

Chapter 4 – Overview and Scrutiny

Part 1 – Article 6 – Overview and Scrutiny

1. Overview and Scrutiny Committees

- 1.1 The Council shall appoint one or more Overview and Scrutiny Committees. These Committees will discharge, in respect of the matters shown in their terms of reference below, the functions conferred by section 21 of the Local Government Act 2000 as amended by section 7 of the Health and Social Care Act 2001, by section 19 of the Police and Justice Act 2006, by Part 5, Chapter 2 of the Local Government and Public Involvement in Health Act 2007, and by any subsequent legislation. The Council shall designate particular Overview and Scrutiny Committees to have responsibility for overview and scrutiny of matters relating, respectively, to Health, Education and Crime and Disorder.

2. Overview and Scrutiny Committees and Scope

- 2.1 The Council has established the following Overview and Scrutiny Committees:

Committee	Scope
Children's Services (including Education)	The services provided by Children Education and Families Directorate including the provision, planning, management, and performance of child protection, health, welfare, education, youth services, and related matters in Thurrock.
Health and Well-Being Overview and Scrutiny Committee	The scrutiny of the work of the NHS bodies serving Thurrock in partnership with the other local authorities in accordance with the Health and Social Care Act 2001 and associated Regulations and Guidance and the provision, planning, management and performance of services relating to adult social care, housing, culture, diversity and related matters in Thurrock.
Planning, Transport, Regeneration Overview and Scrutiny Committee	The physical and economic development of Thurrock, including the particular issues that arise from the Sub Regional Strategy and other local and regional plans, the provision of related infrastructure and the provision, planning, management and performance of services provided by the planning and highways services.
Cleaner, Greener and Safer Overview and Scrutiny Committee	The scrutiny of Crime and Disorder Partnerships under the Police and Justice Act 2006, the provision, planning, management and performance of waste and recycling, community safety, trading standards, licensing, environmental protection and related matters in Thurrock.
Corporate Overview and Scrutiny Committee	Coordination and leadership of overview and scrutiny including any issues that are not addressed by any other Overview and Scrutiny Committee, as well as the provision, planning, management and performance of the Local Area Agreement, Local Strategic Partnership and other partnerships, corporate or central services including corporate and cross cutting issues, the Budget, value for money and related matters and an overview of the performance of the Council.

- 2.2 The terms of reference of each Overview and Scrutiny Committee are set out in more detail in Part 2 of this chapter of this Constitution.

3. Membership

- 3.1 The Membership of each Overview and Scrutiny Committee shall be determined by Council. All Members other than Cabinet Members may be appointed to be Members of Overview and Scrutiny Committees or Sub-Committees.
- 3.2 The Council may determine that certain Overview and Scrutiny Committee or Committees shall be Chaired by a Minority Party Member.
- 3.3 Council may appoint persons to any Overview and Scrutiny Committee, and an Overview and Scrutiny Committee may appoint persons to any of its Sub-Committees, who are not Members of the authority, but such “co-opted Members” shall be non-voting Members for all purposes, except in so far as Council may provide in a scheme for the purpose of paragraph 12 of Schedule 1 to the Local Government Act 2000.
- 3.4 The Overview and Scrutiny Committee which has responsibility for matters relating to Education, and any Sub-Committee thereof which has responsibility for matters relating to Education, shall include in its Membership the following voting representatives:
- (a) At least one Church of England diocese representative
 - (b) At least one Roman Catholic diocese representative
 - (c) Between two and five parent governor representatives
- 3.5 These representatives will be entitled to vote where the Overview and Scrutiny Committee is considering matters related to the Council’s education functions. If the Overview and Scrutiny Committee is dealing with other matters, these representatives shall not vote on those matters though they may stay in the meeting and speak at the discretion of the Chair. The Overview and Scrutiny Committee will attempt to organise its meetings so that relevant education matters are grouped together. For the avoidance of doubt a function is an education function if it relates to a function in respect of which the authority has responsibility under the Education Acts.
- 3.6 Any Overview and Scrutiny Committee with responsibility for crime and disorder may determine that co-opted Members of the Committee may vote on crime and disorder matters.

4. General Role of Overview and Scrutiny Committees

- 4.1 Within their terms of reference the Overview and Scrutiny Committees, which all have equal status, will:
- (a) Review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council’s functions
 - (b) Make reports and recommendations to the Cabinet and/or full Council and/or any Committee in connection with the discharge of any functions
 - (c) Consider any matter affecting the area of Thurrock or its inhabitants and make reports and recommendations
 - (d) In accordance with the procedures for Call-In, exercise the right to Call-In for reconsideration decisions falling within their remit which have been made but not yet implemented by the Cabinet or on behalf of the Cabinet, and undertake reviews aiming to improve the efficient and effective delivery of services to local people.

5. Specific Functions of Overview and Scrutiny Committees

Policy development and review

- 5.1 Within their terms of reference the Overview and Scrutiny Committees will:
- (a) Assist the Council and the Cabinet in the development of its Budget and Policy Framework by analysis of policy issues or proposed projects
 - (b) Conduct research, community and other consultation in the analysis of policy issues or proposed projects and possible options
 - (c) Consider and implement mechanisms to encourage and enhance community participation in the development of policy or project options
 - (d) Question Members of the Cabinet, Committees and senior Officers of the Council, and representatives of other public, business or voluntary/community sector bodies, about their views on issues and proposals affecting the area, and
 - (e) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

Scrutiny

- 5.2 Within their terms of reference the Overview and Scrutiny Committees will:
- (a) Review and scrutinise the decisions made by, and the performance of, the Cabinet, Committees, and Council Officers, both in relation to individual decisions and over time
 - (b) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
 - (c) Question Members of the Cabinet, Committees, Chief Officers/ Directors and senior Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects
 - (d) Make reports and recommendations to the full Council and/or the Cabinet and/or any Committee arising from the outcome of the scrutiny process
 - (e) Review and scrutinise the performance of other public bodies in the area, including performance against Local Area Agreement targets, in pursuance of the powers outlined in the Local Government and Public Involvement in Health Act 2007, having regard to any government regulations and guidance that may be issued
 - (f) Question, call for and gather evidence from any person or organisation (with their consent)
 - (g) Review and scrutinise the adequacy of the response of the Council, or Cabinet, or Committee to a petition following a request for such a review by the lead petitioner (under the provisions of the Council's Petition Scheme).

Crime and disorder

- 5.3 The Environment Overview and Scrutiny Committee shall, and its Sub-Committees may:
- (a) Act as the crime and disorder Committee within the meaning of section 19 of the Police and Justice Act 2006

- (b) Review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions
- (c) Make reports or recommendations to the local authority with respect to the discharge of those functions
- (d) Make recommendations to the Cabinet and/or Council with respect to any matter which is a local crime and disorder matter in relation to a Member of the authority
- (e) Consider any crime and disorder matters referred by any Member of the Council.

6. Councillor Call for Action

- 6.1 Within their terms of reference the Overview and Scrutiny Committees will also consider Councillor Calls for Action (section 119, Local Government Act 2000), in accordance with the relevant best practice guidance jointly issued by the Centre for Public Scrutiny and the Improvement & Development Agency.

7. Annual Report

- 7.1 Each Overview and Scrutiny Committee will report annually to Council on the workings of the overall scrutiny function, and may make recommendations for future work programmes and amended working methods if appropriate.

8. Overview and Scrutiny Task and Finish Groups and Working Groups

- 8.1 Any Overview and Scrutiny Committee may establish such Task and Finish Groups or Working Groups as it considers appropriate for the effective discharge of its functions and may delegate any of its functions to a Task and Finish Group.
- 8.2 A Task and Finish Group may be established by an Overview and Scrutiny Committee to consider a specific piece of work and make recommendations to its parent committee or directly to the Cabinet. The number of Members of the Task and Finish Group and its terms of reference must be specified when it is established.
- 8.3 Group Leaders will make nominations to the number of seats available on any Task and Finish Group, in accordance with the political balance of the Council.
- 8.4 An Overview and Scrutiny Committee may establish Working Groups to consider a specific piece of work or look into a particular issue in more detail outside of the formal meeting of the Committee. Any such Working Group will comprise of members of the Committee, working informally with Officers or other Members and reporting their findings back to the Committee.

9. Proceedings of the Overview and Scrutiny Committees, Task and Finish Groups and Working Groups

- 9.1 The Overview and Scrutiny Committees and Task and Finish Groups will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 3 of this Chapter.
- 9.2 Overview and Scrutiny Committees and Task and Finish Groups will be subject to the Access to Information Procedure Rules in Chapter 8 of this Constitution.
- 9.3 A Working Group established by an Overview and Scrutiny Committee is not required to conduct its proceedings in accordance with the Scrutiny Procedure Rules in Part 3 of this Chapter or the Access to Information Procedure Rules in Chapter 8 of this Constitution.

Part 2 – Terms of Reference of Overview and Scrutiny Committees

Council has determined that the following Overview and Scrutiny Committees shall be constituted and shall have responsibility for overview and scrutiny in relation to the matters set out below.

1.	CORPORATE OVERVIEW AND SCRUTINY COMMITTEE	
Appointed by: Council under section 21 of the Local Government Act 2000	Number of Elected Members: Six, of whom none may be a Cabinet Member	
Chair and Vice-Chair appointed by: Council	Political Proportionality: The elected Members shall be appointed in accordance with Political Proportionality	
Quorum: Three elected Members	Co-opted Members to be appointed by Council: None	
Functions determined by Council:		
<ol style="list-style-type: none"> 1. The Council's overall performance 2. The Council's overall Budget and Value for Money 3. Council's strategic risk management 4. Provision, planning, management and performance of the Local Area Agreement 5. Local Strategic Partnership, other partnerships and community forums 6. Community Leadership, Community Engagement and Community Empowerment 7. Ethical governance matters in conjunction with the Standards Committee 8. Internal and external communications 9. External and European Funding 10. Resources, including human resources and asset management 11. Information and communications technology 12. Procurement 13. Monitor Councillor Call for Actions 14. Monitor and steer the overall direction of the overview and scrutiny function 15. Any other issues not covered by the four Overview and Scrutiny Committees 		
Functions determined by Statute		
All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007		

2.	CHILDREN'S SERVICES OVERVIEW AND SCRUTINY COMMITTEE	
Appointed by: The Council	Number of Elected Members: Six, of whom none may be Cabinet Members.	
Chair and Vice-Chair appointed by: The Council	Political Proportionality: The elected Members shall be appointed in accordance with Political Proportionality	
Quorum: Three elected Members or two elected Members and one Co-opted Member with voting rights.	Co-opted Members to be appointed by Council: Four Co-Opted Members, as follows, to have voting rights in respect of educational matters, and non-voting in respect of all other matters	
Functions determined by Council:		
<ol style="list-style-type: none"> 1. Universal Services (schools, colleges, settings and services) 2. Targeted Services (SEN, Behaviour and Attendance, narrowing the gap in outcomes) 3. Specialist Services (safeguarding, child protection, children in care, youth offending) 		
Cross-cutting		
The manner in which services of the Authority, the Police and the National Health Service address the needs of children and young people in Thurrock.		
Note: Where a National Health Service issue affects the population generally, i.e. including children, the matter shall be referred to the Health and Well-being Overview and Scrutiny Committee unless that Committee or its Chair agrees otherwise.		
Functions determined by Statute		
All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007.		

3.	HEALTH AND WELL-BEING OVERVIEW AND SCRUTINY COMMITTEE	
Appointed by: The Council under section 21, Local Government Act 2000	Number of Elected Members: Six, of whom none may be Cabinet Members	
Chair and Vice-Chair appointed by: The Council	Political Proportionality: The elected Members shall be appointed in accordance with Political Proportionality	
Quorum: Three elected Members	Co-opted Members to be appointed by Council: Two, non-voting	
Functions determined by Council:		
<ol style="list-style-type: none"> 1 Provision, planning, management and performance of adult social services 2 Housing, homelessness and travellers 3 Libraries, museums and community facilities 4 Arts and sports development 5 The planning, provision and operation of health services in Thurrock, in accordance with the Health and Social Care Act 2001, including the work of NHS bodies; 6 Diversity and equality issues (other than the Authority's human resources policies); 7 Work in partnership and act as a member of regional, sub-regional and local health scrutiny networks. 8 Adult training and skills. 		
Functions determined by Statute		
All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007 and Social Care Act 2001.		

4.	CLEANER, GREENER AND SAFER OVERVIEW AND SCRUTINY COMMITTEE	
Appointed by: Council under section 21 of the Local Government Act 2000	Number of Elected Members: Six, of whom none shall be a Cabinet Member	
Chair and Vice-Chair appointed by: Council	Political Proportionality: The elected Members shall be appointed in accordance with Political Proportionality	
Quorum: Three elected Members	Co-opted Members to be appointed by Council: None appointed	
Functions determined by Council:		
<ol style="list-style-type: none"> 1. Crime and Disorder Partnerships under the Police and Justice Act 2006 2. Waste and recycling 3. Community safety 4. Environmental protection and management of the environment 5. Consumer protection and trading standards 6. Licensing 7. Animal welfare 8. Parks, open spaces and cemeteries 		
Functions determined by Statute		
All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007. This Committee is also the designated Committee under section 19 Police and Justice Act 2006.		

5.	PLANNING, TRANSPORT, REGENERATION OVERVIEW AND SCRUTINY COMMITTEE	
Appointed by: The Council	Number of Elected Members: Six, of whom none may be Cabinet Members.	
Chair and Vice-Chair appointed by: The Council	Political Proportionality: The elected Members shall be appointed in accordance with Political Proportionality	
Quorum: Three elected Members	Co-opted Members to be appointed by Council: None appointed	
Functions determined by Council:		
<ol style="list-style-type: none"> 1. Regeneration and economic development 2. Strategic and local development framework 3. Regional and local planning 4. Growth and the provision of related infrastructure 5. Development control 6. Built heritage and the countryside 7. Provision, planning, management and performance of the Planning and Highways service, including transport 8. Effective discharge of planning function including the proper function of the Planning Committee (Note: Planning decisions cannot be scrutinised) 		
Functions determined by Statute		
All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007.		

Part 3 – Scrutiny Procedure Rules

1. Meetings of the Overview and Scrutiny Committees

- 1.1 There shall be up to six ordinary meetings of each of the Overview and Scrutiny Committees each year.
- 1.2 Subject to Rule 1.4 below, the time and place of meetings shall be as set out in the Calendar of Meetings approved by the Council annually although the Chair and Monitoring Officer or a Committee by resolution, may determine that an ordinary meeting shall be held at such other place as they consider appropriate. The Chair and/or Monitoring Officer may determine, having regard to special circumstances, that a particular ordinary meeting be held at such other time as they consider appropriate.
- 1.3 The Monitoring Officer may cancel or postpone an ordinary meeting prior to the issue of an Agenda for the meeting where, after consultation with the Chair of the relevant Committee (or in his/her absence, the Vice Chair), he/she considers that there is insufficient business to transact or where an event occurs which he/she considers would make it inappropriate to hold the meeting on the intended date. If circumstances make it impossible for a meeting to be held as convened, the Monitoring Officer, after consultation with the Chair of the relevant Committee (or in his/her absence, the Vice Chair), may postpone an ordinary meeting and hold the meeting on a date to be agreed with the Chair of the relevant Committee (or in his/her absence, the Vice Chair).
- 1.4 The Chair, or in the Chair's absence the Vice-Chair, may from time to time agree to cancel meetings if there is insufficient business to transact at that time.
- 1.5 In addition, an extraordinary meeting of an Overview and Scrutiny Committee may be called by either:
 - (a) The Chair of the relevant Committee, or in the Chair's absence the Vice-Chair
 - (b) A quorum of the Members of the Committee; or
 - (c) The Monitoring Officer if he/she considers it necessary or appropriate.
- 1.6 Meetings may be held in a location suited to the topic under consideration, at the discretion of the Committee Chair, or in the Chair's absence, the Vice-Chair.

2. Work Programme

- 2.1 Each Overview and Scrutiny Committee shall be responsible for setting its own work programme, taking into account the wishes and preferences of the Members of that Committee, including Members who are not members of the largest political group on the Council or of any political group.
- 2.2 Each Overview and Scrutiny Committee may receive requests from the Cabinet and suggestions from Officers of the Council and co-optees for particular topics to be scrutinised.
- 2.3 The work programme shall be reported to Council annually.

3. Agenda Items

- 3.1 Any Member of the Council may, with 7 working days notice, request the Monitoring Officer to include an item on the agenda of a relevant Overview and Scrutiny Committee. Upon receipt of such a request the Monitoring Officer shall ensure that the item is included on the next available agenda for consideration by the relevant Committee, and advise the Chair accordingly.
- 3.2 There will be a standing item on the agenda of all ordinary meetings of Overview and Scrutiny Committees to allow such requests to be considered.

- 3.3 Any Member who submits a request will have the right to attend the meeting at which the item is to be considered, to explain the reasons for the request and to have the item discussed. The Committee will decide either:
- (a) If the matter is a simple one, to resolve it forthwith
 - (b) To request Officers to prepare a report for the next convenient meeting
 - (c) To set up a task and finish group to investigate and report back to the Committee
 - (d) To make recommendations to the Cabinet or Council, as appropriate
 - (e) To decide to take no further action upon the request, for stated reasons.
- 3.4 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and, if they consider it appropriate, the Cabinet, to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committees shall report their findings and any recommendations back to the Cabinet or Council, as appropriate. The Council and/or the Cabinet shall consider and respond to a report of an Overview and Scrutiny Committee within two months of receiving it unless otherwise agreed by the Chair of the relevant Committee.

4. Policy Review and Development

- 4.1 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 set out in Chapter 3 Part 3.
- 4.2 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework Budget, an Overview and Scrutiny Committee may:
- (a) Consider and make recommendations to the Cabinet on any matters that are consistent with its terms of reference
 - (b) Hold enquiries and investigate the available options for future direction in policy development and appoint advisers and assessors to assist in this process, within available Budgets
 - (c) Do anything which is reasonable to assist or inform its deliberations, including a general call for evidence, site visits, public surveys, public meetings and commissioning research
 - (d) Ask witnesses to attend to address it on any matter under consideration and pay to any advisers, assessors or witnesses a reasonable fee and expenses for doing so.
- 4.3 The Overview and Scrutiny Committees may also exercise the above tasks through task groups.

5. Procedure at Overview and Scrutiny Committee Meetings

- 5.1 Overview and scrutiny Committees shall consider the following business:
- (a) Minutes of the last meeting
 - (b) Receipt of urgent business
 - (c) Declarations of interest (including whipping declarations)
 - (d) The receipt of petitions from members of the public (in accordance with the Public Participation Procedure as set out later in this Chapter.)

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- (e) Public questions, statements or depositions (in accordance with the Public Participation in Scrutiny Procedure as set out in later in this Chapter in Rule 14)
 - (f) Consideration of any matter referred to the Committee by a Member under Rules 3.1 or 3.2 above;
 - (g) Responses of the Council or the Cabinet to the Committee's reports or recommendations;
 - (h) Any Councillor Call for Action in accordance with procedure set out in Rule 11 below.
 - (i) Any other business specified in the agenda for the meeting, and
 - (j) The Forward Plan and its work programme.
- 5.2 The provisions of the Committee Procedure Rules set out in Chapter 5 will be applied to meetings of the Overview and Scrutiny Committees to the extent they are considered appropriate.
- 5.3 Where the Overview and Scrutiny Committee conducts investigations (e.g. 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 is 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 so as to maximise the efficiency of the investigation or analysis.
- 5.4 Within those principles the Council expects the Overview and Scrutiny Committees to be effective, thorough and incisive and to consider all relevant evidence in their work. It also expects the Committees to strive for continuous improvement in the overview and scrutiny function and to develop further opportunities for public engagement.
- 5.5 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 subject to the Access to Information Rules and provisions relating to confidential and exempt reports or information, and any prohibition, limitation or restriction on disclosure arising from statute, any rule of law, or order of a court.
- 5.6 The Protocol for Member/Officer Relations contained in Chapter 7 of the Constitution shall apply to the attendance of Officers giving evidence to an Overview and Scrutiny Committee or sub-Committee.
- 6. Reports from Overview and Scrutiny Committees**
- 6.1 An Overview and Scrutiny Committee may prepare a formal report, with recommendations, and submit it to the Monitoring Officer with a notice requiring it to be considered by the Cabinet or the Council as appropriate, depending on which body is responsible for the function concerned and whether the proposals are consistent with the Council's Budget and Policy Framework. Where a report is to be made to the Council, the Monitoring Officer shall refer a copy to the Leader with notice that the matter is to be referred to the Council.
- 6.2 If an Overview and Scrutiny Committee cannot agree on one single final report to the Cabinet or Council as appropriate, then one or more minority reports may be prepared and submitted for consideration by the Cabinet or Council at the same time as the majority report. Officers shall support the preparation of any such minority reports.

- 6.3 The Cabinet or Council as appropriate, in compliance with its legal duty to comply with any notice given by an Overview and Scrutiny Committee under Rule 6.1 above, shall:
- (a) Consider the report and recommendations of the Overview and Scrutiny Committee at its next available meeting, and
 - (b) Respond to any such report within two months of its receipt indicating what action, if any, the authority or the Cabinet proposes to take, and if it decides to take no action, the reasons for that decision.
- 6.4 The agenda for Cabinet meetings shall include a standard item entitled 'Overview and Scrutiny Committee Matters' to facilitate the Cabinet's early consideration of scrutiny reports and recommendations, which shall be included at this point on the agenda unless they have been reported as part of a substantive item elsewhere on the agenda.
- 6.5 Reports and recommendations of Overview and Scrutiny Committees will normally be presented at Cabinet and Council meetings by the relevant Overview and Scrutiny Committee Chair or Vice-Chair, or by another non-executive Member nominated by that Committee. The Member concerned will be invited to participate in discussion of the report.

Reports on Local Improvement Targets

- 6.6 Where the Corporate Overview and Scrutiny Committee or any other Overview and Scrutiny Committee makes a report or recommendations on a local improvement target specified in the Local Area Agreement that relates to a relevant partner authority, it may by written notice require the relevant partner authority to have regard to the report or recommendation in question in exercising its functions. This power will be exercised in accordance with such government regulations and statutory guidance as may be issued under section 21C of the Local Government Act 2000 (inserted by section 122 of the Local Government and Public Involvement in Health Act 2007).

Reports on Local Crime and Disorder Matters

- 6.7 Where the Cleaner Greener and Safer Overview and Scrutiny Committee makes a report or recommendations on a local crime and disorder matter within its terms of reference, it will copy the report to the responsible authorities, notifying them of their duty under section 19 of the Police and Justice Act 2006 (as amended by section 126 of the Local Government and Public Involvement in Health Act 2007) (a) to consider the report or recommendations; (b) to respond to the Committee in writing within 28 days indicating what (if any) action it proposes to take; and (c) to have regard to the report or recommendations in exercising its functions. This power will be exercised in accordance with the Crime and Disorder (Overview and Scrutiny) Regulations 2009. The matters considered by the Committee will be crime and disorder matters to the extent that they fall within the Council's crime and disorder strategy.

Reports on Local Health Service Matters

- 6.8 Where the Health and Wellbeing Overview and Scrutiny Committee makes a report or recommendations on a local health service matter, it will copy the report to the relevant NHS bodies and request a response in writing within two calendar months.
- 6.9 Where the Committee (including any joint health Overview and Scrutiny Committee to which the Committee has appointed one or more Members) has been consulted by a local NHS body on any proposal for a substantial variation or development in local NHS services, and the Committee (having considered the evidence) is not satisfied that consultation has been adequate, or considers that the proposal would not be in the interests of the health service in the area, then it may report in writing to the Secretary of State, under section 244, NHS Act 2006.

7. Rights of Overview and Scrutiny Committee Members to Documents

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- 7.1 Overview and Scrutiny Committees will have access to the Forward Plan of key decisions of the Cabinet and timetable for decisions and intentions for consultation.
- 7.2 In addition to their rights as Councillors, Members of 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 set out in Chapter 8 of the Constitution.
- 7.3 Nothing in this paragraph shall prevent more detailed liaison between the Cabinet and Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

8. Members and Officers giving Account

- 8.1 An Overview and Scrutiny Committee (or task group) may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function or other matter that is within its terms of reference. As well as reviewing documentation an Overview and Scrutiny Committee (including any task group) may, in fulfilling the scrutiny role, require any Member of the Cabinet, the Chief Executive and/or any Director 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) The performance of their areas of responsibility
- 8.2 An Overview and Scrutiny Committee may also require any Council Member who has been granted local ward Member powers (for instance a delegated Budget) under section 236 of the Local Government and Public Involvement in Health Act 2007 to attend before it to answer questions on any function which the Member has power to exercise.
- 8.3 It is the duty of those persons described in Rules 8.1 and 8.2 above to attend if so required.
- 8.4 Where any Cabinet Member, Ward Member or Officer is required to attend an Overview and Scrutiny Committee or a task group under this provision, Democratic Services staff will inform that Member or Officer in writing, giving at least 5 working days notice of a meeting of the Overview and Scrutiny Committee meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee.
- 8.5 Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given at least 14 working days notice to allow for preparation of that documentation.
- 8.6 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then a substitute may be asked to attend or the Overview and Scrutiny Committee may, in consultation with the Member or Officer, arrange an alternative date for attendance, which shall be no later than the next scheduled meeting.

9. Attendance by others

- 9.1 An Overview and Scrutiny Committee may invite people other than those people referred to above to address it, discuss issues of local concern and/or answer questions. It may wish to hear for example from residents, representatives from the local NHS Trust, stakeholders, Members and Officers in other parts of the public sector, or experts, and may invite such people to attend.
- 9.2 Public participation in meetings of the Overview and Scrutiny Committees shall be governed by the provisions set out later in this chapter.

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- 9.3 Any Member of the Council shall be entitled to attend meetings of the Overview and Scrutiny Committees and to speak once on any agenda item, with further speaking being at the discretion of the Chair.
- 9.4 Rule 9.3 above is subject to the Rules on personal and prejudicial interests in the Members' Code of Conduct set out in Chapter 7, Part 3 of the Constitution; and in particular paragraph 11 of that Code, which permits a Member with a personal and prejudicial interest to which that paragraph applies to attend an Overview and Scrutiny Committee meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business under discussion; the Member must then withdraw from the meeting. This right to attend would not apply to an Overview and Scrutiny Committee meeting held in private, that is where the public do not have the same speaking rights.
- 9.5 Rule 9.4 above does not prevent an Overview and Scrutiny Committee from requiring Cabinet Members or inviting other persons (including Council Members) to attend before it to answer questions.

10. Call-in

- 10.1 Call-in is the exercise of the Overview and Scrutiny Committees' statutory power in section 21(3) of the Local Government Act 2000 to review an Executive / Cabinet decision that has been made but not yet implemented. Where a decision is called in and the Overview and Scrutiny Committee decides to refer it back to the Cabinet for reconsideration, it cannot be implemented until the Call-In procedure is complete.
- 10.2 Any decision of the Executive / Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet, or a Key Decision made by an Officer under authority delegated by the Cabinet, is subject to Call-In. A decision may be called in only once. An Executive / Cabinet recommendation to full Council may not be called in.
- 10.3 The Call-In procedure and the powers to refer a decision back for reconsideration may be exercised by any of the Overview and Scrutiny Committees, within the remit of their respective terms of reference.
- 10.4 Requests for Call-In can only be made if there is evidence that the decision maker did not take the decision in accordance with the principles of decision making as set out in the Constitution (Article 13, paragraph 2.1) and repeated as follows:
- (a) Due regard for the individuals and communities served by Thurrock Borough Council
 - (b) Proportionality (ie the action must be proportionate to the desired outcome)
 - (c) Due consultation
 - (d) Respect for human rights
 - (e) A presumption in favour of openness, and
 - (f) Clarity of aims and desired outcomes (ie link between strategy and implementation)
 - (g) Consistent with the Council's Budget and Policy Framework.
- 10.5 Call-in of decisions which may be contrary to the Budget and Policy Framework shall be governed by the provisions of the Budget and Policy Framework Procedure Rules in Chapter 3 Part 3 of the Constitution.

The Call-In Procedure

- 10.6 Once made, an Executive decision shall be published, in the form of a decisions notice, within two working days at the Council's main offices and on its public website. The decisions notice will be sent to all Members of the Council within the same timescale.
- 10.7 The decisions notice will bear the date on which it is published and will specify that the decision will be effective on the expiry of 5 working days after the publication of the decision and may then be implemented, unless called in under this provision within that 5 clear working day period. The deadline for a Call-In request will be specified in the decisions digest.
- 10.8 Requests for Call-In may be made by either:
- (a) An individual Member where a decision has particular significance for that Member's ward
 - (b) The Chair of the relevant Overview and Scrutiny Committee
 - (c) Any two Members of the relevant Overview and Scrutiny Committee
 - (d) Any three non-executive Members of the Council
 - (e) A voluntary group with an interest in the area
 - (f) A local business situated in the area (except in relation to decisions relating to procurement of goods and services)
 - (g) 10 members of the public living, working or studying within Thurrock Council area
- 10.9 A Call-In request must be in the form of a written notice submitted to the Monitoring Officer and received before the published deadline. Either one notice containing all required signatures or separate e-mails from the persons making the Call-In request will be acceptable.
- 10.10 The notice must set out:
- (a) the resolution or resolutions that the Member(s) wish to call in
 - (b) the reasons why they wish the Overview and Scrutiny Committee to consider referring it back to the Cabinet, citing one or more of the reasons set out in Rule 10.4 above and the particulars of the reason/s, and
 - (c) the alternative course of action or recommendations that they wish to propose.
- 10.11 The Call-In request will be deemed valid unless either:
- (a) The procedures set out in Rules 10.7 to 10.10 have not been properly followed
 - (b) The grounds for call in as set out in Rule 10.4 above have not been met
 - (c) A similar decision has been called in to the Committee previously within 2 years
 - (d) The decision has been recorded as urgent in accordance with Rules 10.14 to 10.17 below
 - (e) The Chief Executive after consultation with the Chair of the relevant Overview and Scrutiny Committee, considers the Call-In to be frivolous, vexatious or not a proper use of the Call-In provisions taking into account the following factors:
 - (i) Whether the matter has been considered as part of pre-decision scrutiny by any scrutiny Committee, Sub-Committee, task group or panel.

- (ii) Whether there has been any substantive change in the nature of the decisions being made since any pre-decision scrutiny of the proposals.
- (iii) Whether the recommendations or alternative course of action or recommendations in the Call-In request have been previously considered and rejected in whole or part as part of pre-decision scrutiny.
- (iv) Any other relevant factor
- (f) The Chief Executive in consultation with the Monitoring Officer considers that the Call-In would result in the Council failing to discharge its legal duties

10.12 Before deciding on its validity, the Chief Executive may seek clarification of the Call-In request from the Member(s) concerned. In the absence of the Chief Executive, the Monitoring Officer shall exercise the Chief Executive's functions in this respect.

10.13 Upon deciding on its validity, the Chief Executive shall forthwith notify the Member(s) concerned, the Leader and Portfolio Holder, the Chair and Vice-Chair of the Overview and Scrutiny Committee, the relevant Director/Head of Service and Officer responsible for overview and scrutiny.

Decisions not subject to Call-In

10.14 The following categories of decision are not subject to Call-In:

- (a) recommendations by the Cabinet on the Budget and Policy Framework, which will be determined by the Council
- (b) decisions for urgent implementation under the Access to Information Procedure Rules
- (c) urgent decisions outside the Budget or Policy Framework as set out in Chapter 3, Part 3, Budget and Policy Framework Procedure Rules (Rule 4)
- (d) decisions to award a contract following a lawful procurement process

Call-In and Urgency

10.15 The Call-In procedure set out above shall not apply where the decision being taken is urgent. A decision is urgent if:

- (a) A Call-In would prevent the Council reaching a decision that is required by statute or otherwise within a specified timescale
- (b) Any delay likely to be caused by the Call-In process would seriously prejudice the Council's or the public's interests and the reasons for urgency are reported to the decision making body or person before the decision is taken
- (c) Any delay likely to be caused by the Call-In process would be likely to expose the Council, its Members or its constituents to significant level of risk, loss, damage or significant disadvantage

10.16 In the case of (b) above the decisions digest shall state whether the decision is an urgent one, and therefore not subject to Call-In. The consent of the Chair of the relevant Overview and Scrutiny Committee is required to agree to the decision being treated as a matter of urgency before it may be so treated. In the absence of the Chair, the Vice-Chair of the relevant Overview and Scrutiny Committee's consent is required. In the absence of that person, the Mayor's consent is required. In the absence of the Mayor, the Deputy Mayor of the Council's consent is required.

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- 10.17 Where the Cabinet has recorded a decision as urgent, an Overview and Scrutiny Committee may retrospectively review actions arising from that decision but cannot delay its implementation.

Consideration by the Overview and Scrutiny Committee

- 10.18 The Monitoring Officer will ensure that any valid Call-In is reported to the next available meeting of the relevant Overview and Scrutiny Committee, or will convene an extraordinary meeting in accordance with Rule 1.5 above.
- 10.19 The Member(s) submitting the request for Call-In will be expected to attend the meeting of the relevant Overview and Scrutiny Committee to explain their reasons for the Call-In and the alternative course of action or recommendations they wish to propose.
- 10.20 Having considered the Call-In and the reasons given, the relevant Overview and Scrutiny Committee may either:
- (a) Refer it back to the decision making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations
 - (b) If it considers that the decision is outside the Council's Budget and Policy Framework, refer the matter to full Council after seeking the advice of the Monitoring Officer and/or Chief Finance Officer in accordance with Rule 4 of the Budget and Policy Framework Procedure Rules in Chapter 3, Part 3 of the Constitution
 - (c) Decide to take no further action, in which case the original Cabinet decision will be effective immediately.

Decisions Referred Back to the Decision-Maker

- 10.21 If a decision is referred back to the original decision maker, that person or body shall then reconsider the matter, taking into account any concerns and recommendations of the Overview and Scrutiny Committee, and make a final decision, amending the decision or not, and give reasons for the decision.
- 10.22 If a decision relates to an Executive function, only the Cabinet can ultimately decide the matter, provided that it is in accordance with the Council's Budget and Policy Framework.

11. Councillor Call for Action

- 11.1 Any Member of the Council may, with 7 working days notice, request the Monitoring Officer to include a Councillor Call for Action on the agenda of a relevant Overview and Scrutiny Committee. Upon receipt of such a Call for Action the Monitoring Officer shall ensure that the item is included on the next available agenda for consideration by the relevant Committee, and advise the Chair accordingly.
- 11.2 A Councillor Call for Action must be in the form of a written application (the appropriate form is available from the Democratic Services Manager) submitted to the Monitoring Officer and received within the timescale outlined in Rule 11.1 above.
- 11.3 There will be a standing item on the agenda of all ordinary meetings of Overview and Scrutiny Committees to allow such Calls for Action to be considered.
- 11.4 Any Member who submits a Call for Action will have the right to attend the meeting at which the item is to be considered, to explain the reasons for the Call for Action and to have the item discussed. The Committee will decide either:
- (a) If the matter is a simple one, to resolve it forthwith

- (b) To request the Officers to prepare a report for the next meeting
- (c) To request the Member submitting the Call for Action to provide further evidence or information to a future meeting
- (d) To set up a task and finish group to investigate and report back to the Committee
- (e) To make recommendations to the Cabinet or Council, as appropriate
- (f) To decide to take no further action upon the request, for stated reasons.

11.5 The Councillor Call for Action will be deemed valid unless either:

- (a) The procedures set out in Rules 11.1 and 11.2 have not been properly followed;
- (b) It does not relate to a local government matter (i.e. it does not relate to the functions of the Council nor its partners)
- (c) It does not relate to a local crime and disorder matter (including anti-social behaviour, behaviour adversely affecting the local environment and misuse of drugs, alcohol or other substances)
- (d) It does not affect all or part of the ward for which the referring Member is elected, or any person who lives or works in that ward
- (e) It is a matter that has been excluded by Order of the Secretary of State (e.g. planning or licensing appeals and other quasi-judicial matters), or
- (f) The Monitoring Officer, in consultation with the Chair of the relevant Overview and Scrutiny Committee, considers the Call for Action to be frivolous, vexatious or clearly outside the Councillor Call for Action provisions; in which case the Monitoring Officer may reject the Call for Action request.

11.6 Before deciding on its validity, the Monitoring Officer may seek clarification of the Call for Action from the Member concerned. In the absence of the Monitoring Officer, the Deputy Monitoring Officer(s) shall exercise the Monitoring Officer's functions in this respect.

11.7 Upon deciding on its validity, the Monitoring Officer shall forthwith notify the Member concerned, the Leader and Portfolio Holder, the Chair and Vice-Chair of the relevant Overview and Scrutiny Committee, the Chief Executive, the relevant Director/Assistant Director and Officer responsible for overview and scrutiny.

12. The Party Whip

12.1 When considering any matter in respect of which a Member of an Overview and Scrutiny Committee is subject to a party whip the Member must declare the existence and nature of the whip before the Committee's deliberations on the matter commence.

12.2 The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

13. Matters within the remit of more than one Overview and Scrutiny Committee

13.1 Where a matter falls within the remit of more than one Overview and Scrutiny Committee, and their respective remits in relation to it cannot be satisfactorily resolved by the Chairs of those Committees, the Chief Executive will decide which Committee should consider it.

13.2 Where an Overview and 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 normally either:

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- (a) invite the Chair of the other Committee (or his/her nominee) to attend its meetings when the matter is being reviewed, or
 - (b) consult the other Committee on its findings and recommendations, and include that Committee's comments in its own report to the Cabinet and/or Council.

14. Public Participation in Scrutiny

- 14.1 Residents of Thurrock Council and those working, studying or with a business interest in the area are able to participate in the scrutiny process by:
- (a) Attending meetings
 - (b) Presenting petitions
 - (c) Asking a question
 - (d) making a statement or forming a deputation to the Scrutiny Committee (see Rule 5.1.(e))
 - (e) Being involved in a scrutiny investigation; or
 - (f) Calling in a Cabinet decision (10 people need to sign a Call-In request)
- 14.2 Rules set out for Petitions and Questions in Chapter 2, Part 2 Council Procedure and Rules (Rule 14) will apply to those presenting a petition or a question to Overview and Scrutiny Committees.
- 14.3 When there is a scrutiny investigation that would benefit from public participation the Officer supporting such investigation will ensure such participation is facilitated.
- 14.4 Members of the public interested in participating in a particular scrutiny investigation can do so by contacting the Committee Services staff or the relevant Chair directly.