

Committee Overview and Scrutiny	Date 6 June 2006	Classification Unrestricted	Report No. O&SC02/067	Agenda Item No. 5.2
Report of: Assistant Chief Executive Originating Officer(s) : Michael Keating		Title : Overview and Scrutiny Committee Protocols and Guidance Ward(s) affected: N/A		

1. Summary

- 1.1 This report sets out the protocols for members of the Overview and Scrutiny Committee (OSC). It also outlines procedures for the receipt of deputations and petitions.

2. Recommendations

- 2.1 That the report (appendix 1) attached be agreed.
- 2.2 That the payment of allowances to co-opted Members of the Health Scrutiny Panel be approved as proposed in paragraph 15.2 of the report.

LOCAL GOVERNMENT ACT, 2000 (SECTION 97) LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT

Brief description of "background paper"
address where open to inspection

Name and telephone number of and

Background file held in Democratic Renewal and Engagement

Tim Hogan
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3. Background

3.1 Under the Council's revised constitution the provisions for the Council's Overview and Scrutiny functions are to:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions.
- (ii) advise the Cabinet of key issues/questions arising in relation to reports due to be considered by Cabinet.
- (iii) make reports and/or recommendations to the full Council and/or the Executive in connection with the discharge of any functions.
- (iv) consider any matter affecting the area or its inhabitants.
- (v) exercise the right to "call in", for reconsideration, decisions made but not yet implemented by the Executive.

3.2 The protocols attached at Appendix 1 provide a viable basis for the practical functioning of the Overview and Scrutiny Committee (OSC) and outline how the Committee will manage its work.

4. Comments of the Chief Financial Officer

4.1 The report proposes to give an allowance to Health Scrutiny Panel co-optees on the same basis as that for the appointed representatives and co-optees to Overview and Scrutiny Committee. The additional cost of these allowances, estimated at £2,000 per year, will be contained within existing resources.

5. Concurrent Report of the Chief Legal Officer

5.1 The Overview and Scrutiny Committee is recommended to agree the protocols and guidance as at appendix 1. These comply with the requirements for Overview and Scrutiny as set out in the Council's revised constitution.

6. Anti-poverty and equal opportunity implications

6.1 Equal opportunities and reducing poverty will be central to the work of the Overview and Scrutiny Committee. The report will allow the Committee and its members to function well over the coming year and work towards reducing poverty in the borough and improve equal opportunities.

7. Risk Management

7.1 The adoption of the protocols and guidance set out in Appendix 1 will assist in the effective and efficient functioning of the Overview and Scrutiny Committee and therefore reduces the risk of poor delivery of the Council's Overview and Scrutiny function.

Overview and Scrutiny Committee – Protocols and Guidance

1. Introduction

- 1.1 The report outlines guidance and protocols for the functioning of the Overview and Scrutiny Committee (OSC) in Tower Hamlets.

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

2.3 Scrutiny Leads

- ensure the accountability of those Cabinet 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-ordinates scrutiny activity in their 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 responsibly:

- 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 wider local Partnership agenda and, where appropriate, within London

- 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 them through Member Learning and Development will be as crucial as meeting them completely.

3. Agenda

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

Report	Timing
Call-in	When these occur – see 4.1
Overview and Scrutiny Committee Work Programme including the programme of topics for review. Subsequent reports allow OSC to monitor its progress.	Beginning of the municipal year and thereafter every 2 months - see 4.2
Budget and Policy Framework items	At least 20 days before the item is to be considered by Cabinet (unless there are special factors requiring a shorter timescale) - see 4.3
Performance Information and Monitoring reports	Timetabled through the year - see 4.4
Tracking progress of Overview and Scrutiny recommendations	Twice during the year
Pre-decision overview and scrutiny	When items are raised – see 4.6

4. Procedures

4.1 Call-in

- 4.1.1 Five or more Members can request a call-in of a Cabinet's provisional decision (two voting co-opted Members in respect of education matters only).
- 4.1.2 The deadline for receipt of completed call-in requisitions is five working days after the publication of the provisional Cabinet decisions. For example, the next Cabinet meeting is to held be on Wednesday, 7 June, the provisional Cabinet decisions will be published on Friday 9 June with the deadline for call-ins being Friday 16 June at 5.00pm.
- 4.1.3 Call-in Members will be asked to give reasons in writing, as well as outlining an alternative course of action. The request must state whether or not those Members believe that the decision is outside the Budget and Policy Framework.
- 4.1.4 The following may not be called in:
- Any matter which has already been the subject of a call-in
 - A decision which is time-critical (this is only in highly exceptional circumstance and the decision-taker will have to give a reason to OSC)

- Decisions of regulatory and other committees discharging non-executive functions such as Development and Licensing Committees
- Officers' day to day decisions
- A resolution which merely notes the report or officer action
- A resolution making recommendations to full Council.

4.1.5 The Assistant Chief Executive will respond to the request within twenty-four hours, either by placing the item on the agenda of the next OSC or by a letter explaining why the call-in request is not a valid one.

4.1.6 If a decision is called in, the OSC will consider it at its next meeting. The business procedure would then be as follows in a strictly time limited slot of up to one hour:

- presentation of the call-in by one of the call-in Members followed by questions from OSC Members
- response from Lead Members/officers followed by questions from OSC Members
- general debate among OSC Members followed by a decision
- call-in Members would not be allowed to speak again
- 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.

4.2 Overview and Scrutiny work programme

4.2 OSC will agree its work programme at the beginning of the municipal year and consider progress every two months. 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 performance and information reports.

4.3 Budget and policy framework items

4.3.1 The policy framework is the plans and strategies required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and regulations under s.32 Local Government Act 2000 to be adopted by the full Council and which OSC should examine. It includes the:

- Community Plan
- Best Value Performance Plan (Strategic Plan)
- Community Care Plan
- Crime and Disorder Reduction Strategy
- Transport Local Implementation Plan
- Local Development Plan
- Youth Justice Plan
- Children and Young People's Plan
- Licensing Policy

4.3.2 Budget items which OSC will monitor and examine are the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

4.4 Performance and information monitoring

4.4.1 OSC will throughout the course of the year regularly monitor and examine reports on the Corporate Strategic Plan (6 monthly) plus Annual Review, Tower Hamlets Index (bimonthly), Equalities Action Plan (6 monthly), Customer Complaints (6 monthly) and Members Enquiries (6 monthly). Within the Scrutiny Spotlight session, it will also

receive presentations from Lead Members and Directors on the performance and challenges facing key Council services.

4.5 Reviews, Investigations and Challenge Sessions

- 4.5.1 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.
- 4.5.2 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 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.
- 4.5.3 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.
- 4.5.4 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.
- 4.5.5 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.
- 4.5.6 A progress check on the implementation of recommendations will be considered twice a year by OSC.

4.6 Pre-decision scrutiny of Cabinet business

- 4.6.1 Consideration of the Forward Plan will allow the Overview and Scrutiny Committee to highlight upcoming issues for the review programme or for further work by the relevant Lead Scrutiny Member.
- 4.6.2 The Overview and Scrutiny Committee meets the night before Cabinet and has the opportunity to raise questions which it considers Cabinet should take into account in reaching its decision.
- 4.6.3 Overview and Scrutiny Members receive the Cabinet papers on their initial despatch the week before the meeting.

- 4.6.4 Members must notify the Chair in writing (via the clerk to OSC) of any questions they wish to raise by 12 noon on the Monday of the same week of OSC and Cabinet meetings.
- 4.6.5 There will be a slot of a maximum of 45 minutes to consider questions for Cabinet. When necessary, the Chair, Vice Chair and a nominated Minority Member will meet prior to OSC meeting to determine how this time could best be used if there are a significant number of questions raised. Those Members would use the following criteria:
- the 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
- 4.6.6 Members are able to raise questions and comments only, not have a full-scale debate on issues
- 4.6.7 The Committee must aim for a consensual agreement on the issues/questions to be raised with Cabinet.
- 4.6.8 The Chair of the Overview and Scrutiny Committee 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.

5. Extraordinary meetings

- 5.1 Only on rare occasions and in exceptional circumstances would it be necessary to timetable an additional meeting of the Committee. The Committee would be expected to manage its workload to fit the time available.

6. Health Scrutiny

- 6.1 Health Scrutiny is a Standing Panel meeting on a quarterly basis with terms of reference and membership set out in the Constitution. The Panel will consider its work programme that will be agreed by the Overview and Scrutiny Committee. The Scrutiny Lead for Health must regularly report to OSC on the work of the Panel.

7. Powers to Summon Members and Officers

- 7.1 The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. As well as reviewing documentation, in fulfilling their role, they may require the Leader, any other Member of the Executive, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit.
- 7.2 Where any Member or officer is required to attend the Overview and Scrutiny Committee or a Scrutiny Panel under this provision, the Chair of the Committee or Panel will inform the Chief Executive. The Chief Executive shall inform the Member or officer in writing giving at least 15 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee or Panel. 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 sufficient notice to prepare the report.

- 7.3 Where, in exceptional circumstances, the Member or officer is unable to attend on the required date and a substitute is unavailable, then they should attend the next scheduled meeting of OSC.

8. Attendance by Others

- 8.1 The Overview and Scrutiny Committee (or the Health Scrutiny Panel) may invite people to address it and to 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.

9. Protocol for the Conduct of Business

- 9.1 Given the Orders 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:

- councillors or Church/Faith or Parent Governor representatives
- the Leader of the Council and Lead 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

- 9.2 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 and Research and Scrutiny officer.)
- (ii) 'Call In' Members to occupy specified seats.
- (iii) Lead 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 to be structured so that business is considered in the following order:
 - (a) Apologies for absence.
 - (b) Minutes of the last meeting.
 - (c) Members' Declarations of interest.
 - (d) Consideration of any matter referred to the Committee for decision in relation to "call in".
 - (e) Responses of the Executive to reports of the Overview and Scrutiny Committee.
 - (f) The business otherwise set out in the agenda.

11. Procedure for the Receipt of Deputations

- 11.1 Deputations may be received at any meeting of the Committee following seven clear days written notice to the Assistant Chief Executive. They must be about matters for which the Council has a responsibility or which affect the area. The notice must be signed by at least five persons with addresses in the borough and set out the subject which the deputation wishes to raise and how it relates to the Council's functions or affects the area. The Chair may, on the advice of the Chief Executive, refuse a deputation that is illegal, scurrilous, improper, out of order or relating to a matter on which there has been a previous similar deputation within the preceding six months.
- 11.2 A maximum of three deputations only will be permitted at any meeting and they will be selected in the order notice is received.
- 11.3 A deputation may consist of up to five people, of whom no more than two may speak, except to answer Members' questions.
- 11.4 The deputation may address the meeting for no more than five minutes and Members may then question the deputation for a further five minutes.
- 11.5 The relevant Member may then address the meeting for up to three minutes.
- 11.6 The issue in question will be referred to the relevant Corporate Director for attention who will respond to the deputation in writing within 28 days.

12. Petitions

- 12.1 Petitions may be presented by residents of the borough whose names appear in the Register of Electors or by a Councillor at any meetings of the Committee. They must be about matters for which the Council has a responsibility or which affect the area. The Chair may, on the advice of the Chief Executive, refuse a petition which is illegal, scurrilous, improper or out of order. A maximum of 3 petitions only will be permitted at any meeting and will be selected in the order notice is received.
- 12.2 A person wishing to present a petition must give notice to the Assistant Chief Executive at least seven clear days before the meeting. The petition must contain signatures from at least 30 persons with residential or business addresses in the borough. If it does not, the petition will not be able to be submitted to the meeting.
- 12.3 The person presenting the petition may address the meeting for five minutes. Members may question petitioners and make initial comments for a further five minutes.
- 12.4 The Chair of Committee may then address the meeting for up to three minutes.
- 12.5 All petitions will be referred to the relevant Corporate Director for attention who will respond to the petition in writing within 28 days.

13. Voting

- 13.1 Any matter to be decided at a meeting of the Overview and Scrutiny Committee shall be determined by a majority of votes of those Members present and voting on the matter, in the case of equality of votes, the Chair shall have a casting vote.

- 13.2 If the Chair and Vice-Chair are not present at a meeting of the Committee those Members of the Committee who are present may elect a Chair, from one of their number, for the duration of the meeting.

14. Notice and Access to Meetings

- 14.1 Meetings of the Committee shall be open to the press and public. However, they may be excluded from the meeting, by a resolution of the Committee, if it is considered likely in view of the nature of the business or proceedings that, were they present, confidential or exempt information would be disclosed to them.
- 14.2 Notice of a meeting of the Committee is published 5 clear days before the meeting. The Council's Constitution requires an agenda to be published 5 clear days before a meeting.
- 14.3 A publicity poster advertising meetings of the Overview and Scrutiny Committee is produced and circulated on the day that the agenda for the Cabinet is published. The publicity poster indicates key matters which are due to be considered by the Cabinet and in respect of which members of the public might wish to influence the Council's decision making process. The poster also informs the public of steps they need to take to get a matter "Called In" for consideration by the Committee.

15. Co-optees and Appointed Representatives

- 15.1 Under the Council's constitution, OSC co-optees and appointed representatives are entitled to claim an allowance for their attendance. This is a nominal sum to cover expenses and recognise the contribution that they make to the committee's work.
- 15.2 As the Health Scrutiny Panel also appoints co-optees to involve the Patient Public Forums within the borough, it is intended that they also be entitled to claim the allowance.