

Subject:	Overview & Scrutiny Committee (OSC) Terms of Reference and Work Plan		
Date of Meeting:	10 June 2015		
Report of:	Monitoring Officer and Assistant Chief Executive		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 At the March 2015 Full Council meeting, members agreed to amend the council's constitution with regard to Overview & Scrutiny (O&S) functions, creating a new Overview & Scrutiny Committee (OSC) to discharge a limited number of responsibilities in the coming municipal year. (An extract from the Full Council report is included as **Appendix 1** to this report.)
- 1.2 This report details these new responsibilities and includes the OSC terms of reference in **Appendix 2**. It also outlines the officer resources and arrangements available to deliver the O&S function (O&S funding was reduced in the council's budget 2015/16).
- 1.3 **Appendix 3** to this report contains the draft OSC work plan for 2015/16 which largely consists of commitments inherited from the former Overview & Scrutiny (OSC) and Health & Wellbeing Overview & Scrutiny (HWOSC) Committees.

2. RECOMMENDATIONS:

- 2.1 That the Committee's terms of reference, as set out in **Appendix 2** to this report, be noted; and
- 2.2 That the establishment of an Urgency Sub-Committee consisting of the Chair of the Committee and two other Members (nominated in accordance with the scheme for the allocation of seats for committees, one from each of the other Groups), to exercise its powers in relation to matters of urgency, on which it is necessary to make a decision before the next ordinary meeting of the Committee be approved.
- 2.3 That Committee appoint non-voting co-opted members from the Older People's Council, the Youth Council and Healthwatch, as referred to in para. 7.1 **Appendix 2** (terms of reference).
- 2.4 That Committee members consider current resources and arrangements in place for O&S; and

- 2.5 Agree the draft work plan (**Appendix 3**) as the basis for the 2015/16 annual OSC work plan.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Article 6 of the constitution, incorporates a schedule of all the Committees/Sub-Committees established in the new constitution together with a summary of their respective functions.

The Overview & Scrutiny Committee (OSC) Terms of Reference

- 3.2 A copy of the terms of reference for the OSC committee is attached in **Appendix 2**. These should be read in the context of the 'Introduction and General Delegations' included in the Scheme of Delegations to Committees and Sub-Committees at part 4 of the constitution.

Membership

- 3.3 The membership of the committee is set at 10 Members of the council.
- 3.4 The arrangements for substitute Members to attend meetings of Committees/Sub-Committees are as set out in the Council Procedure Rules 18 to 24.
- 3.5 Three non-voting co-optees sat on HWOSC to provide external perspective and contribution from their respective bodies, one from each of the following; Older People's Council, the Youth Council and Healthwatch. These appointments will continue under new OSC arrangements and are included at para. 7.1 of the terms of reference. The individuals representing these bodies will be agreed at this meeting under recommendation 2.3 of this report.

Programme of Meetings

- 3.6 Ordinary meetings of the Overview & Scrutiny Committee are scheduled to take place on the following dates during 2015/16:
- Wednesday 10 June 2015
 - Wednesday 22 July 2015
 - Wednesday 9 September 2015
 - Wednesday 25 November 2015
 - Wednesday 3 February 2016
 - Wednesday 23 March 2016
- 3.7 Meetings of the Committee will normally be held at Hove Town Hall and will start at 4.00 p.m. For the 2015/16 municipal year, meetings will be held in Portslade Town Hall at 4.00pm due to renovation work at Hove Town Hall.

Urgency Sub-Committee

- 3.8 The Constitution states that each Committee of the Council except the Audit & Standards Committee may appoint an Urgency Sub-Committee to exercise its

powers. The membership of such Urgency Sub-Committee shall consist of the Chair of the Committee, and two other Members nominated by the Group Leader or Leaders as appropriate to meet the requirements for the allocation of seats between political groups. Under current allocations this would mean an urgency sub-committee will consist of one Member from each of the three political groups on the Council.

- 3.9 Such Urgency Sub-Committees may exercise their powers in relation to matters of urgency on which it is necessary to make a decision before the next ordinary meeting of the Committee. Every decision of each Urgency Sub-Committee shall be reported for information to the next ordinary meeting of the Committee as appropriate.

Background to Overview & Scrutiny and new arrangements for the Committee Work Plan

- 3.10 Overview & Scrutiny (O&S) was introduced into local government in 2000 as part of a move from committees to an 'executive' (e.g. Leader & Cabinet) form of governance. Under an executive governance system, most major council decisions are taken by the council's Leader or by a small group of portfolio holders who make up the council's Cabinet. O&S was intended to provide balance by involving back-bench members of all political groups in policy development and in holding decision-makers to account for the performance of council services (and in subsequent years that of other public sector bodies, particularly local NHS Trusts). In Brighton & Hove, six O&S committees were established to shadow Cabinet portfolios, and a programme of member-led task & finish groups (scrutiny panels) was developed to examine specific issues in depth.
- 3.11 The Localism Act (2012) enabled local authorities to adopt alternative forms of governance, and in 2013 Brighton & Hove City Council chose to move to a committee system but retaining aspects of the arrangements under an executive system, such as the forward plan. Under this system, most major council decisions are taken by cross-party groups of members at policy committees. In consequence there is no obvious requirement for these decisions to be scrutinised by other cross-party groups, and hence less of a pressing need for an O&S service to support decision-making. However, some statutory O&S functions, particularly those relating to NHS scrutiny, still need to be discharged irrespective of the type of governance system a council has in place.
- 3.12 Following the move to a committee system it was initially decided to reduce the number of O&S committees to two, with HWOSC concentrating on statutory NHS scrutiny, and OSC on scrutiny of council services. In general, O&S activity was re-focused on themed task & finish scrutiny panels rather than on committee work. This panel programme was particularly successful, winning several national awards as well as being valued by members and by key city partners.
- 3.13 As part of the council's 2015-16 budget plans it was agreed to reduce the O&S budget, with future O&S support to be principally provided by the council's Policy Development team. In a subsequent report to March 2015 Full Council, it was agreed that the O&S function should be further rationalised to reflect both the reduced resources and the fact that the council's policy committees already

provide robust cross-party 'scrutiny' of council decision-making. (An extract from the Full Council report is included as **Appendix 2** to this report.)

- 3.14 In summary, it was agreed that there should in future be only one O&S committee (OSC). The OSC will discharge the council's statutory responsibilities in terms of NHS scrutiny, crime & disorder, and flood risk. The OSC will also monitor the implementation of previously agreed scrutiny panel recommendations. In the future task & finish panels will be established by, and report to, the relevant policy committees. Where there are cross-cutting themes that straddle across committee functional areas, the OSC will have the role of co-ordinating these.
- 3.15 Officer support for these panels will principally be provided by the relevant council directorates. The Policy Development team will provide advice to directorates to support this 'policy panel' work, and may itself directly support policy panels that are cross-cutting or that are focused on corporate-critical issues. This work will be very limited as the team does not currently have the resources to directly support a comprehensive panel programme. The OSC will have a role in monitoring the implementation of agreed policy panel recommendations, and in co-ordinating the policy panel programme, particularly if there is significant member demand for policy panels. (See **Appendix 3** for more details of the new OSC work plan.)
- 3.16 **NHS Scrutiny.** Statutory health scrutiny powers consist of a general ability to hold local NHS commissioners and providers to account for any NHS-funded health services accessed by local residents. In addition, NHS bodies are required to alert local OSCs when planning to make significant service changes locally. Should an OSC consider that such plans constitute a 'substantial variation' in services, then the relevant NHS bodies are obliged to formally consult the OSC and to take into account and respond to OSC recommendations on the matter. (If plans impact on two or more local authority areas, and if the OSCs in those areas wish to be consulted with, then it would be necessary to form a formal joint Health OSC for all the affected areas.) Should the OSC have significant concerns that the planned changes may be detrimental to the health of local people or have been subject to insufficient consultation, and be unable to reach agreement with the relevant NHS bodies with regard to these concerns, then the OSC may ask Full Council to refer the matter to the Secretary of State for Health for decision.
- 3.17 **Crime & Disorder Scrutiny.** Where local authorities have O&S committees, members have the statutory ability to refer crime & disorder issues for scrutiny. This is not a power that BHCC members have used to date.
- 3.18 **Flood Risk Scrutiny.** Where local authorities have O&S committees, members have the statutory ability to refer flood risk issues for scrutiny. This is not a power that BHCC members have used to date.
- 3.19 **Monitoring of Scrutiny Panel recommendations.** In recent years O&S members have undertaken 'scrutiny panel' task & finish reviews on a wide range of issues including: the Seafront Infrastructure, Private Sector Housing, Services for Children with Autism, Short Term Holiday Lets (Party Houses), Trans Equalities, and Bullying in Schools. Typically, a scrutiny panel will issue a report

with recommendations for the council and/or other public sector bodies. Where these recommendations have been accepted, their implementation has historically been monitored on an annual or biannual basis by the relevant O&S committee. Full implementation of agreed scrutiny panel recommendations can take several years, so monitoring can be a lengthy process. In future all outstanding scrutiny panel monitoring will be undertaken by OSC, which will in addition monitor the implementation of agreed recommendations coming from the new policy panels.

3.20 **Call-In.** OSC will continue to manage the council's call-in procedures.

3.21 **Remit and Resources.** The OSC is not restricted to the above duties: in theory members can examine any issue they wish to. However, in practice the new O&S function has been allocated only limited resources, the majority of which will be required to support statutory health scrutiny responsibilities. It is unclear how functions in addition to those outlined above could be supported within the current resource envelope. In particular, there is very little capacity for the Policy Development team to directly support themed task & finish 'policy panels'. It has been agreed that these panels will be principally supported by the most relevant council directorates.

3.22 **OSC Work Plan.** Attached as **Appendix 3** to this report is a draft OSC work plan for 2015/16. Included in this draft plan are annual monitoring reports for the implementation of all outstanding scrutiny panel recommendations. Also included are 'legacy' health scrutiny issues – typically either reports-back on major recent initiatives such as the re-procurement of the local contract for musculoskeletal services (MSK); ongoing monitoring of the medium term impact of recent NHS actions such as the closure of some city acute mental health beds; or items which focus on multi-year projects such as the '3T' development of the Royal Sussex County hospital as a regional trauma hub, specialist (tertiary) care centre, and teaching hospital. In addition to the health-related items on the draft work plan, it is likely that our local NHS partners may choose to refer additional issues to OSC in-year. The draft work plan as it relates to health issues has been shared with and informed by Brighton & Hove Clinical Commissioning Group, Brighton & Sussex University Hospitals Trust, Sussex Partnership NHS Foundation Trust, and Sussex Community NHS Trust. This is not intended as a definitive work plan and members are free to include additional items, subject to member and officer resources.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 The council's constitution provides for the appointment of the sub-committees and urgency sub-committees and it is for the Committee to determine this action and it could decide not to make such appointments. However, this would be contrary to the wishes of the council and is not therefore regarded as a viable alternative option.

4.2 The information provided above on OSC resources and arrangements is for information rather than decision. Members are asked to approve draft work plan items (**Appendix 3**) as the basis for the annual OSC work plan. Members are not bound to agree to include any of the listed NHS issues in their work plan,

although it should be noted that all of these items represent either legacy issues from OSC and HWOSC or issues referred by our NHS partners.

- 4.3 The OSC is responsible for monitoring outstanding agreed scrutiny panel recommendations, so members will need to timetable in monitoring reports as suggested in **Appendix 3** at some point in the municipal year, although the timings suggested could be altered.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 All Members considered and approved the constitution and the changes therein at the meeting of Full Council on 26 March 2015.
- 5.2 NHS-related work plan items have been discussed and agreed with the NHS bodies concerned.

6. CONCLUSION

- 6.1 The recommendations are being put forward in line with the requirements of the constitution.
- 6.2 This report presents information on future OSC ways of working and asks members to approve legacy issues for the current OSC work plan.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The costs of establishing and running the Urgency Sub-Committees are expected to be met within existing levels of resources. The cost of holding the committee meetings at Portslade Town Hall have been included in the overall Worktyles Programme for the move to Hove Town Hall and will be reported to the Policy & Resources Committee at a later date.
- 7.2 The OSC work plan will need to be monitored closely to ensure that the scrutiny function operates within the reduced resources available.

Finance Officer Consulted: Mike Bentley

Date: 28/05/15

Legal Implications:

- 7.3 The Council's constitution complies with the legal framework set out in the Localism Act 2011, the Local Government Act 2000 and other relevant legislation.
- 7.4 There terms of reference for the OSC and new arrangements will enable the council to discharge its legal duties regarding scrutiny. It is anticipated that, given the cross-party committees, there will not be significant scrutiny activity other than health. The work plan needs to be monitored regularly to ensure the scrutiny function operates within the available resources.

Lawyer Consulted:

Abraham Ghebre-Ghiorghis

Date: 21/05/2015

Equalities Implications:

- 7.5 None directly, although a number of legacy work plan issues focus on particular protected groups (e.g. monitoring reports on scrutiny panels on Trans Equalities, Services for Children with Autism etc.).

Sustainability Implications:

- 7.6 None directly, although some legacy work plan issues may be relevant.

Public Health Implications:

- 7.7 None directly, although some legacy work plan issues may be relevant.

Any Other Significant Implications:

- 7.8 None

SUPPORTING DOCUMENTATION

Appendices:

1. Extract from constitutional amendment report (March 2015 Full Council)
2. The Overview & Scrutiny Committee (OSC) Terms of Reference
3. Draft OSC Work Plan 2015/16

Documents in Members' Rooms

None

Background Documents

None