

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMISSION

6.1. Terms of Reference

The Council will appoint an Overview and Scrutiny Commission with the following terms of reference to discharge the functions conferred by section 21 of the Local Government Act 2000, regulations under section 32 of the Local Government Act 2000, the Local Government and Public Involvement in Health Act 2007, the Local Democracy, Economic Development and Construction Act 2009 and the Localism Act 2011:

- (1) The performance of all overview and scrutiny functions on behalf of the Council.
- (2) The appointment of task-orientated, time-limited scrutiny panels, with membership that reflects the political balance of the Council and, the setting of such terms of reference and duration as it considers appropriate to fulfil those functions by carrying out overview and scrutiny on functional matters or cross-cutting themes or with an area focus.
- (3) To receive requests from the Cabinet for scrutiny involvement in policy review and development and decide how to respond.
- (4) To monitor the Cabinet's Forward Plan and, where appropriate, comment on proposals prior to the Cabinet taking a decision.
- (5) To receive all appropriate budget monitoring and service information, particularly in relation to the transformation plan.
- (6) To approve and co-ordinate an annual overview and scrutiny work programme, noting the programme of any scrutiny panels it appoints so as to ensure that the Overview and Scrutiny Commission's and scrutiny panels' time is effectively and efficiently utilised.
- (7) To ensure community and voluntary sector organisations, users of services and others are appropriately involved in giving evidence to relevant scrutiny panels.
- (8) To review the implementation of other completed scrutiny reviews.
- (9) Where appropriate, to review any other issue affecting the Borough but for which the Council is not directly responsible.
- (10) To discuss any local government matter or local crime and disorder matter either referred to the Commission or otherwise, to review or scrutinise such a matter and, where appropriate, make reports or recommendations to the Council or the Cabinet except where an excluded matter (i.e. any matters relating to a planning decision, a licensing decision or where a person has right of recourse to a review or right of appeal; any matter which is vexatious, discriminatory or not reasonable; any matter referring to an individual complaint; or any local crime and disorder matter excluded under S.19 of the Police and Justice Act 2006. However, a matter is not excluded if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis).
- (11) To discuss any item relevant to the functions of the Commission referred to the Commission by a Member of the Commission, to review or scrutinise such a matter and, where appropriate, make reports or recommendations to

the Council or the Cabinet except where an excluded matter (i.e. any matters relating to a planning decision, a licensing decision or where a person has right of recourse to a review or right of appeal; any matter which is vexatious, discriminatory or not reasonable; any matter referring to an individual complaint; or any local crime and disorder matter excluded under S.19 of the Police and Justice Act 2006. However, a matter is not excluded if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis).

- (12) To discuss any local government matter or local crime and disorder matter either referred to the Commission or otherwise, where necessary referring the matter to a scrutiny panel to review or scrutinise and on receipt of the panel's report, to make reports or recommendations to the Council or the Cabinet where appropriate except where an excluded matter (i.e. any matters relating to a planning decision, a licensing decision or where a person has right of recourse to a review or right of appeal; any matter which is vexatious, discriminatory or not reasonable; any matter referring to an individual complaint; or any local crime and disorder matter excluded under S.19 of the Police and Justice Act 2006. However, a matter is not excluded if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis).
- (13) Where appropriate, to recommend to the Council the appointment of co-optees to serve on the Overview and Scrutiny Commission and whether they shall have voting rights.
- (14) Where appropriate, to appoint co-optees to serve on scrutiny panels and to decide whether they shall have voting rights or agree to let the Chair of the relevant scrutiny panel decide this in consultation with the Chair of the Overview and Scrutiny Commission and the Head of Legal, Democracy and HR.
- (15) To appoint Chairs of scrutiny panels.
- (16) Where the Commission may reasonably require in order to discharge its function, being information which has been requested in writing and relates to the functions of the relevant partner authority so far as exercisable in relation to the authority's area or the inhabitants of that area, to obtain information from relevant partner authorities and require executives of local authorities to exclude confidential and exempt information when publishing their response to reports and recommendations of Overview and Scrutiny Committees.
- (17) To ensure that any reports by the Joint Scrutiny Task and Finish Groups be reported to the appropriate decision maker via the Commission, and that the appropriate decision maker responds accordingly to the West Sussex Joint Scrutiny Steering Group.
- (18) To consider any petition before its consideration by the appropriate decision-maker.
- (19) To consider a petition referred to the Commission before its consideration by the appropriate decision-maker.

Scrutiny Procedure Rule 8 sets out the process to be followed in respect of functions (10), (11) and (12) above.

6.2. General Matters

1. Overview and Scrutiny Commission

The Overview and Scrutiny Commission has responsibility for all overview and scrutiny functions on behalf of the Council. It has a remit to review or scrutinise the full range of the Council's activities.

Specifically the Commission undertakes policy review, looks closely at decisions the Cabinet is going to take, and oversees the work of the Cabinet. It therefore has an overview of activities across the Council.

2. Scrutiny Panels

The Overview and Scrutiny Commission may establish time-limited scrutiny panels, the number to be running at any one time to be subject to resource constraints. These panels will be charged with carrying out an in-depth investigation into a specific service area or policy or any issue of genuine importance to the town. Each panel will work to a specific brief set out by the Commission and will report to the Commission.

Membership of the scrutiny panels may be drawn from the Commission itself and/or from other non-Cabinet Members of the Council. The panels will be politically balanced unless agreed otherwise by the Group Leaders. Membership will depend on the knowledge and expertise required to deal with the matter in hand, as long as the principle of independence is not compromised. The Commission will appoint the Chair of each panel from the membership of the Commission and agree the other Panel Members in consultation with the party group secretaries.

The Commission will agree the Chair of any scrutiny panel it establishes (who will not necessarily be an OSC Member and may potentially be the nominator). Panel Members will then be agreed in consultation with Group Leaders and the party group secretaries. However, at least one member of the panel must be an OSC Member.

Choosing the topics for the scrutiny panels to work on is a key task for the Commission. It will be impossible for the scrutiny panels to cover all the Council's activities and there is therefore a need to prioritise particular issues. It will also be important for the Commission to hold some capacity in reserve for urgent issues that may emerge.

3. West Sussex Joint Scrutiny Task and Finish Groups

A formal but flexible joint scrutiny arrangement, through an overarching steering group and bespoke task groups, was established in West Sussex initially for a pilot period commencing July 2011.

The West Sussex Joint Scrutiny Steering Group will consider suggestions for joint scrutiny and may establish time-limited Task and Finish Groups. The Task and Finish Groups will investigate issues of common concern affecting either the whole county or the areas of more than one District/Borough Council. Any joint scrutiny will be outcomes- focused (i.e. where it's felt that improvements can be achieved for the community), and will scrutinise

performance as opposed to processes. Whilst issues under joint scrutiny may relate to the work of organisations with a wider remit than local authorities (e.g. quangos, utilities, Environment Agency etc.), any scrutiny will not be of the organisations themselves, but rather of relevant issues relating to their work/role.

Any joint scrutiny will be carried out by non-Cabinet Members of County, District and Borough Councils. Non-Executive County Council Members who are Cabinet Members on District or Borough Councils (or vice-versa) will not carry out any joint scrutiny activities that relate to their portfolio area.

Any Task and Finish Groups will consist of a minimum of 3 Members, with the exact number to be determined by the Steering Group according to the topic. Membership of Task and Finish Groups will be non-political and geographically balanced (as appropriate). The Steering Group may wish to recommend co-opted Members from relevant authorities, but ultimately this should be the decision of the Task and Finish Group.

These Task and Finish Groups will submit a final report via the Overview and Scrutiny Commission(s) to the Cabinet(s) of the relevant Council(s) and/or other partners with a copy to the Joint Steering Group.

6.3. Specific Functions

- (1) The Overview and Scrutiny Commission (and its panels) may:
 - (a) review and scrutinise the decisions made by and the performance of the Cabinet and Committees and Council employees both in relation to individual decisions and over time;
 - (b) review and scrutinise the transformation plan, operation of the Council in relation to its policy objectives, measures and particular service areas;
 - (c) review other issues which might impact on the quality of life in the town;
 - (d) review any matter relating to, or arising out of, any issue that has previously been referred to scrutiny.
 - (e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Commission, or a panel, or local people, about their activities and performance;
 - (f) question and gather evidence from any person (with their consent);
 - (g) question Members of the Cabinet and Chairs of Committees and the Chief Executive/Deputy Chief Executive/Heads of Service about their decisions, whether generally in comparison with service plans and measures (performance) over a period of time, or in relation to particular decisions, initiatives or projects;

In addition, the Overview and Scrutiny Commission may:

- (h) make recommendations arising from the outcome of the scrutiny process to the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), to a Committee where the

matter falls within its terms of reference or to the Council as appropriate (e.g. if the proposal would require a departure from or a change to the agreed budget and policy framework).

Where the Council is to receive the report, a copy of the report will be submitted to the Cabinet held in the same cycle. The Cabinet may comment upon the report and these comments will be presented to the Council at the time the report is considered.

- (i) exercise overall responsibility for the finances made available to it;
 - (j) exercise overall responsibility for the work programme of the employees employed to support its work.
- (2) The Overview and Scrutiny Commission (and its panels) will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.
 - (3) The remit of the Overview and Scrutiny Commission (and its panels) is not to perform the function of an appellate body nor to examine individual complaints.
 - (4) The Overview and Scrutiny Commission will not normally be responsible for the development of new policies. Where appropriate, this function will be fulfilled through task-orientated groups established by the relevant Cabinet Member or all-Member seminars, except where policy development arises from the Overview and Scrutiny Commission reviewing current policy in which case the Commission may, as part of the review, recommend new policies.

6.4. Role of Chair of Overview and Scrutiny Commission

- (1) To oversee and provide leadership, management and strategic direction to the Overview and Scrutiny Commission and process.
- (2) To represent the Overview and Scrutiny Commission on the West Sussex Joint Scrutiny Steering Group. In the event that the Chair is unable to attend, the Vice-Chair shall attend on their behalf. If neither the Chair nor the Vice-Chair are able to attend, another Commission Member shall be nominated by the Chair to attend on their behalf;
- (3) To develop and promote the role, profile and impact of overview and scrutiny
- (4) To develop a knowledge of the Council and how it relates to other organisations and the community
- (5) To develop the skills set for a successful chair of overview and scrutiny
- (6) To chair meetings of the Overview and Scrutiny Commission impartially, encouraging contributions from all Commission Members;
- (7) To consider how Scrutiny work might be assisted by:
 - arranging informal discussions outside the Committee process or undertaking visits
 - inviting outside contributors to attend Overview and Scrutiny Commission meetings
 - calling for reports from the Chief Executive, Deputy Chief Executive or relevant officers or commissioning research.

- (8) To produce a report for submission to the Cabinet, a Committee or the Council as appropriate.
- (9) To present review reports at the Cabinet, at a Committee and/or the Full Council.
- (10) To decide, in consultation with the Chair of the relevant scrutiny panel and the Head of Legal, Democracy and HR, whether any co-optees serving on such scrutiny panels should have voting rights (as in accordance with paragraph 6.1(14) of this Article).

6.5. Scrutiny and the Forward Plan

Following the publication of the Forward Plan, Members will be invited by the Head of Legal, Democracy and HR to indicate which items, if any, should be scrutinised prior to consideration by the Cabinet. Items should not be identified for Overview and Scrutiny Commission consideration if a Member's queries could easily be answered by reference to the appropriate Head of Service or relevant Cabinet Member.