

OVERVIEW AND SCRUTINY COMMITTEE – GUIDANCE AND PROTOCOLS

1. Introduction

- 1.1 This report outlines guidance and protocols for the functioning of the Overview and Scrutiny Committee (OSC) in Tower Hamlets. The protocols and guidance are intended to assist the OSC to implement the requirements of the Local Government Act 2000 and the Council's Constitution. To the extent of any inconsistency, the Act and the Constitution prevail.

Guidance

2. Roles and Responsibilities for Scrutiny Members

- 2.1 The overall purpose of each position will be to strengthen the Scrutiny process in Tower Hamlets and to make it part of the process of improvement. To accomplish this, Members will have the following roles and responsibilities.
- 2.2 Chair of Overview and Scrutiny
- co-ordinates the work of Scrutiny by developing the Committee's work programme in line with the Council's Forward Plan
 - chairs the Committee meetings
 - plans co-operatively meeting agendas and timetables with officers and other members (from both minority and majority parties) to ensure all areas of Scrutiny business are undertaken effectively
 - leads the work of OSC on budget matters
 - represents Overview and Scrutiny at Executive meetings and at community and other outside events
 - represents Tower Hamlets at London Scrutiny Network meetings
 - works in a cross-party and consensual manner to ensure the effectiveness of Scrutiny
 - contributes to developing the community leadership role of Scrutiny
 - Delegates to scrutiny Members to represent the Committee at Council meetings and external events.
- 2.3 Overview and Scrutiny Committee will appoint Scrutiny Leads who will:
- ensure the accountability of those Executive members and chief officers who have primary responsibility within their portfolio theme
 - assess the effectiveness of existing policy in the portfolio area
 - support the development of new and revised policy
 - ensure effective liaison with the Tower Hamlets Partnership
 - lead and co-ordinate scrutiny activity in his/her area including reviews, investigations and challenge sessions
 - ensure effective liaison with internal and external stakeholders
 - work in a cross-party and consensual manner to ensure the effectiveness of Scrutiny
 - contribute to developing the community leadership role of Scrutiny

2.4 Skills and aptitudes

Members will require the following skills and aptitudes to undertake the above roles effectively:

- understanding of the Scrutiny process and its place within the Council's overall objectives
- understanding of how Scrutiny can help improve performance management by effective performance monitoring
- willingness to help develop Scrutiny's role within the local Partnership agenda and, where appropriate, within London-wide and national arena
- willingness to work co-operatively with members from all political parties, officers and partners (outside organisations)
- ability to chair meetings
- ability to question constructively and get the best from those attending Scrutiny meetings
- willingness to liaise with officers in the drafting of reports and refining reporting mechanisms
- willingness to participate in developmental work to strengthen the Scrutiny process including training and seminars

A willingness to develop these skills through Member Learning and Development will be as crucial as being able to demonstrate them.

3. Agenda

3.1 The Committee's regular agenda items will comprise of the following in the course of the year:

Report	Timing
'Call-in'	When these occur – see paragraph 4.1
Budget and Policy Framework items	Normally considered at the OSC meeting the evening before Cabinet - see paragraph 4.3
Strategic Performance and Budget Monitoring reports	Timetabled through the year - see 4.4
Tracking progress of OSC recommendations	Periodic reports on progress implementing previous scrutiny reviews.
Updates on implementation of previous scrutiny reviews	Timetabled throughout the year
Scrutiny Spotlights	Timetabled throughout the year
OSC Work Programme including the programme of topics for review.	Beginning of the municipal year and progress considered each month thereafter - see paragraph 4.2

3.2 Ad hoc agenda items might include the following:

- Items of business requested by members of the Overview and Scrutiny Committee under the provisions of the Council's Constitution as amended (Part 4 – "Rules of Procedure", Section 4.5 – "Overview and Scrutiny Procedure Rules", Rule 9.1). See paragraph 4.7.

- Matters referred to the Overview and Scrutiny Committee under the provisions of the Council's Constitution as amended (Part 4 – "Rules of Procedure", Section 4.5 – "Overview and Scrutiny Procedure Rules", Rule 9.3) in accordance with Section 119 of the Local Government and Public Involvement in Health Act 2007. See paragraph 4.8.

Protocols / Procedures

4. 'Call-In'

4.1.1 For details of the call-in procedure, please see Appendix 1.

4.1.2 There are 2 forms of Executive Decision that can be 'Called In':

- Decisions of the Mayor taken in Cabinet
- Decisions of the Mayor taken outside Cabinet (Mayor's Executive Decision Making).

Should the OSC decide to refer a 'Call In' back to the Executive for further consideration it will be referred to the Mayor in Cabinet or Mayor outside Cabinet consistent with the way in which the original decision was taken.

4.1.3 Protocol for transacting a 'Call In' at OSC:

If a decision is Called In, the OSC will consider it at its next meeting in a strictly time limited slot of up to one hour. The protocol for transacting this business would be as follows:

- presentation of the 'Call In' by one of the 'Call In Members followed by questions from OSC Members
- response from Cabinet Members/officers followed by questions from OSC Members
- general debate among OSC Members followed by a decision
- The 'Call In' Member who presented to OSC would not be allowed to speak again or vote on the item
- the Committee would then either resolve to take no action (in effect endorsing the original decision) or refer the matter back to Cabinet for further discussion, setting out the nature of its concerns and possibly recommending an alternative course of action.

5. Overview and Scrutiny work programme

5.1 OSC will agree its work programme at the beginning of the municipal year and consider progress every month. The work programme will take into account the Cabinet's Forward Plan. The programme will include when OSC will consider budget and policy framework reports and Strategic Performance & Budget Monitoring reports.

6. Budget and Policy Framework items

6.1 The Budget and Policy framework, set out in Article 4 of the Constitution, outlines the plans and strategies required by statute to be approved by the full Council and which OSC should examine:

- Crime and Disorder Reduction Strategy
- Development Plan Documents and plans/ alterations which together comprise the Development Plan.
- Licensing Authority Policy Statement

- Sustainable Community Strategy
- Authority's Housing Strategy
- Authority's Environmental Strategy
- Employment Strategy
- Enterprise Strategy
- Waste Strategy
- Open Space Strategy

6.2 The Council's budget which the OSC should examine includes the annual allocation of financial resources to different services and projects following the announcement of the government's grant to the authority, the treatment of risk including level of reserves and proposed contingency funds, setting the council tax (including the recommended council tax base), and decisions relating to the control of the Council's borrowing, the control of its capital expenditure and the setting of virement limits.

7. Performance and information monitoring

7.1 OSC will throughout the course of the year regularly monitor and examine reports on performance monitoring, Strategic Plan performance and Budget monitoring (Quarterly). Within the Scrutiny Spotlight session, it will also receive presentations from the Mayor, the Borough Commander, Lead Members and Corporate Directors on the performance and challenges facing key Council services.

8. Reviews, Investigations and Challenge Sessions

8.1 As part of its work programme for the year, OSC will include issues and services for investigation, review and challenge sessions. This must be:

- flexible to allow some capacity to address new issues during the year or to delve deeper into some issues following initial work.
- achievable and reflect the capacity available to support Scrutiny's work.

8.2 The Work Programme will be drawn up after consideration of key documents such as the Annual Residents' Survey, Annual Audit and Inspection Letter, Strategic Plan Performance & Budget monitoring, Tower Hamlets Index and the Local Area Partnership Plans to identify potential scrutiny issues. It will also consider issues raised through Scrutiny's own work such as the performance monitoring role, as well as specific reviews.

8.3 The following criteria act as a guide in prioritising the selection of issues:

- a service or issue that requires significant improvement
- a service or issue of poor or challenging performance
- an area of national policy development that impacts or has the potential to impact on one or more sections of the community
- an inspection is planned for the service where Scrutiny would add value to Council and partner performance
- a controversial or sensitive issue that would benefit from a risk-management approach and the pro-active engagement of partners and local communities.

8.4 Where Scrutiny Panels are established to deliver the Committee's work, their membership will be constituted according to proportionality rules and in liaison with Party whips. It would be expected that membership would be based on the expressed interests of Members.

- 8.5 Please see Appendix 1 to this report for further details on the conduct of scrutiny reviews.
- 8.6 A report on all investigations, reviews and challenges sessions will be presented to OSC. Where there are recommendations that Cabinet need to consider, the review report will be submitted to Cabinet with an action plan (via the usual pre-agenda planning process). Reports may also be submitted to partner organisations for their response following consideration by Cabinet. Challenge Session reports are agreed by OSC following this an action plan is developed by the department which is then monitored through an implementation progress report. In circumstances, where there are resource implications the report will be presented to Cabinet.
- 8.7 Progress updates on implementation of previous scrutiny review recommendations will be considered throughout the year by OSC. .

9. Pre-decision scrutiny of Cabinet business

- 9.1 Consideration of the Forward Plan will allow the OSC to highlight upcoming issues for the review programme or for further work by the relevant Lead Scrutiny Member.
- 9.2 The OSC meets the night before Cabinet and has the opportunity to raise questions which it considers Cabinet should take into account in reaching its decisions. OSC Members receive the Cabinet papers on their initial despatch the week before the meeting.
- 9.3 Protocol for submission of pre-decision scrutiny questions:
- Members must notify the Chair in writing (via the SPP Team) of any questions they wish to raise by 12 noon on the Monday of the same week of OSC and Cabinet meetings.
 - When necessary, the Chair, Vice Chair and a nominated Minority Member will meet prior to OSC meeting to determine how the time allocated for pre-decision scrutiny questions at the OSC meeting could best be used if there are a significant number of questions raised. The following criteria would be used:
 - questions should be new and not ones already addressed in the report or that have been the subject of correspondence or review elsewhere
 - questions for information should be raised directly with the report author
 - first priority should be given to consideration of reports with large scale, cross-borough policy implications
 - questions should consider they can influence the decision of the Cabinet to ensure it meets local needs.
- 9.4 Protocol for transacting pre-decision scrutiny at OSC:
- There will be a maximum time slot of 45 minutes to consider pre-decision scrutiny questions for Cabinet.
 - Members will be able to raise questions and comments only, not to have a full scale debate on issues.
 - The OSC will aim for a consensual agreement on the issues/ questions to be raised with Cabinet.
- 9.5 The OSC Chair will have an allocated 10 minute slot on the Cabinet agenda to feedback any questions together with any other issues from the Committee's

deliberations. The Chair may also appoint a delegate to undertake this function if he/she is unavailable to attend.

10. Items of business requested by members of the OSC under the provisions of the Overview and Scrutiny Procedure Rule 9.1

10.1 Members of the OSC may request the Assistant Chief Executive to include an item relevant to the functions of the Committee on the agenda of the next available meeting. Please see Appendix 1 to this report for full details.

10.2 Protocol for transacting such business at OSC:

- “Presentation” by requesting Member to the Committee - Time allowed 10 minutes. Member to outline why he/she thinks the OSC should initiate a review of the matter and set out his/her alternative course of action.
- OSC members then to be given the opportunity to ask questions of clarification and receive answers from requesting Member.
- Corporate Director response to be asked to address the points raised by the requesting Member (brief written response to be tabled providing sufficient information for the Committee to take a view) and any remaining points raised by the OSC members in the Question and Answer session.
- Cabinet Member (who may be present) may be given an opportunity, by the Chair, to make a contribution on specific points if he/she so wishes but this not to be a generalised right of reply or a lengthy matter.
- OSC members to discuss and reach a determination. The Chair to summarise the deliberations and move a motion for consideration/ agreement of the Committee.

Deliberations

- The Committee are required to decide whether or not further scrutiny of the matter in question is appropriate.
- The OSC must be satisfied that the matter is relevant to its work programme, and if it is not the request for consideration must be refused. If the request is determined to be relevant to the work programme the Committee should identify the item in the work programme to which it relates.
- If the committee decide that further scrutiny is required it should indicate how the matter should be dealt within the context of the work programme item ie specify what form the further scrutiny should take. Perhaps requesting a detailed report from officers and their attendance at the next OSC meeting to address the issues, or perhaps a scrutiny review.
- Should the Committee decide to undertake a scrutiny review:
 - The broad terms the terms of reference of the Scrutiny Working Group should be stated.
 - A date should be set for submission of a report upon the Working Group’s findings to the Committee.
 - It should be established upon a representational basis as per paragraph 4.5.4 above.

10.3 Scrutiny Review Groups

Once appointed it is the responsibility of a Scrutiny Working Group:

- To scope the review and establish a timetable to meet the Committee’s reporting requirement
- To convene one or more meetings to scrutinise/review the issues under consideration

- To prepare a report with such recommendations as the Working Group considers appropriate for submission to the Committee.

11. Items referred to OSC by councillors under the provisions of the Overview and Scrutiny Procedure Rule 9.3

- 11.1 Any member of the Council may refer a local government matter to the OSC for examination under the Councillor Call for Action (CCfA) provisions introduced by Section 119 of the Local Government and Public Involvement in Health Act 2007 that came into force on 1st April 2009.

12. Health Scrutiny

- 12.1 The Health Scrutiny Panel is a sub-committee of the OSC which meets on a quarterly basis with terms of reference and membership as set out in the Constitution (Article 6 and Part 4 – “Rules of Procedure”, Section 4.5 – “Overview and Scrutiny Procedure Rules”. As well as its statutory obligations, the Panel will also consider a work programme agreed by the OSC. The Scrutiny Lead for “Adult Health and Wellbeing” chairs the Health Scrutiny Panel must regularly report to OSC on the work of the Panel.

13. Protocol for the Conduct of Business

- 13.1 Given the Terms of Reference of the Committee, the nature of business that it will consider will vary depending upon the role it is undertaking. It can also be assumed that in addition to Committee Members, a variety of persons, in differing capacities are likely to attend meetings of the Committee. These would include:

- Church/Faith or Parent Governor representatives
- the Mayor and Cabinet Members
- non-executive members
- members of the Health Scrutiny Panel
- chief officers or their representatives
- external witnesses invited by the Committee to give evidence and advice
- members of the public

- 13.2 In order to facilitate the smooth conduct of business it will be necessary for all concerned to have an understanding of when and how it is appropriate for them to participate in meetings of the Committee. It is therefore suggested in accordance with the provisions of the Council’s Constitution, the Committee continues to use the protocol previously adopted for the conduct of business as detailed below:

- (i) Voting Members to occupy specified seats (nearest to the Chair and Vice-Chair and Lead Officer.)
- (ii) “Call In” Members to occupy specified seats.
- (iii) Cabinet Member(s) to occupy specified seats.
- (iv) Subject to any variance agreed by the Committee, items of business to be dealt within the order that they appear on the agenda.
- (v) The agenda be structured so that business is considered in the order set out in Appendix 1 to this report.