

Committee	Date	Classification	Report No.	Agenda Item No.
Overview and Scrutiny	10 June 2008	Unrestricted		6.2
Report of: Acting Assistant Chief Executive Originating Officer(s) : Afazul Hoque, Acting Scrutiny Policy Manager		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.

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 Services

Amanda Thompson
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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.
- (vi) Refer any report it receives with implications for ethical standards to the Standards Committee for its consideration.

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

4. Comments of the Chief Financial Officer

4.1 There are no direct financial implications arising out of this report.

5. Concurrent Report of the Assistant Chief Executive (Legal Services)

5.1 Section 21 of the Local Government Act 2000 requires authorities to set up an Overview and Scrutiny Committee. The Council's constitution in Article 6 sets out the terms and reference of the Overview & Scrutiny Committee. The attached protocols and guidance will assist the Committee in fulfilling its statutory obligations.

6. Anti-poverty and equal opportunity implications

6.1 Equal opportunities and reducing poverty will be central to the work of the OSC. 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 OSC and therefore reduce the risk of poor delivery of the Council's Overview and Scrutiny function.

Overview and Scrutiny Committee – Protocol and Guidance

1. Introduction

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

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
 - Delegate 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.

Protocol

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 10 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
Scrutiny Spotlights	Monthly

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, for a Cabinet meeting held on Wednesday, 11 June, the provisional Cabinet decisions would be published on Friday 13 June with the deadline for call-ins being Friday 20 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 decision which has already been the subject of a call-in
 - A decision the implementation of which is urgent such that delay would seriously prejudice the Council's or the public interest (this is only in exceptional circumstances and with the agreement of the Chair of the OSC or in his/her absence the Mayor; 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 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.

4.2 Overview and Scrutiny work programme

- 4.2.1 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.
- 4.2.2 Pursuant to Rule 9.1 of the Overview and Scrutiny Procedure Rules any Member of the Committee may give notice to the Assistant Chief Executive that s/he wishes an item relevant to the functions of the Committee to be included on the agenda of the next available meeting and subject to satisfaction that the matter is relevant to the committee work programme, the Assistant Chief Executive shall so ensure.
- 4.2.3 Upon consideration of a request the Committee must be satisfied that the matter is relevant to its work programme. If not the request for consideration must be refused.
- 4.2.4 If the request is determined to be relevant to the work programme, the Committee must decide how to deal with it. It should:
- Identify the item in the work programme to which it relates

- Indicate how the matter should be dealt within the context of the work programme item
- State in broad terms the terms of reference of the Scrutiny Working Group to consider the work programme item
- Determine the date by which a report upon the Working Group's findings be submitted to the Committee
- Establish a Scrutiny Working Group upon a representational basis as per paragraph 4.5.4

4.2.5 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.

4.3 Budget and policy framework items

4.3.1 The policy framework outlines the plans and strategies required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended, 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)
- Crime and Disorder Reduction Strategy
- Local Transport Plan
- Local Development Scheme
- Youth Justice Plan
- Children and Young People's Plan
- Licensing Authority Policy Statement

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), Diversity & Equality 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. Challenge Session reports are agreed by OSC following this an action plan is developed by the department which is then monitored through the recommendation tracking report. In circumstances, where there resource implications the report will be presented to Cabinet.

4.5.6 A progress check on the implementation of recommendations will be considered twice a year by OSC through the recommendation tracking report.

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 decisions.

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
 - questions should consider they can influence the decision of the Cabinet to ensure it meets local needs.
- 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. The Chair may also appoint a delegate to undertake this function if he/she is unavailable to attend.

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 The Health Scrutiny Panel is a sub-committee of the Overview and Scrutiny Committee which meets on a quarterly basis with terms of reference and membership set out in the Constitution. As well as its statutory obligations the Panel will also consider a work programme agreed by the Overview and Scrutiny Committee. The Scrutiny Lead for Healthier Community who will also Chair the Health Scrutiny Panel 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 Working Group 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 Working Group. 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 in order to satisfy the constitutional requirement for attendance to take place within the a maximum of 21 working days from the date of the original request.

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 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 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.)
- (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) The business otherwise set out in the agenda.

10. Procedure for the Receipt of Deputations

- 10.1 Deputations may be received at any meeting of the Committee following three clear working 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 and which relate to an item of business being considered at the meeting. 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 Assistant Chief Executive, refuse a deputation that is not a matter for which the local authority has a responsibility or which affects the borough, 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.
- 10.2 A maximum of three deputations only will be permitted at any meeting and they will be selected in the order notice is received.
- 10.3 A deputation may consist of up to five people, of whom no more than two may speak, except to answer Members' questions.
- 10.4 The deputation may address the meeting for no more than five minutes and Members may then question the deputation for a further five minutes.
- 10.5 The relevant Lead Member may then respond to the deputation for up to three minutes.
- 10.6 Any outstanding issues in question will be referred to the relevant Corporate Director for attention who will respond to those outstanding issues in writing within 28 days.

11. Procedure for the Receipt of Petitions

- 11.1 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 and which relate to an item of business being considered at the meeting. The Chair may, on the advice of the Chief Executive, refuse a petition if it is not about a matter for which the local authority has a responsibility or which affects the borough, is defamatory, frivolous or offensive, is substantially the same as a petition which has been put at a meeting of the Committee in the past six months and requires the disclosure of confidential or exempt information. A maximum of 3 petitions only will be permitted at any meeting and will be selected in the order notice is received.
- 11.2 A person wishing to present a petition must give notice to the Assistant Chief Executive at least three clear working 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.
- 11.3 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.
- 11.4 The relevant Lead Member may then respond to the petition for up to three minutes.

- 11.5 Any outstanding issues will be referred to the relevant Corporate Director for attention who will respond to those outstanding issues in writing within 28 days.
- 11.6 **Limitation:** An individual or group may only either submit a question or submit a petition or make a deputation to the Committee on the same subject at any given time.

12. Voting

- 12.1 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.
- 12.2 If the Chair and Vice-Chair are not present at a meeting of the Committee those Members of the Committee who are present shall elect a Chair, from one of their number, for the duration of the meeting.

13. Notice and Access to Meetings

- 13.1 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.
- 13.2 Notice of a meeting of the Committee is published 5 clear working days before the meeting. The Council's Constitution requires an agenda to be published 5 clear working days before a meeting.
- 13.3 A publicity poster advertising meetings of the Overview and Scrutiny Committee is produced and circulated on the day that the agenda is published. The Cabinet agenda also informs the public and Members of the arrangements that exist for matters to be "Called In" for consideration by the Committee.

14. Co-optees and Appointed Representatives

- 14.1 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. It was also agreed last year that co-optees appointed to the Health Scrutiny Panel be also entitled to claim a similar allowance.