and tends to give the panels a broad and often unfocused agenda. This suggests time devoted to working in these Panels is not always spent as effectively as it might be; not through the contributions Members make but because agendas and remits are not sufficiently focused.
- 4.3 Although the quarterly performance monitoring reports received by the Panels are now based on exceptions, the extra capacity generated by freeing up agendas has not yet been fully taken advantage of.
- 4.4 Responsibility for scrutinising Housing both generally and in relation to the activities of the Housing Revenue Account falls within the remit of the Social Issues Scrutiny Panel, which is already over-burdened when compared with the responsibilities of the other three Scrutiny Panels.

- 4.5 Nor has the policy development role of Overview and Scrutiny been fully developed. ISGs can and do contribute to shaping and reviewing policy, but largely on an ad-hoc basis. Again, the Council may be missing an opportunity for making effective use of meeting time, and changed scrutiny arrangements could create opportunities to better support this work.
- 4.6 The Principal Scrutiny Committee acts as the Council's audit committee and considers all reports on maladministration issues. This can lead to a number of audit items appearing on agendas for the Principal Scrutiny Committee, which significantly increases the Committee's workload.
5. Proposed new approach for Overview and Scrutiny
- a) Overview and Scrutiny Committee
- 5.1 Included as Appendix 2 to this report is the proposed new approach for Overview and Scrutiny arrangements for the Council.
- 5.2 This proposal supports the setting up of a single Overview and Scrutiny Committee which would take on the responsibility of the current Principal Scrutiny Committee (other than the Audit Committee role) and the four Scrutiny Panels.
- 5.3 The advantages of having a single Overview and Scrutiny Committee are:
- One main body with responsibility for the scrutiny function' allowing for a coherent assessment of the Council's performance across all the Council does. This will be important as the Council seeks increased flexibility in resource use and in balancing priorities,
 - Portfolio Holders and senior managers are held to account by the same Committee,
 - Responsibility for 'call in' of decisions sits with one body,
 - Scrutiny of significant corporate projects is undertaken in one place, allowing Members to take a better overview of the Council's performance in key areas,
 - Single committee for scrutiny of all four Change Plans; again allowing a better overview of progress being made across the board,
 - to contribute to evidence-based policy making,
 - Members able to develop as 'champions' on specialist subjects.
- 5.4 It is anticipated that the Overview and Scrutiny Committee would meet eight times a year which is the same number of meetings as Principal Scrutiny Committee. Four of the meetings would be dedicated to scrutinising the progress made against the Change Plans (quarterly performance monitoring based on exceptions) with the remaining scheduled meetings themed on significant current issues. Call in issues would be dealt with at any of the meetings as would other specific individual items of business.

b) Informal Scrutiny Groups

- 5.5 Informal Scrutiny Groups already undertake a range of useful, focused enquiries. It is suggested the Council makes more of such bodies, which will sit under the Overview and Scrutiny Committee and support its work. A programme of work for these Informal Scrutiny Groups could be agreed by OSC at the beginning of each year, based on priorities identified in the Council's Change Plans. The timetable of meetings should allow other matters to be identified and considered within the year as issues arose.
- 5.6 The Council would thus have the ability to explore, through task-and-finish Informal Scrutiny Groups, weaknesses in performance, consider quickly urgent matters of concern to Members or undertake more forward looking examinations of policy direction or the work of partnerships. It is suggested up to 16 Informal Scrutiny Groups could be established and resourced each year, each one with a clear remit and time limited

c) Audit Committee

- 5.7 As highlighted under the weaknesses of the current arrangements, the new approach presented proposes a separate Audit Committee that will relieve the Overview and Scrutiny Committee of direct responsibility for Governance, Risk, Internal Audit, Statement of Accounts and Treasury Management.
- 5.8 The Audit Committee could subsume the current Statement of Accounts Committee and would meet three or four times a year (June, September, December and possibly March). It would also fulfil the obligation for the Council to have a formal audit body.
- 5.9 Consideration also needs to be given to the legal status of an Audit Committee and the consequences that this has upon the membership and appointment of chairman. If the Committee does not have the Statement of Accounts role, it could remain as an overview and scrutiny committee which is formed on the political balance rules but cannot have a Cabinet member sitting on it. Consideration would also have to be given to whether the principle on chairmanship already used for Principal Scrutiny Committee should apply i.e. the chairman should come from a different group to that of the Leader of the Council.
- 5.10 If the Statement of Accounts functions are subsumed in the Audit Committee role, then the body would have to be constituted as a traditional local government committee under the Local Government Act 1972. This means that the political balance rules apply but the Act does not contain any reference as to any restrictions on Cabinet membership. However, CIPFA guidance suggests that an Audit Committee should ideally be seen as separate from both Cabinet and scrutiny roles. A 1972 Act committee could have local requirements in the Procedure Rules either excluding or limiting the number of Cabinet Members. It could also place limitations on the appointment of Chairman.

- 5.11 In Winchester the Leader has been the Chairman of the Statement of Accounts Committee with the challenge role coming from the membership of the Committee. This has the advantage of linking the administration to the proposal of the Accounts resulting from their decisions. However, an alternative would be for the Leader to present the accounts to an Audit Committee and to be held to account while not being a member of that body.
- 5.12 On balance, including the Statement of Accounts functions in an Audit Committee with a wider remit would streamline the business by having continuity of involvement of Members in the related issues. Local Procedure Rules could exclude Cabinet Members from membership and provide that the chairman should come from a group different to that of the Leader. The Leader and other portfolio holders would need to attend on occasions to be held to account or to present items.
- 5.13 It is suggested that the officer group supporting the Audit Committee would be the existing Corporate Governance Group which meets regularly throughout the year.

d) Cabinet (Housing) Committee

- 5.14 Furthermore, the new approach supports the setting up of a Cabinet (Housing) Committee, with responsibility for undertaking some of the work on Housing Revenue Account (HRA) policy and performance that is currently carried out by the Social Issues Scrutiny Panel. That Panel is overloaded and not easily able to give full consideration to housing matters, or engage with TACT as they would want to. A separate Committee would, moreover, allow the Council to involve Members and Tenants better in the changes happening to the policy framework for housing over the coming years. A separate Committee would not preclude the Overview and Scrutiny Committee getting involved in housing matters or setting up Informal Scrutiny Groups on particular topics where separate scrutiny is seen to add value. TACT representatives could be invited to address the Overview and Scrutiny Committee on Housing related issues, in the same way as they currently address Cabinet.
- 5.15 The idea of setting up a Cabinet (Housing) Committee is similar in style to that of the existing Cabinet (LDF) Committee and Cabinet (Traffic and Parking) Committee. Part of the new committee's responsibilities would be to take decisions relating to housing, other than major policy decisions which would still be made by Cabinet. Legally only Cabinet members would be able to make any decisions. However, like the LDF and Traffic and Parking Committees, there can be a standing list of invitees from other parties and TACT, who could contribute to discussion. For legal reasons there could not be co-option of TACT members or appointment of non-Cabinet councillors on a decision-making body under the current legislation. The reason for this approach is to explore the possibilities that could lead to a Housing Board type of arrangement, after future changes in legislation in the Localism Bill

and on Housing Finance have been passed. The Cabinet (Housing) Committee could meet say, 5 times a year.

e) Informal Policy Panels

5.16 The current Informal Member/Officer Working Groups (IMOWG's) are groups set up by Cabinet (as opposed to a Scrutiny Panel or Committee) and led by the relevant Portfolio Holder to undertake preliminary work on policy development, usually on a task-and-finish basis. The Council should retain and build on this model, albeit perhaps simplifying the name to 'Informal Policy Panels' to offer a vehicle for such work. Further responsibilities could include:

- Supporting the corporate planning cycle by having an Informal Budget Panel,
- Inputting into service reviews (or alternative),
- Providing support to policy development by having Informal Policy Development Panels that could deal with policy issues referred to them by Cabinet. This would be a series of task-and-finish groups, which is appointed with each different issue referred to them,
- All Informal Policy Panels would include Non-Executive Members and have officer representatives.

f) Pattern of Meetings

5.17 With the changes proposed under the new approach for Overview and Scrutiny, the role for those Members who currently serve on scrutiny panels would obviously change. This may cause concern about whether those Members would continue to have sufficient involvement and responsibility under the new approach. It is expected that Members serving on the current scrutiny panels would take up places on the Informal Scrutiny Groups, Informal Policy Panels or the Audit Committee.

5.18 The following table gives details of the numbers of meetings anticipated should the new approach to scrutiny arrangements begin at the start of the 2011/12 Municipal Year. These figures are seen alongside the numbers of meetings held in 2009/10 and expected in 2010/11. Having regard to the current staffing levels in the Democratic Services Team and changes to scrutiny support made in the current organisational changes, it is important that the total number of meetings generated by any new approach to Scrutiny does not exceed the 2010/11 figure. Ideally the number of meetings should reduce to allow for better support to the meetings which are held.

Current Overview and Scrutiny or Other Decision-Making Arrangements	Numbers of meetings		Proposed Overview and Scrutiny or Other Decision-Making Arrangements	Number of meetings
	2009/10	2010/11		2011/12
Principal Scrutiny Committee	9	9	Overview and Scrutiny Committee	8
Social Issues Scrutiny Panel	4	4	Audit Committee	say 4
Local Economy Scrutiny Panel	4	4	Cabinet (Housing) Committee	5
Resources Scrutiny Panel	4	4	ISG's	say 16
Environment Scrutiny Panel	4	4		
ISG's	19	10 est.		
Statement of Accounts Committee	1	2		
TOTAL	45	37 est.		33 est.

SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):

6. The Overview and Scrutiny function forms an integral part for the Council in ensuring that it is effective and efficient in providing services.

7. **RESOURCE IMPLICATIONS:**

7.1 There are no direct additional resource implications included within this report as significant changes are not proposed. It is anticipated that the numbers of meetings under the proposed new approach would be slightly reduced than under the current arrangements. However, savings could be generated by no longer having to pay Special Responsibility Allowances to the four scrutiny panel chairmen. The Independent Panel would need to review allowances for the chairmen of the Overview and Scrutiny and Audit Committees.

8. **RISK MANAGEMENT ISSUES**

8.1 There are no direct risk implications for this report, provided any changes to the Overview and Scrutiny arrangements are accurately reflected in the Council's Constitution.

BACKGROUND DOCUMENTS:

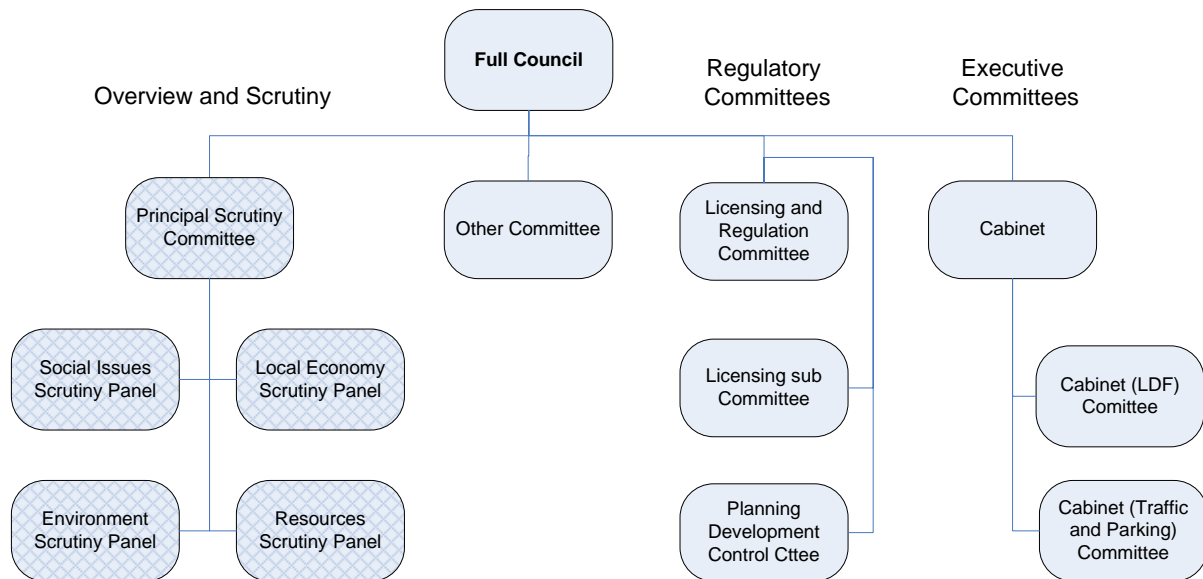
Files held in the Democratic Services Division.

APPENDICES:

Appendix 1 Existing arrangements for Overview and Scrutiny

Appendix 2 Proposed new approach for Overview and Scrutiny.

Current arrangements for Overview and Scrutiny



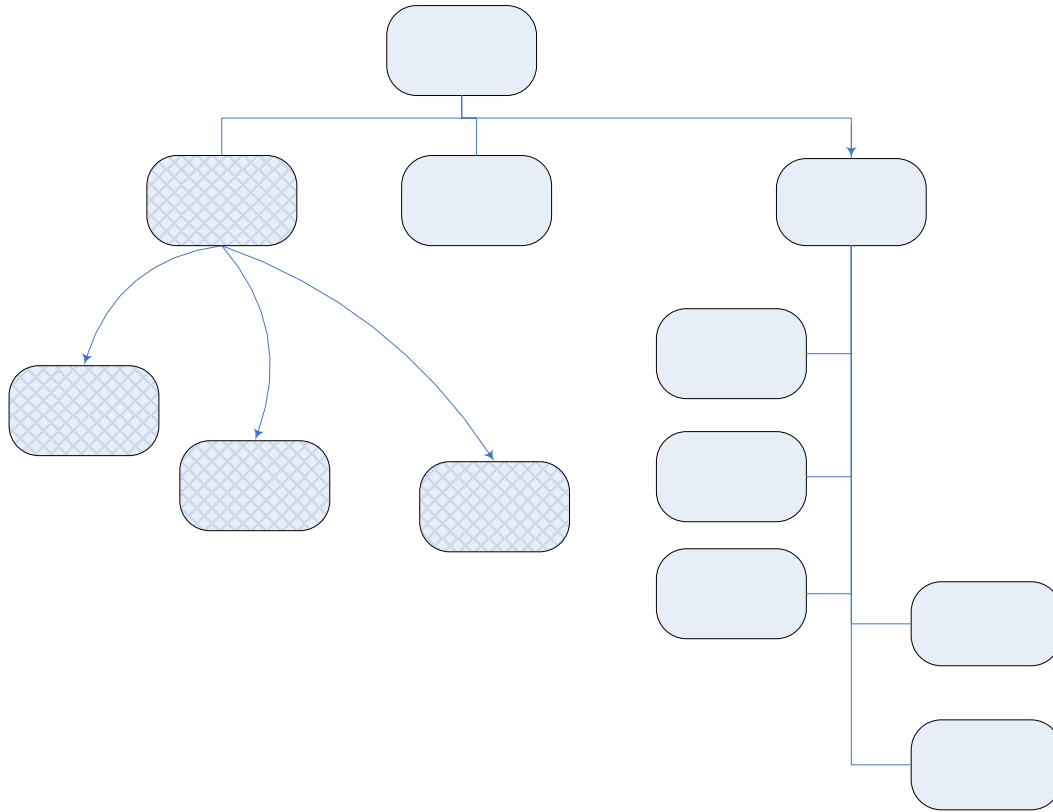
Advantages

- The arrangements allow for the involvement of a wide range of Members,
- The current panels provide opportunity for in-depth consideration of each of the three Community Strategy outcomes and Change Plans.

Disadvantages

- The agenda for Principal Scrutiny Committee is dominated by audit requirements
- The Social Issues Scrutiny Panel is over burdened
- Resources Scrutiny Panel currently receives a high proportion of performance information due to the number of services which relate to it which does not support the Panel in scrutinising wider issues of importance.
- Opportunities for policy development have been limited to date

Proposed new approach for Overview and Scrutiny



Overview and Scrutiny

Overview and
Scrutiny
Committee

EXTRACT OF MINUTES OF**CABINET****19 JANUARY 2011****1. REVIEW OF COUNCIL OVERVIEW AND SCRUTINY ARRANGEMENTS**
(Report [CAB2107](#) refers)

Under the Council's Constitution Access to Information Procedure Rules (Rule 15.1 – General Exception), this was a key decision which was included in the Forward Plan for a later meeting. Under this procedure, the Chairman of Principal Scrutiny Committee had been informed. It had been possible to bring the Report forward to enable all Members to have an earlier input into its proposals, prior to the formal changes being considered by Council in April 2011.

The Chief Executive emphasised that the changes were proposed in order to improve the Council's scrutiny arrangements and not in order to achieve savings. It was anticipated that the overall number of scrutiny type meetings would remain broadly the same. The aim would be to agree a programme of Informal Scrutiny Group meetings at the start of the Municipal Year, although the potential to set up additional Groups to consider emerging issues would be retained.

The Chairman thanked the Council's Improvement, Partnerships and Scrutiny Manager for her work in contributing to the proposals.

During the public participation period, Mr A Rickman (TACT) addressed Cabinet and expressed disappointment that TACT had not been consulted on the Report's proposals prior to its publication.

The Chief Executive explained that the Report set out proposals for discussion with Members and it was open to TACT to submit their comments prior to proposals being formally adopted by Council. In addition, he emphasised that one of the aims of the proposals was to increase the involvement of TACT, particularly through the suggested Cabinet (Housing) Committee.

At the invitation of the Chairman, Councillors Godfrey, Pearson and Higgins addressed Cabinet and their comments are summarised below.

Councillor Godfrey generally supported the proposals, in particular the focus on undertaking scrutiny through Informal Scrutiny Groups (ISGs). However, he emphasised that it was important that the Overview and Scrutiny Committee had responsibility and control over its own agenda, and that this was not dictated by Cabinet or officers. He also thought that the number of Committee meetings proposed might not be sufficient for it to fulfil its role adequately and raised concern about the level of administrative support available to service ISGs.

The Chief Executive acknowledged that it was important for the Overview and Scrutiny Committee to have responsibility for setting its own agenda, although he highlighted this would inevitably be influenced by proposed Cabinet decisions. The Corporate Director (Governance) explained that both the Overview and Scrutiny Committee and the Audit Committee would be appointed along political balance lines. Careful consideration would be given as to whether it was appropriate for individual ISGs to have administrative support from within the Democratic Services Team, or from within the relevant Council Team, depending on the subject matter.

Councillor Pearson also generally welcomed the proposals, although he expressed some concern about the increase in workload for Cabinet Members. He also queried whether membership of ISGs could only include those Members from the Overview and Scrutiny Committee? He also pointed out that whilst the appendix included a summary of advantages/disadvantages compared to the old system, a similar analysis was not included for the new proposals.

The Chairman advised that membership of ISGs would not be restricted to membership of Overview and Scrutiny Committee and it was anticipated vacancies would be advertised through the Group Leader system. The formal membership of Cabinet Committees would have to be restricted to Cabinet members only, although it was anticipated other named Members would be invited to participate in meetings, similar to the arrangements currently adopted by the Cabinet (Local Development Framework) Committee.

Councillor Higgins believed that the proposals would necessitate an increase in the size of Committees. He also considered that the current number of ISGs was underestimated in the Report and requested that these meetings continue to be publicised to all Councillors once established. He requested that members of Cabinet Committees be nominated on a permanent basis to enable continuity.

The Chairman noted the comments regarding the size of committees, but emphasised that it was important that committees were not too large, as this had implications for facilitating proper debate at meetings. She anticipated that the Informal Cabinet Policy Panels would be led by the relevant Portfolio Holder, with other Member nominations made through the Group Leaders, as before.

The Chief Executive acknowledged that it was important that the establishment of ISGs was advertised to all Members. In addition, he confirmed that guidelines about the number of ISGs operating at any one time would be considered.

One Member queried how scrutiny of Community Safety would be dealt with, as this was a statutory requirement. The Corporate Director (Governance) explained that it was proposed that all such scrutiny functions, including scrutiny of Council partnership arrangements, would be undertaken initially by

the Overview and Scrutiny Committee. It would then be for that Committee to decide whether it would be appropriate to establish an ISG to undertake scrutiny and review in more depth.

In general, Cabinet noted that the exact details of the proposals were not set out at this stage, but could be developed following discussions outlined above and at Principal Scrutiny Committee.

Cabinet agreed to the following for the reasons set out above and outlined in the Report.

RESOLVED:

1. That the proposed new approach for the Council's Overview and Scrutiny arrangements as set out in the Report be supported.
2. That a further report be prepared to take account of the recommendations from Cabinet and Principal Scrutiny Committee with relevant changes to the Council's Constitution for consideration by Council in April 2011.

EXTRACT OF MINUTES OF
PRINCIPAL SCRUTINY COMMITTEE

24 JANUARY 2011

1. **REVIEW OF COUNCIL OVERVIEW AND SCRUTINY ARRANGEMENTS**
(Report [CAB2107](#) refers)

The Committee noted that, at its meeting held on 19 January 2011, Cabinet had supported the proposals outlined in the Report.

The Chief Executive advised that the changes were intended to further strengthen the Council's overview and scrutiny function and that the overall number of scrutiny meetings would remain broadly similar.

The Committee referred to the enhanced use of Informal Scrutiny Groups (ISGs) as part of the proposals and queried how they would be appointed and topics selected. The Corporate Director (Governance) suggested that scrutiny members would agree an initial programme of topics for scrutiny review (or ideas to influence new Council policy) at the start of the Municipal Year. Group Leaders would nominate the membership of the ISGs from across the whole Council (excluding the Cabinet), also at the start of the Municipal Year. Further Groups would be created during the year, as the work programme was developed. It was envisaged that ISGs would forward their completed work to the Overview and Scrutiny Committee, which would then make recommendations to Cabinet and/or Council.

The Committee agreed that the composition of ISGs should have regard to the expertise and interests of individual Members, and be inclusive of any newly elected Councillors. A Member suggested that the proposed Overview and Scrutiny Committee should have a larger membership than the current Principal Scrutiny Committee.

The Chief Executive also explained that proposals for a Cabinet (Housing) Committee reflected that councils were soon to have more control in the management of their housing stock, as proposed by the forthcoming reform to the HRA. This body would also give more opportunity for TACT engagement. Further to comments from a Member, he acknowledged that several other housing management related bodies currently existed which involved both Members and TACT. The Chief Executive expected that where these continued to have defined roles, they could continue to exist alongside the proposed new structure.

The Chief Executive also explained that the new proposed Cabinet Committee would be constituted in a similar way to the current Cabinet Local Development Framework (LDF) and Traffic & Parking Committees. A Member suggested that the Cabinet membership should be permanent, rather than rota based. The membership would also be inclusive of other non-voting 'advisory' backbenchers and representatives from TACT. The new Informal Policy Panels would also have important, ongoing roles. Councillor Learney suggested that the proposed Informal Policy Panels could be constituted at the beginning of the municipal year, with a membership appointed from across the Council.

At conclusion of debate, although broadly supportive of the proposals (including for a separate Audit Committee to assist in providing a more focussed agenda for the new Overview and Scrutiny Committee), and noting that their exact details were not set out at this stage, the Committee agreed to note the proposed way forward at this stage, pending further detailed information on the changes coming forward to Council in April 2011.

RESOLVED:

1. That the proposed new approach for the Council's Overview and Scrutiny arrangements as set out in the report be noted.
2. That a further report be prepared to take account of the recommendations from Cabinet and Principal Scrutiny Committee with relevant changes to the Council's Constitution for consideration by Council in April 2011.

Appendix 4

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Number and Arrangements for Overview and Scrutiny Committees
 - 1.1 The Council will have the overview and scrutiny committees as set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub-committees, provided no objection is raised by Cabinet – in the case of objection the matter will be determined by full Council. Overview and scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.
 - 1.2 The general role for overview and scrutiny committees is set out S 21 Local Government Act 2000 together with in Article 6 of the Constitution and should be read in conjunction with these Rules.
2. Principal- The Overview and Scrutiny Committee – The Council's Principal Standing Committee under S21 Local Government Act 2000
 - 2.1 In summary, this Committee is required to maintain an overview of the discharge of the Council's executive function and has the right to scrutinise any executive decision made by Cabinet, individual Portfolio Holders or by Council Officers, or to review the Council's policy-making or decision-making processes.
 - 2.2 ~~The Principal~~Overview and Scrutiny Committee can also review any matter after the event or ask any other ~~the-relevant~~ overview and scrutiny committee to do so. ~~The Committee should also perform the role of an audit committee and consider all reports on maladministration issues.~~
3. Overview and Scrutiny Committees
 - 3.1 The Council ~~may~~shall establish such additional overview and scrutiny committees that it thinks appropriate to undertake the review of existing practices and the development of new policies in particular service areas. They may be established as standing committees or for a fixed period ('task and finish' Committees).
 - 3.2 In summary, these committees can examine policy issues referred to them by Council, Cabinet or ~~the Principal~~The Overview and Scrutiny Committee.
 - 3.3 Although these Procedure Rules allow the Council to appoint additional overview and scrutiny committees for specific purposes, Article 6 of the Constitution envisages that if additional bodies are required for member involvement then these will normally be sub-committees appointed by and reporting to The Overview and Scrutiny Committee as the Council's principal standing committee under S21 Local Government Act 2000.

- 3.4 Executive decisions which do not require overview and scrutiny but need member involvement are submitted direct to Cabinet.
- 3.5 The terms of reference of each of the overview and scrutiny committees or sub-committees are set out as an Appendix to these rules.
- 3.6 The following matters are excluded from being considered by an overview and scrutiny committee:
- (a) any matter relating to a planning decision;
 - (b) any matter relating to a licensing decision;
 - (c) any matter relating to 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;

A matter does not fall within (a) to (c) above if it relates to an allegation that the function has not been discharged at all or is failing on a systematic basis.

4. Membership of Overview and Scrutiny Committees

- 4.1 All councillors (except members of Cabinet) may be members of an overview or scrutiny committee or sub-committee. However, no member may be involved in scrutinising a decision with which he/she has been directly involved. Membership of sub-committees is not limited to members of the appointing committee.

5. Co-optees

- 5.1 Each overview and scrutiny committee shall be entitled to recommend to Council the appointment of a co-optee although, in most circumstances, the Council would expect such committees to make use of the contributions by non-members through the use of Procedure Rule 35(4) set out in the Council Procedure Rules.

6. Meetings of Overview and Scrutiny Committees

- 6.1 Meetings of the overview and scrutiny committees shall be held in accordance with the approved timetable of meetings. In addition, extraordinary meetings may be called from time to time as and when appropriate. Such extraordinary meetings shall be convened by the Corporate Director (Governance), following consultation with Chairman of the relevant committee concerned.

7. Quorum

- 7.1 The quorum for an overview or scrutiny committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution (for ease of reference the quorum for a committee shall be four and a sub-committee three).

8. Chairmanship of Overview and Scrutiny Committee meetings

8.1 Chairmen of overview and scrutiny committees shall be appointed by the Council.

9. Portfolio Holders

9.1 A Portfolio Holder will have the right to attend and address the overview and scrutiny committee which covers his/her area of responsibility. That right will not apply when the overview and scrutiny committees are operating in scrutiny mode examining the potential failings of past decisions where the Portfolio Holder may have been involved.

10. Work Programme

10.1 The overview and scrutiny committees will be responsible for setting their own work programme within the scope of their terms of reference and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.

11. Agenda Items

11.1 Any Member of the Council may request that an item is placed on the agenda at the next available meeting for consideration, provided that at least 14 working days notice prior to the date of the meeting is given to the Corporate Director (Governance). No Member (other than the Chairman) may give notice of more than one item of business at any one meeting. The Chairman shall determine whether to take the item on the agenda. The agenda for the meeting will give the name of the Member who asked for the item to be considered.

11.2 A Member may also request that an item be placed on the agenda of a future meeting when an overview and scrutiny committeeCabinet considers an item on its future work programme or during a debate on a related item.

12. The Council's Petition Scheme

12.1 The Corporate Director (Governance) may refer matters to an overview and scrutiny committee under the provisions of the Council's Petition Scheme set out in Part 8 of the Constitution. Such referrals can include:

- (a) undertaking research, consultation, an inquiry or hearing evidence on a matter and making recommendations;
- (b) a senior officer giving evidence following a public request under the Petition Scheme procedures;
- (c) consideration of a request by a petition organiser for a review when he/she is not satisfied with the Council's response to a petition.

13. ‘Councillor Call for Action (CCfA)

13.1 Any Member shall have the right to refer to an overview and scrutiny committee any “local government matter” relevant to that committee’s terms of reference. A “local government matter” is one which

(a) relates to the discharge of any functions of the authority or

(b) affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area and

is not an excluded matter.

The Member should, where possible, seek to resolve the matter by other means before using the “Call for Action” provisions.

13.2 The following matters are excluded from being referred by a Member:

(a) any matter relating to a planning decision;

(b) any matter relating to a licensing decision;

(c) any matter relating to 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;

A matter does not fall within (a) to (c) above if it relates to an allegation that the function has not been discharged at all or is failing on a systematic basis.

(d) any matter which is vexatious, discriminatory or not reasonable in the view of the chairman to be included in the agenda for, or in the view of the body concerned, to be discussed at a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee. The advice of the Corporate Director (Governance) shall be considered before a decision is made to exclude a referral under this provision. Reasons for the decision will be given to the councillor who made the referral.

13.3 Referral’s related to a community safety matter(s) should be considered by The Overview and Scrutiny Committee~~the Social Issues Scrutiny Panel~~, as the Council’s designated “Crime and Disorder Committee” for the purposes of Section 19 of the Police and Justice Act 2006 and the Crime and Disorder (Overview and Scrutiny) Regulations 2009.’

13.4 Other referrals will be referred to the appropriate overview and scrutiny committee as determined by the Corporate Director (Governance), following consultation with the appropriate Chairman.

13.5 That should the Chairman of a scrutiny body refuse to place a Councillor Call for Action (CCA) on the agenda of that body, brief details of the CCA and the reason for refusal be set out in the agenda of its next meeting.

14. Policy Review and Development

14.1 The role of the overview and scrutiny committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

14.2 In relation to the development of the Council's approach to other matters not forming part of the Policy and Budget Framework, overview and scrutiny committees may make proposals to Cabinet for developments insofar as they relate to matters within their terms of reference.

14.3 Overview and scrutiny committees may hold enquiries and investigate the available options for future direction in policy development within the scope of their terms of reference and may appoint advisors and assessors to assist them in this process with the approval of ~~the Principal~~ The Overview and Scrutiny Committee. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to perform their deliberations. They may ask witnesses to attend to address them on any matter under consideration (under Procedure Rule 35(4)) and may pay to any advisor, assessors and witnesses a reasonable fee and expenses for so doing.

15. Reports from Overview and Scrutiny Committees

15.1 Once it has formed recommendations on policy proposals or a scrutiny matter, the minute recommending the appropriate action will be submitted, together with the supporting report, to the next available meeting of Cabinet. However, if a request has been made by ~~Principal~~ The Overview and Scrutiny Committee, then the report will be considered by that Committee with its comments being forward to Cabinet.

16. Reports from ~~Principal~~ The Overview and Scrutiny Committee – Executive Matters

16.1 Where ~~the Principal~~ The Overview and Scrutiny Committee has undertaken an investigation of a particular matter, the minute arising from its deliberations, together with the supporting report, will be submitted to the next available meeting of Cabinet.

17. Consideration of Overview and Scrutiny Reports by Cabinet or Council

17.1 The report of the relevant overview or scrutiny committee will be allocated by the Monitoring Officer to either or both of the Cabinet and Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. When the matter

is considered by Council, the Cabinet shall make its responses to the report available to Council.

18. Reports of ~~Principal~~ The Overview and Scrutiny Committee – Non Executive Matters

18.1 If the scrutiny report relates to a non-executive function, then the Monitoring Officer will refer the report to the relevant committee and Council for consideration. Where the matter is considered by Council, the relevant committee shall make its response to the report available to Council.

19. Reports of Overview and Scrutiny Committees – District Council Matters

19.1 The Cabinet or relevant portfolio holder (in respect of Executive matters) or Council or Committee (in respect of Non-executive matters) should make a response to recommendations in an overview and scrutiny report within 2 months.

19.2 The response may be:

- (a) within the minute of the relevant body when it considers the report;
- (b) by a decision notice under the portfolio holder decision making scheme;
- (c) by a report by the portfolio holder to the relevant overview and scrutiny committee.

19.3 The Chairman of the relevant overview and scrutiny committee will determine whether the response needs to be considered on the agenda of a future meeting of the committee.

20. Reports of Overview and Scrutiny Committees – County Council Local Area Agreement Matters

20.1 If the matter is related to a local improvement target for a service undertaken in partnership under the Local Area Agreement (LAA) and the overview and scrutiny committee makes a report and recommendations, the County Council, as lead authority to the LAA, is required to respond within 2 months to, and its Partner authorities (other than NHS bodies) to have regard to, reports and recommendations of the committee.

21. Rights of Overview and Scrutiny Committee Members to Documents

21.1 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 Procedure Rules in Part 4 of this Constitution.

21.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and overview or scrutiny committees as appropriate, depending on the particular matter under consideration.

22. Members and Officers Giving Account

22.1 Within the scope of their terms of reference, any overview or scrutiny committee, may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. As well as reviewing documentation, in fulfilling the scrutiny role it may require any other member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:-

- 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.

22.2 Where any member or officer is required to attend an overview or scrutiny committee under this provision, the Chairman of that committee will inform the Corporate Director (Governance). The Corporate Director (Governance) shall inform the member or officer in writing giving at least seven 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 give account and whether any papers are required to be produced for the committee. Where the account to be given to committee will require the production of a report, then a member or officer concerned will be given 14 working days notice to allow for preparation of that documentation.

22.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview or scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

23. Attendance by Others

23.1 An overview or scrutiny committee may invite people other than those people referred to in the above paragraph 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 is, of course, entirely optional.

24. Call-in

24.1 Call-ins should only be used in exceptional circumstances. The Council has therefore limited the extent of when this can happen.

24.2 The Principal Overview and Scrutiny Committee shall not have a general right of call-in (by which Cabinet decisions may not be implemented without first giving the Principal The Overview and Scrutiny Committee the right to

scrutinise and review the decisions) but, except in relation to approvals made under delegated emergency powers, any decision by the Cabinet to incur expenditure which would involve a supplementary estimate whether by way of virement or use of reserves, including a prior commitment with regard to future budgets, of more than £50,000 shall not be implemented until the ~~Principal~~ The Overview and Scrutiny Committee has had an opportunity to call in the decision for review.

24.3 The only other rights of call-in are contained in Budget and Policy Framework Procedure Rule 7 – Decisions outside the Budget or Policy Framework.

25. Whipping

25.1 Applying the party whip can be defined as 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.

26. The Party Whip

26.1 When considering any matter in the following categories:-

- a) scrutiny of a past decision by the Cabinet, a committee or individual
- b) the performance of any member of Cabinet

a member of an overview or scrutiny committee who is subject to a party whip, must declare the existence of the whip, and the nature of it, before commencement of the committee's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes.

27. Procedure of Overview and Scrutiny Committee Meetings

27.1 Overview and scrutiny committees shall consider the following business:

- a) the need to establish any sub-committees;
- b) declarations of interest (including whipping declarations);
- c) the response of Cabinet or other committees to scrutiny reports of past decisions, if the Monitoring Officer is of the opinion that the report's recommendations have not been substantially accepted;
- d) the business otherwise set out on the agenda for the meeting.

27.2 Where the overview or scrutiny committees conduct investigations (eg. with a view to policy development), the committee may also ask people to attend

to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- a) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- b) that those assisting the committee by giving evidence be treated with respect and courtesy;
- c) that the investigation be conducted both to maximise the efficiency of the investigation or analysis.

27.3 Following any investigation or review, the committee shall help prepare a report for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

28. Matters within the remit of more than one Overview or Scrutiny Committee

28.1 Where an overview or scrutiny committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another overview and scrutiny committee, then the committee conducting the review shall invite the Chairman of the other committee (or his/her nominee) to attend this meeting when the matter is being reviewed.

TERMS OF REFERENCE OF OVERVIEW AND SCRUTINY COMMITTEES

- A) Principal- The Overview and Scrutiny Committee – The Council's Principal Standing Committee under S21 Local Government Act 2000
1. To have a general remit to maintain an overview of the discharge of the Council's executive functions, and to have the right to scrutinise any executive decision made by the Cabinet, Portfolio Holders or by Council officers, or to review the Council's policy making or decision making processes.
 2. To have the right to review Council policies insofar as the policy concerned does not fall within the remit of any other overview and scrutiny committee of the Council or where the policy concerned relates to the remit of more than one overview and scrutiny committee.
 3. –To have authority to require any member of the Council or any Officer of the Council to assist in its work by attending at a meeting of the Committee, by supplying information or by other means.
 4. To have an overview of performance and use of resources in respect of the Council's functions including but not restricted to, the implementation of change plans, work programmes, performance against national and local performance indicators, identification of risks and monitoring action taken to mitigate those risks and responsibility for the monitoring and implementation of action plans arising from best value and key strategy reviews.
 5. To consider the overall benefit to the public from services provided by the City Council and other organisations that impact on the District, including monitoring and scrutinising the work of any relevant partnership.
 6. To hold Portfolio Holders to account for the services within their areas of responsibility.
 - ~~4. To receive the minutes of the Cabinet, Personnel Committee and Scrutiny Panels relating to performance monitoring issues and consider any issues arising therefrom, referring to Cabinet any issues which the Committee considers requires further attention by Cabinet.~~
 7. To consider all reports on maladministration issues.
 - ~~7. advise the Council or the appropriate non-executive decision-making Committee in respect of proposed payments etc in those cases of maladministration where the Chief Executive considers that a~~

~~member decision would be more appropriate than to exercise his delegated powers in the matter.~~

~~6.8.~~ The Committee shall not have a general right of call-in (by which Cabinet decisions may not be implemented without first giving the Committee the right to scrutinise and review the decisions) but, except in relation to approvals made under delegated emergency powers, any decision by the Cabinet to incur expenditure which would involve a supplementary estimate, whether by way of virement or the use of reserves, including a prior commitment with regard to future budgets, of more than £50,000 shall not be implemented until the Committee has had an opportunity to call-in the decision for review.

~~7.9.~~ The following matters are excluded from being considered by an overview and scrutiny committee:

(a) any matter relating to a planning decision;

(b) any matter relating to a licensing decision;

(c) any matter relating to 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;

A matter does not fall within (a) to (c) above if it relates to an allegation that the function has not been discharged at all or is failing on a systematic basis.

~~8. To act as the Council's audit committee and consider all reports on maladministration issues.~~

~~10.~~ To act as the Crime and Disorder Committee for the purposes of Section 19 of the Police and Justice Act 2006 and associated regulations and accordingly:-

a. to review or scrutinise the decisions made, or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions; and

b. to make reports or recommendations to the Council with respect to the discharge of those functions.

~~9.11.~~ To consider any referrals under the Councillor Call for Action provisions in the Overview and Scrutiny Procedure Rules.

~~12.~~ To consider any referrals under the Council's Petitions Scheme in the Overview and Scrutiny Procedure Rules and Part 8 of the Constitution.

B) Any Sub-Committees appointed by The Overview and Scrutiny Committee

None at present.

C) Any additional overview and scrutiny committees appointed by Council

None at present.

Delete existing references in the Constitution to the terms of reference of the existing Scrutiny Panels

Audit Committee - Terms of Reference

Insert in paragraph 4.11 of Part 3 of the Constitution Section 4 – Responsibility for Functions. Delete existing reference to Statement of Accounts Committee.

a) **Audit Activity**

- (i) To consider the Internal Audit Manager's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.
- (ii) To consider summaries of specific internal audit reports.
- (iii) To consider reports dealing with the management and performance of the internal audit service.
- (iv) To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.
- (v) To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- (vi) To consider specific reports as agreed with the external auditor.
- (vii) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (viii) To approve the appointment of the Council's external auditor.
- (ix) To commission work from internal and external audit.

b) **Regulatory Framework**

- (i) To maintain an overview of the Council's Constitution in respect of Contract Procedure Rules and Financial Procedure Rules.
- (ii) To review any issue referred to it by the Chief Executive, Head of Finance, Monitoring Officer or a corporate director, or any Council body.
- (iii) To monitor the effective development and operation of risk management and corporate governance in the Council.
- (iv) To monitor Council policies on whistleblowing and the anti-fraud and anti-corruption strategy and the Council's complaints process.
- (v) To oversee the production of the authority's Annual Governance Statement and to recommend its adoption.
- (vi) To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
- (vii) To consider the Council's compliance with its own and other published standards and controls.

c) Accounts

- (i) To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- (ii) To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Appendix 6

Financial Procedure Rules

1. Delete reference to “Principal Scrutiny Committee” or any scrutiny panel and replace by “The Overview and Scrutiny Committee as follows:

Rule 6.6 – consideration of draft HRA budget.

Rule 7.1 – budgetary control report.

Rule 7.2 – call-in any supplementary capital estimate or virement over £50,000.

Rule 7.3 - to call in any supplementary revenue estimate over £50,000 before final approval is given.

Rule 7.4 (d) - opportunity to call in any virement over £50,000 before final approval is given.

Rule 7.10 - opportunity to call in any such prior commitment over £50,000.

2. Delete reference to “Principal Scrutiny Committee” and replace by “the Audit Committee as follows:

Rule 5.8 – ensuring effective scrutiny of the treasury management strategy and policies.