

OVERVIEW AND SCRUTINY PROCEDURE RULES (OSR)

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OVERVIEW AND SCRUTINY PROCEDURE RULES

In these procedure rules use of the title “overview and scrutiny committee” means any overview and scrutiny commission/committee established by Full Council or sub-committee appointed by an overview and scrutiny committee that is not a joint scrutiny committee. Where “select committee” is used, the rule applies to select committees appointed by the Overview and Scrutiny Management Board and any sub-committees.

OSR1

Who may sit on overview and scrutiny committees?

All councillors except members of the executive may be members of an overview and scrutiny committee. However, no member may be involved in scrutinising a decision in which they have been directly involved, other than by virtue of their involvement in a decision of Full Council.

Membership of scrutiny task and finish groups should reflect, as far as is reasonably practical, reflect the political proportionality of the Full Council.

OSR2

Co-optees

- (1) All overview and scrutiny committees shall be entitled to appoint a reasonable number of non-voting co-optees.
- (2) Co-optees shall be drawn from groups or organisations or represent service users who have an interest in services whose overview and scrutiny falls within a committee’s specific remit.
- (3) Co-optees may be appointed either as standing co-optees, whose membership of a committee will be for the duration of the municipal year (except for statutory parent governor co-optees for whom the term of office is 2 years) or special interest co-optees - those appointed to assist a committee with its scrutiny of a particular matter.
- (4) All co-optees will be non-voting other than those identified in OSR 3 below.

OSR3

Voting co-optees / representatives

- (1) The relevant overview and scrutiny committee dealing with education matters shall include in its membership the following voting representatives:
 - (a) 1 Church of England diocese representative;
 - (b) 1 Roman Catholic diocese representative; and
 - (c) 2 parent governor representatives.

A relevant overview and scrutiny committee in this paragraph is a committee whose functions relate wholly or in part to any education functions. Where the overview and scrutiny committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

- (2) Co-optees to the designated crime and disorder committee may have voting rights as determined by that committee.

OSR4

Meetings of overview and scrutiny committees

- (1) Each overview and scrutiny committee, except for the call-in sub-committee, will meet as directed by the Overview and Scrutiny Management Board.
- (2) There shall be at least one meeting where statutory crime and disorder matters are discussed.
- (3) An extraordinary overview and scrutiny committee meeting may be called by the Overview and Scrutiny Management Board or by the proper officer if they consider it necessary or appropriate.

OSR5

Quorum

The quorum for an overview and scrutiny committee or select committee shall be as set out in the Committee Rules - CMR 8 in Part 4 of this constitution.

OSR6

Chairing

- (1) The Chair of the overview and scrutiny board (OSMB) should be a member of the largest political group that the Mayor is not a member of.
- (2) The Chairs of the scrutiny commissions should not be members of the same political group of the Mayor.
- (3) The chairs of overview and scrutiny committees will be members of the Overview and Scrutiny Management Board (the Board) and shall therefore be determined as part of the political balance arrangements at the annual meeting for the ensuing municipal year.

OSR7

Work programme

- (1) The Board shall set the scrutiny work programme and each overview and scrutiny committee will be accountable to the Board for the delivery of their work programmes. They will be responsible for providing updates and progress reports to the Board in the manner in which the Board determines. When drawing up work programmes, overview and scrutiny committees shall take into account the wishes of all members on that committee who are not members of the largest political group on the council.

In setting the work programme, the overview and scrutiny management board will have regard to the Council's strategic priorities and policies, including the policy framework and budget and spending plans and their impact on service delivery and outcomes for the people of Bristol. Specifically, they will take into account, the work programme of the executive and the content of the Mayor's Forward Plan, and shall consult with the Mayor/Executive.

- (2) Task Groups (e.g. Select committees, working groups, inquiry days etc.) will be established by the Board, including their Terms of Reference/working arrangements). The structure for these will be determined by the nature of the issue under consideration and OSMB will determine this when setting the work programme.

OSR8

Entitlement to place items on Agenda

- (1) Any member or co-optee of an overview and scrutiny committee shall be entitled to give notice to the proper officer that they wish an item relevant to the functions of the committee to be included on the agenda for the next available meeting. All proposed agenda items will be discussed and scoped at a monthly OSM planning meeting.
- (2) Any member of the authority may refer to an overview and scrutiny committee of which they are not a member any local government matter which is relevant to the functions of that committee by giving written notice to the proper officer. All proposed agenda items will be discussed and scoped at a monthly OSM planning meeting.
- (3) Any member of the authority who is not a member of the designated crime and disorder committee may refer to that committee any local crime and disorder matter by giving notice in writing to the proper officer. All proposed agenda items will be discussed and scoped at a monthly OSM planning meeting.
- (4) On receipt of a notice under rule 8(1), 8(2) or 8(3), the proper officer will include the matter on the next available agenda of the relevant overview and scrutiny committee for consideration.

- (5) In considering whether to exercise the power in rule 8(2) or 8(3), the member must have regard to any guidance issued by the Secretary of State and any protocol issued by the council in connection with this power.
- (6) In considering whether or not to exercise any of its powers in relation to the matter referred under rule 8(2) or 8(3), the relevant overview and scrutiny committee may have regard to any representations made by the member as to why it would be appropriate to exercise any of its powers. If the committee decides not to exercise any of those powers in relation to the matter, it must notify the member of the decision and the reasons for it.
- (7) Where an overview and scrutiny committee exercises its power to make a report or recommendations on any matter referred to it by a member under rule 8(2) or 8(3) the committee must provide the member with a copy of the report and recommendations (subject to rule 11B).
- (8) The determination of whether or not a matter is a local government matter or a local crime and disorder matter shall be made by the proper officer.
- (9) The Board and the relevant overview and scrutiny committee shall respond to requests from the Full Council and (if it considers it appropriate) the executive, to review particular areas of council activity as soon as the work programme allows. Where they do so, they shall report their findings and any recommendations back to the executive and / or the Full Council.

OSR9

Policy review and development

- (1) The role of the overview and scrutiny committees in relation to the development of the council's budget and policy framework is set out in detail in the Policy and Budget Framework Procedure Rules (PBR).
- (2) In relation to the development of the council's approach to other matters not forming part of its policy and budget framework, an overview and scrutiny committee may make proposals to the executive for developments in so far as they relate to matters within its terms of reference.
- (3) Overview and scrutiny committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. 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. Select committees and other bodies appointed by an overview and scrutiny committee may undertake such activity as necessary, to fully investigate the topic which they have been charged with reporting on.

- (4) Both may ask witnesses to attend to address them on any matter under consideration. Any advisers, assessors and witnesses may be paid a reasonable fee and expenses for doing so.

OSR10

Reports from overview and scrutiny committees

General

- (1) Where an overview and scrutiny committee makes a report or recommendations to Full Council or the Executive, except in relation to a local crime and disorder matter, the following rules apply:

The proper officer will prepare a formal report which may be published. Depending on the nature of the subject matter, the report will be submitted to the appropriate tier of the authority for consideration (Chief Executive, Executive Director; Mayor/Cabinet/executive or Full Council) along with a written notice requiring that Full Council or the Executive:

- consider the report or recommendations;
- respond to the overview and scrutiny committee indicating what (if any) action Full Council or the executive propose to take;
- publish the response, if the overview and scrutiny committee has published its report or recommendations;
- provide a copy of the response to the member if the overview and scrutiny committee provided a copy of the report or recommendations to the member under rule OSR 8(7);
- do all of the above within two months of receiving the report / recommendations or (if later) the notice.

Time limit - 2 months

- (2) Where an overview and scrutiny committee's proposals would require a departure from or a change to the agreed budget and policy framework, then the matter will be considered by the Full Council.
- (3) It is the duty of Full Council or the executive to which a notice is given under rule 10(3) to comply with the requirements specified in the notice.

Reports to NHS bodies

- (4) Where an overview and scrutiny committee makes a report relating to the planning, provision and operation of health services in its area, it may make a report and recommendations to a local NHS body, which body must respond in writing within 28 days of the request (or if this is not possible, as soon as

reasonably practicable thereafter to a timescale agreed with the proper officer).

Statutory time limit - 28 days

Reports to Partners

- (5) Where an overview and scrutiny committee makes a report to a relevant partner authority (other than the Police and Crime Commissioner, the Chief Constable or health service body):
- (a) the overview and scrutiny committee may by notice in writing to the relevant partner authority (accompanied by the report / recommendations) require that the authority have regard to the report or recommendations in question in exercising their functions; and
 - (b) the relevant partner must comply with the requirement in the notice to have regard to the report/recommendations.

Reports relating to crime and disorder matters

- (6) Where the designated crime and disorder committee makes a report or recommendations to a responsible authority (including any part of the council) or cooperating person or body the council must provide the responsible authority or cooperating person or body with a copy of the report or recommendations with a written notice requiring that they:
- (a) consider the report and recommendations;
 - (b) respond in writing to the committee within 28 days of the date of the report or recommendations (or, if this is not possible, as soon as reasonably possible thereafter) indicating what (if any) action they propose to take;
 - (c) have regard to report or recommendations in exercising its functions.

Statutory time limit - 1 month

OSR 11

Reports from Select Committees and other task groups

- (1) When a select committee has completed its final report:
- (a) it will submit its report and recommendations to the overview and scrutiny management board for adoption ;
 - (b) where the report relates to a service which is provided directly by or is supported by the city council, the appropriate senior officer(s) will then be invited to comment on the recommendations. Where it relates to a

service which is supplied by an external agency, then that agency will be invited to comment;

- (c) the overview and scrutiny management board will then either:
- (i) refer the report and any officer or external agency comments to the next appropriate meeting of the Full Council for debate prior to referring it to the Mayor / Cabinet / executive, nonexecutive committee, external agency or decision maker; or
 - (ii) refer the matter directly to the Mayor / Cabinet / executive, non-executive committee, external agency or decision maker.
- (2) If an overview and scrutiny committee or select committee cannot agree on one single final report any councillor(s) may require that a note of dissent is included or a minority report is prepared and submit it for consideration by the Full Council or Mayor / Cabinet / executive, non-executive committee, external agency or decision maker with the majority report.

OSR12

Publication of reports, recommendations and responses

Where a report or recommendation of an overview and scrutiny committee or response of the Full Council or the Executive is published pursuant to OSR 11 or 12 and is provided to a member any confidential information or any relevant exempt information may be excluded in line with the provisions of section 21D of the Local Government Act 2000.

OSR13

Making sure that the views of scrutiny are considered by the Executive

Every agenda for the Cabinet / Executive meetings shall include an item entitled '*Issues arising from overview and scrutiny*'. Any reference from an overview and scrutiny committee will either be reported via the appropriate reporting schedule or take the form of a detailed officer report which shall be included at this point in the agenda, within two months of the overview and scrutiny committee completing its report / recommendations.

Select committee final reports will form a separate agenda item.

Time limit - 2 months

OSR14

Rights to information

Information held by the Council

- (1) In addition to their rights as Councillors, members of overview and scrutiny committees have the additional right to documents held by the council, and to notice of council meetings as set out in the Access to Information Rules (APR) in part 4 of this constitution.

Information held by local NHS bodies

- (2) Where an overview and scrutiny committee is exercising its functions in relation to the planning, provision or operation of local health services, a local NHS body must provide it with any such information as the scrutiny commission may require in accordance with the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 or any legislation that supersedes it.

Provision of information by Partner Authorities

- (3) An overview and scrutiny committee may request that a partner authority provide it with information.

Crime and Disorder Matter

- (4) Where the designated crime and disorder committee makes a request in writing for information to a responsible body or co-operating person or body, that information must be provided in accordance with the Crime and Disorder (Overview and Scrutiny) Regulations 2009 or any legislation that supersedes it.

Flood Risk Management Authorities

A risk management authority must comply with a request made by an overview and scrutiny committee for information and have regard to reports and recommendations of an overview and scrutiny committee.

OSR15

Members and officers giving account

- (1) Where an overview and scrutiny committee or select committee considers decisions or actions taken in connection with the discharge of any council function falling within its terms of reference, it may **require** any member of the Mayor and executive, the head of paid service and / or any Executive Director or service director to attend before it to explain in relation to matters within their remit:
 - (a) any particular decision or series of decisions;
 - (b) the extent to which the actions taken implement council policy; and
/ or
 - (c) the performance of their duties;

a. and it is the duty of those persons to attend if so required.

(2) An overview and scrutiny committee chair or select committee chair, in consultation with the spokespersons of the other political groups represented will decide where any member or officer should be required to attend an overview and scrutiny committee or select committee under this provision, and the proper officer will be advised accordingly. The proper officer shall inform the Mayor/executive member or officer in writing giving at least fifteen clear working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the commission. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

(3) Notice required - at least 15 clear working days

(4) Only Members of the overview and scrutiny committee may ask questions of the Mayor/executive member or officer called to give account.

(5) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview and scrutiny committee or select committee shall in consultation with the member or officer arrange an alternative date for attendance to take place within a maximum of five days from the date of the original request. In setting the dates the proper officer will take into account exceptional circumstances,

OSR 16

Attendance by others

(1) An overview and scrutiny committee or select committee may invite people other than those people referred to in OSR 15 (members and officers giving account) above to address it, discuss issues of local concern and / or answer questions. It may for example wish to hear from residents, stakeholders, councillors and officers in other parts of the public sector and shall invite such people to attend.

Attendance is of course optional except as set out below.

(2) Where an overview and scrutiny committee is exercising its functions in relation to the planning, provision or operation of local health services, it may require an officer of a local NHS body to attend before the committee to answer such questions as appear to be necessary for discharging its functions. The officer must attend, provided he or she has been given reasonable notice of the date of the meeting.

- (3) The designated crime and disorder committee may require the attendance before it of an officer or employee of a responsible authority or a cooperating person or body in order to answer questions. The officer or employee must attend, provided he or she has been given reasonable notice of the date of the meeting.

OSR17

What is Call-in and how does it operate?

Where non-executive councillors have evidence which suggests that the executive did not take the decision in accordance with the principles set out in Article 14 (Decision Making) of part 2 of the constitution, they may ask the proper officer to “call in” the decision for scrutiny.

- (a) When a decision is made by the executive or a key decision is made by an officer with delegated authority from the executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the City Hall normally within two clear working days of the decision being made. Chairs and members of the relevant overview and scrutiny committee will be sent copies of the records of all such decisions within two clear working days, by the proper officer responsible for publishing the decision.
- (b) That notice will bear the date on which it was published and will specify that the decision will come into force, and may then be implemented, on the expiry of five clear working days from the date the decision was taken, unless the decision is ‘*called in*’.
- (c) During that period, at least five non-executive members may ask the proper officer to *call-in* a decision for scrutiny using the appropriate ‘*call-in*’ pro forma. The proper officer will first satisfy themselves that the following requirements have been met:
 - (i) the *call-in* notice has been received within the prescribed time scales;
 - (ii) the decision taker’s decision has been properly identified and described;
 - (iii) the members seeking the *call-in* have identified those principles of Article 14 of the constitution which they believe have been breached.
- (d) If the requirements are met the proper officer will *call-in* the item and within five working days of the request, give notice as to the date on which the call-in will be considered by a call-in committee which will be held within 10 days of request for call in being approved by Proper Officer. If a debate at Full Council is decided by the call in sub-committee then this will be held within ten days at an extraordinary meeting of Full Council or at the Lord Mayors discretion
- (e) The call-in committee will decide either:

- (i) to take no further action in relation to the *call-in*; or
 - (ii) to refer the decision back to the decision taker, setting out in writing, the nature of its concerns; or
 - (iii) to refer the matter for debate at Full Council.
- (f) If the call-in committee:
- (i) meets on the date specified in the notice in (d) above but does not either refer the matter back to the decision maker or refer the matter to the Full Council, then the decision will take effect on the date of the call-in committee's meeting; or
 - (ii) does not meet on the date specified in the notice in (d) above, then the decision will take effect on the first working day after that specified date.

If it is agreed that the matter be referred back to the decision maker they shall then reconsider at their next scheduled meeting (or sooner in the event of urgency), amending the decision or not, before adopting a final decision.

- (g) If the matter is referred to the Full Council and the Full Council does not object to the decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Full Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy and budget framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Full Council will refer any decision to which it objects back to the decision maker, together with the Full Council's views on the decision. The decision maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Mayor / Cabinet / executive or under joint arrangements, then within seven clear working days of the Full Council request, notice must be given of the date of the meeting to reconsider the decision.
- (h) If the Full Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Full Council meeting or expiry of the period in which the Full Council meeting should have been held, whichever is the earlier.
- (i) Decisions taken by an Area Committee shall not be subject to call-in.

Call-In and Urgency

- (j) The *call-in* procedure set out above shall not apply where the decision being

taken by the executive is urgent. A decision will be urgent if any delay likely to be caused by the *call-in* process would seriously prejudice the council's or the public's interests. The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to *call-in*. The head of paid service and the monitoring officer (in consultation with the Mayor) must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the head of paid service, the consent of the chief financial officer shall be required, and in the absence of the monitoring officer, the consent of the deputy monitoring officer shall be required. Decisions taken as a matter of urgency must be reported by the relevant executive member to the next available meeting of the Full Council, together with the reasons for urgency.

- (k) The operation of the provisions relating to *call-in* and urgency shall be monitored annually by the monitoring officer, and a report submitted to the Full Council with proposals for review if necessary.

OSR18

The party whip

NB. Definition of the party whip:

“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 or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should they speak or vote in any particular manner.”

When considering any matter in respect of which a member of an overview and scrutiny committee or select committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

OSR19

Procedure at overview and scrutiny committee meetings

- (a) In addition to the standard committee business items described in the Committee Rules (CMR) 1.1 and 2.1, ordinary meetings of overview and scrutiny committees shall include the following items on their agenda;
- (i) any items raised by a councillor (under OSR 9) or by scrutiny co-optees;
 - (ii) items remaining in the committee's agreed work programme;

- (iii) responses to reports of the overview and scrutiny committee; and
 - (iv) the business otherwise set out on the agenda for the meeting.
- (b) Where the overview and scrutiny committee or select committee/task groups conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:
- (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

OSR 20

Matters within the remit of more than one overview and scrutiny committee

Where a matter for consideration by an overview and scrutiny committee also falls within the remit of one or more other overview and scrutiny committee, the decision as to which overview and scrutiny committee will consider it will be resolved by the Chair of the Overview and Scrutiny Management Board.

OSR 21

Mayoral question time

- i) Immediately before the four quarterly meetings of the Board, the Council will hold a Member Mayoral and Executive Question Time for members of Council only.
- ii) The Question Time will be chaired by the Chair of the Board or in his absence the Deputy Chair or by a member elected by the members to preside if neither is present.
- iii) The Question Time will last for no more than one hour.
- iv) A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the proper officer by no later than 12 noon on the working day before the day of the meeting. Each question must give the name of the questioner. Copies of all questions will be circulated to all members and made available to the public attending the meeting by no later than one hour before the meeting.
- v) Questions will be asked in the order notice of them was received, except that the Chair of the Board may group together similar questions.

- vi) Members of Council shall be entitled to ask two questions and two supplementary questions. Questions must concern matters on the agenda of Board meeting. A supplementary question must arise directly out of the original question or the reply
- vii) Replies to questions will be given verbally. If a reply cannot be given at the meeting (including due to lack of time) or if written confirmation of the verbal reply is requested by the questioner, a written reply will be provided within 10 working days of the meeting
- viii) The person presiding may rule out questions which in his opinion are defamatory, offensive or frivolous, or which require the disclosure of confidential or exempt information.
- ix) The person presiding shall rule out questions that are not about a matter for which the local authority has a responsibility or which directly affect the city.