

# OVERVIEW AND SCRUTINY COMMITTEE (OSC) PROTOCOL 2021

## 1 INTRODUCTION

- 1.1 Overview and Scrutiny plays a fundamental role in the Council's governance arrangements through holding decision makers to account, policy review and development, acting as a community voice and ensuring the efficient delivery of public services. Effective scrutiny requires the commitment of the whole Council and partners, as well as creating the right culture, behaviours and attitude that sees scrutiny as a valuable contributor to the business of the Council.
- 1.2 This new protocol is a welcome opportunity for the whole Council to re-affirm its commitment to effective scrutiny, foster an effective and constructive working relationship with all stakeholders in the scrutiny process and refresh relevant policies and procedures so that they reflect best practice. It also takes into account learning from recent Haringey scrutiny work as well as the new Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities that was published by the Ministry of Housing, Communities and Local Government (MHCLG) in May 2019.
- 1.3 The Protocol is intended to give effect to the provisions in the Constitution relating to Overview and Scrutiny. In the event of any apparent conflict that may arise between the provisions in the Protocol and the Constitution, the Constitution shall take precedence.

## 2 ROLE OF OVERVIEW AND SCRUTINY COMMITTEE

- 2.1 The Council is committed to creating an environment conducive to effective scrutiny. It is a statutory function and a requirement for all authorities operating executive arrangements. It is also an integral part of the Council's decision-making structure and provides essential checks and balances to the Council's Cabinet to ensure that its powers are used wisely. Whilst its legitimacy is beyond question, scrutiny should nonetheless be able to demonstrate clearly to the Council and its Cabinet, senior management team, partners and the public the value that it adds in its work and seek to make recommendations that improve the lives of local residents.
- 2.2 Effective Overview and Scrutiny should:
  - Provide constructive challenge;
  - Amplify the voices and concerns of the public;
  - Be led by independent minded Members who take responsibility for their role; and
  - Drive improvement in public services.

### *Challenge*

- 2.3 For challenge to be effective, it needs to be sufficiently robust. It should nevertheless be constructive and focused on matters of timely relevance to the Council and the wider community. The role of scrutiny as a 'Critical Friend' should be undertaken in a courteous and professional manner, reflecting the Member's Code of Conduct. The aim of scrutiny should be to improve decision making and outcomes for residents, not scoring political points or providing a political opposition to those who make decisions.

### *Public and Community Involvement*

- 2.4 Overview and Scrutiny has an important role in articulating the concerns of residents and community organisations. It will therefore strive to facilitate their involvement in its work and, in particular, the development of its work plan, providing evidence and asking questions.
- 2.5 Overview and scrutiny will seek to ensure that the feedback that it receives is representative of the local community. It will be proactive in seeking input and seek to involve individuals and groups within it that are best placed to inform specific pieces of work. It will use a range of methods and, where possible, locations in order to best to engage with diverse stakeholders and listen to their views and experience.

### *Independence*

- 2.6 Overview and scrutiny shall be independent in both outlook and operation. The Cabinet should not seek to direct the areas that it focusses upon, although suggestions can be made for the work programme. Overview and scrutiny shall not be subject to undue party political influence, such as whipping. Members on scrutiny bodies shall also undertake their work with an open mind and make recommendations that are based on the evidence that they receive rather than pre-conceived ideas or pressure from within the political group. It should seek to be strategic and focused on the Council and its communities of interest.

### *Driving Improvement*

- 2.7 It is important that scrutiny not only provides challenge but delivers outcomes. These should aim to make a difference to the lives of residents through improving public services. This should be achieved by the making of evidence-based recommendations to the Council's Cabinet and other organisations responsible for the commissioning and delivery of public services.

## **3 RESPONSIBILITIES**

- 3.1 Overview and scrutiny can scrutinise any matter which affects the authority's area or its residents' wellbeing. The powers of Overview and Scrutiny were contained in the Local Government Act 2000 and consolidated by the Localism Act 2011. It can:
- Review decisions taken by the Cabinet or the Council;
  - Investigate matters affecting the borough of Haringey and its residents;
  - Contribute to policy development for the Council;
  - Make reports and recommendations to the Cabinet or the Council;
  - Review decisions made by the Cabinet but not yet implemented ("call-in");
  - Appoint sub-committees and arrange for them to discharge any of its functions;
  - Review matters relating to the health service and crime and disorder and make reports and recommendations;
  - Require members of the Cabinet and officers to attend to provide information and answer questions;
  - Invite other persons to attend meetings as part of its evidence gathering;
  - Give notice in writing to a relevant partner authority requiring that it has regard to a report or recommendations relating to its functions; and
  - Request information from a relevant partner authority that is required for Overview and Scrutiny to discharge its functions.

## **4 STRUCTURE**

- 4.1 The Overview and Scrutiny Committee shall comprise five members and be politically proportionate as far as possible. The membership shall be appointed each year at the Annual Council Meeting. The chair of the Committee shall be a member of the majority group. The Vice-Chair shall be a member of the largest minority group. The Committee shall also comprise statutory education co-optees, who have voting rights on education matters.
- 4.2 The Overview and Scrutiny Committee shall establish four standing Scrutiny Panels to examine designated public services. The Committee shall determine the terms of reference of each Panel. If there is any overlap between the business of the Panels, it is the responsibility of the Overview and Scrutiny Committee to resolve the issue. Areas which are not covered by the four standing Panels shall be the responsibility of the Overview and Scrutiny Committee.
- 4.3 The chair of each standing Scrutiny Panel shall be a member of the Overview and Scrutiny Committee and shall be determined by the Committee at its first meeting of the year. It is intended that each Panel shall be comprised of between 3 and 7 members and be politically proportionate as far as possible. The membership of each Scrutiny Panel shall be appointed by the Overview and Scrutiny Committee. It is intended that, other than the Chair, the other members will be non-executive members who do not sit on the Overview and Scrutiny Committee.
- 4.4 Should one of the Panels be responsible for education issues, the membership shall include the statutory education co-optees. It is intended that the education co-optees will also attend the Overview and Scrutiny Committee when reports from a relevant Scrutiny Panel are considered.
- 4.5 Each Scrutiny Panel shall be entitled to appoint up to three non-voting co-optees. Non voting co-optees are expected to add value to scrutiny by performing the following roles:
- To bring a diverse spectrum of experience and adding a different perspective to any items;
  - To act as a non-party political voice for those who live and/or work in Haringey; and
  - To bring specialist knowledge and/or skills to the Overview and Scrutiny process and an element of external challenge by representing the public.
- 4.6 Nominations for non-voting co-optees will be sought primarily from established community groups but consideration can be given to specific individuals where particular expertise/experience is required that would not be otherwise available<sup>1</sup>.
- 4.7 Overview and Scrutiny bodies shall seek to work by consensus. Votes should only take place when as a last resort and when all efforts to achieve a consensus have been unsuccessful.

## **5 MEETING FREQUENCY AND FORMAT**

- 5.1 The Committee shall hold six scheduled meetings each year. One meeting shall include agreement of the annual work programme for Overview and Scrutiny. One meeting, in January, shall consider the budget scrutiny recommendations from each Scrutiny Panel. In addition, the Committee may also hold evidence gathering meetings as part of in-depth scrutiny reviews on a specific issue as and when required. An extraordinary meeting of the OSC may be called in accordance with the Council's Constitution (Part 4 Section G).

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<sup>1</sup> There is a separate and detailed Protocol regarding the process for appointment of non-voting co-optees.

- 5.2 Members of the Council may Call In a decision of the Cabinet, or any Key Decision made under delegated powers, within five working days of the decision being made. The full procedure is given in the Council's Constitution (Part 4 Section H).
- 5.3 Pre-decision scrutiny on forthcoming Cabinet decisions shall only be undertaken at scheduled Overview and Scrutiny Committee meetings, in adherence with the Council's Forward Plan.
- 5.4 It is intended that each Scrutiny Panel shall hold four scheduled meetings each year. An extraordinary meeting of a Panel may be called in accordance with the Council's Constitution (Part 4 Section G). In addition, Scrutiny Panels may also hold evidence gathering meetings as part of in-depth scrutiny reviews on a specific issue as and when required.
- 5.5 The choice of venue for meetings may have regard to the business to be transacted and the circumstances of the time. This may include meeting online for remote working or to improve access to those providing evidence to the Committee or a Panel.

## **6 ENGAGING WITH THE CABINET**

- 6.1 Legislation relating to local authority governance provides for the separation of the Executive and Non-executive Members of a Council in order to provide a check and balance on decision-making. The Overview and Scrutiny Committee therefore shall engage regularly with Cabinet, particularly regarding its future work programme and the Forward Plan. The first of such meetings should be arranged with Cabinet prior to the first meeting of the Committee. The Chairs of the Overview and Scrutiny Committee and the Scrutiny Panels shall seek to liaise on a regular basis with the relevant Cabinet Members covering relevant portfolios regarding the progress of the work programme, agenda setting and requests for reports, attendance and updates.
- 6.2 The Leader of the Council and Chief Executive shall be invited to the Overview and Scrutiny Committee as required, based upon the agenda of a meeting, but at least once a year at the meeting when the Overview and Scrutiny work programme is considered. This shall be an opportunity to discuss jointly, amongst other matters, the Council's priorities for the next year. Meetings between the Cabinet and scrutiny should focus on outcomes and be respectful and constructive, respecting the different but complementary nature of the roles and the value of scrutiny to the Council and its residents.
- 6.3 All Cabinet Members will be expected to attend either the Overview and Scrutiny Committee and/or Scrutiny Panels as required and with reasonable notice, based upon the agenda of a meeting, but at least twice a year. Cabinet Members will be expected to provide information specific to an agenda item, to provide updates on key areas within their portfolios and to answer questions.
- 6.4 The Leader and Cabinet Members attending an Overview and Scrutiny Committee or Scrutiny Panel meeting may be accompanied and assisted by any service officers they consider necessary. The Member may invite an officer attending to answer a question and provide information on their behalf.
- 6.5 Cabinet Members and senior officers attending formal meetings of scrutiny bodies shall strive to provide full answers to questions that are put to them. Where this is not possible due to the necessary information not being accessible at the meeting, a written answer will be provided within 7 working days of the date of the meeting. To better meet requests for information, members of the Committee

and its Panels will seek to provide advance notice of questions so that Cabinet Members and senior officers may prepare for their participation in the meeting.

## **7 RESPONDING TO SCRUTINY RECOMMENDATIONS**

7.1 Overview and Scrutiny may make recommendations to the Cabinet or any other public service providers. Recommendations to Cabinet shall be introduced by either the Chair of the Overview and Scrutiny Committee or the relevant Scrutiny Panel. They shall be responded to by the appropriate body within two months of their receipt. Responses shall be circulated to Members of the relevant scrutiny body before the Cabinet meeting to approve the response. Where recommendations from Overview and Scrutiny are not accepted by Cabinet, an explanation will be given of the reasons why. Where a response is requested from NHS funded bodies, the response shall be made within 28 days.

## **8 THE OVERVIEW AND SCRUTINY WORK PROGRAMME**

8.1 Overview and Scrutiny will agree its own annual work programme and keep it under review over the course of a municipal year. It will have regard to corporate and strategic priorities and consult widely to inform the focus for scrutiny activity.

8.2 The Council's Democratic Services Team shall coordinate the development of the work programme for Overview and Scrutiny, covering the work of the Committee and of the Scrutiny Panels. The development process for this should include engagement with Members, Cabinet, senior officers, partners, voluntary and community organisations and residents, with specific opportunities provided for each of them to submit suggestions. Whilst safeguarding the independence of the scrutiny process, the Committee shall have regard to all such suggestions when they decide their work programme.

8.3 Decision makers should seek to involve scrutiny in the development of new policy at an early stage when proposals are being developed so that account can be taken of it when developing its work plan.

8.4 As part of the development of the work programme, the Committee will determine how external partners and public service providers shall be scrutinised and engage with key personnel to build the necessary relationships and awareness for this purpose.

8.5 The scrutiny work programme should reflect a balance of activities, including:

- Holding the Executive to account;
- Policy review and development;
- Performance management;
- External scrutiny; and
- Public and community engagement.

8.6 The work programme should;

- Reflect local needs and priorities. Issues should be of community concern as well as Borough Plan and Medium Term Financial Strategy priorities;
- Prioritise issues that have most impact or benefit to residents;
- Involve local stakeholders; and
- Be flexible enough to respond to new or urgent issues.

8.7 Scrutiny work will be carried out in a variety of ways and use whatever format that is best suited to the issue being considered. This can include a variety of "one-off" reports as well as in-depth scrutiny

review projects that provide opportunities to thoroughly investigate a topic and recommend improvements.

- 8.8 In deciding its work programme, the Committee shall be mindful of the need to achieve meaningful outcomes by ensuring that plans are deliverable within the timescale set and with the resources available.
- 8.9 A template shall be maintained and shared by the Democratic Services Team to provide criteria to assist with the preparation and updating of the work programme. The Team also will assist the Committee and its Panels in tracking their decisions and requesting updates on progress from time to time, following which the Chair and officer will consider whether such matters need to form an agenda item.
- 8.10 A template shall be maintained for the use of the Chairs and Officers of the OSC and Panels to assist the Cabinet and senior officers in understanding the purpose of scrutiny activity relating to specific topics and to justify requests for information or reports. Agenda planning meetings shall be arranged between Chairs and senior officers ahead of scheduled meetings to ensure clarity on any reports that are requested. A detailed scope, terms of reference and project plan shall also be prepared for each in-depth scrutiny review project prior to it starting. This shall include consideration of resources, timescale for completion and aspired outcomes.

## **9 BUDGET SCRUTINY**

- 9.1 The Council's budget shall be scrutinised by both the Overview and Scrutiny Committee and each of the Scrutiny Panels. The role of the Committee shall be to scrutinise the overall budgetary position and direction of the Council and strategic issues relating to this, whilst each Scrutiny Panel will scrutinise areas that come within their terms of reference. Any individual areas of the budget that are not covered by the Panels shall be considered by the Committee.
- 9.2 A lead Committee member from the largest opposition group shall be responsible for chairing the Budget Scrutiny process and co-ordinating recommendations made by respective Scrutiny Panels and the Committee relating to the budget.
- 9.3 To allow effective scrutiny of the budget in advance of it formally being set, the following timescale is suggested:
- **Scrutiny Panel Meetings: May to November**  
The Overview and Scrutiny Committee will receive regular budget monitoring reports budget whilst each Scrutiny Panel shall monitor budgets within their respective areas. Between May and November, this shall involve scrutinising progress with the Medium Term Financial Strategy (MTFS) approved at the budget setting full Council meeting in February.
  - **Scrutiny Panel Meetings: December/January**  
Each Scrutiny Panel shall hold a meeting following the release of the December Cabinet report on the new MTFS. The Committee will also meet to consider proposals relating to any areas within the MTFS that are not covered by individual scrutiny panels. Each Panel and the Committee shall consider the proposals in this report for their respective areas, in addition to their budget scrutiny already carried out. Relevant Cabinet Members will be expected to attend these meetings to answer questions relating to proposals affecting their portfolios as well as senior service officers.

Scrutiny Panels and the Committee may also request that the Cabinet Member for Finance and/or senior officers attend these meetings to answer questions.

▪ **Overview and Scrutiny Committee Meeting: January**

The Committee will consider and make recommendations on the overall budgetary position and direction of the Council and the MTFs. Each Scrutiny Panel and the Committee shall also submit their final budget scrutiny report to the meeting for ratification, containing their recommendations/proposals in respect of the budget for the areas within their terms of reference.

▪ **Cabinet Meeting: February**

The recommendations from the Budget Scrutiny process that have been approved by the Committee shall be referred to the Cabinet. As part of the budget setting process, the Cabinet will clearly set out its response to the recommendations/proposals.

## **10 ACCESS TO INFORMATION**

10.1 Legislation and the Council's own Standing Orders provide for all Members to have access to information based upon their membership of Committees and on a need to know basis.

10.2 For Overview and Scrutiny to be effective, it needs access to relevant information and in a timely manner. In particular, it is imperative that it has the information necessary to provide effective challenge about the provision, quality and resourcing of services. It has a legal right to information and this includes enhanced power to access exempt or confidential information. This is in addition to existing rights that Councillors have to access information.

10.3 Overview and Scrutiny Members need access to key information about the management of the Council, particularly on performance, management, funding and risk. Members should also be given the support necessary to ensure that they understand such information. In seeking this information, they should be mindful of the capacity of the Council to resource activity and the value and outcomes likely to be gained through it.

10.4 Overview and Scrutiny should not rely purely on those who are directly responsible for services for information and should seek to supplement the evidence at its disposal from within the Council from other sources, including service users, other residents and partners.

10.5 A template shall be maintained for the use of the Chairs and Officers of the OSC and Panels to explain the basis for the request for information and to detail the information that is required and the purpose to which it will be put. Requests will be responded to positively and in a timely manner. To ensure that the information provided is relevant, officers should ensure that they have a clear understanding of the reasons why information is needed by seeking clarification if necessary.

10.6 It is recognised that there may be rare occasions when it may be legitimate for information to be withheld and a written statement setting out the reasons for this will be provided to the OSC and its lead officer should this occur. Cabinet Members and senior officers will nevertheless seek to avoid refusing requests or limiting the information they provide. Before a decision exceptionally is made not to share information, serious consideration will be given to whether the information can instead be shared in closed session and the reason for this stated.

10.7 Where a Cabinet Member or senior officer determine that information requested by the OSC should be withheld, the OSC may refer the matter to the Monitoring Officer for adjudication if it wishes to

challenge the decision. In considering the matter, the Monitoring Officer should have regard to the legitimacy of Overview and Scrutiny, the reason(s) given for withholding the information and the value to the Council and residents of scrutiny activity on this matter.

## **11 TRANSPARENCY AND OPENNESS**

11.1 One of the key roles of Overview and Scrutiny is to promote transparency and openness. The presumption therefore will be that its meetings will take place in public and the need to hold closed sessions will be avoided. Meetings that take place as part of the evidence gathering process for in-depth scrutiny reviews will also take place in public.

11.2 However, it is accepted that there will be limited occasions when it will be appropriate to meet in closed session because of the nature of the business or the position of the witness giving evidence. Evidence gathering activities may therefore take place outside of formal meetings if necessary or appropriate.

11.3 The status of meetings in terms of public or closed sessions, recording and documentation should be made clear in advance to all individuals attending to provide evidence.

## **12 OFFICER ADVICE**

12.1 The Code of Conduct for Officers is clear that all Members are entitled to receive impartial advice and have access to information by virtue of their membership of committees and on a need-to-know basis.

12.2 There is therefore an expectation that all Senior Officers will provide impartial advice to scrutiny bodies as and when required. The Statutory Scrutiny Officer and the Monitoring Officer have particular roles in ensuring that timely, relevant and high quality advice is provided.

12.3 There is a specific statutory requirement for the Council to designate a Statutory Scrutiny Officer. The role of this officer is:

- To promote the role of the authority's overview and scrutiny committee(s);
- To provide support to the authority's overview and scrutiny function and to local Councillors;
- To provide guidance to members and officers of the council in relation to overview and scrutiny's functions.

12.4 The Statutory Scrutiny Officer cannot be the Council's Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.

12.5 The Monitoring Officer has three principal responsibilities:

- To report on matters they believe are, or may be, illegal or amount of maladministration;
- To be responsible for the conduct of councillors and officers; and
- To be responsible for the operation, review and updating of the constitution.

12.6 Where there are disagreements about Overview and Scrutiny's powers, role and remit, the role of the Statutory Scrutiny Officer will be to advocate on behalf of it and protect its independence. The role of the Monitoring Officer will be to adjudicate on such matters and, if need be, report to Full Council on any issues that may need addressing.