

Item 5: O&S Terms of Reference

Extract from Constitution May 2019

5.5 Overview and Scrutiny Committees

All Councillors, except Cabinet Members (and the Lord Mayor) can be members of an Overview and Scrutiny Committee. Chairs of these committees are appointed by the Full Council and Deputy Chairs are elected by each committee at its first meeting, for the purpose of substitution for the Chair if absent.

General role

Overview and Scrutiny Committees will:

- (i) Make reports and/or recommendations to the full Council, the Executive and / or other organisations in connection with the discharge of the functions specified in their terms of reference;
- (ii) Consider any matter covered in their terms of reference that may affect or be likely to have an effect on the citizens of Birmingham; and
 - is relevant to the Council's strategic objectives; and/or
 - is relevant to major issues faced by officers in managing a function of the Council; and
 - is likely to make a contribution to moving the Council forward and achieving key performance targets.
- (iii) Exercise the "request for call-in" and "call-in" any Executive decisions made but not yet implemented by the Executive.

Overview and Scrutiny Chairs should maintain regular engagement with Cabinet Members to enable flexibility to be built into the Overview and Scrutiny work programme, so as to respond to the council's policy priorities in a timely way.

Specific functions:

- (i) Policy development and review

Overview and Scrutiny Committees may:

- assist the Council and / or the Executive in the development of its budget and policy by appropriate analysis of policy and budget issues;
- conduct appropriate research, community and other consultation in the analysis of policy and budget issues and possible options;

- consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- question Members of the Executive and/or Chief Officers about their views on issues and proposals affecting their areas of responsibility; and
- liaise with other external organisations operating in the city, whether national, regional or local to ensure that the interests of local people are enhanced by collaborative working.

(ii) Scrutiny

Overview and Scrutiny Committees may:

- review and scrutinise the Executive decisions made by and performance of the Executive and/or Chief Officers in relation to decisions taken by them or in relation to their areas of responsibility / department;
- review and scrutinise the performance of the council in relation to its policy objectives, performance targets and / or particular service areas – including the areas of responsibility of the Regulatory and Non-Executive Committees, but not the actual decisions of the Regulatory and Non-Executive Committees;
- make recommendations to the Executive, Chairmen of Committees, Chief Officers and/or Council arising from the outcome of the scrutiny process;
- review and scrutinise the performance of other relevant public bodies in Birmingham (including Health Authorities) and to invite reports from them by requesting them to attend and engage with the Overview and Scrutiny Committee about their activities and performance;
- question and gather evidence from any person (with their consent); and
- establish sub-committees to undertake aspects of that committee's remit, or Task and Finish Committees to carry out specific time limited enquiries as agreed with the eight Overview and Scrutiny Committee Chairs and subject to available resources.

Terms of Reference of Overview and Scrutiny Committees

There shall be eight Overview and Scrutiny Committees as set out in the terms of reference below.

Co-ordinating Overview and Scrutiny Committee

To plan and co-ordinate the work of all the Overview & Scrutiny Committees. To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning governance (including transparency, regional working and partnerships); citizens (including communications and public engagement); performance; customer services and emergency planning.

These functions include:

- (a) giving such guidance to the Overview and Scrutiny Committees in any cases of uncertainty, as to work which they should or should not be undertaking, as may be necessary to achieve such co-ordination, including the allocation of “call-in” to the appropriate Committee;
- (b) determining, in any cases of uncertainty, the allocation of responsibility for specific tasks between the Overview and Scrutiny Committees;
- (c) ensuring (by means, for example, of issuing appropriate guidance and/or instructions) that the Overview & Scrutiny Committees pay proper attention in their work to the consideration of key cross cutting issues, in particular equalities, transparency and improvement;
- (d) publishing each year an Annual Programme of major scrutiny inquiries as suggested by individual Overview and Scrutiny Committees following consideration of the Council Plan and priorities;
- (e) agreeing the establishment of any task & finish groups; and
- (f) considering overview and scrutiny development, working practices and constitutional arrangements.

Membership of the Co-ordinating Overview and Scrutiny Committee will consist of 12 members: the chair of the committee and the seven other Overview and Scrutiny Committee chairs along with 4 places for opposition group members to ensure proportionality.

Resources Overview and Scrutiny Committee

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning finance (including strategic finance, budget setting and financial monitoring); revenues and benefits; human resources; contracting, commissioning and commercialism.

Health and Social Care Committee

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning adult safeguarding, social care and public health; and to discharge the relevant overview and scrutiny role set out in the National Health Service Act 2006 as amended by the Health and Social Care Act 2012, including:

- The appointment of Joint Overview and Scrutiny Committees with neighbouring authorities; and
- The exercise of the power to make referrals of contested service reconfigurations to the Secretary of State as previously delegated to the Health and Social Care Overview and Scrutiny Committee by the Council.

Education and Children's Social Care Overview and Scrutiny Committee

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning schools and education, the Children's Trust, vulnerable children, corporate parenting and other child social care and safeguarding functions of the council.

The Overview and Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:

- (a) Church of England diocese representative (one);
- (b) Roman Catholic diocese representative (one); and
- (c) Parent Governor representatives (two).

Economy and Skills Overview and Scrutiny Committee

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning strategic economy; skills and apprenticeships; land and property; inward investment; land use planning; business improvement districts and the Local Enterprise Partnership.

Sustainability and Transport Overview and Scrutiny Committee

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities relating to sustainability; air pollution; transport strategy and highways.

The Committee shall undertake the authority's statutory functions in relation to the scrutiny of flood risk management (Flood and Water Management Act 2010).

Housing and Neighbourhoods Overview and Scrutiny Committee

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning housing; social cohesion; waste management; neighbourhood management; parks and allotments; localisation; bereavement services and community safety.

This Committee shall be the Crime and Disorder Committee (Police and Justice Act 2006).

Commonwealth Games, Culture and Physical Activity Overview and Scrutiny Committee

To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning arts and culture; libraries and museums; the Commonwealth Games and sport; events.

Conflicts of interest – Membership of Overview and Scrutiny Committees and District and Ward Forums

- If an Overview and Scrutiny Committee is scrutinising specific decisions in relation to the business of the Ward Forum of which an Overview and Scrutiny Committee Councillor is a Member, then that Councillor must withdraw from the meeting during the consideration of such matter.
- Where, however, the Overview and Scrutiny Committee is reviewing policy matters, generally, as opposed to a specific decision of the Ward Forum, the Member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

Overview and Scrutiny Work and Non-Executive Committees

- Overview and Scrutiny Committees are only permitted by law to scrutinise the Executive decisions of the council – Cabinet, Cabinet Committees, Cabinet Members, Ward Forums, and officers.
- In terms of the Regulatory Committees, these carry out quasi-judicial functions and, as such, appropriate appeal rights and procedures apply to the same, which do not involve the Overview and Scrutiny Committees arrangements.

“Request for Call-In” and “Call-In”

- When an Executive decision is taken by the Cabinet, Cabinet Member(s) or Chief Officer jointly with Cabinet Members or Cabinet Committees, the decision shall be published by electronic means, and copies of it shall be available at the main offices of the Council, normally within three days of being made. All Members and Chief Officers will be sent a notification of all such decisions within the same timescale, by the Committee Services Officer responsible for publishing the decision.

- The relevant notice will bear the date on which it is published and will specify that the Executive decision may be implemented, after the expiry of three working days after the publication of the decision, unless a “Request for call-in” is made of the Executive decision, by at least two Councillors (who are not members of the Cabinet). The “Request for Call In” should state the reason for call-in.
- Once a “Request for Call In” has been received, the Chair of Co-ordinating O&S Committee will agree which Overview and Scrutiny Committee should hear the call-in. That Committee must meet to consider the request. The meeting should take place not later than 15 clear working days after the original publication of the decision.
- It is for the Committee to decide whether to Call In a decision or not. The council does not expect an Overview and Scrutiny Committee to Call In an Executive decision unless one or more of the following criteria applies.
- Where the Committee does decide to call in a decision, the “re-consideration” which is then required must take place at a meeting of the full Cabinet – irrespective of who made the original decision on behalf of the Executive.

Call-In Criteria

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| | <i>(a) Is the Executive decision within existing policy?</i> |
| 1 | <i>the decision appears to be contrary to the Budget or one of the ‘policy framework’ plans or strategies;</i> |
| 2 | <i>the decision appears to be inconsistent with any other form of policy approved by the full Council, the Executive or the Regulatory Committees;</i> |
| 3 | <i>the decision appears to be inconsistent with recommendations previously made by an Overview and Scrutiny body (and accepted by the full Council or the Executive);</i> |
| | <i>(b) Is the Executive Decision well-founded?</i> |
| 4 | <i>the Executive appears to have failed to consult relevant stakeholders or other interested persons before arriving at its decision;</i> |
| 5 | <i>the Executive appears to have overlooked some relevant consideration in arriving at its decision;</i> |
| 6 | <i>the decision has already generated particular controversy amongst those likely to be affected by it or, in the opinion of the Overview and Scrutiny Committee, it is likely so to do;</i> |
| 7 | <i>the decision appears to be particularly “novel” and therefore likely to set an important precedent;</i> |

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| 8 | <i>there is a substantial lack of clarity, material inaccuracy or insufficient information provided in the report to allow the Overview and Scrutiny Committee to hold the Executive to account and/or add value to the work of the Council.</i> |
| | <i>(c) Has the Executive decision been properly taken?</i> |
| 9 | <i>the decision appears to give rise to significant legal, financial or propriety issues;</i> |
| 10 | <i>the notification of the decision does not appear to have been in accordance with council procedures;</i> |
| | <i>(d) Does the Executive decision particularly affect a ward?</i> |
| 11 | <i>the decision appears to give rise to significant issues in relation to a particular ward.</i> |