

OLDHAM COUNCIL



OVERVIEW AND SCRUTINY TOOLKIT

January 2017

Oldham Council

Overview and Scrutiny Toolkit – List of Contents

- 1. Introduction**
- 2. Political Management of the Council**
- 3. What is Overview and Scrutiny?
What Overview and Scrutiny cannot do.**
- 4. How Overview and Scrutiny operates in Oldham**
- 5. The Work of Overview and Scrutiny**

Appendices

- A. Questioning to Gain the Most from Witnesses**
- B. Call-In Procedure**

1. Introduction

The purpose of the toolkit is to explain the framework for Overview and Scrutiny at Oldham Council. It is for the use of anyone who has any involvement in the Scrutiny process including:

- The Chairs and Members of Overview and Scrutiny Committees
- Cabinet members and committee members who may be required to attend scrutiny review meetings
- Staff involved in the scrutiny process, those who are required to give evidence as part of scrutiny or those involved in the development or review of decisions/policies.
- Members of the public, partners and external organisations who may attend scrutiny meetings, be co-opted onto panels or who are invited to give evidence to support scrutiny reviews.

2. Political Management of the Council

Oldham Council is a metropolitan borough providing services to the people of Oldham and its surrounding districts. This includes childrens and adults services, education, environmental services such as trading standards, street cleaning and refuse collection, strategic housing, cultural and leisure services, revenues and benefits.

The Council's ambition is to deliver a co-operative future where everyone does their bit to create a confident and ambitious borough.

The full Council, involving all 60 Councillors, meets approximately seven times a year. There are decisions that only full Council can make which include decides on the Constitution and any amendments, agrees the Council's budget, agrees the policy framework and appoints the Leader, Members of Committees and Outside bodies. Full Council also appoints the Mayor, Deputy Mayor and the Chief Executive.

3. What is Overview and Scrutiny?

- 3.1 Overview and Scrutiny was introduced under the Local Government Act 2000 which modernised the political management arrangements of local authorities. It provides opportunities for non-executive members of the Council to examine the way the Council provides its services, question how and why decisions are made and plays a pivotal role in the shaping of future Council policies. The Local Government & Public Involvement in Health Act 2007 further enhanced the role and powers of Overview and Scrutiny Committees as well as the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 and the Health and Social Care Act 2012.

3.2 There are key roles for scrutiny which include:

- Holding the Cabinet to account – acting as a check and balance on the decision making powers of the Cabinet.
- Policy Development and Review – acting as a ‘critical friend’ to the Cabinet by reviewing policy, decisions, performance, annual budget and contributing to policy formulation.
- Challenging and improving performance
- Supporting the achievement of value for money
- Support the role of the Council in community leadership, reporting on issues affecting the area and its citizens, and on the work of public bodies in the area including local health services.

3.3 The Committees do not make decisions, but try to influence those who do by considering the major issues affecting the borough and make recommendations about how services can be improved.

3.4 The focus of Overview and Scrutiny is on the quality of Council services and other strategic borough-wide issues that affect the lives of Oldham’s residents. Overview and Scrutiny Committees must have regard to the Oldham Plan which sets up the vision for the borough that is shared with the Council’s partners and the Corporate Plan which set out the how the Council contributes to the Oldham Plan and how the Council will achieve the co-operative ambition for the borough.

3.5 What Overview and Scrutiny Cannot Do

Overview and Scrutiny does not get involved in minor matters or matters affecting individuals. The Committees do not deal with complaints or regulatory matters such as planning applications or applications for licences. Procedures exist elsewhere for handling such matters such as the corporate complaints procedure. Overview and Scrutiny cannot deal with matters which are still subject to court proceedings.

4. **How Overview and Scrutiny Operates in Oldham**

4.1 The Council’s Overview and Scrutiny function was reviewed in 2011 with the result that the function is now structured as follows:

An Overview and Scrutiny Board, which also has the responsibility for “call-ins”, and a Performance and Value for Money Select Committee, the detail of which is set out below. Overview and Scrutiny allows citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview and Scrutiny also monitors the decisions of the Cabinet.

They can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

4.2 The Terms of Reference are reflected below:

“ARTICLE 6 – OVERVIEW AND SCRUTINY

6.1 Terms of Reference

The Council will appoint the overview and scrutiny bodies set out in the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 or relevant provisions of the Localism Act 2011 in relation to the matters set out below

The following Overview and Scrutiny bodies will be appointed by the Council at its Annual Meeting:

- **Overview and Scrutiny Board**
- **Performance and Value For Money Select Committee**

In addition, Council will appoint the Chair of the above bodies and approve their terms of reference, together with the roles of the Chairs and the list of substitute Members.

Council may also appoint, for a fixed period, any other body it considers appropriate to carry out its overview and scrutiny function, at the expiry of which that body will cease to exist.

6.1.1 Overview and Scrutiny Board

To discharge the functions conferred by section 21 of the Local Government Act 2000, Regulations under section 32 of the Local Government Act 2000 or relevant provisions of the Localism Act 2011 in relation to the matters set out below:

- a. To manage and lead the development of the overview and scrutiny process in Oldham Metropolitan Borough Council;
- b. To be responsible for Member development with regard to overview and scrutiny;
- c. To appoint a Health Scrutiny Sub-Committee at its first meeting of the new Municipal Year.
- d. To decide upon issues for overview or scrutiny having regard to the Prioritisation Framework (significant policy/service change or underperformance, or an area of public or local interest). Such issues may relate to:
 - i. Strategic Service Delivery Partnership (SSDP)

- ii. Oldham MBC
 - iii. Association of Greater Manchester Authorities (AGMA)
 - iv. Education (ensuring there is appropriate statutory representation of co-opted members)
 - v. Health and Wellbeing
 - vi. Community issues which would include crime and disorder, cohesion, housing and environment and regeneration issues etc
 - vii. Area based issues (District Executives)
 - viii. City Regional developments
- e. To assign overview and scrutiny work as it considers appropriate to the Performance and Value For Money Select Committee or District Executives (or their potential successor bodies);
 - f. To hold to account the Performance and Value For Money Select Committee and the Health Scrutiny Sub-Committee
 - g. To establish and monitor Task & Finish groups, co-opting members of the Youth Council as appropriate;
 - h. To scrutinise Oldham's overview and scrutiny function (including Member participation in all overview and scrutiny constituted bodies and at Project Panels)
 - i. To consider requests for scrutiny on issues from the Oldham Healthwatch (or their potential successor bodies) and assign them to the appropriate place for scrutiny;
 - j. To consider all Call-Ins (In the event a call-in related to an education issue, the statutory co-optees would be invited to participate in that matter at the meeting);
 - k. To make recommendations to the Cabinet or to any partner organisation on issues scrutinised relevant to those bodies, and where appropriate, direct to Council;
 - l. To scrutinise a policy/service delivery change directly;
 - m. To allocate two specific Task & Finish groups each year on matters identified by the Youth Council.

6.1.2 Performance And Value For Money Select Committee

- a. To monitor and hold to account the performance of service delivery within Oldham MBC (OMBC), and its partners such as Unity Partnership, Oldham Community Leisure Limited (OCLL), etc with particular reference to the Corporate Plan and all other strategic plans;
- b. To monitor and hold to account those responsible for implementing scrutiny recommendations that have been accepted by the Cabinet;
- c. To monitor the performance of Healthwatch and other associated health organisations and other appropriate bodies.
- d. To monitor the efficiency of OMBC to assess whether efficiency savings are achieved;
- e. To scrutinise the annual budget setting and monitoring process;
- f. To identify areas for in depth scrutiny for referral to the Overview and Scrutiny Board where performance is weak and to require the Board to scrutinise policy/service delivery change;
- g. To scrutinise issues identified as requiring improvement by external assessors (eg Ofsted, Care Quality Commission (CQC) etc) and on education matters, ensuring that there is appropriate statutory representation of co-opted members.
- h. To make recommendations to the Cabinet or to any partner organisation on issues scrutinised relevant to those bodies.”

5. **The Work of Overview and Scrutiny**

5.1 Topics for the Overview and Scrutiny Board are identified from a variety of sources. These can include:

- The Council’s priorities and challenges;
- Topics suggested for review by Cabinet;
- Matters referred from Full Council;
- Topics put forward by Overview and Scrutiny Councillors;
- Topics suggested by the public;
- The Key Decision Document for Cabinet; and
- Overview and Scrutiny Link Meetings.

5.2 The setting of the Work Programme is an important part of the Scrutiny process. Each committee is responsible for setting its’ own work programme. Cabinet Members and senior officers of the Council have an influential role in

this process by outlining the priorities for the year ahead. Time spent making sure that the right topics are chosen ensures that outcomes are targeted at improving performance.

5.3 The work programme is a living document and should be subject to regular review. The programme must be manageable within the resources available and should have sufficient space built within it to consider matters referred to Overview and Scrutiny. Overview and Scrutiny Committees have to be flexible and responsive to the needs of the organisation. The work programme will include ongoing issues such as performance management and annual budget monitoring. One off issues may be referred to smaller Task and Finish Groups for in depth investigation.

5.4 OMBC Scrutiny Prioritisation Framework

5.4.1 *Stage 1 – Deciding If Scrutiny Is Merited*

Other than in exceptional circumstances no issue should be placed upon the scrutiny programme unless all of the following questions can be answered positively:

1. does this issue have a potential impact for one or more section(s) of the population?
2. is the issue strategic or significant to a locality?
3. is there a clear objective for scrutinising this topic?
4. is there evidence to support the need for scrutiny?
5. are we clear about what we hope to achieve?
6. what are the likely benefits to the council and its customers?
7. are you likely to achieve a desired outcome?
8. do the potential risks outweigh the benefits?
9. are there adequate resources available to do the activity well?
10. is the Scrutiny activity timely?

Even where all of these questions can be answered positively, it may still be appropriate to reject a prospective issue, and it is proposed that scrutiny would not normally be appropriate if one of the following conditions applied:

- a) the issue is being examined elsewhere - e.g. by the Cabinet, working group, officer group, other body
- b) the issue was concluded less than 2 years ago
- c) new legislation or guidance expected within the next year
- d) there is no scope for scrutiny to add value/ make a difference

- e) the objective cannot be achieved in the specified timescale.

5.4.2 Stage 2 – Prioritising The Caseload

It is anticipated that even applying these criteria there will be a significant prospective caseload, and it will therefore be necessary to score the items in some way to establish a priority rank for each issue on the work programme.

It is proposed that 3 tests be applied to items which it has been agreed merit scrutiny, and that points be awarded for each criterion which is met. The total points score will be used to rank the issue on the scrutiny programme.

Members' views are sought on the appropriate points score that should be allocated to each issue (Scoring should be between 1 and 5, with 5 being the highest score).

Public Interest

Issue	Score
Issue identified through District Executives	5
issue identified by 2 or more Members through surgeries and other contact with constituents	4
market surveys/citizens panels (e.g. an aspiration to have something new or different)	4
user dissatisfaction with service (e.g. pattern of user dissatisfaction with a service)	3

Internal Priority

Issue	Score
Issue referred by Executive Members, Steering Group or Link Meeting	5
pattern of large budgetary overspends	4
poor performing service (evidence from performance indicators/benchmarking)	4
council corporate priority area	3
high level of budgetary commitment to the service/policy area (as a percentage of total expenditure)	2

External Drivers

Issue	Score
-------	-------

issues raised by External Audit Management Letters/External audit reports	5
central government priority area	2
new government guidance or legislation	2
key reports or new evidence provided by external organisations on a key issue	2

It is anticipated that as new issues arise some items may never achieve a score high enough for them to be added to the Overview and Scrutiny Board's active programme. It is therefore proposed that the work programme be reviewed annually and items not short listed which have been on the work programme for more than 6 months should be re-scored or deleted from the programme by the Overview and Scrutiny Board.

5.5 Key Decision Document

Overview and Scrutiny bodies will in any event have access to the Key Decision Document and timetable for decisions and intentions for consultation. Where the overview and scrutiny function has not scrutinised an item on the Key Decision Document, but that item has implications for policy/service development, then the overview and scrutiny body will have full opportunity to be able to submit any comments to the relevant Cabinet Member/Chief Officer during the course of the consultation process in relation to any key decision.

5.6 Agenda items

Overview and Scrutiny Board must consider any request for scrutiny made by a Councillor who has been unable to resolve an issue of concern, and in considering the request, the Overview and Scrutiny Board must have regard to the Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 (and any successor legislation) and the Councils scrutiny prioritisation framework. In the event that Overview and Scrutiny Board decides not to undertake scrutiny of the matter referred to them they shall ensure that the reasons for this decision are minuted and that the referring Councillor is informed.

In respect of the Overview and Scrutiny Board and the Performance and Value For Money Select Committee, any non-executive member or any five members of the Council shall be entitled to give sufficient notice to the Chair that he/she wishes an item relevant to the functions of that body to be included on the agenda for its next programmed meeting, subject to an appropriate review of the work programme.

Overview and Scrutiny Board, Performance and Value for Money and Health Scrutiny Sub-Committee may take into consideration reports which contains exempt or confidential information relevant to an action they are scrutinizing.

Members are expected to treat as confidential all papers that they receive in the course of council business unless made public by law or by the authority's express or implied consent. Where the transaction of business was likely to involve disclosure of confidential information, local authorities may, by resolution, close meetings. A resolution for the purpose of excluding the public on the grounds that exempt information would otherwise be disclosed must be identified in the proceedings and the description stated in terms of Schedule 12A to the Local Government Act 1972.

5.7 Rights of Overview and Scrutiny Members to documents

Overview and Scrutiny Board, Performance and Value for Money Select Committee, Health Scrutiny Sub-Committee or any subsequent scrutiny group may take into consideration reports which contain exempt or confidential information relevant to an action they are scrutinizing. Members are expected to treat as confidential all papers that they receive in the course of council business unless made public by law or by the authority's express or implied consent. Where the transaction of business was likely to involve disclosure of confidential information, local authorities may, by resolution close meetings. A resolution for the purpose of excluding the public on the grounds that exempt information would otherwise be disclosed must be identified in the proceedings and the descriptions stated in terms of Schedule 12A to the Local Government Act 1972.

5.8 Overview and Scrutiny Member Role Description

Members of Overview and Scrutiny Management Board, Performance and Value For Money Select Committee and their sub committees will:

- a. Play a positive role in developing and scrutinising the Council's policies, budget, strategies and services;
- b. Participate fully in the activities of Scrutiny, and the delivery of its work programme and any associated project panels;
- c. Evaluate the validity of executive decisions and challenge any inappropriate decisions through call in;
- d. Monitor the performance of partners, internal and external providers against standards and targets;
- e. Contribute to the identification and mitigation of risk;
- f. Investigate and address the causes of poor performance; and,
- g. Demonstrate an objective and evidence based approach to scrutiny.

Successful scrutiny relies upon member involvement. In order for the Council to maintain and develop successful scrutiny, councillors must take a leading role in the process. Councillors must act in a non-partisan, a-political manner, encompassing the appropriate skills and competencies required to be able to influence a wide range of public bodies with the aim of improving services for local people.

Overview and Scrutiny presents Councillors with an opportunity to experiment with the way in which they conduct business and have a powerful role to play in policy

initiation and development. It is important that a wide range of councillors are involved in scrutiny activity in order for their views to be taken into consideration.

5.9 Chair and Vice Chairperson Role Description

This description applies to all councillors who act as the chair/vice-chair of a formally constituted body of the Council, including district executives, overview and scrutiny, planning and licensing committees, appeals panels etc.

Chairs will:

- a. Work with other members and officers to develop work programmes and agendas which are appropriately focused and which contain clear objectives and outcomes;
- b. Manage the progress of business at meetings, ensuring that meeting objectives are met, and the code of conduct, standing orders and other constitutional requirements are adhered to;
- c. Ensure that all participants have an opportunity to make an appropriate contribution; and,
- d. Work with officers to ensure that actions agreed at meetings are delivered appropriately.

The Chair of the Board and Select Committee has a pivotal role in maintaining the focus of scrutiny activity. The Chair not only has to encourage the committee to operate in an open, robust manner but to make certain that witnesses and visiting officers are treated with respect and courtesy.

5.10 Co-opted Members

Non-Councillors may be co-opted onto Overview and Scrutiny Committees. There is a statutory responsibility to include co-opted members from the Diocesan Boards and Governor representatives where education matters are being dealt with.

5.3 Officers

Officers from any of the Council's Directorates can be called to give evidence to the Overview and Scrutiny Committee or Task and Finish Group by answering questions or providing written and oral statements. Officers are only required to give factual statements explanations related to policies and decisions as appropriate based upon their professional experience. Officers should not be drawn into political contentious matters. Likewise, Councillors should be aware that an officer's role at Overview and Scrutiny is to provide objective factual information and therefore should avoid putting officers in a position where they are being asked to comment inappropriately on politically sensitive matters. Officers will be given, in advance, details of the subject under review. Officers are expected to cooperate fully with an inquiry. Officers attend Overview and Scrutiny with the understanding that the aim of the process is to ensure that service improvements will result from an inquiry.

5.4 Cabinet Members/Deputy Cabinet Members

The Centre for Public Scrutiny in its “Good Scrutiny Guide” advises that “Non-executives and executives need to agree appropriate working arrangements for ‘ground rules’”.

On the question of establishing roles and relationships, the guide states that “Public scrutineers should be confident of the ground on which they stand – which does not need to be approved or sanctioned by the Executive. This formal independence from the Executive is an important principle which underpins the scrutiny role”.

There are eight Cabinet Members who form the Cabinet involving the Leader of the Council and seven portfolio holders. The Cabinet can take decisions on behalf of the Council collectively and the Cabinet Members have delegated powers to take decisions in consultation with Executive Directors. The Cabinet is assisted by eight Deputy Cabinet members, who, although they have no powers to take decisions themselves, do act in an “executive capacity” and there are treated as Cabinet Members in relation to the Overview and Scrutiny process.

It is the role of Cabinet Members and Deputy Cabinet Members to develop relationships with Overview and Scrutiny and to influence work programmes and priorities, to review business and to commission scrutiny to undertake policy development. This can be facilitated through the Link meetings.

Cabinet Members and Deputy Cabinet Members attend Overview and Scrutiny in an advisory role to listen and, as appropriate, contribute to the discussion and help to build constructive relationships with Overview and Scrutiny Board and the Performance and Value For Money Select Committee. Cabinet Members and Deputy Cabinet Members may contribute when asked to do so by the Chair of the respective Committee. The committees deal with a ‘called in’ decision, Cabinet Members or Deputy Cabinet Members may attend the meeting to explain the background to the decision and to answer any questions.

O&S Member Knowledge and Skills Framework

Factor	Knowledge	Skills	Support
Holding decision takers to account (being a critical friend)	<ul style="list-style-type: none"> • Knowing where expertise lies • Awareness of the context of issues being considered • Awareness of community aspirations • Awareness of regional and local strategies and priorities • Awareness of the Executive work plan • Awareness of organisational procedures (including call in, finance etc) 	<ul style="list-style-type: none"> • Research methods (E) • Communication skills (E) • Questioning/ & investigative skills • Diplomacy • Objectivity • Assertiveness • ICT 	<ul style="list-style-type: none"> • Executive summaries of relevant background information provided (E) • Summaries of protocols & procedures for agencies involved in the scrutiny process • Direct training in ICT, research and investigation • Briefings on 'local intelligence' • Easy access to the Key Decision Document
Shaping and influencing policy (setting priorities)	<ul style="list-style-type: none"> • Knowing where expertise lies • Awareness of the context of issues being considered • Awareness of community aspirations • Awareness of regional and local policies, strategies and priorities • Awareness of best practice 	<ul style="list-style-type: none"> • Managing and participating in meetings • Research methods (E) • Communication skills (E) • Questioning/ & investigative skills (E) • Diplomacy • Objectivity • ICT 	<ul style="list-style-type: none"> • Executive summaries of relevant background information provided (E) • Summaries of protocols & procedures for agencies involved in the scrutiny process • Direct training in ICT, research and investigation • Mentoring and support in

Factor	Knowledge	Skills	Support
			the management of and participation in meetings
Making the right difference (challenging performance)	<ul style="list-style-type: none"> • Awareness of the context of issues being considered • Awareness of Council priorities • Awareness of who it is appropriate to use as witnesses (E) • Awareness of performance management • Awareness of risk management 	<ul style="list-style-type: none"> • Critical analysis/reading skills (able to handle complex facts and figures) (E) • Cross examination & questioning (E) • Monitoring and challenging (E) • Project management 	<ul style="list-style-type: none"> • Direct training in Critical analysis/reading skills • Executive summaries of relevant background information provided (E) • Direct training on the principles of risk, performance and project management
Representing the publics view (being the publics voice)	<ul style="list-style-type: none"> • Awareness of relevant issues (E) • Understanding of consultation methods (E) • Awareness of information that impacts upon the issue under scrutiny 	<ul style="list-style-type: none"> • Giving feedback (E) • Analysis & interpretation of data/information • Managing and participating in meetings • Diplomacy • Objectivity • Assertiveness 	<ul style="list-style-type: none"> • Mentoring and support in the management of and participation in meetings • Executive summaries of relevant background information provided (E)
Bringing in external expertise (bringing balance to the debate)	<ul style="list-style-type: none"> • Knowledge of what expertise is available (E) 	<ul style="list-style-type: none"> • Analysis & interpretation of data/information • Objectivity • Cross examination & 	<ul style="list-style-type: none"> • Directory of voluntary groups, tenants and residents groups (E) • Meeting venues in the

Factor	Knowledge	Skills	Support
		questioning	community (and funding to hire venues) (E)
Restoring public confidence in local democracy (engaging the community)	<ul style="list-style-type: none"> • Awareness of issues of concern to the general public • Knowledge of mediums available for effective communication 	<ul style="list-style-type: none"> • Communication skills (E) • Concise report writing in easily understandable formats (E) • Ability to present information simply (E) 	<ul style="list-style-type: none"> • Training on how to communicate what we are doing • Distribution of reports to public places • Training in report writing and the simple presentation of information

Those factors considered as being essential are marked thus: **(E)**”

6.0 Proceedings of Meetings

- 6.1 The Overview and Scrutiny Board and the Performance and Value For Money Select Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of the Constitution.
- 6.2 The Council will have Overview and Scrutiny Bodies which will have the status of Committees and will perform all overview and scrutiny functions on behalf of the Council. These will consist of non-executive Members of the Council and, in line with statutory requirements, co-opted Church and parent/governor representatives with voting rights, for educational matters only. The designated crime and disorder scrutiny committee (currently the Overview and Scrutiny Board) may appoint co-optees with voting rights in accordance with the Crime and Disorder Overview and Scrutiny Regulations 2009 (or any successor statute).
- 6.3 The Overview and Scrutiny Board and the Performance and Value For Money Select Committee may establish informal Task and Finish groups as they consider necessary.
- 6.4 All Members may sit on the Overview and Scrutiny Board, the Performance and Value For Money Select Committee and be involved in any Task and Finish Group, except members of the Cabinet and their Deputies. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.
- 6.5 Meetings
The cycle of meetings will be as follows:-
- Overview and Scrutiny Board: Six weekly
 - Performance and Value For Money Select Committee: Six weekly (plus up to six additional meetings to scrutinise Administration and Opposition Budget Proposals).
- 6.6 Quorum
The Quorum for all formally constituted overview and scrutiny bodies meetings will be 3 elected Members.
- 6.7 Holding enquiries and calling witnesses
Any body involved in delivering the Council's Overview and Scrutiny function may hold enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may ask witnesses to attend to address them on any matter under consideration. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.
- 6.8 Reports on Projects instigated by Overview and Scrutiny bodies
In the event that a report on a project instigated by an overview and scrutiny body is submitted to the Cabinet, a copy of that report must also be submitted to the Council for information, notwithstanding whether the recommendations are accepted by the Cabinet.

6.9 Members and officers giving account

All Overview and Scrutiny bodies may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any Executive Director or their nominated officer(s) to attend before it to explain in relation to matters within their remit:

- i) any particular decision or series of decisions;
- ii) the extent to which the actions taken implement Council policy; and/or
- iii) their performance.

and it is the duty of those persons to attend if so required. However, in the case of an Executive Director, he/she may decide to send his/her substitute and will determine who that officer will be.

Should any Member or officer refuse a reasonable request to attend a meeting of any overview and scrutiny body, the Chair of that body will inform the Chief Executive/Council Leader. The Chief Executive/Council Leader or his/her nominated officer shall inform the Member or officer in writing, giving at least 5 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.

If the account to be given to the overview and scrutiny body requires the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

6.10 Attendance by others

An Overview and Scrutiny body may invite people other than those people referred to in paragraph 18 above to address it, 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. Attendance by those persons is entirely optional, except where required by Statute.

6.11 Call-in requests

Any matter decided by the Cabinet or any key decision made by an officer/ individual Cabinet Member with delegated authority from the Cabinet, may be called in immediately after the decision has been made or by not later than five working days after the publication of the Minutes of the Cabinet meeting which decided the matter or the date the delegated decision was published.

Any 2 Members of the Council may apply, in writing, to the Chief Executive on the appropriate requisite form for the matter to be called-in. Any matter called-in must be considered at the next meeting of the Overview and Scrutiny Board which will have power to consider the decision. If the decision is rejected, the overview and scrutiny body may refer the decision back to the decision taker for further consideration.

Full Details related to Call Ins is attached at Appendix 2.

6.12 Declarations of Interests and ‘The Party Whip’

Members of Overview and Scrutiny bodies must have regard to the Members Code of Conduct and the regulations relating to the declarations of interests. Further details of this can be found in Part 5 of the Council’s Constitution.

“The Party Whip” means any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Council or any Committee/Overview and Scrutiny body or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner. When considering any matter in respect of which a member of an Overview and Scrutiny body is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

6.13 Conducting Investigations

Where an Overview and Scrutiny body conducts investigations (e.g. with a view to policy development), it may ask people to attend to give evidence at its meetings which are to be conducted in accordance with the following principles:

- that the investigation be conducted fairly and all members of the body be given the opportunity to ask questions of attendees, and to contribute and speak;
- that those assisting the work of the body by giving evidence be treated with respect and courtesy; and
- that the investigation be conducted so as to maximize the efficiency of the investigation or analysis;
- that any the rules of confidentiality be maintained as and where necessary.

6.14 Matters within the remit of more than one area of the Council’s functions

If a matter falls within the remit of more than one theme or Council’s area, in terms of District Executives (or their potential successors), the Overview and Scrutiny Board will determine as to how that matter is to be considered and by whom and will also determine who will produce the final report.

6.15 Task and Finish Groups

“Task and Finish Groups” are informal, usually small, and time-limited bodies comprised of councillors. They are not mentioned in legislation, although most Councils make provision for them. The size of the groups can vary.

The length of a review and its scope will define how often a task group meets. It is usual to have one meeting at the start for planning and one (possibly two) to settle the reports’ findings and recommendations. At the end of the process, the task group’s report is submitted to the body that commissioned it, than forwarded to the relevant body.

QUESTIONING TO GAIN THE MOST FROM WITNESSES

One of the most important skills for Overview and Scrutiny Committees is the ability to extract information through questioning. The aim of questioning witnesses at scrutiny review meetings is to gather relevant information on which to base the recommendations of the review. Asking difficult questions should not be avoided but hostile questioning will prove to be counter-productive.

Members cannot be expert in every issue under scrutiny and may not feel confident in questioning expert witnesses. Asking simple questions in layman's terms can help ensure that the information is provided in a less complex way in future by highlighting the areas that are not easily understood.

Question examples are:

- Why do we have to offer this service?
- Why do we do it this way?
- What are the strengths and weaknesses doing it this way?
- Why is it not 'joined up'?
- What is the best practice elsewhere?
- Is it appropriate or desirable to adopt some of these practices in our organisation and if so how?
- What will the implications be if this authority changes the way it works?
- How should changes be implemented, monitored and reviewed?
- What difference has this made?
- How well does this reflect the community priorities?
- What are the things you would do to make a difference?
- What are the barriers that you want to break down?

Questioning Techniques

Closed Questions

A closed question usually receives a single word or very short, factual answer.

Open Questions

Open questions elicit longer answers. They usually begin with what, why, how. An open question asks the respondent for his or her knowledge, opinion or feelings. "Tell me" and "describe" can also be used in the same way as open questions.

Funnel Questions

This technique involves starting with general questions and then homing in on a point in each answer and asking more detail.

Probing Questions

Asking probing questions is another strategy for finding out more detail. Sometimes it is as simple as asking the presenter for an example to help you understand a statement they have made or you require additional information for clarification.

Questioning Do's and Don'ts

To make the best use of time available for a witness, it is important to think about not only the type of question, but also the way in which it is asked. The following suggest some issues to think about:

DO:

- Ask clear, concise questions covering a single issue
- Ask challenging questions that will stimulate thought
- Ask reasonable questions based on what presenters will know about
- Ask honest and relevant questions
- Ask a question
- Allow time for thoughtful responses

DON'T

- Ask rambling, ambiguous questions that cover a number of issues
- Ask questions that don't provide an opportunity for thought
- Ask questions about issues not in the witness's knowledge
- Ask 'trick' questions designed to confuse witnesses
- Make a personal statement or speech
- Let witnesses cross-examine each other
- Talk or leave the room when people are giving evidence

The IdeA published a document entitled 'A Councillor's Guide to Performance Management' which contains the following examples of questions members can use to dig deeper into performance reports and support action plans for improvement.

1. Why is performance at the current level?

Key Questions	Digging Deeper
Are we meeting our target, is any variance (above or below) within previously agreed limits? Why has this variance occurred?	<ul style="list-style-type: none">• Are you sure?• Is there any other reason?• What was our target based on?
Do we have a complete picture of performance?	<ul style="list-style-type: none">• Is this an appropriate measure?• What else should we know?
What performance do you predict for the next month/quarter?	<ul style="list-style-type: none">• How good was your forecast last time?

	<ul style="list-style-type: none"> • Have you identified all the risks to achievement?
--	---

2. What difference does this make?

Key Questions	Digging Deeper
What are the implications of not meeting this target: <i>Or, where performance exceeds expectations</i> Can we move resources from this to one of a higher priority?	<ul style="list-style-type: none"> • What impact does this have on service users and/or the public? • Will this affect our corporate priorities? • Will it affect other services, our partners? • Is there an impact on equalities, sustainability or efficiency?

3. How can we make sure things get better?

Key Questions	Digging Deeper
How will performance be improved?	<ul style="list-style-type: none"> • How will the causes of underperformance be addressed? • Will that address the problem? • When will performance be back on track?
Do you need help?	<ul style="list-style-type: none"> • Are additional resources / training / support needed? • If additional funding / resources are needed where will they come from? • Does any additional investment line up with service / corporate aims?
Who else should be involved?	<ul style="list-style-type: none"> • Can other services or teams contribute to improvement? • Who else needs to be consulted? Staff / partners / users / the public?

4. What next?

Key Questions	Digging Deeper
What decisions do you need us to take?	<ul style="list-style-type: none"> • What do we need to know to make a decision? • What are the risks in the assumptions we might make? • When do we need to review progress?
What can we learn from this?	<ul style="list-style-type: none"> • How well are other councils / service providers performing in this area? What are they doing differently? • How will this change what we do? • Are there successes to share in the Council?

CALL IN PROCEDURE

Any matter decided by the Cabinet or any key decision made by an officer/ individual Cabinet Member with delegated authority from the Cabinet, may be called in immediately after the decision has been made or by not later than five working days after the publication of the Minutes of the Cabinet meeting which decided the matter or the date the delegated decision was published.

Any 2 Members of the Council may apply, in writing, to the Chief Executive on the appropriate requisite form for the matter to be called-in. Any matter called-in must be considered at the next meeting of the Overview and Scrutiny Board which will have power to consider the decision. If the decision is rejected, the overview and scrutiny body may refer the decision back to the decision taker for further consideration.

If it appears to the Overview and Scrutiny Board that the issue called-in falls outside the Council's Budget and Policy Framework, then that issue shall be referred to the Chief Executive who shall determine whether the issue should be considered by full Council.

The call-in procedure can only be used once in relation to any particular issue in a six month period. Once the procedure has been used and a decision considered by the Overview and Scrutiny body, the issue cannot be reconsidered. (If the Cabinet makes a further decision on the issue, then that issue will not be subject to the call-in procedure)

Once a call-in application is made, it cannot be withdrawn after the expiry of the call-in period, namely after five clear working days following the publication of the delegated decision of the relevant officer, the publication of the Minutes of the Cabinet or Council which decided the matter. A signature to a call-in application can, however, be withdrawn before the five days but will only take effect if it is withdrawn in writing to the Chief Executive. If a signature is withdrawn, the proposer will be advised of this and he/she will need to obtain an alternative signature and notify the Chief Executive within the five day period. If no signature is submitted within the five day period, then the call-in application will not be a valid application and as such, will be withdrawn.

The call-in procedure does not apply to Appeal Panels, regulatory committees or any committees acting in a quasi-judicial manner.

Decisions requiring immediate action and so specified in the Minutes of the Cabinet are also excluded from call-in.