

**BRISTOL CITY COUNCIL
OVERVIEW AND SCRUTINY MANAGEMENT BOARD**

6 JUNE 2013

Report of the Service Manager, Democratic Services

**Overview and Scrutiny Management Board
Annual Business Report**

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RECOMMENDATION

1. To note the Board's terms of reference;
2. To note the proposed operating arrangements for the scrutiny function in 2013-14 and in particular, the role of the Board in directing and managing the way in which scrutiny is delivered
3. To confirm the meeting dates for the Board in 2013/14 and to confirm the starting times for meetings;
4. To agree chairing arrangement for scrutiny commissions in 2013/14;
5. To confirm arrangements for handling call-in's;
6. To commend to the commissions, use of external expertise in support of their work during 2013/14, subject to consideration of the former OSM Committee's previous recommendations on this matter as outlined in the report;
7. To appoint 3 members to serve on the West of England (LEP) Scrutiny Commission;
8. To appoint 3 members to serve on the Licensing Policy Scrutiny Board;

The significant issues in the report are :
Set out in text boxes on subsequent pages.

Policy

Not applicable.

Consultation

The Scrutiny and Governance Member Working Group met on 3 occasions during 2013 to review the way in which scrutiny at Bristol operates and made recommendations to full Council.

Context and Proposal

Terms of Reference of the Board and the creation of other scrutiny bodies

1. At its meeting on 21 May, 2013 full Council established the Overview & Scrutiny Management Board with the following terms of reference:

OVERVIEW AND SCRUTINY MANAGEMENT BOARD

Terms of Reference

Functions

In accordance with legislation (Local Government Act 2000, Health and Social Act 2001, NHS Act 2006, Police and Justice Act 2006, Flood and Water Management Act 2010, Localism Act 2011, Health Act 2012) the Board will discharge the council's overview and scrutiny function, including but not limited to the following:

General

1. Overview and scrutiny of strategic priorities and policy, including the council's budget, spending plans and policy framework and review of their impact on service delivery and outcomes for people in Bristol.
2. Work with, inform and hold the Mayor/Executive to account in relation to the development, implementation and review of strategic priorities and policy.
3. Review and scrutinize decisions made, or other action taken in connection with the discharge of any functions which are the responsibility of the Mayor/Executive, functions which are not the responsibility of the Executive, and functions which are the responsibility of any other bodies the Council is authorized to scrutinize.
4. Make reports and recommendations to Full Council, the Mayor/Executive and/or any "Other Body" on matters within their remit and on matters which affect the authority's area or the inhabitants of that area.
5. Develop the external focus of overview and scrutiny on 'city-wide issues' (and where appropriate sub regional, regional and national issues), in particular through collaborative work with local partner authorities, providers, stakeholders and members of the public.
6. Scrutinize the work and effectiveness of, and receive regular reports from the Local Enterprise Partnership (LEP) and other local strategic partnerships.

7. Scrutinize governance arrangements at strategic and local level (e.g. Neighbourhood Partnerships) to ensure these are fit for purpose and deliver good decision making, accountability, transparency and involvement

Management Function

8. To manage, develop and champion the overview and scrutiny function of the Council:
 - As a vehicle to provide constructive challenge, public accountability and improved outcomes for people in Bristol particularly through early engagement in pre-decision scrutiny, policy development and review.
 - As a forum to consider evidence and different views and opinions and respond to public priorities.
 - To promote confidence and greater involvement in local democracy
9. In addition to the scrutiny commissions which are established by Council, to create such structures that the Board considers necessary to assist with the delivery of overview and scrutiny and agree/amend their terms of reference including:
 - time-limited select committees/inquiries or other bodies, tasked to investigate specific internal and external policy development/ service delivery and improvement issues
 - the discharge of the Council's crime and disorder scrutiny functions under s.19 Police and Justice Act 2006
 - arrangements for the discharge of the Council's responsibility to review and scrutinize flood risk management functions under the Flood and Water Management Act 2010
10. In order to ensure that scrutiny remains properly aligned and focussed throughout the year, the Board will have authority to vary the terms of reference of the scrutiny commissions as necessary and appropriate, without reference back to Council.
11. To receive 6 monthly reports from any standing scrutiny bodies and select committees on progress against work-programmes and evaluate the impact of scrutiny reports and recommendations.
12. To consider requests for scrutiny reviews under the Councillor Call for Action process.
13. To review and evaluate the effectiveness of the overview and scrutiny function and make recommendations to full Council and propose any changes to the Constitution as necessary.
14. To establish and appoint members to serve on the following:
 - West of England Scrutiny Commission
 - Licensing Policy Scrutiny Board
 - Call In Sub-Committee

2. In addition, Council established the following scrutiny commissions, whose terms of reference may be inspected on the Council's website at the following link;

https://www.bristol.gov.uk/committee/2013/ta/ta000/0521_8-12.pdf

Neighbourhoods and Communities Commission

Children, Young People and Families Commission

Sustainable Development & Transport Commission

Health, Wellbeing & Adult Care Commission

Resources Commission

3. Council also re-established the following joint health scrutiny arrangements whereby Bristol scrutiny members sit with other members of relevant authorities when considering NHS initiatives which constitute major change to health service provision within the areas of those authorities:

Joint Health Scrutiny Committee

South West Joint Ambulance Scrutiny Committee

It is necessary for the Board to note its terms of reference as agreed by full Council (recommendation 1) and the creation by Council of the other scrutiny bodies which are identified above.

Scrutiny operating arrangements 2013-14

4. In September 2012 an inquiry was held under the auspices of the former Overview & Scrutiny Management Committee (OSM) exploring the role of overview and scrutiny in a mayoral authority. The inquiry reiterated a desire to build on the current strengths of overview and scrutiny in Bristol with a particular focus on the following :

- Policy development and in-depth reviews
- Involvement of the public and diverse stakeholders/partners
- Accountability
- Independence
- Consensus and cross party working
- External /Place based scrutiny
- Flexibility to fit approaches to the subject in the context of in-depth reviews

5. The findings of this Inquiry were the starting point for developing proposals for the delivery of overview and scrutiny from May 2013.
6. Following Full Council on the 16th November, a working group of party leaders, whips and OSM leads was established to develop and agree a structure for overview and scrutiny to be presented to Council for adoption. This work was duly reported at the Council's AGM on 21st May.
7. The proposed structure and frequency of meetings for both the Board and the formal scrutiny commissions is set out below and the terms of reference for the commissions may be inspected at the web link referred to above.
8. The Working Group's proposals re-focus the overview and scrutiny function to reflect the findings of the inquiry, with a particular emphasis on early engagement in pre-decision scrutiny, policy development, public accountability and improving outcomes for the people of Bristol.
9. The structure provides for greater flexibility and use of task and finish scrutiny for policy/service review and development. There will also be an opportunity for dialogue with and constructive challenge to the Executive through a 'Mayor and Cabinet Question Time' hosted by the Overview and Scrutiny Management Board and described elsewhere on the current agenda. The Mayor has agreed to attend on a quarterly basis and other Cabinet members will be invited throughout the municipal year (so there will be a question time at each ordinary Board meeting).
10. It is intended that this Board should meet on a monthly basis. The nature and volume of workload will also necessitate that the Resources and Health, Well-Being and Adult Care Scrutiny Commissions similarly meet monthly. In particular, the number of Resources meetings reflects that Commission's responsibility in relation to the policy and budget review process. The Council has previously agreed that the Health, Well-Being and Adult Care Scrutiny Commission should be the body to discharge the Authority's statutory health function and the number of meetings reflects this responsibility, particularly in respect of recent changes to the NHS landscape and health and care provision in the city.
11. It is intended that the other scrutiny commissions will meet on a maximum of 4 times a year and will use task and finish bodies such as informal member working groups, inquiry days etc to carry out their work programme objectives.
12. To reflect these revisions and the changed way of working, full Council also agreed to adjustments to the Overview & Scrutiny Procedure

Rules in the Constitution which now provide that :

- The Board has the authority to determine the frequency with which formal meetings of scrutiny take place, (OSR4) and
- The Board will perform an enhanced management function in relation to the conduct of scrutiny. The change emphasises that scrutiny commissions will be accountable to the Board for the setting and delivery of their work programmes, and will take account of the Board's requirements when so doing. The amendment also requires that commissions have regard to the Council's strategic priorities and policies and their impact on service delivery and outcomes for the people of Bristol, when formulating work programmes. Also, and that they pay particular attention to the work programme of the executive and the content of the Mayor's Forward Plan. (OSR7)

***The Board is asked to note the proposed operating arrangements for the scrutiny function in 2013-14 and in particular, its role in directing and managing the way in which scrutiny is delivered.
(Recommendation 2)***

Dates and Times of Meetings of OSMB

13. Dates for the Board in 2013/14 are recommended as follows, meeting on a Thursday and commencing at 6.00pm ;

2013

11 July
12 September
17 October
21 November
19 December

2014

16 January
20 February
20 March

Members are asked to note that meetings will commence with a Mayor/Cabinet member question time at 6.00pm. This will form part of the agenda for the meeting, and consideration of the formal meeting business will commence at 7.00pm or earlier if question time is completed within the hour which will be allocated to it.

***It is necessary for the Board to confirm its meeting dates in 2013/14 and to confirm its preferred starting time for meetings.
(Recommendation 3)***

Membership of OSMB

14. The Board will comprise 10 members this year and the following proportionality will apply :

Labour 4; Liberal Democrat 3; Conservative 2 and Green 1

Appointment of Chairs of the Scrutiny Commissions

15. In accordance with Overview and Scrutiny Rule 7 in the Constitution, the Board is asked to determine the chairs of the scrutiny commissions detailed in paragraph 2 to this report.

***It is necessary for the Board to determine scrutiny commissions chairing arrangements for 2013/14.
(Recommendation 4)***

Call in

16. OSMB is responsible for determining all call in's which are submitted by backbench members under the provisions in the Overview & Scrutiny Rules in the Constitution. As in previous years, it is proposed that a dedicated entity be established to consider all call in's, known as the Call In Sub-Committee with terms of reference as set out in **Appendix A.**
17. Last year membership comprised 5, (with the Chair being the Chair of the Panel) plus 4 other (non executive) members. This year, with political proportionality applying, the breakdown will be 2 Lab: 2 Lib Dem & 1 Con. As before it is proposed that the names of members to serve on each Sub-Committee will be determined by the Whips according to the subject matter of the Call In.

***Members are asked to establish an OSMB (Call In) Sub-Committee
(Recommendation 5)***

Councillor Call for Action

18. The Councillor Call for Action is a process established under the Local Government and Public Involvement in Health Act 2007 whereby any local councillor has a statutory right to refer to an overview and scrutiny committee:

(a) any "local government matter" (*ie a matter which relates to the discharge of any function of the authority and affects all or part of the*

electoral area for which the member is elected or any person who lives or works in that area) or

(b) any “crime and disorder matter” (ie in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment, or the misuse of drugs, alcohol and other substances and affects all or part of the electoral area for which the member is elected or any person who lives or works in that area) .

19. Members are asked to note that any calls for action which reach the report to scrutiny committee stage, will all be reported to this Board.

Co-optees

20. The use of co-optees to support the work of scrutiny has been a feature of Bristol’s approach, the objective being that they bring with them, a wider range of expertise and experience to the scrutiny function. They are drawn from a variety of organisations and are all non voting, apart from statutory education representatives (2 parent governors and 2 diocesan nominees) who will sit on the Children, Young People and Families Commission. Scrutiny Commissions also have the option to appoint expert witnesses to help with particular pieces of work who may be required only for one or two meetings.
21. It is anticipated that, with a move towards fewer formal meetings and greater use of informal “task and finish” approaches to scrutiny, the use of expert witnesses will form a more flexible and appropriate approach in support of this way of working and greater use will be made of them in future.
22. However, commissions may still consider that the retention of some formal co-optees will help them to deliver their work programmes. It is therefore proposed that the advice on appointing co-optees that was issued by the former OSM Committee should be re-issued to commissions, namely that;
 - that any co-optee appointments that are offered should be directly relevant to a Commission’s work programme;
 - that no co-optee should be given the impression that they have an entitlement to being a member of a particular commission;
 - that if persons who have previously sat as co-optees on commissions are utilized, there is an Internal Audit expectation that regard shall be had to their attendance record (NB: Democratic Services Officer’s will bring details of co-optee attendance to the Commission annual business meetings), and where there is a record of poor attendance, an appointment will not be made;

- co-options are only legally valid when co-optees have signed up to the Members Code of Conduct and have completed the Declaration of Interests Register;
- appointing organisations should be asked to provide the name of a substitute for their co-optee if the nominated person is unable to attend a meeting (subject to the substitute first signing up to the code of conduct and declaring interests in the usual way);
- the number of co-optees appointed to a commission should not exceed the number of members.

The Board is recommended to commend to scrutiny commissions, the use of external expertise . Also, to forward the guidance in paragraph 22 above to commissions for consideration at their annual meetings when making co-optee appointments. (Recommendation 6)

Arrangements for scrutiny of the West of England Local Enterprise Partnership (LEP)

23. Scrutiny of the public sector work of the West of England Local Enterprise Partnership is undertaken by a “Joint Committee” which is comprised of the the relevant scrutiny bodies of the 4 unitary authorities meeting together.
24. Bristol's component body - the West of England Scrutiny Committee comprises 3 members . The terms of reference for Bristol's West of England Scrutiny Committee are set out at **Appendix A**.

The Board is asked to appoint 3 non-executive members (1:1:1) to serve on the West of England Scrutiny Commission for 2013/14. (Recommendation 7)

Licensing Policy Scrutiny Board

25. The Licensing Policy Scrutiny Board is responsible for reviewing the operation and effectiveness of the Council's licensing policy and making recommendations for change. The reason why this particular function lies within the auspices of OSM is because the Licensing Committee is specifically prevented by virtue of statute, from determining licensing **policy** issues, which are a matter for full Council
26. Scrutiny on the other hand, with its statutory remit to scrutinise the “discharge of any functions which are not responsibilities of the executive “; and to make reports and recommendations to the Council or its executive on “...matters which affect the authority's area or the

inhabitants of that area” was considered to be ideally placed to undertake reviews of licensing policy on behalf of the Council. The outcomes and recommendations of any reviews can then be reported back to full Council which is then able to make an informed decision on any changes to existing policy that it considers necessary. The Board does not have a regular programme of meetings and will normally be convened only where the Council's licensing and legal officers identify specific issues where member input is required prior to making recommendations to full Council

27. Membership of the Board is 3 members (1:1:1). The terms of reference of the Licensing Policy Review Board are set out at **Appendix A**.

The Board is asked to appoint 3 members (1:1:1) to serve on the Licensing Policy Scrutiny Board for 2013/14 (Recommendation 8)

Select Committees

28. Scrutiny Select Committees may only be established by the Board and there should be no more than two select committees in operation at any particular time on account of the capacity of officers to provide support and members other meeting commitments. Topics and proposals for select committees for 2013/14 will be dealt with elsewhere on the agenda.

Other Options Considered

Not applicable

Risk Assessment

Not applicable

Equalities Impact Assessment

Not applicable

Legal and Resource Implications

None sought

Appendices:

Appendix A Terms of reference for the West of England (LEP) Scrutiny Committee, the Licensing Policy Scrutiny Board and the Call In Sub-Committee.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985:
Background Papers- None

Terms of reference of bodies established by the Overview & Scrutiny Management Board

Licensing Policy Scrutiny Board

To monitor and review the operation and effectiveness of the City Council's licensing policy and as appropriate, to make recommendations for change;

To consider specific issues relating to the operation of licensing policy, that may be referred to the Board from time to time.

West of England Scrutiny Committee

To be concerned with the aspects of the Local Enterprise Partnership (LEP) that relate to public funding and resources.

Within the LEP structure the Committee shall:

- Scrutinise any relevant proposals from the Joint Transport Executive Committee, Planning Housing and Communities Board and the Stakeholder Group in relation to the activities outlined in their terms of reference.
- Scrutinise other relevant proposals related to public funding and resources made from the Local Enterprise Partnership Board and the Skills Sub-Group.
- Review actions taken and decisions made by these bodies related to public funding and resources.
- Make reports or recommendations to these bodies, as appropriate and/or the constituent authorities' respective Overview and Scrutiny Committees or equivalent.

- Scrutinise the activities of private sector companies, recognising that the private sector is not under the same obligation to appear in public or have regard to recommendations made by a Scrutiny committee in the same way that public service providers are required to do so.

(Note : this Committee will normally meet “jointly” with the equivalent scrutiny bodies of the other ex-Avon unitary authorities)

Call-In Sub-Committee

To determine call in's which have been submitted by 2 or more non-executive councillors where they have evidence which suggests that the executive did not take a decision in accordance with any of the principles set out in Article 14 (Decision Making) of Part 2 of the Constitution.